9–29–97
Vol. 62 No. 188
Pages 50849–50994

federal register

Monday
September 29, 1997

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

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

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

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

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

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

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 188

Monday, September 29, 1997

Agricultural Marketing Service
RULES
Nectarines and peaches grown in California, 50853–50861
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50901–50902

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Farm Service Agency
NOTICES
Meetings:
Small Farms National Commission, 50901

Alcohol, Tobacco and Firearms Bureau
NOTICES
Explosives detection canines; odor recognition proficiency standard, 50982

Animal and Plant Health Inspection Service
NOTICES
Committees; establishment, renewal, termination, etc.:
National Poultry Improvement Plan General Conference Committee, 50902

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50945–50952

Commerce Department
See Economic Development Administration
See Export Administration Bureau
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Mexico, 50908
Taiwan, 50908–50909

Commodity Credit Corporation
RULES
Tree assistance program; CFR part removed, 50849–50853
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50902–50903

Defense Department
See Defense Logistics Agency
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50909–50910
Meetings:
Strategic Environmental Research and Development Program Scientific Advisory Board, 50910
Travel per diem rates, civilian personnel; changes, 50910

Defense Logistics Agency
NOTICES
Privacy Act:
Systems of records, 50910–50912, 50912–50914

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
Voorwood Co. et al., 50903

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 50914–50915
Meetings:
Student Financial Assistance Advisory Committee, 50915
Privacy Act:
Computer matching programs, 50994

Energy Department
See Federal Energy Regulatory Commission
See Southwestern Power Administration
See Western Area Power Administration

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 50870–50871, 50871–50873
Superfund program:
National oil and hazardous substances contingency plan--
National priorities list update, 50873–50875
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 50890–50891
NOTICES
Superfund program:
Prospective purchaser agreements--
Cohen Property Site, MA, 50942–50943
Water pollution control:
Clean Water Act--
Class II administrative penalty assessments, 50943–50944

Export Administration Bureau
RULES
Export licensing:
Commerce control list--
Commercial communications satellites; list of items controlled revised (satellite fuel, ground support equipment, etc.), 50865–50866

Farm Credit Administration
RULES
Farm credit system:
Funding and fiscal affairs, loan policies and operations, and funding operations--
Cumulative voting by shareholders; correction, 50984

Farm Service Agency
RULES
Tree assistance program; implementation, 50849–50853

Federal Aviation Administration
RULES
Airworthiness directives:
de Havilland, 50861–50862
General Electric Co., 50862–50865

Federal Communications Commission
RULES
Radio stations; table of assignments:
Louisiana, 50875–50876
Minnesota, 50876
PROPOSED RULES
Radio stations; table of assignments:
California, 50891–50892
Louisiana, 50891
Texas, 50891
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50944

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Detroit Edison Co. et al., 50917–50920
Hydroelectric applications, 50920
Applications, hearings, determinations, etc.:
Missouri Gas Energy, 50915–50916
Northern Natural Gas Co., 50916
Steuben Gas Storage Co.; correction, 50984
Venice Gathering System, L.L.C., 50916–50917

Federal Highway Administration
PROPOSED RULES
Motor carrier safety standards:
Financial responsibility; self-insurance requirements and application processing fees, etc.
Correction, 50892

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 50944–50945
Meetings; Sunshine Act, 50945

Fish and Wildlife Service
RULES
Migratory bird hunting:
Federal Indian reservations, off-reservation trust lands, and ceded lands, 50986–50992
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.--
Northern goshawk, 50892–50896
Virginia sneezeweed, 50896–50900
NOTICES
Endangered and threatened species:
Recovery plans--
California freshwater shrimp, 50958–50959
Pleodendron macranthum, etc., 50959–50960

Food and Drug Administration
NOTICES
Reports and guidance documents; availability, etc.:
Animal drugs for minor uses and minor species; FDA approval, 50952–50953
Medical device software validation; general principles, 50953–50954

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50954–50955

Indian Affairs Bureau
RULES
Fish and wildlife:
Columbia River treaty fishing access sites; use, 50866–50869
NOTICES
Power rate adjustments:
Mission Valley Power Utility, MT, 50960–50961

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service

Justice Department
See National Institute of Corrections

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Greybull Valley Irrigation District Dam and Reservoir Project, WY, 50961–50962
Realty actions; sales, leases, etc.:
California, 50962
Withdrawal and reservation of lands:
Arizona, 50962–50963

Marine Mammal Commission
NOTICES
Meetings; Sunshine Act, 50964–50965

National Aeronautics and Space Administration
NOTICES
Meetings:
Aeronautics and Space Transportation Technology Advisory Committee, 50965
Life and Microgravity Sciences and Applications Advisory Committee, 50965

National Commission on the Cost of Higher Education
NOTICES
Meetings, 50965–50966

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Nonconforming vehicle conformity certificates; review and processing; fee schedule, 50876–50882

National Institute of Corrections
NOTICES
Meetings:
Advisory Board, 50964

National Institutes of Health
NOTICES
Meetings:
National Heart, Lung, and Blood Institute, 50955
National Institute of Allergy and Infectious Diseases, 50957
National Institute of Child Health and Human Development, 50956–50957
National Institute of Environmental Health Sciences, 50957
National Institute of Mental Health, 50957
National Institute on Deafness and Other Communication Disorders, 50957–50958
National Institute on Drug Abuse, 50955–50956
National Library of Medicine, 50958
Research Grants Division special emphasis panels, 50958
Warren Grant Magnuson Clinical Center Board of Governors, 50958

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone--
Pacific cod, 50888–50889
Shortraker/rougheye rockfish, 50888
Tuna, Atlantic bluefin fisheries, 50887
NOTICES
Marine mammals:
Incidental taking; authorization letters, etc.--
Washington State; California sea lions; pinniped removal authority, 50903–50905
Meetings:
Gulf of Mexico Fishery Management Council, 50905–50906
Permits:
Marine mammals, 50906, 50907

National Park Service
NOTICES
Meetings:
National Preservation Technology and Training Board, 50963
National Register of Historic Places:
Pending nominations, 50963–50964
Native American human remains and associated funerary objects:
University of Alaska, AK; inventory from Chugachuk Island, 50964

Patent and Trademark Office
NOTICES
Patents:
Patent prosecution file histories, procedures for recording; hearing and comment request; correction, 50984

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Securities and Exchange Commission
NOTICES
Meetings:
Consumer Affairs Advisory Committee, 50966
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 50966–50973
Chicago Stock Exchange, Inc., 50973–50977
Depository Trust Co., 50977–50978
National Securities Clearing Corp., 50978–50979
New York Stock Exchange, Inc., 50979–50981

Southwestern Power Administration
NOTICES
Integrated System power rates and opportunities:
Extension, 50921–50922

Surface Transportation Board
RULES
Miscellaneous CFR parts removed, 50885–50887
Organization, functions, and authority delegations:
Employee boards; technical amendments, 50882–50885

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 50981

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
NOTICES
Organization, functions, and authority delegations:
Acting Commissioner of Customs, 50981–50982

Veterans Affairs Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 50982–50983
Meetings:
Persian Gulf Expert Scientific Committee, 50983
Real property; enhanced-use leases:
North Little Rock, AR; Veterans Affairs Medical Center, 50983

Western Area Power Administration
NOTICES
Power rate adjustments:
Boulder Canyon Project, 50922–50924
Central Valley Project et al., 50924–50941
Colorado River Storage Project, 50941–50942

Separate Parts In This Issue

Part II
Interior Department; Fish and Wildlife Service, 50986–50992

Part III
Department of Education, 50994

Reader Aids

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

Electronic Bulletin Board

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

Public Laws Electronic Notification Service

Free electronic mail notification of newly enacted Public Laws is now available. To subscribe, send E-mail to **PENS@GPO.GOV** with the message: *SUBSCRIBE PENS-L FIRSTNAME LASTNAME.*

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.

7 CFR
783.....50849
916.....50853
917.....50853
1478.....50849

12 CFR
615.....50984

14 CFR
39 (2 documents) 50861, 50862

15 CFR
774.....50865

25 CFR
247.....50866

40 CFR
52 (2 documents) 50870, 50871
300.....50873

Proposed Rules:
52 (2 documents) 50890, 50890

47 CFR
73 (2 documents) 50875, 50876

Proposed Rules:
73 (3 documents) 50891, 50891, 50891

49 CFR
594.....50876
1011.....50882
1022.....50885
1030.....50885
1091.....50885
1118.....50882
1130.....50882
1131.....50885
1132.....50882
1143.....50885
1156.....50885
1170.....50885

Proposed Rules:
387.....50892

50 CFR
20.....50986
285.....50887
679 (2 documents) 50888, 50888

Proposed Rules:
17 (2 documents) 50892, 50896

Rules and Regulations

Federal Register
Vol. 62, No. 188
Monday, September 29, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 783

Commodity Credit Corporation

7 CFR Part 1478

RIN 0560–AF17

Tree Assistance Program

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule sets forth the regulations necessary for implementing the 1997 Tree Assistance Program (TAP). The Act Making Emergency Supplemental Appropriations for Recovery from Natural Disasters for the Fiscal Year ending September 30, 1997, (The Act) authorized TAP assistance to small orchardists to replace or rehabilitate trees and vineyards damaged by natural disasters. Due to limited funds appropriated for this program, the losses for which reimbursement is sought are limited to natural disasters that occurred between October 1, 1996, and September 30, 1997. Cost-share assistance may not exceed 100 percent of the eligible replacement or rehabilitation costs and may be based on average costs or the actual costs for the replanting practices, as determined by the Deputy Administrator for Farm Programs.

DATES: Interim rule effective September 24, 1997. Written comments on this rule must be received on or before October 29, 1997 to be assured of consideration. Comments on the information collections in this rule must be received on or before November 28, 1997 in order to be assured of consideration.

ADDRESSES: Submit written comments to: David M. Nix, Compliance and Production Adjustment Division (CPAD), Farm Service Agency (FSA), USDA, 1400 Independence Avenue, S.W., STOP 0517, Washington, DC 20012–0517, telephone (202) 690–4091, e-mail address: dnix@wdc.fsa.usda.gov. Comments may be inspected in the Office of the Director, Compliance and Production Adjustment Division (CPAD), Farm Service Agency (FSA), USDA, Room 3630 South Building, Washington, D.C., between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: David M. Nix at the above listed address.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

An Environmental Evaluation with respect to the Tree Assistance Program has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA will submit an emergency information request (ICR) to OMB for the approval of the Tree Assistance Program reports as necessary for the proper functioning of the program.

Title: Tree Assistance Program.

OMB Control Number: 0560-NEW.

Type of Request: Emergency.

Abstract: Persons who suffered losses according to this part are required to provide information regarding their operation, losses that occurred and the action that will or has been taken as a result of those losses.

USDA has submitted to the Office of Management and Budget proposed forms to be used for application and contract and for collection of information relating to resource needs. Form CCC–435, Tree Assistance Program Technical Worksheet, is used for the collection of data and calculation of losses of eligible trees and eligible vines due to natural disaster. Form CCC–436, TAP Eligibility Certification Statement, is used for owner certification that the owner owns no more than 500 acres of eligible trees or eligible vines, and had an annual qualifying gross revenue of no more than $2.5 million for the 1996 tax year.

Estimate of Burden: Public reporting for this information collection is estimated to average 20 minutes per applicant.

Respondents: Owners of eligible trees and eligible vines who suffered losses from natural disasters.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 333 hours.

Proposed topics for comment include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; or (d) ways to 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.

Comments regarding this information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Washington, D.C. 20503, and to David M. Nix. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

OMB is required to make a decision concerning the collection(s) of information contained in this interim rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the interim regulations.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State law to the extent that such laws are inconsistent with the provisions of this rule. The provisions of this rule are retroactive to October 1, 1996. Before any judicial action may be brought regarding the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12612

It has been determined 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.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA regulations.

Background

This interim rule sets forth the terms and conditions under which owners of eligible trees and eligible vines who suffered a loss as a result of a natural disaster may apply for benefits to compensate for this loss. Congress has mandated the Secretary to make available up to $9 million to replace or rehabilitate eligible trees and eligible vines damaged by natural disasters. Owners eligible for TAP may be reimbursed up to 100 percent of the cost incurred to replace or rehabilitate eligible trees or eligible vines.

List of Subjects in 7 CFR Part 783 and Part 1478

Disaster assistance, Grant programs—agriculture.

For reasons set forth in the preamble and under the authority of Pub. L. 105–18, (111 Stat. 158), 7 CFR Chapters VII and XIV are amended as follows:

PART 1478—[REMOVED]

1. Part 1478 is removed.

2. Part 783 is added to read as follows:

PART 783—1997 TREE ASSISTANCE PROGRAM

Sec.

783.1 Applicability.
783.2 Administration.
783.3 Definitions.
783.4 Program deadlines.
783.5 Ownership, income and payment limitations.
783.6 Qualifying loss.
783.7 Eligible costs.
783.8 Application process.
783.9 Obligations of an eligible owner.
783.10 Partial performance.
783.11 Liens and claims of creditors; set-offs.
783.12 Appeals.
783.13 Misrepresentation and scheme or device.
783.14 Estates, trusts, and minors.
783.15 Death, incompetency, or disappearance.
783.16 Other regulations.
783.17 Paperwork Reduction Act assigned numbers.

Authority: Pub. L. 105–18, 111 Stat. 158.

§ 783.1 Applicability.

The regulations in this part set forth the terms and conditions of the Tree Assistance Program (TAP) authorized by the Act Making Emergency Supplemental Appropriations for Recovery from Natural Disasters for the Fiscal Year ending September 30, 1997 (1997 Emergency Appropriations Act). Within specified limits, FSA is authorized by the 1997 Emergency Appropriations Act to reimburse eligible owners for up to 100 percent of the cost of replanting or rehabilitating eligible trees and eligible vines damaged by natural disasters occurring from October 1, 1996, through September 30, 1997.

§ 783.2 Administration.

(a) This part shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) The State committee shall allow the county committee to approve applications only for those owners of eligible trees and eligible vines who actually owned the eligible trees or eligible vines at time of the eligible disaster and at the time of application.

(e) No delegation herein to a State or county committee shall preclude the Deputy Administrator for Farm Programs, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 783.3 Definitions.

(a) In determining the meaning of the provisions of this part, unless the context indicates otherwise, singular terms include the plural and plural terms include the singular, masculine terms include the feminine, and terms used in the present tense include the future.

(b) The following terms contained in this part shall have the following meanings:

Annual gross revenue means, with respect to a person as defined in part 1400 of this title:

(1) For a person who receives more than 50 percent of such person's gross income from farming, ranching, and forestry operations, the total gross income received from such operations.

(2) For a person who receives 50 percent or less of such person's gross income from farming, ranching, and forestry operations, the total gross income from all sources.

(3) The determinations made in accordance with 7 CFR part 1400,

subpart B, shall include all entities in which an individual or entity has an interest, whether or not such entities are engaged in farming.

(4) The year for which the annual gross income shall be received for the purpose of this definition shall be the 1996 tax year.

Cutting means a vine which was planted in the ground for commercial production of grapes, kiwi fruit, or passion fruit.

Eligible owner means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity and includes any Indian tribe under the Indian Self-Determination and Education Assistance Act; any Indian organization or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Assistance Act; and, any economic enterprise under the Indian Financing Act of 1974 which meets the requirements of this part.

Eligible trees means papaya trees or orchard trees grown for commercial production of fruit and nuts.

Eligible vines means grape, kiwi fruit, or passion fruit vines grown for commercial production.

Individual stand means an area of eligible trees or vines which are tended by an eligible owner as a single operation, whether or not such trees or vines are planted in the same field or similar location, as determined by the Deputy Administrator. Differing species of trees or vines in the same field or similar area may be considered to be separate individual stands if FSA determines that the species have significantly differing levels of freeze, drought, earthquake, hurricane, or typhoon susceptibility.

Local county office means the county FSA office or USDA Service Center that services the farm if an FSA farm serial number has been assigned or, if no serial number is assigned, then the office that services the county in which the eligible trees or vines are located.

Natural disaster means drought, excessive moisture, hail, freeze, tornado, hurricane, earthquake, or excessive wind.

Normal mortality means the percentage of plant loss on the individual stand of eligible trees or eligible vines which normally occurs in a 12-month period.

Orchard means eligible trees planted for commercial annual production of fruit or nuts.

Owner means a person who has legal ownership of the eligible trees or vines as determined by FSA. Eligible tree or vine owners need not own the land on which the trees or vines are planted.

Seedling means an eligible tree which was planted in the ground for commercial purposes.

Total mortality means the actual percentage of eligible tree or eligible vine losses on a given individual stand.

(c) The definitions set forth in this section shall be applicable for all purposes of administering the Tree Assistance Program. The terms defined in part 718 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section.

§ 783.4 Program deadlines.

(a) A request for benefits under this part to reimburse for losses to eligible trees and eligible vines must be submitted to FSA at the local county office by close of business on Friday, September 26, 1997.

(b) All related and supporting documentation shall be submitted at the time the request for assistance is filed or no later than September 30, 1997.

(c) The State committee shall allow the county committee to approve late-filed requests received after the enrollment period ends, but no later than September 30, 1997. Late-filed requests will be accepted only for those owners who applied late due to circumstances beyond their control as determined by the county committee and concurred with by the State committee.

(d) The State committee may approve an extension, not to exceed 24 months beyond the date of application, to complete TAP practices if delays are determined to be beyond the control of the applicant.

§ 783.5 Ownership, income and payment limitations.

(a) An eligible owner must:

(1) Own less than 500 acres of each type of eligible tree or eligible vine, regardless of their size or condition, which produce annual crops for commercial purposes, or are grown for harvest for commercial purposes; and

(2) Have owned the eligible trees or eligible vines at the time the natural disaster occurred and continuously until the application for TAP benefits is submitted.

(b) No person, as defined in part 1400 of this title, as applicable, with an annual gross revenue in excess of $2.5 million for the 1996 tax year will be eligible for TAP benefits.

(c) The amount of payments which any person, as determined in accordance with part 1400 of this title, may receive under this part in connection with losses of eligible trees and eligible vines, shall not exceed $25,000.

(d) An owner who acquires eligible trees or eligible vines from a previous owner approved for 1997 TAP shall not receive additional program benefits due to an increase in the number of persons associated with the new ownership. A new owner is allowed to receive TAP benefits not paid to the previous owner if the new owner:

(1) Acquires ownership of land or trees for which TAP benefits have been approved;

(2) Meets the income and payment limitation under this part;

(3) Agrees to complete all practices which the original owner has not completed; and

(4) Agrees to receive any remaining payments and assumes full responsibility for all provisions of TAP, including refund of payments made to the previous owner, if necessary.

(e) In the event the total amount of claims submitted under this part during the sign-up period exceeds the applicable funds available for such period, such payments shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

(f) Federal, State, and local governments and agencies and political subdivisions thereof are not eligible for benefits under this part.

§ 783.6 Qualifying loss.

(a) An eligible owner may receive assistance under this part for qualifying loss of eligible trees, eligible orchard tree seedlings, eligible vines or cuttings as determined by the Deputy Administrator for Farm Programs, FSA:

(1) Which were destroyed or injured as a result of a natural disaster, as determined by the county committee in accordance with the instructions of the Deputy Administrator; and

(2) For which the total mortality rate equals or exceeds 20 percent, after deducting the normal mortality the owner would have incurred.

(b) Qualifying loss determinations shall be made on an individual stand basis. A qualifying loss shall be the loss for the individual stand of eligible trees, or eligible vines, as appropriate, after deducting the normal mortality of such trees or vines, equal to or in excess of 20 percent mortality.

(c) Qualifying losses of eligible trees or vines shall not include:

(1) Losses which could have been prevented through readily-available horticultural measures; or

(2) Losses of trees or vines which would normally have been rehabilitated

or replanted within the 12-month period following the loss, in the absence of the natural disaster.

(d) When visible evidence of losses no longer exists on the site where the eligible trees or eligible vines were planted, acceptable evidence as determined in accordance with instructions issued by the Deputy Administrator must be established for the county committee to qualify the individual stand for the program.

§ 783.7 Eligible costs.

(a) Payments will be made only to the extent specifically provided for in this part. An eligible owner shall be reimbursed under this part, to the extent of the availability of funds, for an amount not to exceed 100 percent of the eligible costs of replanting or rehabilitating trees or vines, not in excess of the number of trees or vines constituting the qualifying loss. Such reimbursement may be based on average costs or the actual costs for the replanting, or rehabilitating practices, as determined by the Deputy Administrator. If the costs are to replace eligible trees or eligible vines, the costs reimbursed under this part shall only be for replacement seedlings or cuttings of a size and quality determined by Deputy Administrator to be sufficient for that purpose. The costs for which cost-sharing shall be permitted shall only be the costs of:

(1) The seedlings or cuttings, eligible tree or vine rehabilitation measures;

(2) Site preparation measures and debris handling measures that are normal cultural practices for the type of individual stand being re-established and necessary to ensure successful plant survival;

(3) Chemicals and nutrients if needed to ensure successful plant survival; and

(4) Labor used to physically plant or rehabilitate such seedlings or cuttings as based on standard labor rates as determined by the county committee.

(b) Costs eligible for reimbursement under this part specifically exclude items such as fencing, irrigation, irrigation equipment, measures to protect seedlings from wildlife, and general land and eligible tree or vine stand improvements, and re-establishing structures and windscreens.

(c) When eligible trees or eligible vines are replanted instead of rehabilitated, the types planted may be different than those originally planted if the new types have the same general end use as determined by the county committee. Payments will be based on the lesser of rates established to plant the types actually lost or the cost to establish the trees or vines actually used. Eligible costs shall not include costs incurred for planting species of seedlings or cuttings differing significantly from the species of the seedlings or cuttings constituting the qualifying loss except as approved by the Deputy Administrator. If such substitution is approved, eligible costs shall be the lesser of:

(1) The actual eligible costs incurred; or

(2) The estimated eligible costs which otherwise would have been incurred to replant the species constituting the qualifying loss.

(d) Costs eligible for reimbursement under this part shall only include expenditures approved within the limits set by this part, including, but not limited to, those limits set forth in paragraph (a) of this section. Eligible costs include costs incurred before an application for payment is submitted. Eligible costs shall only include those costs for which the eligible owner has submitted documentation determined by the county committee to adequately document such costs. The county committee shall limit TAP payments for eligible costs at the minimum level to re-establish an individual stand, as determined by the State committee.

(e) Payments shall not exceed the lesser of 100 percent of the eligible costs actually incurred by an eligible applicant for replanting or rehabilitating the qualifying loss, or the average cost to replant or rehabilitate the qualifying loss, as determined by the Deputy Administrator.

§ 783.8 Application process.

(a) Applications for payment shall be filed by the eligible owner with the local county office and shall contain an estimate by the applicant of the number of eligible trees or eligible vines which constitute the qualifying loss and the amount of the acreage of the individual stands with respect to which the loss was suffered. The applicant must provide sufficient evidence of the losses so as to allow the county committee to determine qualifying losses.

(b)(1) The county committee or a designee may conduct field reviews to determine the actual qualifying loss and the acreage of individual stands with respect to which the loss was suffered. The county committee and, if designated by the county committee, the county executive director, are authorized, subject to the provisions of this part, to approve or disapprove all applications, subject to the limitations and conditions of this part, provided the applicant is not a county committee member or an FSA employee.

(2) The State committee shall approve or disapprove applications of the county committee members and all FSA employees except applications submitted by the State Executive Director, or by a State committee member.

(3) The Deputy Administrator, or a designee, shall approve or disapprove applications of State committee members and the State Executive Director.

(4) All applications forwarded to a higher reviewing authority for consideration shall be accompanied by committee recommendations. No application shall be approved unless the owner meets all eligibility requirements. Information furnished by the applicant and any other information, including knowledge of the county and State committee members concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If information furnished by the owner is incomplete or ambiguous and sufficient information is not otherwise available with respect to the owner's farming operations in order to make a determination as to the owner's eligibility, the owner's application shall not be approved until sufficient additional information is provided by the owner.

(c) TAP eligibility and payments are not affected by participation in crop or tree insurance, or the receipt of any other payments.

§ 783.9 Obligations of an eligible owner.

(a) Eligible owners must submit a request for assistance on the approved form and must also submit all documentation requested by the appropriate official as necessary to make determinations specified in this part.

(b) Eligible owners must:

(1) Comply with all terms and conditions of this part;

(2) Execute all required documents;

(3) Comply with all applicable noxious weed laws; and

(4) Complete the TAP practice within 24 months of the date the application is approved.

(c) In the event of a determination that a person was erroneously determined to be eligible or has become ineligible for all or part of a payment made under this part for any reason, including a failure to comply with the terms and conditions of this part, or other condition for payment imposed by the county or State committee or the Deputy Administrator, such person shall refund any payment paid under this part together with interest. Such interest shall be charged at the rate determined

for late payment charges under part 1403 of this title and computed from the date of disbursement of the payment to the date of the refund.

(d) Eligible owners must allow representatives of FSA to visit the site for the purposes of examining and certifying mortality and practice completion.

§ 783.10 Partial performance.

(a) Participants may elect not to replant the maximum amount of eligible trees or eligible vines because of imposition of the payment limitation in § 783.5(c) or any other reason. If owners partially complete their practices after they apply, but do not replant or rehabilitate all of their qualifying trees or vines, the county committee shall calculate payment based on the extent performed.

(b) Eligible owners who have been paid but choose not to complete the practice by the final practice expiration date shall refund their payments with interest. Interest on these refunds shall be calculated beginning on the date the payment was disbursed. Such refund amounts may be reduced, at the discretion of the Deputy Administrator, when only part of the required replanting practice is not implemented.

§ 783.11 Liens and claims of creditors; set-offs.

Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government. The regulations governing set-offs and withholdings found at part 792 of this chapter shall be applicable to this part.

§ 783.12 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 11 of this title and part 780 of this chapter.

§ 783.13 Misrepresentation and scheme or device.

(a) A person shall be ineligible to receive assistance under this program if such person is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) All moneys paid by CCC under this part to any such person or to any other person as a result of such person's actions shall be refunded to CCC with interest together with such other sums as may become due. The party engaged in acts prohibited by this section and the party receiving payment shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided to CCC in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 783.14 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible owner shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 783.15 Death, incompetency, or disappearance.

In the case of death, incompetency or disappearance of any owner who is eligible to receive assistance in accordance with this part, such person or persons specified in part 707 of this chapter may receive such assistance.

§ 783.16 Other regulations.

In addition to any other regulations as may be applicable, the following regulations shall also apply to this part:

(a) Part 11 of this title, National Appeals Division Rules of Foreclosure;

(b) Part 12 of this title, Highly Erodible Land and Wetland Conservation;

(c) Part 703 of this chapter, Debt Settlements, Policies and Procedures;

(d) Part 718 of this chapter, Provisions Applicable to Multiple Programs;

(e) Part 780 of this chapter, Appeal Regulations;

(f) Part 1400 of this title, Payment Limitation and Payment Eligibility; and

(g) Part 1404 of this title, Assignments.

§ 783.17 Paperwork Reduction Act assigned numbers.

The information collection requirements of this part have been submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act.

Signed at Washington, D.C., on September 24, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–25739 Filed 9–24–97; 3:39 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV96–916–3 FIR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes, with a few spelling corrections, the provisions of an interim final rule that revised the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and container requirements for fresh shipments of these fruits, beginning with 1997 season shipments. This rule also corrects current grade, size and maturity requirements, primarily by restoring regulatory text that was inadvertently misnumbered or omitted during previous rulemaking actions. This rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

EFFECTIVE DATE: October 29, 1997.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone:(209) 487–5901; Fax: (209) 487–5906; or Anne M. Dec, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698. Small

businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 and 917 [7 CFR Parts 916 and 917] regulating the handling of nectarines and peaches grown in California, hereinafter referred to as the ''orders''. The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the ''Act''.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Under the orders, grade, size, maturity, container and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC) met December 4, 1996, and unanimously recommended that these handling requirements be revised prior to the 1997 season, which began April 1. The changes (1) authorize continued use of a container first used in 1996; (2) authorize shipments of ''CA Utility'' quality fruit during the 1997 season; (3) clarify container tolerances for all nectarines and peaches; and (4) revise varietal maturity and size requirements to reflect recent changes in growing conditions.

The committees meet prior to and during each season to review the rules and regulations effective on a continuous basis for California nectarines and peaches under the orders. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Container Requirements (Nectarines and Peaches)

Sections 916.52 and 917.41 of the nectarine and peach orders, respectively, provide authority to fix the size, capacity, weight, dimensions, markings, or pack of the container or containers that may be used in the packaging and handling of these fruits. Section 916.350 specifies container and pack requirements for fresh nectarine shipments and section 917.442 specifies container and pack requirements for fresh peach shipments. Included in these sections are requirements that all containers be marked with specific information (e.g., the name of the handler, and the maturity, size, and variety of the fruit) and that such markings be applied to the outside ends of the container.

Prior to the 1996 season, the NAC and PCC recommended that a new container, permitted to be marked on its lid, be approved for nectarine and peach shipments during the 1996 season only. The revised requirements became effective on April 1, 1996. The NAC and PCC then reviewed the impact of the use of this container at the conclusion of the 1996 season.

The new container is plastic, rather than wood and paper. It is also recyclable and reusable. The design of some styles of the container, which has cooling slots on all of its sides, discourages placement of markings on the outside ends. Furthermore, in order to ensure and facilitate its reuse, container markings on the permanent outside ends of the new container are not desirable. Instead, placement of markings on the disposable lid is preferable. Thus, markings on the new container have been permitted for either the lid or the outside ends.

In the 1996 season, approximately 450,000 recyclable, reusable boxes were used by nectarine and peach handlers. This represents approximately 1 percent each of the total number of packages of nectarines and peaches shipped in that season. Users of the recyclable, reusable plastic boxes reported good acceptance by retailers and expect increased demand for their use in the coming years. Industry sources reported the boxes will likely be used for other commodities as awareness and acceptance of the boxes increase. It was also noted that the nectarine and peach industries could improve their competitive edge by continued and increased use of the new recyclable, reusable plastic box.

The NAC and PCC believe that continuing to permit container markings to be placed either on the container lid or the outside ends will continue to facilitate the use of this plastic, reusable, and recyclable container. Authorizing the continued use of this container will allow handlers to reduce their container costs through the continued reuse of the container. Such reduced container costs could result in increased returns to producers as well.

When the container requirements for nectarines and peaches were changed on April 1, 1996, the revised provisions did not specify that the change was effective only for the 1996 season. Thus, no changes in the regulatory text of §§ 916.350 and 917.442 are necessary. The use of the recyclable, reusable plastic container is authorized for the 1997 season and beyond.

Quality Requirements (Nectarines and Peaches)

Sections 916.52 and 917.41 authorize the establishment of grade and quality requirements for nectarines and peaches. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except there was a slightly tighter requirement for scarring and a more liberal allowance for misshapened fruit. Under § 917.459, peaches were also required to meet the requirements of a U.S. No. 1 grade, except there was a more liberal allowance for open sutures which are damaged but not seriously damaged.

This rule continues the revision in the interim rule to paragraph (a)(1) of § 916.356 and paragraph (a)(1) of § 917.459 to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 1997 season. (''CA Utility'' fruit is lower in quality than fruit meeting the modified U.S. No. 1 grade

requirements.) Shipments of nectarines and peaches meeting ''CA Utility'' quality requirements were first permitted during the 1996 season for that season only. By unanimous vote, the NAC and PCC recommended that fruit meeting ''CA Utility'' quality requirements be permitted to be shipped for an additional year. The NAC and PCC will continue to monitor retailer and consumer perceptions of ''CA Utility'' nectarines and peaches to determine whether such fruit should continue to be marketed.

Preliminary studies conducted by the NAC and PCC indicate that some consumers, retailers, and foreign importers found the lower quality fruit acceptable in some markets. Shipments of ''CA Utility'' nectarines represented 1.1 percent of all nectarine shipments, or approximately 210,000 boxes in 1996. Shipments of ''CA Utility'' peaches represented 1.9 percent of all peach shipments in 1996, or approximately 365,000 boxes.

Dr. Dennis Nef, California State University, Fresno, studied samples of culled fruit at handler facilities during the 1995 and 1996 seasons. Results from the 1996 season were compared to the 1995 season. Preliminary data indicate that a smaller percentage of culled nectarines and peaches met the marketing order grade (modified U.S. No. 1) and size requirements in 1996 than in 1995. In 1995, approximately 8 percent of the nectarines in the cull stream met those requirements, while in 1996, approximately 1 percent of the nectarines in the cull stream met those requirements. In 1995, approximately 7 percent of the peaches in the cull stream met the order's grade and size requirements, while in 1996, approximately 1 percent of the peaches in the cull stream met those requirements. (The ''cull stream'' includes all fruit which is removed from the packing line by the handler's quality control personnel and not placed in a container for shipment.) The decrease in the amount of fruit in the cull stream seems to indicate a greater utilization of available fruit rather than its disposal. With the option of packing ''CA Utility'' quality fruit, it appears that the handlers'' quality control personnel were less inclined to be overly critical and to exclude acceptable modified U.S. No. 1 fruit. However, not all of this increased utilization can be attributed to the implementation of ''CA Utility'' quality requirements. The 1995 season, which was the first in which cull data were obtained, was plagued by adverse weather and hail storms. The damage inflicted by the storms created conditions which decreased the quality of available nectarines and peaches and increased somewhat the percentage of fruit in the cull stream which would have met marketing order requirements. It is probable that the implementation of ''CA Utility'' quality requirements increased the utilization of some fruit which might have been disposed of otherwise. Such utilization benefitted producers, handlers, and consumers. For that reason, the NAC and PCC recommended that ''CA Utility'' quality requirements be continued for the 1997 season. The NAC and PCC will continue to monitor the impact of shipping ''CA Utility'' nectarines and peaches to determine whether such shipments continue to be in the interests of producers, handlers, and consumers.

In conforming changes, paragraph (d) of § 916.350 and paragraph (d) of § 917.442 continue to be revised to require that ''CA Utility'' quality fruit be labeled as such. This marking requirement was in effect during the 1996 season, and is intended to enable customers to differentiate between the different qualities of available fruit.

Clarification of Container Tolerances (Nectarines and Peaches)

For those grade factors included in the U.S. Standards for Grades of Nectarines or Peaches (standards), tolerances are provided for fruit that fails to meet those factors to allow for variations incidental to proper grading and handling. Tolerances are specified for both entire lots of fruit and for individual containers within the lot.

The container tolerances in the standards are applicable to all nectarines and peaches since those tolerances are not modified by the order's rules and regulations. However, last fall, the NAC and PCC voted to clarify the requirements for affected parties. Clarifying these container tolerances will not have a regulatory impact on nectarine and peach handlers because these tolerances are the same as those applied in the standards.

Maturity Requirements (Nectarines and Peaches)

Both orders provide (in §§ 916.52 and 917.41) authority to establish maturity requirements. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. Additionally, both orders' rules and regulations provide for a higher, ''well matured'' classification. For most varieties, ''well matured'' fruit determinations are made using maturity guides (e.g., color chips). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed based on the most recent information available on the characteristics of each variety.

Nectarines

Requirements for ''well matured'' nectarines are specified in paragraph (a)(1) of § 916.356. This rule continues in effect the revision in the interim rule of Table 1 of paragraph (a)(1) of § 916.356 for nectarines to add maturity guides for 12 nectarine varieties. Specifically, an addition to the maturity guides was recommended for Earliglo, May Jim, Red Glo, Royal Glo, and Zee Grand nectarine varieties at a maturity guide of I; Big Jim, Early Red Jim, Late Red Jim, May Lion, and Red Fred nectarine varieties at a maturity guide of J; and Kay Diamond and Ruby Diamond nectarine varieties at a maturity guide of L.

Table 1 of paragraph (a)(1) of § 916.356 continues in effect the revision changing the maturity guides for the following eight nectarine varieties: Autumn Delight, Fairlane, Moon Grand, Red Diamond, Sparkling June, Spring Diamond, Summer Diamond, and Summer Lion. The maturity guide for these eight varieties was M, which was changed to L. The M maturity guide is no longer deemed suited by SPI to nectarine varieties currently in production. The L maturity guide more accurately reflects the background color of modern nectarine varieties under production at this time. For this reason, the NAC recommended these maturity requirement changes based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well matured'' level of maturity for nectarine varieties in production.

Paragraph (a)(1) of § 916.356 also continues in effect the revision in the interim rule to remove 13 nectarine varieties which are no longer in production. The NAC routinely reviews the status of nectarine varieties listed in these maturity guides. The most recent review revealed that 13 of the nectarine varieties listed in the maturity guide had not been in production since the 1993 season. Typically, the NAC recommends removing a variety after non-production for three seasons or if trees of that variety are known to have been pulled out because a maturity guide for an obsolete variety is no longer needed. The varieties removed include the Clinton-Strawberry, Desert Dawn, Early Star, Gee Red, Granderli, Hi Red, Larry's Grand, Late Tina Red, Mayfair, May Red, Red June, Stan Grand, and 61–61 nectarine varieties.

Table 1 of paragraph (a)(1) of § 916.356 continues in effect the revision to correct the identification of the Red Lion nectarine variety. The name ''Red Lion'' has been changed to ''August Lion.'' For that reason, all references to Red Lion have been changed to August Lion. In addition, three nectarine varieties were identified as June Glo, May Glo, and Spring Brite. The correct spelling of these three varieties is Juneglo, Mayglo, and Spring Bright, respectively.

Peaches

Paragraph (a)(1) of § 917.459 specifies maturity requirements for fresh peaches being inspected and certified as being ''well matured.''

This rule continues in effect the revision of Table 1 of paragraph (a)(1) of § 917.459 to add maturity guides for the Kingscrest peach variety to be regulated at the H maturity guide, the Red Dancer peach variety to be regulated at the I maturity guide, and the Early Elegant Lady peach variety to be regulated at the L maturity guide.

This rule also continues in effect the revision in the interim rule changing the maturity guide assignment on Table 1 of paragraph (a)(1) of § 917.459 for the Summer Lady peach variety from the M maturity guide to the L maturity guide. The M maturity guide is no longer deemed suited by SPI to peach varieties currently in production. The L maturity guide more accurately reflects the background color of modern peach varieties in production at this time. For this reason, the PCC recommended this maturity requirement change based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well matured'' level of maturity for peach varieties in production.

The maturity requirement changes for these peach varieties are based on the PCC's continuing review of their individual maturity characteristics, and the identification of the appropriate color chip corresponding to the ''well matured'' level of maturity for each such variety.

Table 1 of paragraph (a)(1) of § 917.459 continues in effect the revision in the interim rule removing 19 peach varieties which are no longer in production. The PCC routinely reviews the status of peach varieties listed in these maturity guides. The most recent review revealed that 19 of the peach varieties listed in the maturity guide had not been in production since the 1993 season. Typically, the PCC recommends removing a variety after non-production for three seasons or if trees of that variety are known to have been pulled out because a maturity guide for an obsolete variety is no longer needed. The varieties removed include the Armgold, Bella Rosa, Bonjour, Desertgold, Early Fairtime, Early Royal May, Fortyniner, Jody Gaye, June Crest, Mardigras, Morning Sun, Preuss Suncrest, Prima Fire, Royal April, Sun Lady, Toreador, Treasure, Windsor, and 50–178 peach varieties.

Table 1 of paragraph (a)(1) continues in effect the revision to change the spelling of two varieties of peaches. The Judy Elberta and Mary Ann varieties appeared on Table 1. However, the spelling of these two names was corrected to read ''July Elberta'' and ''Mary Anne.''

Size Requirements (Nectarines and Peaches)

Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage growers to leave fruit on the tree for a greater length of time. This increased growing time not only improves maturity and, therefore, the quality of the product, but also the size of the fruit. Increased size results in increases in the number of packed boxes of fruit per acre. Acceptable size fruit also provides greater consumer satisfaction, more repeat purchases, and, therefore, increased returns to producers. Varieties recommended for specific size regulation have been reviewed and recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes reached by the regulated varieties and determine whether revisions in the size requirements are appropriate.

Nectarines

Section 916.356 specifies size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule continues in effect the revision in the interim rule of § 916.356 to establish variety-specific size requirements for 10 nectarine varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1996 season. This rule also continues in effect the modification of the variety-specific size requirements for several varieties of nectarines.

For example, one of the varieties added to the variety-specific size requirements is the Kay Glo variety. Studies of the size ranges attained by the Kay Glo variety revealed that .5 percent of that variety met the smallest size, size 96, while 1.6 percent met the largest size, size 40. Approximately 45 percent of the nectarines of the Kay Glo variety met the next larger size, size 50.

A review of other varieties with the same harvesting period indicated that Kay Glo was comparable to those varieties in its size ranges. Thus, the recommendation to place the Kay Glo nectarine variety in the variety-specific size regulation at a size 88 is appropriate. Historical variety data such as this provide the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties.

Paragraph (a)(3) of § 916.356 continues in effect the revision to include the Grand Sun nectarine variety; paragraph (a)(4) continues in effect the revision to include the Arctic Star, Kay Glo, Prima Diamond II, and Prince Jim nectarine varieties; and paragraph (a)(6) in § 916.356 continues in effect the revision to include the Arctic Pride, Arctic Sweet, Diamond Ray, Honey Kist, and Prime Diamond VII nectarine varieties.

This rule also continues in effect the revision of § 916.356 to remove seven nectarine varieties from the variety-specific size requirements specified in the section because less than 5,000 packages of each of these varieties were produced during the 1996 season. Paragraph (a)(4) of that section continues in effect the removal of the Mike Grand nectarine variety. Paragraph (a)(6) continues in effect the removal of the Early Sungrand, Nectarine 23, Prima Diamond, Prima Diamond III, Tasty Gold, and Tom Grand nectarine varieties.

Paragraph (a)(4) of § 916.356 continues in effect the revision to include the Arctic Glo and Red Glo nectarine varieties which were inadvertently removed from the variety-specific size requirement prior to the 1996 season.

In a conforming change, paragraphs (a)(3) and (a)(4) of § 916.356 also continue in effect the revision in the interim rule to correct the spelling of the Mayglo and Juneglo nectarine varieties, respectively. Paragraph (a)(6) continues in effect the revision to include the August Lion variety in place of the Red Lion variety.

Nectarine varieties removed from the nectarine variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

The NAC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine varieties, and consumer acceptance levels for various sizes of fruit. This rule

is designed to establish minimum size requirements for fresh nectarines consistent with expected crop and market conditions.

Peaches

Section 917.459 specifies size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule continues in effect the revision in the interim rule of § 917.459 to establish variety-specific size requirements for nine peach varieties that were produced in commercially significant quantities of more than 10,000 packages for the first time during the 1996 season.

For example, one of the varieties added to the variety-specific size requirements is the August Lady variety. Studies of the size ranges attained by the August Lady variety revealed that no peaches of that variety met the smallest size, size 96, while 36 percent of the peaches of the August Lady variety met the largest size, size 30.

A review of other varieties of the same harvesting period indicated that August Lady was comparable to those varieties in its size ranges. Thus, the recommendation to place the August Lady peach variety in the variety-specific size regulation at a size 72 is appropriate. Historical variety data such as this provide the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties.

In § 917.459, current paragraph (a)(5) continues in effect the revision to include the Rich Mike, Sweet Gem, and Sweet Scarlet peach varieties; and current paragraph (a)(6) continues in effect the revision to include the August Lady, Autumn Flame, Red Sun, Scarlet Snow, Snow Diamond, Summer Zee, and Vista peach varieties.

This rule also continues in effect the removal of one peach variety from the variety-specific size requirements specified in § 917.459, because less than 5,000 packages of this variety were produced during the 1996 season. In § 917.459, current paragraph (a)(5) continues in effect the revision to remove the Regina peach variety.

In a conforming change, current paragraph (a)(6) of § 917.459 continues the revision in the interim rule to correct the spelling of one peach variety from ''Mary Ann'' to ''Mary Anne.''

Peach varieties removed from the variety-specific list become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these peach varieties, and the consumer acceptance levels for various sizes of fruit. This rule is designed to establish minimum size requirements for fresh peaches consistent with expected crop and market conditions.

This rule reflects the committees' and the Department's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. The Department's determination is that this rule will have a beneficial impact on producers, handlers, and consumers of California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interest of producers, handlers, and consumers.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000. Small agricultural service firms, which includes handlers, are defined as those whose annual receipts are less than $5,000,000. A majority of these handlers and producers may be classified as small entities.

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. This rule continues the revisions in the interim rule of requirements to: (1) authorize continued use of a container first used in 1996; (2) authorize shipments of ''CA Utility'' quality fruit during the 1997 season; (3) clarify container tolerances for containers of nectarines and peaches; and (4) revise varietal maturity and size requirements to reflect current growing conditions.

Section 916.350, paragraph (c) and § 917.442, paragraph (c) continue in effect the authority to use a recyclable, reusable plastic container during the 1997 season and beyond. This rule also continues in effect the authority to permit markings on such containers to be placed on the disposable lids rather than on the outside ends of the containers. Use of this container will continue to offer a cheaper and more environment-friendly alternative to currently-used disposable wooden and paper boxes. In addition, use of this container is advocated by retailers who desire to decrease their costs of disposing of packing boxes. Approximately 450,000 recyclable, reusable plastic boxes were used by handlers of nectarines and peaches during the 1996 season, representing more than 1 percent each of total nectarine shipments of 19,561,227 boxes and peach shipments of 19,481,624 boxes.

The increased use of this container is expected to result in decreased handling costs for handlers, and thereby improved returns to producers. Generally, under current industry practices, handlers' costs of packaging nectarines and peaches are passed on to producers by handlers via a deduction from total returns. Such costs include pre-cooling of received fruit, costs of boxes, costs of packing materials, costs of palletizing packed boxes, cold storage, inspection costs, etc. A decrease in the cost of boxes, then, has the potential for decreased handling costs passed on to all producers.

Under §§ 916.350 and 917.442 of the regulations for nectarines and peaches, respectively, use of lower-quality ''CA Utility'' nectarines and peaches was authorized for the 1996 season only. This rule continues the revision in the interim rule to permit the continued use of ''CA Utility'' quality fruit for the 1997 season while further data is obtained. During the 1996 season, the Department authorized the use of nectarines and peaches which were of a lower quality than the minimum permitted for previous seasons. During 1996, there

were 210,443 boxes of nectarines and 365,761 boxes of peaches shipped as ''CA Utility,'' or 1.1 percent and 1.9 percent of nectarine and peach shipments, respectively. Continued availability of ''CA Utility'' quality fruit is expected to have a positive impact on producers, handlers, and consumers by permitting more nectarines and peaches into fresh market channels, without adversely impacting the market for higher quality fruit.

This rule also continues the clarification in the interim rule of the container tolerances for nectarines and peaches. Under the orders, the container tolerances in the standards have been applied to nectarines and peaches, although the tolerances were not specifically included in the orders' rules and regulations. Thus, this is a clarifying change which will not impose any additional burdens on growers or handlers.

Sections 916.356 and 917.442 for nectarines and peaches, respectively, currently establish minimum maturity levels. This rule continues in effect adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using maturity guides (e.g., color chips). Such maturity guides provide producers and handlers with objective tools for measuring the maturity of different varieties of nectarines and peaches. Such maturity guides are reviewed annually to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect changes in the maturity patterns of nectarines and peaches as experienced over the previous seasons' inspections. Adjustments in the guides ensure that fruit has met an acceptable level of ripeness, thus ensuring consumer satisfaction and benefitting nectarine and peach growers and handlers.

Currently, in §§ 916.356 and 917.459, minimum sizes for various varieties of nectarines and peaches are established. This rule continues in effect adjustments to the minimum sizes for various varieties of nectarines and peaches beginning with the 1997 season. Minimum size regulations are put in place to allow fruit to remain on the tree for a greater length of time. This increased growing time not only improves maturity, but also improves fruit size. Increased fruit size increases the number of packed boxes per acre to the benefit of both producers and handlers. Increased fruit size also provides greater consumer satisfaction and, therefore, more repeat purchases by consumers. Repeat purchases and consumer satisfaction benefit producers and handlers alike. Such adjustments to minimum sizes of nectarines and peaches are recommended each year by the NAC and PCC based upon historical data regarding sizes which the different varieties attain.

This rule clarifies some of the orders' requirements and relaxes others. This action does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings were widely publicized throughout the nectarine and peach industries and all interested parties were invited to attend the meetings and participate in committee deliberations on all issues. Like all committee meetings, the December 4, 1996, meetings were public meetings and all entities, both large and small, were able to express views on these issues. The committees themselves are composed of producers, the majority of whom are small entities.

The interim final rule regarding this action was issued on March 24, 1997, and published in the **Federal Register** on April 1, 1997 (62 FR 15355). That rule amended §§ 916.350, 916.356, 917.442, and 917.459 of the rules and regulations in effect under the orders. That rule provided a 30-day comment period which ended on May 1, 1997. One comment was received from the committees' Field Director.

The comment was apparently based on a misreading of the application of tolerances in the U.S. Standards and suggested that the container tolerances for nectarines included in the interim final rule were greater than those recommended by the NAC. However, the commenter recommended that the container tolerances in the interim rule continue in effect unchanged, since revisions at this point would subject handlers of nectarines to changes in container tolerances in the middle of the shipping season. The comment further indicated that the NAC will likely review the nectarine container tolerances at the end of the 1997 season and consider whether modifications are needed prior to the 1998 season.

The comment also noted three typographical errors in the interim final rule. The nectarine variety named ''May Fire'' should be spelled ''Mayfire.'' Table 1 in § 916.356 (a)(1) has been corrected accordingly.

The name of a nectarine variety included in the variety-specific size requirements at § 916.356(a)(6) has also been corrected from ''White Jewels (Arctic Snow)'' to ''Arctic Snow (White Jewel).''

Finally, the commenter noted that the spelling of ''Kingcrest'' should be changed to ''Kingscrest'' in references to that peach variety in Table 1 of paragraph (a)(1) and current paragraph (a)(5) of § 917.459. Those corrections are made by this rule.

The Department also noted a number of errors in the current text of §§ 916.356 and 917.459 that are corrected by this rule. The primary corrections restore regulatory text that was inadvertently misnumbered or removed during previous rulemaking actions, move certain text to more appropriate locations, and delete obsolete language no longer needed. Specific changes are listed below.

Paragraph (a)(1) of § 916.356 is revised to include an exemption from a grade requirement pertaining to color for nectarine varieties lacking red blush or red color on the skins. This provision was inadvertently omitted from the regulatory text in a previous rule.

Paragraphs (a)(1) of §§ 916.356 and 917.459 are revised to move the maturity tables, which were misnumbered, to a new subparagraph (iv). This new subparagraph also contains introductory text pertaining to the maturity tables, which was misnumbered. Also, provisions pertaining to appeals of maturity determinations are relocated in a new subparagraph (v).

In the interim final rule published in the **Federal Register** on April 1, 1997 (62 FR 15355), the new provisions pertaining to container tolerances were duplicatively numbered with the tolerances applicable to ''CA Utility'' quality nectarines and peaches. The latter tolerances are placed in subparagraphs (a)(1)(iii) of §§ 916.356 and 917.459. In § 916.356, current paragraph (c) is redesignated as paragraph (d), and the new container tolerances are moved to a new paragraph (c). In § 917.459, current paragraph (e) is redesignated as paragraph (f), and the new container tolerances are moved to a new paragraph (e).

As previously noted, the spelling of the ''Mayglo'' nectarine variety was corrected in paragraph (a)(3) of § 916.356; this rule makes that correction in paragraph (a)(2) of that section as well.

In § 917.459, obsolete language pertaining to minimum sizes for peaches is removed. Current paragraphs (a)(2) and (a)(4) are removed and current paragraphs (a)(3), (a)(5), and (a)(6) are redesignated as (a)(2), (a)(3), and (a)(4). Conforming changes are made in paragraphs (b) and (c) of that section as well.

After consideration of all relevant matter presented, including that contained in the interim final rule, as well as the committees' recommendations, the comment received, and other available information, it is found that this final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR parts 916 and 917 which was published at 62 FR 15355 on April 1, 1997, is adopted as a final rule with the following changes:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 916 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 916.356 is amended by:

(A) Revising paragraphs (a)(1) introductory text, and (a)(1)(iii);

(B) Adding new paragraphs (a)(1)(iv), (a)(1)(v), and a new Table 1 with a note immediately following it after paragraph (a)(1)(iv);

(C) Removing the words ''May Glo'' and adding the word ''Mayglo'' in paragraph (a)(2);

(D) Adding the words ''Arctic Snow (White Jewel)'' after the words ''Arctic Queen'' and removing the words ''White Jewels (Arctic Snow)'' in paragraph (a)(6); and

(E) Redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 916.356 California Nectarine Grade and Size Regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed, but not badly misshapened: *Provided further,* That all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further,* That during the period April 1 through October 31, 1997, any handler may handle nectarines if such nectarines meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade and that such nectarines are mature and are:

(i) * * *

(ii) * * *

(iii) Tolerances. Not more than 10 percent, by count, of the nectarines in any one container may be below the requirements which are prescribed by this paragraph, including not more than 5 percent, by count, for any one defect, except split pits. An additional tolerance of 10 percent, by count, of the nectarines in any one container or bulk lot may contain nectarines affected with split pits. This means a total tolerance of 20 percent is allowed for all defects, including split pits, but not to exceed 15 percent for split pits alone.

(iv) The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in Table 1 to paragraph (a)(1)(iv) in making maturity determinations for the specified varieties when inspecting to the ''well matured'' level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Fairlane, Tom Grand, and 61–61 varieties of nectarines, not less than an aggregate area of 80 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in Table 1 to paragraph (a)(1)(iv) may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of ''well matured.''

TABLE 1 TO PARAGRAPH (a)(1)(iv)

Column A variety	Column B maturity guide
Alshir Red	J
Ama Lyn	G
Apache	G
April Glo	H
Arm King	B
August Glo	L
August Lion	J
August Red	J
Aurelio Grand	F
Autumn Delight	L
Autumn Grand	L
Big Jim	J
Bob Grand	L
Del Rio Rey	G
Earliglo	I
Early Diamond	J
Early May	F
Early May Grand	H
Early Red Jim	J
Early Sungrand	H
Fairlane	L
Fantasia	J
Firebrite	H
Flamekist	L
Flaming Red	K
Flavor Grand	G
Flavortop	J
Flavortop I	K
Gold King	H
Grand Diamond	L
Grand Stan	F
Independence	H
July Red	L
Juneglo	H
June Grand	G
Kay Diamond	L
Kent Grand	L
King Jim	L
Kism Grand	J
Late Le Grand	L
Late Red Jim	J
Le Grand	H
Maybelle	F
May Diamond	I
Mayfire	H
Mayglo	H
May Grand	H
May Jim	I
May Kist	H
May Lion	J

TABLE 1 TO PARAGRAPH (a)(1)(iv)—Continued

Column A variety	Column B maturity guide
Mid Glo	L
Mike Grand	H
Moon Grand	L
Niagara Grand	H
Pacific Star	G
P–R Red	L
Red Diamond	L
Red Delight	I
Red Fred	J
Red Free	L
Red Glen	J
Red Glo	I
Red Grand	H
Red Jim	L
Red June	G
Red May	J
Regal Grand	L
Rio Red	L
Rose Diamond	J
Royal Delight	F
Royal Giant	I
Royal Glo	I
Ruby Diamond	L
Ruby Grand	J
Ruby Sun	J
Scarlet Red	K
September Grand	L
September Red	L
Sheri Red	J
Sierra Star/181–119	G
Son Red	L
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L
Spring Grand	G
Spring Red	H
Spring Top	B
Star Bright	G
Star Brite	J
Star Grand	H
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	L
Summer Fire	L
Summer Grand	L
Summer Lion	L
Summer Red	L
Summer Star	G
Sunburst	J
Sun Diamond	I
Sunfre	F
Sun Grand	G
Super Star	G
Tasty Free	J
Tasty Gold	H
Tom Grand	L
Zee Glo	J
Zee Grand	I

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed in this table.

(v) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

* * * * *

(c) Container tolerances. A package may contain not more than double any specified tolerance except that at least two defective specimens may be permitted in any package: *Provided,* That the averages for the entire lot are within the tolerances specified in this part.

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

3. The authority citation for 7 CFR part 917 continues to read as follows:

4. Section 917.459 is amended by:

(A) Revising paragraphs (a)(1) introductory text, and (a)(1)(iii);

(B) Adding new paragraphs (a)(1)(iv) and (a)(1)(v), and a new Table 1 with a note immediately following it following paragraph (a)(1)(iv);

(C) Removing paragraph (a)(2) and redesignating paragraphs (a)(3), (a)(4), (a)(5) and (a)(6) as paragraphs (a)(2), (a)(3), (a)(4) and (a)(5);

(D) Revising the introductory text of paragraphs (b) and (c);

(E) Redesignating paragraph (e) as paragraph (f) and adding a new paragraph (e) to read as follows:

§ 917.459 California Peach Grade and Size Regulation.

(a) * * *

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided,* That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided further,* That during the period April 1 through November 23, 1997, any handler may handle peaches if such peaches meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade and that such peaches are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more healed cracks which, either singly or in the aggregate, are more than ½ inch in length; and mold, brown rot, and decay; and

(ii) * * *

(iii) Tolerances. Not more than 10 percent, by count, of the peaches in any container may be below the requirements prescribed by this paragraph. Not more than one-half of this tolerance shall be allowed for any one cause. Individual containers in any lot may contain not more than one and one-half times the tolerances specified if the percentage of defects of the entire lot averages within the tolerances.

(iv) The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color chips or such other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in Table 1 to paragraph (a)(1)(iv) in making maturity determinations for the specified varieties when inspecting to the ''well matured'' level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in Table 1 to paragraph (a)(1)(iv) may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified inappropriate measure of ''well matured.''

Table 1 to paragraph (a)(1)(iv)

Column A variety	Column B maturity guide
Angelus	I
Ambercrest	G
August Sun	I
Autumn Crest	I
Autumn Gem	I
Autumn Lady	H
Autumn Rose	I
Belmont (Fairmont)	I
Berenda Sun	I
Blum's Beauty	G
Cardinal	G
Cal Red	I
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
David Sun	I
Diamond Princess	J
Early Coronet	D
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C

Table 1 to paragraph (a)(1)(iv)—Continued

Column A variety	Column B maturity guide
Fayette	I
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Golden Crest	H
Golden Lady	F
Honey Red	G
John Henry	J
July Elberta	C
July Lady	G
June Lady	G
June Pride	J
June Sun	H
Kearney	I
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
Lacey	I
Mary Anne	G
May Crest	G
May Lady	G
May Sun	I
Merrill Gem	G
Merrill Gemfree	G
O'Henry	I
Pacifica	G
Parade	I
Pat's Pride	D
Prima Lady	J
Prime Crest	H
Queencrest	G
Ray Crest	G
Red Cal	I
Red Dancer (Red Boy)	I
Redglobe	C
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
Scarlet Lady	F
September Sun	I
Sierra Crest	H
Sierra Lady	I
Sparkle	I
Springcrest	G
Spring Lady	H
Springold	D
Sugar Lady	J
Summer Lady	L
Summerset	I
Suncrest	G
Topcrest	H
Tra Zee	J
Willie Red	G

Table 1 to paragraph (a)(1)(iv)—Continued

Column A variety	Column B maturity guide
Zee Lady	L

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed in this table.

(v) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

* * * * *

(b) During the period April 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3) or (a)(4) of this section unless:

* * * * *

(c) During the period July 1 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3) or (a)(4) of this section unless:

* * * * *

(e) Container tolerances. The contents of individual packages in the lot are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified in this part:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual packages shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages shall have not more than double the tolerance specified.

(2) For packages which contain 10 pounds or less, individual packages are not restricted as to the percentage of defects.

* * * * *

Dated: September 18, 1997.

Robert C. Keeney.

Director, Fruit and Vegetable Division.

[FR Doc. 97–25410 Filed 9–26–97; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–63–AD; Amendment 39–10147; AD 97–20–10]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, that requires modification of the attitude and heading reference systems (AHRS). This amendment is prompted by a report of loss of power to both AHRS's during flight due to a faulty terminal block to which the signal ground for the AHRS's are connected. The actions specified by this AD are intended to prevent simultaneous power loss to both AHRS's, which could result in reduced controllability of the airplane.

DATES: Effective November 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. 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 FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Luciano Castracane, Aerospace Engineer, Systems and Equipment Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

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 de Havilland Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on July 22, 1997 (62 FR 39194). That action proposed to require modification of the attitude and heading reference systems (AHRS).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 173 de Havilland Model DHC–8–100, –200, and –300 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $10 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $43,250, or $250 per airplane.

The cost impact figure discussed above is 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:

97–20–10 De Havilland, Inc.: Amendment 39–10147. Docket 97–NM–63–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent simultaneous power loss to both attitude and heading reference systems (AHRS), which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 400 hours time-in-service after the effective date of this AD, modify the AHRS's, in accordance with Bombardier Alert Service Bulletin S.B. A8–34–117, Revision 'C', dated February 14, 1997.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

(d) The modification shall be done in accordance with Bombardier Alert Service Bulletin S.B. A8–34–117, Revision 'C', dated February 14, 1997. 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 Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 3, 1997.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–97–01R1, dated February 3, 1997.

Issued in Renton, Washington, on September 19, 1997.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25416 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–15; Amendment 39–10137; AD 97–19–17]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CT58 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company CT58 series turboshaft engines, that requires removal from service of certain compressor rear shafts, initial and repetitive inspections of specific critical rotating parts, and replacement if found cracked, until those parts are removed from service and replaced with improved design parts. This amendment is prompted by a stage 2 turbine wheel

incident in 1993 which resulted in an increased awareness of small features on critical rotating parts which could affect part life. The actions specified by this AD are intended to prevent fatigue cracking on specific critical rotating parts, which could result in failure of the part, causing an uncontained engine failure and damage to the aircraft.

DATES: Effective November 28, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 28, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Aircraft Engines, Technical Publications, 1000 Western Avenue, Lynn, MA 01910; telephone (781) 594–5102, fax (781) 594–2717. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133, fax (781) 238–7199.

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 General Electric Company (GE) CT58 series turboshaft engines was published in the **Federal Register** on April 3, 1997 (62 FR 15861). That action proposed to require removal from service of certain compressor rear shafts, initial and repetitive inspections of specific critical rotating parts, and replacement if found cracked, until those parts are removed from service and replaced with improved design parts.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public.

Since publication of the Notice of Proposed Rulemaking (NPRM), GE has issued Revision 2 to GE Aircraft Engines Service Bulletin (SB) No. (CT58) 72–181, CEB–284, dated July 15, 1997, which adds serial numbers (S/Ns) of certain affected Stage 1 and Stage 2 turbine wheels that require inspections. Revision 1 to GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, dated November 29, 1995, is no longer current and is not an acceptable Alternative Method of Compliance (AMOC) for this AD.

In addition, GE has issued Revision 8 to GE Aircraft Engines SB No. (CT58) A72–162, CEB–258, dated June 16, 1997, that makes editorial changes to the SB. Revisions 5 through 7 of this SB are considered acceptable AMOCs for this AD.

Also, the FAA has revised the economic analysis to better reflect the lower number of affected engines, since not all Stage 1 and Stage 2 turbine wheels now require inspections, only those listed by S/Ns in GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, dated July 15, 1997.

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

There are approximately 400 engines of the affected design in the worldwide fleet. The FAA estimates that 126 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately zero additional work hours per engine to accomplish the required actions. Required parts will cost approximately $2,730 per engine, based on the estimated current part cost, as the manufacturer will prorate the cost to the operator downward by a factor equal to the quotient of the difference between the original life limit (4,000 hours time in service) and the total cycles of life consumed at time of removal, divided by the original life limit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $56,650.

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:

97–19–17 General Electric Company: Amendment 39–10137. Docket 97–ANE–15.

Applicability: General Electric Company (GE) Models CT58–100–2, –110–1/–2, –140–1/–2, and T58–GE–3/–5/–10/–100 turboshaft engines, installed on but not limited to Boeing Vertol 107 series, and Sikorsky S61 and S62 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 prevent fatigue cracking on specific critical rotating parts, which could result in failure of the part, causing an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Determine hours time in service (TIS) and cycles in service (CIS) in accordance with the improved methodology described in GE Aircraft Engines Service Bulletin (SB) No.

(CT58) A72–162, CEB–258, Revision 8, dated June 16, 1997.

(b) For engines that have engaged in repeated heavy lift (RHL) operations, as defined in paragraph (e) of this AD, accomplish the following:

(1) For compressor rear shafts, Part Numbers (P/N's) 4000T29P01/P03, 5016T95P01/P04, and 5013T86P03, accomplish the following:

(i) For compressor rear shafts, with either 2,975 or more hours TIS, or 9,550 or more CIS, on the effective date of this AD, remove compressor rear shafts and replace with a serviceable compressor rear shaft at the next light overhaul or next exposure of compressor rear shafts after the effective date of this AD, whichever occurs first.

(ii) For all other compressor rear shafts, remove compressor rear shafts and replace with a serviceable compressor rear shaft, prior to accumulating 3,000 hours TIS, or 9,600 CIS, whichever occurs first.

(iii) For all compressor rear shafts, remove from service and replace with a serviceable, redesigned compressor rear shaft, P/N 5016T95P06, not later than December 31, 1997.

(2) Initially inspect the ten rotating parts specified in paragraph (d) of this AD for cracks at the times specified in sub-paragraphs (i) and (ii) of this paragraph, and, thereafter, inspect at each light overhaul or major overhaul until the parts are retired from service. Perform the inspections in accordance with the procedures described in GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, Revision 2, dated July 15, 1997. Prior to further flight, replace parts found cracked during these inspections with serviceable parts.

(i) For parts with greater than the baseline time in service (TIS) on the effective date of this AD, inspect at the earliest occurrence of the following after the effective date of this AD: the next light overhaul, the next major overhaul, or the next exposure of the affected parts.

(ii) For parts with less than or equal to the baseline TIS on the effective date of this AD, inspect within 1,000 hours TIS from the listed baseline TIS.

(c) For engines that have never engaged in RHL operations, accomplish the following:

(1) For compressor rear shafts, P/N's 4000T29P01/P03, 5016T95P01/P04, and 5013T86P03, remove compressor rear shafts and replace with a serviceable compressor rear shaft, prior to accumulating 9,600 CIS, or 9,000 hours TIS, whichever occurs first. Prior to December 31, 1999, replace compressor rear shafts with a serviceable, redesigned compressor rear shaft, P/N 5016T95P06.

(2) Initially inspect the ten rotating parts specified in paragraph (d) of this AD for cracks at the times specified in sub-paragraphs (i) and (ii) of this paragraph, and, thereafter, at each light overhaul or major overhaul until the parts are retired from service. Perform the inspections in accordance with the procedures described in GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, Revision 2, dated July 15, 1997. Prior to further flight, replace parts found cracked during these inspections with serviceable parts.

(i) For parts with greater than the baseline TIS on the effective date of this AD, inspect at the earliest occurrence of the following after the effective date of this AD: the next light overhaul, the next major overhaul, or the next exposure.

(ii) For parts with less than or equal to the baseline TIS on the effective date of this AD, inspect within 2,000 hours TIS from the listed baseline hours.

(d) For the purpose of performing the inspections required by paragraphs (b)(2) and (c)(2) of this AD, the following baseline TIS are established:

(1) For compressor rotor spool assemblies, P/N's 6010T57G04 and 6010T57G08, whether or not used in RHL operations, baseline is 2,000 hours TIS.

(2) For turbine front shafts, P/N's 5003T35P01 and 573D358P002, whether or not utilized in RHL operation, baseline is 1,000 hours TIS.

(3) For turbine coupling shafts, P/N's 4001T26P01 and 278D987P002, if utilized in RHL operation, baseline is 1,000 hours TIS; if never utilized in RHL operations, baseline is 2,000 hours TIS.

(4) For turbine rear shafts, P/N's 4005T29P01 and 37D400244P101, whether or not utilized in RHL operation, baseline is 2,000 hours TIS.

(5) For Stage 1 front cooling plates, P/N's 37C300055P101, whether or not utilized in RHL operation, baseline is 1,000 hours TIS.

(6) For Stage 1 aft cooling plates, P/N's 3002T25P01 and 645C334P002, whether or not utilized in RHL operation, baseline is 1,000 hours TIS.

(7) For Stage 2 front cooling plates, P/N's 3000T88P02 and 645C332P002, whether or not utilized in RHL operation, baseline is 1,000 hours TIS.

(8) For Stage 2 aft cooling plates, P/N's 3002T27P01 and 645C336P002, whether or not utilized in RHL operation, baseline is 1,000 hours TIS.

(9) For Stage 1 turbine wheels, P/N 4002T17P02 TF3, listed by Serial Numbers (S/Ns) in paragraph 1.A. (3) of GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, Revision 2, dated July 15, 1997, if utilized in RHL operation, baseline is 1,000 hours TIS; if never utilized in RHL operation, baseline is 2,000 hours TIS.

(10) For Stage 2 turbine wheels, P/N 4002T96P02 TF3, listed by S/Ns in paragraph 1.A. (3) of GE Aircraft Engines SB No. (CT58) 72–181, CEB–284, Revision 2, dated July 15, 1997, if utilized in RHL operation, baseline is 1,000 hours TIS; if never utilized in RHL operation, baseline is 2,000 hours TIS.

(e) For the purpose of this AD, the following definitions apply:

(1) RHL operation is defined as performing more than 10 lift-carry-drop cycles per hour TIS without landing, or more than 10 takeoffs and landings per hour TIS.

(2) Light overhaul is defined as scheduled engine maintenance that allows the engine to continue in service until scheduled major overhaul time is reached.

(3) Major overhaul is defined as scheduled engine maintenance including complete engine inspections and tests with repair or replacement of parts or components as necessary.

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

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

(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 aircraft to a location where the inspection requirements of this AD can be accomplished.

(h) The actions required by this AD shall be done in accordance with the following GE Aircraft Engines SBs:

Document number	Pages	Revision	Date
(CT58) 72–181, CEB–284	1–22	2	July 15, 1997.
Total pages	22		
(CT58) A72–162, CEB–258	1	7	April 25, 1997.
	2,3	8	June 16, 1997.
	4,5	5	May 12, 1994.
	6	7	April 25, 1997.
	7,8	5	May 12, 1994.
	9–11,	7	April 25, 1997.
	12–16	5	May 12, 1994.
	17	7	April 25, 1997.
	18–20	5	May 12, 1994.

Document number	Pages	Revision	Date
	21	8	June 16, 1997.
	22–24	5	May 12, 1994.
	25, 26	7	April 25, 1997.
	27	5	May 12, 1994.
Total pages	27		

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 General Electric Aircraft Engines, Technical Publications, 1000 Western Avenue, Lynn, MA 01910; telephone (781) 594–5102, fax (781) 594–2717. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(i) This amendment becomes effective on November 28, 1997.

Issued in Burlington, Massachusetts, on September 11, 1997.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–25581 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 960918265–7203–04]

RIN 0694–AB09

Satellite Fuel, Ground Support Equipment, Test Equipment, Payload Adapter/Interface Hardware, and Replacement Parts for the Preceding Items, When Included With a Specific Commercial Communications Satellite Launch

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends the Commerce Control List of the Export Administration Regulations by revising the List of Items Controlled, of Export Control Classification Number (ECCN) 9A004, to provide that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware and replacement parts for the preceding items are subject to Commerce jurisdiction when they are included with a specific commercial communications satellite. This rule amends the interim final rule of October 21, 1996 that transferred jurisdiction of all commercial communications satellites from the Department of State to the Department of Commerce.

EFFECTIVE DATE: September 29, 1997.

FOR FURTHER INFORMATION CONTACT: Gene Christiansen, Office of Strategic Trade, Telephone: (202) 482–2984.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1996, the Department of Commerce published an interim final rule in the **Federal Register** (61 FR 54540) that amended the Export Administration Regulations (EAR) by revising Export Control Classification Number (ECCN) 9A004 to control all commercial communications satellites. The interim final rule also imposed enhanced national security and foreign policy controls (''SI'' controls for significant items) on all commercial communications satellites controlled under ECCN 9A004.a.

This final rule amends the Commerce Control List of the Export Administration Regulations by revising the List of Items Controlled, of Export Control Classification Number (ECCN) 9A004, to provide that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware and replacement parts for the preceding items are subject to Commerce jurisdiction when they are included with a specific commercial communications satellite.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, notice of August 15, 1995 (60 FR 42767), and August 14, 1996 (61 FR 42527); and August 13, 1997 (62 FR 43629).

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR Parts 730–799) is amended as follows:

PART 774—[AMENDED]

1. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR 1995 Comp. 501 (1996); Notice of August 14, 1996 (61 FR 42527, August 15, 1996); Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

Supplement No. 1 to Part 774 [Amended]

2. In Supplement No. 1 to part 774, the Commerce Control List, Category 9 (Propulsion Systems, Space Vehicles, and Related Equipment), Export Control Classification Number (ECCN) 9A004 is amended by revising the List of Items Controlled to read as follows:

9A004 ''Spacecraft'', (not including their payloads) and specially designed components therefor that are not subject to the authority of the Department of State. (See notes.)

* * * * *

List of Items Controlled

Unit: Equipment in number; systems, components, parts and accessories in $ value.

Related Controls: (1) The corresponding EU list number controls space launch vehicles (not including their payloads) and other ''spacecraft'' (not identified in this CCL entry). These items are subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls (See 22 CFR part 121, Category XV). For the control status of products contained in ''spacecraft'' payloads, see the appropriate categories of the U.S. Munitions List (USML). (2) For the control status of items contained in ''spacecraft'' payloads subject to the EAR, see the appropriate entries on the CCL.

Related Definition: Transferring registration or operational control to any foreign person of any commercial communications satellite controlled by this entry must be authorized on a license issued by the Bureau of Export Administration. This requirement applies whether the commercial communications satellite is physically located in the United States or abroad.

Items

a. Commercial communications Satellites;

Technical Note: Commercial communications satellites are subject to Commerce licensing jurisdiction even if they include the individual munitions list systems, components, or parts identified in Category XV(f) of the United States Munitions List (USML). In all other cases, these Category XV(f) systems, components, or parts remain on the USML, except that satellite fuel, ground support equipment, test equipment, payload adapter/interface hardware, replacement parts for the preceding items, and non-embedded, solid propellant orbit transfer engines (''kick motors'') are subject to Commerce licensing jurisdiction (and not controlled on the USML) when they are to be utilized for the specific commercial communications satellite launch, provided the solid propellant ''kick motor'' being utilized is not specifically designed or modified for military use or capable of being restarted after achievement of mission orbit (such orbit transfer engines are always controlled under Category IV of the USML). Technical data (as defined in § 120.10 of the International Traffic in Arms Regulations (ITAR)) and defense services (as defined in § 120.9 of the ITAR) related to the systems, components, or parts referred to in Category XV(f) of the USML are always controlled under the USML, even when the satellite itself is licensed by the Department of Commerce.

Notes: 1. Military communication satellites or multi-mission satellites, including commercial communications satellites having additional non-communication mission(s) or payload(s) are under the jurisdiction of the Department of State.

2. As indicated in the Technical Note, under some circumstances a license application under 9A004 includes other items, which are necessary for the commercial communications satellite launch, but are normally subject to State Department jurisdiction. Certain of these items (e.g., kickmotors, satellite fuel, etc.) are controlled by the Missile Technology Control Regime (MTCR) Equipment and Technology Annex.

b. [Reserved]

c. Other ''spacecraft'' not subject to the export licensing authority of the U.S. Department of State, Office of Defense Trade Controls under 22 CFR part 121, Category XV.

Notes: 1. ECCN 9A004.c includes the international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Exporters requesting a license from the Department of Commerce for spacecraft other than the international space station or a commercial communications satellite specified in 9A004 must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce.

2. All other spacecraft, including all other satellites not controlled under 9A004 and components, parts, accessories, attachments, associated equipment, and ground support equipment therefor are subject to the export licensing authority of the Department of State.

3. Items on Category XV(f) of the USML and certain other USML items designated in the technical note, above, that are included in a commercial communications satellite to be exported under a Commerce license must be specifically listed on the Commerce license application. Such USML items when not included in a specific commercial communications satellite are under the jurisdiction of the Department of State.

4. Technical data provided to the launch provider (form, fit, function, mass, electrical, mechanical, dynamic/environmental, telemetry, safety, facility, launch pad access, and launch parameters) for commercial communications satellites that describe the interfaces for mating of the satellite to the launch vehicle and parameters for launch (e.g., orbit, timing) of the satellite, are under Commerce jurisdiction. Other technical data and all defense services and technical assistance for satellite and/or launch vehicles, including compatibility, integration, or processing data are controlled and subject to licensing by the Department of State, in accordance with 22 CFR parts 120 through 130. Approval for such technical assistance will require a Technical Assistance Agreement (TAA) and may require U.S. Government oversight.

5. Once a satellite is launched, items remaining unlaunched are required to be returned immediately to the United States. If the satellite launch is canceled or unduly delayed, the satellite and all support equipment must be returned immediately to the United States.

6. Detailed design, development, production, or manufacturing data for all spacecraft, including satellites, regardless of which agency has jurisdiction over the export, and all systems components, parts, accessories, attachments, and associated equipment (including ground support equipment) specifically designed or modified for articles under Category XV on the United States Munitions List (including software source code and operating algorithms) are subject to licensing by the Department of State. This does not include that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S.-built item intended to operate in space has been designed, manufactured and tested in conformance with specified contract requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal in-orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware).

Dated: September 17, 1997.

William V. Skidmore,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–25765 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 247

Use of Columbia River Treaty Fishing Access Sites

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Indian Affairs (BIA) is promulgating regulations for application to the Columbia River Fishing Access Sites. The current regulations in part 248 do not apply to these new fishing sites which are being

transferred to the Bureau from the U.S. Army Corps of Engineers. This proposed rule gives the Bureau the authority to manage and maintain these fishing sites for tribal fishermen. Part 248 is still required for the maintenance of the in-lieu fishing sites.

DATES: Interim rule effective September 29, 1997. Comments must be submitted on or before November 28, 1997.

ADDRESSES: Submit comments on this rule to Mr. Chuck James, Area Archeologist, Portland Area Office, Bureau of Indian Affairs, 911 N.E. 11 Ave., Portland, OR 97232, (503) 231–6229.

FOR FURTHER INFORMATION CONTACT: Chuck James (Area Archeologist), (503) 231–6229.

SUPPLEMENTARY INFORMATION: On November 1, 1988, the President signed into law Pub. L. 100–581, Title IV—Columbia River Treaty Fishing Access Sites. This bill, provides that certain designated Federal lands shall be administered to provide access to usual and accustomed fishing areas and ancillary fishing facilities for members of the Nez Perce, Umatilla, Warm Springs, and Yakima Indian Tribes. The law directs the Secretary of the Army to make various specified improvements to both existing and additional lands, with the Secretary of the Army maintaining such lands until they are transferred to the Secretary of the Interior.

One of the sites will be transferred to BIA jurisdiction at the time these regulations are published. Without a final rule, the BIA would not have regulations to follow in administering the sites.

Related regulations which cover the existing In-Lieu Fishing Sites appear at 25 CFR 248, and are being revised into plain English and published as a proposed rule at a future date. Because Treaty Fishing Access Sites are authorized through separate legislation and have different constraints than the In-Lieu Sites, different regulations are necessary.

The Bureau agreed that the States do not have regulatory jurisdiction or authority over the in-lieu fishing sites. The sites are federal properties held by the United States for the benefit of the Indian Tribes with treaty fishing rights in the Columbia River. The Bureau regulates and manages the sites as a matter of federal law, but, in the absence of specific Bureau regulations governing health, sanitation and safety requirements, the regulation provides for the incorporation by reference of state or U.S. Public Health Service standards. We addressed the issue of non-fish oriented commercial enterprises, as questions have arisen on that subject since the promulgation of the 248 regulations.

In August 1990, the United States Court of Appeals for the Ninth Circuit issued its opinion in *Sohappy* v. *Hodel*, 911 F.2d 1312 (9th Cir. 1990). In that opinion the court, focused on the 1945 law which authorized the in-lieu sites. The court determined that in enacting the 1945 Act, Congress intended that the existing conditions at the in-lieu sites were to continue. The court found that these conditions included year-round dwellings. Because the regulations published here cover sites authorized not under the 1945 Act, but under the 1988 Act, the Bureau believes that the *Sohappy* decision does not apply to the new fishing access sites. These regulations, therefore, address the limitations on constructing dwellings on the new sites.

One distinguishing feature of the 1988 Act is that different Tribes are included than those that Congress included under the 1945 Act. The 1988 Act, in addition to the Yakima, Warm Springs, and Umatilla Tribes, includes the Nez Perce Tribe. The 1945 Act includes only the Yakima, Umatilla, Warm Springs and other Columbia River Indians. If the existing regulations at 25 CFR 248 were to apply to these new fishing access sites, the Nez Perce Indians, although they may be able to fish in the area, would not have a legal basis for using these new sites.

Archaeologic and historic evidence indicates that some fishing areas have been used through historic and prehistoric times. Section 247.5(c) is intended to protect the historic and archaeologic resources. Authority for this regulatory activity comes from Archeological Resources Protection Act of 1979, as amended 16 U.S.C. 470, Pub. L. 96–95, and amendments (ARPA).

Section 247.13(a) explains that the Area Director may close temporarily, facilities at the sites for necessary maintenance during the winter or at other times if necessary, and that before closing the facilities, the Area Director will consult with delegated tribal representatives, if possible. The BIA intends to ensure access to fishing sites even during periods in which the facilities might be closed for maintenance. The BIA intends not to interfere with ceremonial fishing activities. If tribal members require the use of a facility during a period of planned closure, then a delegated tribal representative should contact the Area Director to arrange if possible for a particular facility to be opened during that time.

Interested parties involved in this rulemaking include: The Yakima Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, The Confederated Tribes of the Umatilla Indian Reservation, the Nez Perce Tribe, and the Columbia River Inter Tribal Fisheries Commission (CRITFC). The legislation was passed for the benefit of the named tribes. Together, these tribes comprise CRITFC's constituency. CRITFC is a coordinating entity for Columbia River fisheries issues and law enforcement. The interested parties sent representatives to monthly task force meetings from 1989 through the present. Draft regulatory language was distributed at these meetings, and mailed to the tribal representatives, and the tribal governments. In addition to the task force meetings, the Portland Area Director and staff, and a Solicitor's office attorney met with the tribes on their reservations as requested.

We are publishing this interim rule by the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Our policy is to give the public an opportunity to participate in the rulemaking process by submitting written comments. We will consider all comments received during the public comment period. We will determine necessary revisions and publish those in the **Federal Register**. Please refer to this preamble's **ADDRESSES** section for where you must submit your written comments on this interim rule.

We certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

This rule is not a significant rule under Executive Order 12866 and does not require approval by the Office of Management and Budget.

We determined this proposed rule:

(a) Does not constitute a major Federal action significantly affecting the human environment, and no detailed statement is needed under the Environmental Policy Act of 1969;

(b) Does not have significant takings implications in accordance with Executive Order 12630;

(c) Does not have significant Federalism effects;

(d) Does not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*); and

(e) Does not contain collections of information requiring approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

(f) Does not impose an unfunded mandate upon the public or state or local governments.

List of Subjects in 25 CFR Part 247

Fisheries, Fishing, Indians, Indians—claims, Indians—law.

For the reasons set out in the preamble, part 247 is added to 25 CFR as follows:

PART 247—USE OF COLUMBIA RIVER TREATY FISHING ACCESS SITES

Sec.

247.1 What definitions apply to this part?
247.2 What lands are subject to these regulations?
247.3 Who is eligible to use the sites?
247.4 How can eligible users be identified?
247.5 What laws and regulations apply to the people who use these sites?
247.6 What will happen if I damage Government-owned property?
247.7 Can I build a structure?
247.8 What am I responsible for if I use the facilities?
247.9 What other rules apply while I am using the facilities?
247.10 What will happen if I abandon property?
247.11 What other restrictions apply to use of the sites?
247.12 Will I have to pay to use a site?
247.13 Are the facilities available year around?
247.14 Can I hook up a campsite to on-site or off-site utilities?
247.15 May I reserve a campsite or drying shed?
247.16 What fire is permitted?
247.17 What are the restrictions on fires?
247.18 What are the sanitation prohibitions?
247.19 Can a site be used for commercial enterprises other than fishing enterprises by the tribes?
247.20 What are the road and trail prohibitions?
247.21 Can I appeal an administrative action?

Authority: 25 U.S.C. 2 and 9; Pub. L. 100–581, Title IV.

§ 247.1 What definitions apply to this part?

Abandoned property means property left at a site while the owner of the property is not actively engaged in fishing or drying or processing fish. Abandoned property may include:

(1) Vehicles;
(2) Mobile trailers;
(3) Campers;
(4) Tents;
(5) Tepees;
(6) Boats, or;
(7) Other personal property.

Archaeological Resource means material remains of prehistoric or historic human life or activities that are of archaeological interest and are at least 50 years of age, and the physical site, location, or context in which they are found.

Area Director means the position responsible for administration of the Portland Area of the Bureau of Indian Affairs.

Campfire means fire, not within any building, motor home or trailer, which is used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes.

Damage means to injure, mutilate, deface, destroy, cut, chop, girdle, dig, excavate, kill or in any way harm or disturb.

Secretary means the Secretary of the Interior or his designee.

Sites means Treaty Fishing Access Sites.

Treaty Fishing Access Sites means all Federal lands acquired by the Secretary of the Army and Transferred to the Secretary of the Interior pursuant to Public Law 100–581, Title IV, November 1, 1988, to be administered to provide access to usual and accustomed fishing areas and ancillary fishing facilities.

Vehicle means any device in, upon, or by which any person or property is or may be transported, and including any motor, frame, chassis, or body of any motor vehicle, or camper shell, except devices used exclusively upon stationary rails or tracks.

§ 247.2 What lands are subject to these regulations?

(a) Any treaty fishing access sites and ancillary fishing facilities.

(b) These sites and facilities are managed for the exclusive use of members of the Nez Perce Tribe, the Confederated Tribes of the Umatilla Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakima Indian Reservation.

(c) The Area Director may suspend or withdraw the privileges of use of any or all of the facilities at the sites for any violation of the regulations in this part or of any rules issued under the regulations in this part.

§ 247.3 Who is eligible to use the sites?

(a) You may use the sites for access to usual and accustomed fishing areas and ancillary fishing facilities if you are a member of the Confederated Tribes and Bands of the Yakima Indian Nation (Yakima), the Confederated Tribes of the Warm Springs Reservation of Oregon (Warm Springs), the Confederated Tribes of the Umatilla Indian Reservation (Umatilla), and the Nez Perce Tribe (Nez Perce).

(b) The general public or people fishing who do not belong to the tribes listed above cannot use these sites.

(c) Families of such Indians may camp on the sites.

(d) You may not deny access to these sites to any eligible user.

§ 247.4 How can eligible users be identified?

(a) In order to use these sites you must posses an identification card issued by your tribe identifying you as a member of that tribe.

(b) You must exhibit the identification upon request of authorized Federal, State, local or tribal officials.

§ 247.5 What laws and regulations apply to the people who use these sites?

You may use access sites only if you obey the following rules:

(a) You may not use any of the sites for any activity that is contrary to the provisions of your tribe or contrary to Federal law or regulation, or in the absence of Federal law or regulation governing health, sanitation, and safety requirements, State or U.S. Public Health Service standards.

(b) The Area Director may suspend or withdraw the privileges of use of any or all of the facilities at the sites for any violation of the regulations in this part or for any violation of any rules issued under the regulations in this part. You cannot dig in, destroy, or remove any portion of a prehistoric or historic archaeological site or artifact.

(c) Nothing contained in the regulations in this part is intended or shall be construed as limiting or affecting any treaty rights of any tribe nor as subjecting any Indian properly exercising tribal treaty rights to State fishing laws or regulations that are not compatible with those rights.

§ 247.6 What will happen if I damage Government-owned property?

If you commit any act of vandalism, depredation, destruction, theft, or misuse of the land, buildings, fences, signs, or other structures that are the property of the United States you will be subject to prosecution under applicable Federal or State law.

§ 247.7 Can I build a structure?

(a) You may not build any structures at the sites except as allowed under paragraph (d) of this section .

(b) You may use the camping facilities that have been constructed at the sites.

(c) In addition to these structures, you may camp in tents, tepees, campers, and mobile trailers. You must remove any tents, tepees, campers, temporary drying sheds, and mobile trailers from the sites at any time you are not actively engaged in fishing, drying fish, or processing fish by other means, and during the time a site is closed for maintenance.

(d) Where the Area Director has designated areas for the construction of temporary drying sheds, you may construct a temporary drying shed where space is available. You must remove any temporary drying shed you build.

(e) If you erect or maintain a structure in violation of this section, the Area Director may order it removed at any time.

(f) The Area Director:

(1) Is not required to notify you before removing the structure; and

(2) Will charge you the cost of disposing of the structure.

§ 247.8 What am I responsible for if I use the facilities?

You are responsible for:

(a) Campsites, drying sheds and other facilities during the time you occupy or use them; and

(b) Any personal property that you erect, place, or maintain on the site during the time you occupy the site, including:

(1) Tents;
(2) Tepees;
(3) Campers;
(4) Mobile trailers;
(5) Temporary drying sheds;
(6) Fishing platforms;
(7) Boats; and
(8) Other fishing equipment.

§ 247.9 What other rules apply while I am using the facilities?

(a) You cannot construct, take possession of, occupy or otherwise use any access site or structure for residential purposes at an access site.

(b) Neither the United States nor any officer or employee thereof warrants, makes any representation, or is responsible for the safety or condition of any personal property.

§ 247.10 What will happen if I abandon property?

If you abandon property at a site, it may be removed without your consent and disposed of at your expense, if the Area Director approves.

§ 247.11 What other restrictions apply to use of the sites?

The Area Director may prescribe and post at the sites regulations covering:

(a) Camping;
(b) Picnicking;
(c) Use of alcoholic beverages;
(d) Setting or use of fires;
(e) Use of the sites for cleaning fish;
(f) Deposit of garbage, paper, cans, bottles, or rubbish of any kind; or
(g) Use of the sites for any commercial activity (including commercial purchase of fish).

§ 247.12 Will I have to pay to use a site?

No. Neither you nor any member of your family will be charged for using a site in accordance with this part.

§ 247.13 Are the facilities available year around?

(a) The Area Director may close facilities at the sites for necessary maintenance during the winter or at other times if necessary. Before closing the facilities, the Area Director will consult with delegated tribal representatives, if possible.

(b) You will still be able to access your treaty fishing rights on the Columbia River through these sites while they are closed.

(c) If any sites are closed or restricted, any affected tribe can contact the Area Director and ask that the sites be opened. The Area Director will work together with the tribes to consider these requests.

§ 247.14 Can I hook up a campsite to on-site or off-site utilities?

(a) You must share access to all on-site facilities.

(b) Because there are a limited number of faucets available, only short-term hose use is allowed to ensure that others have access to water.

(c) You may not tap into electrical lines or outlets, or have electrical power brought in from an outside source for campsite use.

§ 247.15 May I reserve a campsite or drying shed?

No. You may not reserve a campsite, drying shed, or other facility.

(a) You must use campsites, drying sheds, and other facilities on a first-come, first-served basis.

(b) You may not occupy one or more campsites solely for the purpose of reserving a site for another tribal member.

§ 247.16 What fire is permitted?

(a) You may have a fire in designated fire places, and other areas designated for fires.

(b) You may have a fire inside a drying shed in a manner that does not jeopardize the structure.

§ 247.17 What are the restrictions on fires?

(a) You cannot burn timber, trees, slash, brush or grass unless you have a permit issued by the Area Director or his designee.

(b) You cannot build a fire in an unsafe location or leave a fire without completely extinguishing it.

(c) You must control all fire and not allow it to escape.

§ 247.18 What are the sanitation prohibitions?

(a) You cannot deposit in any toilet, toilet vault, or plumbing fixture anything that could damage or interfere with the operation or maintenance of the fixture.

(b) You must dispose of all garbage, including any paper, cans, bottle, sewage, waste water or material, either by removal from the site, or by depositing it into receptacles or at places provided for such purposes.

(c) You may not bring refuse, debris, or toxic or hazardous materials to the sites for disposal.

(d) All toxic or hazardous materials must be properly removed from the sites. You may not dispose of such materials in a sewer line, tank, drain, storm drain, or on the ground.

(e) You must not place in or near the river or other water any substance that pollutes or may pollute the water.

(f) If dumping stations are not available, you must transport sewage off site.

§ 247.19 Can a site be used for commercial enterprises other than fishing enterprises by the tribes?

(a) You may operate commercial activities during commercial fishing seasons, and subsistence activities, incidental to treaty fishing on the site.

(b) You may not construct or operate other types of commercial enterprises, such as firework stands.

§ 247.20 What are the road and trail prohibitions?

(a) You cannot damage or leave in a damaged condition any road, trail, or segment thereof.

(b) You cannot block, restrict, or otherwise interfere with the use of a road, trail, or gate.

§ 247.21 Can I appeal an administrative action?

You may appeal any decision made by the Area Director under this part to the Commissioner of Indian Affairs. You may appeal any decision of the Commissioner of Indian Affairs to the Secretary of the Interior in accordance with part 2 of this chapter.

Dated: September 16, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–25495 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA105–4066a; FRL–5897–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania, General Conformity Rule

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. The revision consists of Pennsylvania's rule for General Conformity which sets forth policy, criteria, and procedures for demonstrating and assuring conformity of non-transportation related Federal projects to all applicable implementation plans. The intended effect of this action is to approve Pennsylvania's General Conformity Rule as a SIP revision.

DATES: This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted. 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 & Mobile Sources Section, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566–2182, at the EPA Region III office or via e-mail at quinto.rose@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the Region III address.

SUPPLEMENTARY INFORMATION: On June 12, 1997, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP) to meet the requirements of 40 CFR 51.851, General Conformity. Pennsylvania adopted the provisions of the Federal General Conformity Rule, 40 CFR part 93, subpart B, effective November 16, 1994. This action to approve General Conformity Rule (25 Pa. Code Chapter 127, §§ 127.801 and 127.802) is being taken under section 110 of the Clean Air Act (CAA).

Summary of the SIP Revision

The Commonwealth of Pennsylvania has adopted by reference the General Conformity Rule promulgated by the U.S. Environmental Protection Agency under section 176(c) of the CAA and the regulations codified at 40 CFR part 93, subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The Federal rule requires that all Federal actions conform to applicable air quality implementation plans. This rule only applies to areas designated nonattainment under section 107 of the CAA and described in the 40 CFR part 81 or areas with approved maintenance plans under section 175(A) of the CAA.

The Federal rule sets forth policy, criteria, and procedures for demonstrating and assuring conformity of non-transportation related Federal projects to all applicable implementation plans developed pursuant to section 110 and part D of the CAA. The rule generally applies to Federal actions except:

(1) Those required under the transportation conformity rule (40 CFR part 93, subpart A);

(2) Actions with associated emissions below specified de minimis levels; and

(3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

Some examples of Federal actions requiring conformity determination include: Airport Construction/Modification grants; Leasing of Federal Land; Granting a Permit; Construction of Federal Office Buildings; Private Construction on Federal Land; Prescribed Burning; Reuse of Military Bases; and Water Treatment Plants.

At 40 CFR 51.851, State Implementation Plans, EPA promulgated the requirements that must be adopted by a state and submitted as a SIP revision to implement the General Conformity revisions. The provisions adopted by Pennsylvania are those contained in and required by the Federal rule. EPA has reviewed Pennsylvania General Conformity Rule, and has determined that it satisfies the requirements of 40 CFR 51.851. A Technical Support Document (TSD) has been prepared which details the EPA's evaluation of Pennsylvania's General Conformity Rule. Interested parties may obtain a copy of the TSD by contacting the EPA Regional Office listed in the **ADDRESSES** section of this document.

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 November 28, 1997 unless, by October 29, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will 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 November 28, 1997.

Final Action

EPA is approving Pennsylvania's 25 Pa. Code Chapter 127, §§ 127.801 and 127,802, General Conformity Rule submitted by Pennsylvania as a SIP revision on June 12, 1997, which was effective on November 9, 1996.

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 action from review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

C. Unfunded Mandates Act

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 included a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to the publication of the rule of 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 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, on the Pennsylvania General Conformity Rule, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: September 16, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR 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)(126) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(126) Revisions to the Pennsylvania State Implementation Plan on June 12, 1997 by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) A letter of June 12, 1997 from the Pennsylvania Department of Environmental Protection transmitting the General Conformity Rule.

(B) 25 Pa. Code Chapter 127, §§ 127.801 and 127.802—General Conformity Rule, effective November 9, 1996.

(ii) Additional material from the Pennsylvani's June 12, 1997 submittal pertaining to 25 Pa. Code Chapter 127.

* * * * *

[FR Doc. 97–25654 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–103–21a; FRL–5898–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of a NO_X RACT Determination for Panther Creek Energy Facility

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 and requires nitrogen oxides (NO_X) reasonably available control technology (RACT) for Panther Creek Energy Facility located in Carbon County, Pennsylvania. The intended effect of this action is to approve a source-specific operating permit that establishes the above-mentioned RACT requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Kelly L. Bunker, (215) 566–2177, at the EPA Region III office or via e-mail at Bunker.Kelly@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the Region III address.

SUPPLEMENTARY INFORMATION: On September 13, 1996 and January 21, 1997, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). Each source subject to this rulemaking will be identified and discussed below. Any plan approvals and operating permits submitted coincidentally with those being approved in this document, and not identified below, will be addressed in a separate rulemaking action.

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), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and 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 (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Pennsylvania submittal that is the subject of this document is meant to satisfy the RACT requirements for one source in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific operating permit can be found in the docket and accompanying technical support document (TSD) and will not be reiterated in this document. Briefly, EPA is approving a revision to the Pennsylvania SIP pertaining to the determination of RACT for one major source. The operating permit contains conditions irrelevant to the determination of NO_X RACT. Consequently, these provisions are not being included in this approval for source-specific NO_X RACT.

RACT Determination

The Panther Creek Energy Facility is a cogeneration utility located in Carbon County. NO_X RACT for the facility is addressed in operating permit # 13–0003. The majority of NO_X emissions at the facility are generated by two circulating fluidized bed (CFB) boilers. The facility is not a major VOC source. NO_X RACT for the two CFB boilers was determined to be continuation of current operating conditions which includes the operation of selective non-catalytic reduction (SNCR) controls. The RACT emission rate for each CFB boiler is never to exceed 0.15 pounds of NO_X/MMBtu and 72.5 pounds/hour, based on an one-hour average. Further information on the RACT requirements for this facility are summarized in the accompanying technical support document, which is available upon further request, from the EPA Region III office listed in the **Addresses** section of this document.

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 is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted.

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 November 28, 1997. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

Final Action

EPA is approving one operating permit as NO_X RACT for Panther Creek Energy Facility.

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 Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 1997. Filing a petition for reconsideration by the Regional 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 to approve a NO_X RACT determination for a one individual source in Pennsylvania as a revision to the Commonwealth—s SIP 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: September 16, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR 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) (128) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(128) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to NO_X RACT, submitted on September 13, 1996 and January 21, 1997 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection).

(i) Incorporation by reference.

(A) Two letters submitted by the Pennsylvania Department of Environmental Resources (now, the Pennsylvania Department of Environmental Protection) transmitting source-specific NO_X RACT determinations in the form of an operating permit on the following dates: September 13, 1996 and January 21, 1997.

(B) *Operating permit (OP).* Panther Creek Energy Facility, Carbon County, OP # 13–0003, effective date of December 2, 1996, except for condition # 7 pertaining to particulate, PM–10, SO2, CO and VOC emission limits, condition # 10 pertaining to particulate emissions, condition # 11 pertaining to opacity, condition # 12 pertaining to the Standards of Performance for New Stationary Sources and the expiration date.

(ii) Additional material.

(A) Remainder of the Commonwealth of Pennsylvania's September 13, 1996 and January 21, 1997 submittals.

[FR Doc. 97–25755 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5898–7]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion, Bayou Sorrel superfund site.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Bayou Sorrel Superfund Site, located in Bayou Sorrel, Iberville Parish, Louisiana, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This action is being taken by EPA and the State of Louisiana because it has been determined that all appropriate response actions have been implemented and remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 29, 1997.

ADDRESSES: Comprehensive information on the Site is available through the public docket which is available for viewing at the Bayou Sorrel Superfund Site information repositories at the following locations: U.S. EPA Region 6 Library (12th Floor), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 / 665–6427; Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (504) 765–0487; Police Jury of Iberville Parish, 510 Meriam, Plaquemine, LA 70765, (504) 687–5190; Iberville Parish Library, 1501 J. Gerald Berret Blvd., Plaquemine, LA 70765, (504) 687–2520.

FOR FURTHER INFORMATION CONTACT: Stephen L. Tzhone, Remedial Project Manager (6SF-LP), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8409.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Bayou Sorrel Superfund Site, Bayou Sorrel, Iberville Parish, Louisiana. A Notice of Intent to Delete for this site was published on June 4, 1997 (62 FR 30554). The closing date for comments on the Notice of Intent to Delete was July 3, 1997. EPA received comments during and after the public comment period. All accepted comments, including those received after the comment period, and the responses by EPA have been included in the Responsiveness Summary (Appendix 1).

EPA identifies sites that appear to present significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those

sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future; § 300.425(2)(3) of the NCP. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water Pollution control, Water supply.

Dated: September 18, 1997.

Myron O. Knudson,

Acting Regional Administrator, U.S. EPA Region 6.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site ''Bayou Sorrel Site, Bayou Sorrel, Louisiana.''

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix 1—Responsiveness Summary, Bayou Sorrel Superfund Site, Bayou Sorrel, Iberville Parish, Louisiana

The Responsiveness Summary has been prepared to provide written responses to comments submitted regarding the Notice of Intent to Delete (62 FR 30554) for the Bayou Sorrel Superfund Site. All accepted comments are presented in the original, submitted format to the extent possible, with similar comments combined.

1. I support the decision to delete the Bayou Sorrel Superfund Site from the NPL.

EPA appreciates all public support and input for its decisions. The concerns of the community are a top priority in finalizing any actions taken by the agency. The decision to delete the Bayou Sorrel Superfund Site from the National Priorities List was only considered after all remedial activities have been completed and concurrence given by the State of Louisiana.

2. The people of the Bayou Sorrel area were not made aware of the pollution in the waterways, fish, crawfish, and wildlife. The Bayou Sorrel area residents were never informed of the dangers caused by the migration of toxic wastes from the Bayou Sorrel Superfund Site.

EPA has attempted in every possible way to share information on the Bayou Sorrel Superfund Site with area residents and communities. A Community Relations Plan (June 1984, revised July 1990) was developed with the help of area residents and many factsheets have been mailed out to interested citizens, congressional representatives, and the media. A public meeting was also held in January 1986 to discuss the cleanup remedy for the Bayou Sorrel Superfund Site. Supporting documentation concerning EPA action at the Bayou Sorrel Superfund Site can be found at the Iberville Parish Library, where a repository has been set up for the public.

3. ERM Southwest, Inc. discovered the pollution in 1984. We are not being advised of the results of monitor wells overseen by ERM Southwest, Inc., or the Louisiana Department of Environmental Quality.

ERM Southwest, Inc. is a company contracted out by the Bayou Sorrel Steering Committee for technical activities concerning the Bayou Sorrel Superfund Site. Sampling results from the monitoring wells are reviewed by both EPA and the State of Louisiana. These results currently do not suggest significant risk to public health or the environment. Data and results are available for public review at the information repositories.

4. On February 1994, President Clinton directed federal agencies to make sure minorities and the poor aren't disproportionately exposed to pollution and other environmental dangers. We feel that an environmental injustice is being done to our communities. We would welcome an investigation of these injustices in the very near future. Our civil rights are being violated.

EPA is very interested in any environmental justice issues concerning unfair biases of pollution exposure toward minorities and the poor. At the Bayou Sorrel Superfund Site, EPA has taken civil actions against responsible parties and implemented site remedial activities with cooperation from the responsible parties. However, if further actions pertaining to environmental justice are warranted, the Environmental Justice National Hotline at 1–800–962–6215, is available for the community to request an investigation into this matter.

5. The cap and slurry walls are not adequate to protect the environment. The clay can crack and leak, and the slurry walls can do the same. The leaking wastes will contaminate the crawfish, fish, rabbits and other animals/biota in the area that people consume for food (not just in the area, but all over the country). The clay can't be trusted to contain the wastes.

The integrity of the cap, slurry walls, and the underlying clay geology ensures that no leakage of the contained wastes can occur. Data collected from the continued monitoring of groundwater demonstrate that no significant risk to public health or the environment is posed by the hazardous materials remaining within the cap. The Bayou Sorrel Superfund Site is currently under an Operations & Maintenance plan which calls for water sampling from the monitoring wells and engineer inspections of the cap and site. Based on results from all these activities to date, and the public health consultation by the Agency for Toxic Substances and Disease Registry, EPA verifies the implemented site remedy is protective of human health and the environment.

6. Water wells aren't being tested—how do we know that chemicals from the site aren't leaching into residents' drinking water?

Data from the monitoring wells surrounding the capped areas would immediately reveal if structural integrity had been breached and wastes were leaching out. The sampling results from these monitoring wells have indicated that the cap and slurry walls are operational as planned. Also, in August 1993, the Louisiana Office of Public Health conducted a private well survey in the Bayou Sorrel vicinity to determine if shallow groundwater in the area had been contaminated. Most of the private wells that were used near the site in the early 1980's have been abandoned and are no longer in use except for one private well located in the town of Bayou Sorrel on Bayou Sorrel Road. A water sample from this well was analyzed for volatile organic compounds and metals including arsenic. No volatile organic compounds or metals were detected in the private well water. Municipal water for the town of Bayou Sorrel is supplied by the Iberville Parish Waterworks #3 which draws water out of the Intracoastal Waterway near the confluence with the Upper Grand River near Jack Miller's Landing. This new water system has been inspected and surveyed during the first year of operation and meets all Federal regulations for primary drinking

water standards. Additional information can be found in the Health Consultation by the Agency for Toxic Substances and Disease Registry, dated May 8, 1995.

7. No one has ever followed up ''on anything'' at the site—only one rabbit and one fish were tested during the cleanup. How do we know that animals and fish aren't still being contaminated? Is animal/biota testing still taking place?

Seventy-five fish samples were taken in the area near the site and analyzed for polychlorinated biphenyls, pesticides, volatile organic compounds, and metals, including arsenic, mercury, and thallium. The samples were collected by the Louisiana Department of Environmental Quality and Louisiana Office of Public Health in June and July of 1993. No elevated levels of polychlorinated biphenyls and pesticides were detected in the fish. No volatile organic compounds were detected in the fish, either. Additional information can be found in the Health Consultation by the Agency for Toxic Substances and Disease Registry, dated May 8, 1995.

8. Pesticides and PCBs have been detected in channel catfish, crappie bass, * * *. Everybody in this area are consumers of the fish, crawfish, and wild game obtained in these waterways and woods. A fishing and hunting ban should be established in the area of the site.

EPA is unaware of the alleged pesticide and polychlorinated biphenyls detections in the fish. Sampling results and data collected from supporting state agencies and EPA indicate otherwise. In addition, EPA does not establish hunting and fishing bans. Those actions are taken by state and local health agencies.

9. The site should be fenced and clearly marked as a hazard—establish institutional controls.

Installation of fences around all capped areas to restrict access has been in place since the remedial construction activities were completed. The fences are inspected and maintained as part of the ongoing Operations & Maintenance site activities. Institutional controls such as deed restrictions were established along with posting of warning signs on all fenced areas. The gravel roads around the fenced areas allow for continued recreational use of adjacent lands and the borrow lake while diverting traffic around and away from the capped areas.

10. The site is adding to the overall pollution of the area—such as the ''illegal'' injection well in Bayou Sorrel. The permit for that well should have never been renewed—that well is ''illegal.''

The permits for injection wells in Louisiana are given by the Louisiana Department of Natural Resources and checked for federal regulations compliance by EPA. The permitted, legal injection well within Bayou Sorrel currently meets all federal standards and has satisfactorily passed state inspections.

11. The community unanimously objected to the cap/containment remedy for this site, but EPA, the State and the industries that polluted the site went ahead and did what they wanted to anyway. Has the public ever ''gotten their wishes'' when it comes to Superfund cleanups or permits? Or can someone high up in EPA tell them that the ''fix is already in'' so we can stop wasting our time commenting on things that have already been decided?

EPA encourages the community to participate at all points during the Superfund process. EPA invited the community to participate in selecting the remedy for the Bayou Sorrel Superfund Site during the Record of Decision phase in 1986. At that time, the community raised a number of questions and concerns regarding remediation of the site. These comments can be found in the Record of Decision dated November 14, 1986. As a result of the community's input and other considerations, the cap/containment remedy for the Bayou Sorrel Superfund Site was selected as the best alternative after evaluating performance, reliability, engineering implementability, public health and welfare, environmental impacts, institutional factors, and costs.

EPA solicited and reviewed comments regarding its intent to delete the Bayou Sorrel Superfund Site from the National Priorities List. The decision to delete any Superfund site from the National Priorities List is not final until EPA has extended an opportunity to the public to comment on the proposed action. At this time, EPA has decided to move forward with its decision to delete the Bayou Sorrel Superfund Site from the National Priorities List, but only after careful consideration and response to all public comments. EPA has also established a Superfund Ombudsman position to address any concerns from the public on the Superfund process. Please feel free to contact the EPA Region 6 Superfund Ombudsman at 1–800–533–3508, to share any concerns which were not resolved to your satisfaction.

[FR Doc. 97–25653 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–102; RM–8969]

Radio Broadcasting Services; Slidell and Kenner, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Phase II Broadcasting, reallots Channel 287C1 from Slidell to Kenner, Louisiana, and modifies Station WLTS-FM's license to specify Kenner as its community of license. *See* 62 FR 15869, April 3, 1997. Channel 287C1 can be allotted to Kenner in compliance with the Commission's minimum distance separation requirements at the site specified in Station WLTS-FM's license. The coordinates for Channel 287C1 at Kenner are 29–58–57 NL and 89–57–09 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 3, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–102, adopted September 10, 1997, and released September 19, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Slidell, Channel 287C1 and adding Kenner, Channel 287C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–25591 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–133; RM–9086]

Radio Broadcasting Services; Lake City, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 235A to Lake City, Minnesota, as that community's second FM broadcast service in response to a petition filed by Phoenix Media Group, Inc. *See* 62 FR 27711, May 21, 1997. The coordinates for Channel 235A at Lake City are 44–22–58 and 92–21–45. There is a site restriction 10.6 kilometeres (6.6 miles) southwest of the communtiy. With this action, this proceeding is terminated.

DATES: Effective November 3, 1997. The window period for filing applications for Channel 235A at Lake City, Minnesota, will open on November 3, 1997, and close on December 4, 1997.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–133, adopted September 10, 1997, and released September 19, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Channel 235A at Lake City.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–25590 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. 97–046; Notice 2]

RIN 2127–AG73

Schedule of Fees Authorized by 49 U.S.C. 30141; Fee for Review and Processing of Conformity Certificates for Nonconforming Vehicles

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

ACTION: Final rule.

SUMMARY: This rule amends NHTSA's regulations that prescribe a schedule of fees authorized by 49 U.S.C. 30141 for various functions performed by the agency with respect to the importation of motor vehicles. The amendment establishes a fee for the agency's review and processing of statements that registered importers submit to certify that vehicles that were not originally manufactured to conform to all applicable Federal motor vehicle safety standards have been brought into conformity with those standards. The fee, which is set at $14.00 for fiscal year 1998, applies to all vehicles for which conformity certificates are submitted to NHTSA, including vehicles imported from Canada, which currently account for over 98 percent of the nonconforming vehicles that are processed by NHTSA.

DATES: The amendment established by this final rule will become effective on October 29, 1997.

Any petitions for reconsideration must be received by NHTSA not later than November 13, 1997.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Clive Van Orden, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–366–2830). For legal issues: Coleman Sachs, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–366–5238).

SUPPLEMENTARY INFORMATION:

A. Background

This rule was preceded by a notice of proposed rulemaking (NPRM) that NHTSA published on July 15, 1997 (62 FR 37847), proposing to establish a fee for the agency's review and processing of conformity certificates submitted by registered importers and to set the fee for fiscal year (FY) 1998 at $17.00 per vehicle. The NPRM stated that 49 U.S.C. 30141 permits an importer who is registered with NHTSA (a ''registered importer'') to import a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS), provided that NHTSA has decided that the vehicle is eligible for importation. Once a motor vehicle has been declared eligible for importation, it is imported under bond by a registered importer or by an individual who has executed a contract or other agreement with a registered importer to bring the vehicle into compliance with applicable FMVSS. When the registered importer completes all necessary alterations, it must certify to NHTSA that the vehicle meets the FMVSS. See 49 U.S.C. 30146(b) and 49 CFR 592.6(e). This is accomplished by submitting, in accordance with regulations and guidance issued by NHTSA, a package containing photographic and documentary evidence of the vehicle's conformance with each applicable FMVSS. Each of these packages is reviewed by NHTSA's Office of Vehicle Safety Compliance (OVSC) to verify the accuracy of the information it contains. If NHTSA questions the registered importer's certification of compliance, the registered importer is notified pursuant to 49 CFR 592.8(c) to hold the vehicle for inspection. Acceptance of the certification ends the agency's involvement with the vehicle.

The NPRM noted that NHTSA staff expends much time reviewing and evaluating routine compliance packages, and even more time if a package does not indicate conformance with the FMVSS, necessitating follow-up action.

Based on figures accumulated to date, NHTSA expects to review over 21,000 compliance packages in FY 1997, which will end on September 30, 1997.

B. Authority for Fee

NHTSA is authorized under 49 U.S.C. 30141(a)(3) to establish an annual fee requiring registered importers to pay for the costs of carrying out the registered importer program. The agency is also authorized under this section to establish fees to pay for the costs of processing the conformance bonds that registered importers provide, and fees to pay for the costs of making agency decisions relating to the importation of noncomplying motor vehicles and equipment. As stated in the NPRM, NHTSA believes it is entitled to reimbursement under 49 U.S.C. 30141 for the costs of reviewing conformity packages submitted by registered importers to secure the release of the conformance bonds that cover noncomplying vehicles.

Because NHTSA's approval of the conformity package is a necessary predicate to the release of these bonds, NHTSA has concluded that the expense incurred by the agency in reviewing and processing each package may be treated as part of the bond processing cost, for which NHTSA is authorized to set a fee under 49 U.S.C. 30141(a)(3)(A).

Additionally, NHTSA's decision to approve the release of a bond based on its review of a conformity package qualifies as a ''decision'' under Subchapter III of Title 49, U.S. Code, for which the agency is authorized to set a fee under 49 U.S.C. 30141(a)(3)(B). Section 30141(e) provides that the amounts collected as fees from registered importers under section 30141(a)(3) ''are only for use by the Secretary of Transportation—(1) in carrying out this section and sections 30146 (a)–(c)(1), (d), and (e) and 30147(b) of this title * * *.'' NHTSA's authority to review conformity packages is principally derived from section 30146(c). That provision authorizes the Secretary of Transportation to require the compliance certification submitted by a registered importer to ''be accompanied by evidence of compliance the Secretary considers appropriate * * *.'' In light of the fact that section 30141(e) clearly authorizes the use of fees collected from registered importers under section 30141(a)(3) to support NHTSA's actions in reviewing conformity packages, NHTSA has concluded that it is authorized under 49 U.S.C. 30141(a)(3)(B) to charge fees for that purpose.

Even if such authority did not exist in Chapter 301 of Title 49, U.S. Code, the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701, provides ample authority for NHTSA to impose fees that are sufficient to recover the agency's full costs for the review and processing of conformity packages. By reviewing the conformity package and authorizing the release of the conformance bond that is posted upon entry of a nonconforming vehicle, NHTSA is performing a specific service for an identifiable beneficiary that can form the basis for the imposition of a fee under 31 U.S.C. 9701.

Courts have long recognized that federal agencies may impose fees under section 9701 for providing comparable services to regulated entities. *See,* e.g., *Seafarers International Union of North America* v. *U.S. Coast Guard,* 81 F.3d 179, 183 (D.C. Cir. 1996)(finding the Coast Guard authorized to charge reasonable fees for processing applications for merchant mariner licenses, certificates, and work documents); *Engine Manufacturers Association* v. *E.P.A.,* 20 F.3d 1177, 1180 (D.C. Cir. 1994)(finding the E.P.A. authorized to impose a fee to recover its costs for testing vehicles and engines for compliance with the emission standards of the Clean Air Act); and *National Cable Television Association, Inc.* v. *F.C.C.,* 554 F.2d 1094, 1101 (D.C. Cir. 1976) (finding the F.C.C. authorized to impose fees for issuing certificates of compliance to cable television operators).

In view of the language and judicial construction of 31 U.S.C. 9701, NHTSA is relying on this provision as an independent source of authority for the conformity package review fee. The agency believes that this provision and 49 U.S.C. 30141 each provide sufficient separate authority for this fee and the other fees that the agency has established under 49 CFR Part 594. Section 9701 was not cited as authority for the Part 594 fees previously established by the agency because each of those fees was expressly authorized under the language of 49 U.S.C. 30141 or its predecessor provision. When the prior fees were established, NHTSA did not recognize a need to impose a fee for the review and processing of conformity certificates because those actions accounted for a relatively small share of the work performed by OVSC. In the ensuing years, OVSC has devoted a substantially greater share of its work to those efforts, so that a fee is now necessary to offset the agency's costs for performing this work.

C. Comments

Three comments were submitted in response to the notice of proposed rulemaking. The first of these was from Philip Trupiano of Auto Enterprises, Inc. of Clawson, Michigan, a registered importer. In his comment, Mr. Trupiano contends that NHTSA lacks statutory authority to establish the proposed fee for the review and processing of conformity packages. Specifically, Mr. Trupiano states that the action taken by the agency on these packages cannot be characterized as a ''decision'' under Subchapter III of Title 49, U.S. Code, for which the agency is authorized to set a fee under 49 U.S.C. 30141(a)(3)(B). Mr. Trupiano asserts that NHTSA's claim to that effect is refuted by the letters that the agency issues to registered importers following its review of conformity packages, which Mr. Trupiano describes as merely acknowledging receipt of the importer's certification and stating that a determination of a vehicle's compliance with the FMVSS may only be made upon actual compliance testing by NHTSA.

Mr. Trupiano appears to have misconstrued the nature of the decision the agency makes upon its review of a conformity package. That decision is not whether the vehicle in fact conforms to all applicable FMVSS, but instead whether the bond that is issued to ensure such conformity may be released. The agency reaches its decision on whether the bond may be released based on its review of the conformity package submitted by the importer. If the conformity package provides sufficient evidence that the vehicle complies with all applicable FMVSS, NHTSA issues the release letter. As Mr. Trupiano has noted, the letter contains the caveat that it does not constitute an agreement on NHTSA's part that the vehicle in fact complies with all applicable FMVSS since testing must be performed to determine compliance with many of the standards. NHTSA's decision to release the conformance bond based on its review of the conformity package is nonetheless a decision under Subchapter III of Title 49, U.S. Code, for which the agency is authorized to set a fee under 49 U.S.C. 30141(a)(3)(B).

Mr. Trupiano also asserts that 31 U.S.C. 9701 does not provide alternate authority for establishment of the proposed fee because paragraph (c)(2) of section 9701 states that ''[t]his section does not affect a law of the United States—* * * prescribing bases for determining charges * * *.'' Applying this language, Mr. Trupiano contends that section 9701 provides no authority for the proposed fee because Congress has elsewhere ''prescribed the bases for which fees would be assessed for the registered importer program * * *.''

Mr. Trupiano's contention that 31 U.S.C. 9701 does not provide alternate authority for the proposed fee also appears to be based on a misreading of that statute. The only provision that Mr. Trupiano cites in support of this contention is 49 U.S.C. 9701(c)(2), which states: ''(c) this section does not affect a law of the United States—* * * (2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.'' The legislative history of section 9701 reveals that it was derived from a provision previously codified at 31 U.S.C. 483a (1976), which stated, as one of its provisos, ''[t]hat nothing contained in this section shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price * * *.'' This provision has no bearing on 49 U.S.C. 30141(a)(3)(B), because that section merely authorizes the establishment of fees to pay for the costs of making decisions under Chapter 301, without prescribing any bases for the calculation of such fees. Contrary to Mr. Trupiano's apparent interpretation of subsection (b)(2) of 31 U.S.C. 9701, that subsection does not preclude an agency from establishing a fee under section 9701 where other statutory authority for the establishment of the fee may exist. The subsection instead merely states that if the other statute prescribes a basis for determining the amount of the fee, that basis shall be given effect.

Mr. Trupiano next challenges the finding by NHTSA in the regulatory analysis portion of the NPRM that the proposed fee would not have a significant economic impact on a substantial number of small businesses, precluding the need for the agency to prepare a regulatory flexibility analysis under the Regulatory Flexibility Act. As Mr. Trupiano notes, this finding was predicated on the agency's belief that importers could pass along the proposed fee, which is quite small in comparison to the value of the vehicles to which it would apply, to the ultimate purchasers of those vehicles. Mr. Trupiano instead contends that vehicles imported from Canada must compete with domestically produced versions of those vehicles and that the value of Canadian imports, which is set by the value of their domestic counterparts, would not be enhanced in any manner by payment of the proposed fee. As such, Mr. Trupiano asserts that the fee would have to be absorbed by the importer and that it could have significant cost consequences if the volume of imports by any one importer is sufficiently high. Additionally, Mr. Trupiano asserts that NHTSA did not provide advance notice to registered importers or their trade association prior to issuance of the NPRM, or seek alternatives that would reduce the cost of processing compliance packages. The alternatives that Mr. Trupiano identifies are: ''(1) Electronic data transfer of the conformance package and bond release; (2) elimination of unnecessary film photographs of the vehicles; (3) reduction in the amount of the conformity bond required; and (4) shorter turnaround time in reviewing the conformity packages.''

With regard to the cost impact of the proposed fee on registered importers, NHTSA notes that Mr. Trupiano did not identify the profit margin on which these businesses typically operate. From NHTSA's understanding of this industry, the agency believes that the fee, which was proposed at $17.00 but is being established in this final rule at $14.00 on the basis of more current data, is quite low in relation to the profit earned by the typical registered importer on each noncomplying vehicle that it imports. Even if this fee amount could not be passed on to the vehicle's ultimate purchaser, as Mr. Trupiano contends, the agency believes that the registered importer could absorb it without suffering undue financial strain. Based on informal contacts with registered importers prior to the issuance of the NPRM, NHTSA understood that they could reasonably accommodate a fee in the neighborhood of twenty to twenty-five dollars. The $14.00 fee that NHTSA is establishing in this final rule, which is based on the agency's analysis of the costs it actually incurs in the review and processing of conformity packages, is considerably short of this range.

With respect to the alternatives to the imposition of the proposed fee that were identified by Mr. Trupiano, NHTSA notes that the only one that would actually reduce the costs that NHTSA incurs in the review and processing of conformity packages is the electronic transfer of the bond release letter. The agency is currently studying the feasibility of implementing such a change. The agency is also examining the issue of allowing registered importers to transmit the contents of the conformity package electronically. It is the agency's understanding that any requirement for the electronic transfer of this data would actually increase costs to many registered importers since they lack the specialized equipment and expertise necessary to make such transmissions. Agency costs are also likely to increase with the electronic transfer of conformity data, as it would take longer for a reviewer to call up photographs on a computer than to examine hard copy photographs in a conformity package.

The principal impediment to the agency's approval of electronic transmissions is the existing requirement for actual photographs to be used to verify the certifications in the conformity package that the vehicle complies with all applicable standards. NHTSA requires actual photographs because they are less subject to manipulation than electronically transmitted images and therefore provide a more reliable means for identifying the vehicle that is the subject of the conformity package and ascertaining its conformity status. Nevertheless, NHTSA is still exploring ways to accommodate the interest in electronic transmission that has been expressed by some registered importers.

NHTSA requires the conformance bond that accompanies the entry of a noncomplying vehicle to be in an amount equal to 150% of the dutiable value of the vehicle. See 49 CFR 591.8. The agency is authorized under 49 U.S.C. 30141(d)(2) to require importers to provide bonds up to that amount. Since the full amount of the bond is released upon NHTSA's approval of a conformity package, any reduction in the amount of the bond should have negligible cost consequences for registered importers. The agency believes that it is necessary for the bond to be in the full amount authorized under section 30141(d)(2) to provide maximum assurance that nonconforming vehicles imported under bond are brought into compliance with all applicable standards.

Under 49 U.S.C. 30146(a), a registered importer may release custody of a vehicle that did not conform to all applicable FMVSS at the time of importation 30 days after it submits to NHTSA a conformity package covering the vehicle, unless the agency notifies the importer to hold the vehicle for inspection or notifies the importer that it has reason to question the validity of the certification. Currently, NHTSA is processing these packages well within the 30-day limit. Processing time is now averaging approximately one and one-half weeks, with an additional week taken, on average, if there is a need to communicate with the registered importer to address any problem that the agency may have with the package. Although the agency continually strives to streamline its administrative processes, given current staff and budgetary constraints, it would be difficult to achieve any significant reduction in the present turnaround

time for the review and processing of conformity packages.

Mr. Trupiano next observes that NHTSA permits individuals to import vehicles from Canada that are not certified as complying with all applicable FMVSS provided that they furnish a letter from the vehicle's manufacturer stating that the vehicle meets those requirements. Mr. Trupiano contends that the agency expends many of the same resources in processing these imports as it does for vehicles imported by registered importers, leading him to question why it is not proposing a fee to cover those processing costs. Through an agreement that it entered with the U.S. Customs Service in April of this year, NHTSA's approval is no longer necessary for the importation of Canadian vehicles for personal use. The importer now furnishes the manufacturer's letter directly to the Customs Service. As a consequence, there is no longer a basis for the agency to impose a fee for processing these imports.

Mr. Trupiano's final contention is that the proposed fee ''would serve to place an additional financial restriction on the entry of motor vehicles from Canada, where no such equivalent fee is paid to the Canadian government for importing a vehicle from the United States.'' As such, he asserts that the fee would constitute a non-tariff barrier to trade prohibited under Article 309 of the North American Free Trade Agreement (NAFTA).

Article 309 of NAFTA provides, with certain exceptions that are beyond the scope of this discussion, that ''no Party may adopt or maintain any prohibition or restriction on the importation of any good of another Party * * *.'' NHTSA initially notes that the proposed fee would be assessed for the sole purpose of allowing the agency to recover its actual costs for the review and processing of conformity packages. Assessment of the proposed fee would not prohibit or restrict the entry of Canadian-certified vehicles into the United States, and, as such, it would not violate any provision of Article 309.

NHTSA further notes that Article 904 of NAFTA preserves the right of each Party to the agreement to ''adopt, maintain or apply any standards-related measure, including any such measure relating to safety, the protection of human * * * life or health * * * and any measure to ensure its enforcement or implementation.'' Article 904 further provides that ''[s]uch measures include those to prohibit the importation of a good of another Party * * * that fails to comply with the applicable requirements of those measures or to complete the Party's approval procedures.'' The term ''standard-related measure'' is defined in Article 915 of NAFTA as including a ''conformity assessment procedure.'' NHTSA's review of conformity packages is therefore governmental action that is specifically sanctioned by NAFTA and there is nothing in that agreement that restricts the right of any Party to impose a fee for taking such action.

The second comment was submitted by Lawrence A. Beyer, an attorney who has represented registered importers in matters before the agency. Mr. Beyer initially contends that the agency based its calculation of the proposed fee on a low estimate of nonconforming vehicle imports. Mr. Beyer characterizes the proposed fee as being based on projected imports of 16,000 in fiscal year 1998. In contrast to this figure, Mr. Beyer states that noncomplying imports thus far in fiscal year 1997 have averaged 1,727 per month, which translates to a total of 20,729 vehicles for the entire fiscal year, and that the existing trend is for the volume of noncomplying vehicle imports to increase each year. Based on these larger projected import figures, Mr. Beyer contends that NHTSA should reduce the amount of the proposed fee.

The agency has decided to accept this recommendation. As noted in the NPRM, the proposed fee was calculated on the basis of resources expended by NHTSA in processing the 16,000 noncomplying vehicles for which conformity packages were submitted in calendar year 1996. Since issuing the NPRM, NHTSA has received more complete data on the volume of noncomplying vehicles imported during the current fiscal year for which conformity packages must be processed by the agency. This indicates that 20,786 such vehicle were imported from October 1, 1996, the first day of fiscal year 1997, through September 16, 1997. Based on this volume, NHTSA anticipates that over 21,000 noncomplying vehicles will be imported by the end of this fiscal year on September 30, 1997. NHTSA has decided to use this figure in calculating the conformity package review fee for fiscal year 1998, as opposed to the 16,000 vehicle figure identified in the NPRM. Although NHTSA has also identified the need to increase one cost element used in calculating the fee in light of more accurate information received since issuing the NPRM, an overall reduction in the fee from the $17.00 originally proposed will be realized by allocating the agency's costs over a larger vehicle base. As noted in the NPRM, NHTSA will review the fee at least every two years to see if further adjustments are needed. The agency is bound to provide this review in order to insure that it recovers no more than its actual costs for the review and processing of conformity packages.

Mr. Beyer further contends that NHTSA failed to properly assess the impact of the proposed fee on small entities under the Regulatory Flexibility Act, and did not solicit the input of affected small entities before issuing the NPRM. He additionally contends that the proposed fee would constitute a non-tariff barrier to trade under NAFTA. Mr. Beyer also observes that the bond release letter issued by NHTSA states that it does not constitute agreement by the agency that the vehicle in question in fact conforms to all applicable standards. The agency has addressed each of these issues in its response to the previous comment. Mr. Beyer finally contends that ''NHTSA has attempted to bypass its decision regarding VSA–1 eligible imports'' by assigning new eligibility numbers. Mr. Beyer asserts that ''[t]here is no substantive difference between the compliance issues for the VSA–1 determination which was paid for in 1989, and the new codes.'' What Mr. Beyer overlooks is that the payment that was made in 1989 covered the import eligibility decision that NHTSA had made regarding Canadian-certified vehicles. As noted in the NPRM, that fee is entirely distinct from the fee the agency has proposed to recover its costs for the review and processing of conformity packages. Given the high volume of conformity packages that NHTSA has had to process in recent years, and the fact that this responsibility now accounts for a large share of the work performed by the Equipment and Imports Division of the agency's Office of Vehicle Safety Compliance, there is clearly a need for NHTSA to now proceed with the implementation of a fee to recover its costs for performing this function.

The third comment was submitted by Brian Osler, Executive Director and Counsel for the North American Automobile Trade Association. Mr. Osler states that his association is in favor of NHTSA recovering reasonable costs for ensuring compliance with FMVSS. However, he asks the agency to consider waiving the requirement for the submission of photographs to substantiate compliance certifications. The agency has addressed this issue in its response to Mr. Trupiano's comment.

D. Fee Computation

NHTSA has computed all other fees that it collects under the authority of 49 U.S.C. 30141 on the basis of all direct

and indirect costs incurred by the agency in performing the function for which the fee is charged. See 54 FR 17792, 17793 (April 25, 1989). The Office of Management and Budget (OMB), in Circular A–25 establishing Federal policy for the assessment of user fees under 31 U.S.C. 9701, stated that such fees must be ''sufficient to recover the full cost to the Federal Government * * * of providing the service, resource, or good when the Government is acting in its capacity as a sovereign.'' See 58 FR 38142, 38144 (July 15, 1993).

Applying an approach consistent with its past practices and the OMB Circular, the agency has calculated its direct and indirect costs in setting the fee for the review and processing of conformity certificates as follows:

The direct costs used to calculate the fee include the estimated cost of contract and professional staff time, computer costs, and costs for record assembly, marking, shipment and storage.

The estimated cost of contract and professional staff time is calculated on the basis of the full cost for time spent at the following currently prevailing rates: Data entry—$44,410 per year; computer programmer—$86,650 per year; compliance analyst—$60,092 per year. Three quarters of the total hours worked by a single data entry specialist on contract to OVSC are devoted to the processing of compliance packages. A second data entry specialist on contract to OVSC is engaged full time in the processing of compliance packages. Multiplying the annual contract cost for the hours worked by these contract support staff members ($44,410 each) by 1.75 (representing the one data entry position devoted fully to compliance package processing and the other in which three quarters of the total hours worked are devoted to that function) yields $77,715.50 in data entry labor costs that are incurred by NHTSA on an annual basis in the processing of compliance packages. Thirty-seven percent of the total hours worked by a single computer programmer on contract to OVSC is devoted to the processing of compliance packages. Multiplying the annual contract cost for the hours worked by this contract support staff member ($86,650) by 37 percent yields $32,060.50 in computer programming labor costs that are incurred by NHTSA on an annual basis in the processing of compliance packages. In the NPRM, NHTSA identified 18.75 percent of this computer programmer's time as being devoted to the processing of compliance packages, resulting in an annual cost of $16,246.88. At the time that NHTSA was preparing the NPRM, this computer programmer had recently begun her contract with the agency, resulting in a rough estimate of the time which she anticipated would be needed to process compliance packages. In the ensuing weeks, it has become apparent that the time this contractor spends in the processing of compliance packages was considerably underestimated, requiring adjustment to better reflect the hours that she actually devotes to this task. Ninety percent of the total hours worked by a single compliance analyst employed by OVSC is devoted to the review of compliance packages. Multiplying the annual rate of pay for this staff member ($60,092) by 90 percent yields $54,082.80 in compliance analyst labor costs that are incurred by NHTSA on an annual basis in the review of compliance packages.

Adding these amounts yields a total of $163,858.80 in contract and professional staff costs that NHTSA incurs each year for the processing and review of compliance packages. Dividing that amount by 21,000, the number of compliance packages reviewed by OVSC in fiscal year 1997, yields a direct cost of $7.80 for each compliance package reviewed.

Computer costs are calculated on the following basis: NHTSA pays $13,800 per year to maintain a link with the Customs Service computer. Ninety-five percent of the agency's usage of this computer is associated with the review of compliance packages, resulting in a cost of $13,110 that can be allocated to that use. Additionally, the agency pays $30,000 per year for the purpose of running OVSC's computers and performing necessary backups of data entries. Ninety percent of this usage is associated with the review of compliance packages, yielding a cost of $27,000 that can be allocated to that use. The agency also pays $4,000 per year for a maintenance contract on OVSC's computers, ninety percent of which can also be allocated to that office's review of compliance packages, yielding an annual cost of $3,600. Additionally, NHTSA pays a $9,360 annual licensing fee for the data base management system that is used in the processing of compliance packages. Because that system is not used for any other purpose, the full annual fee can be allocated to that use. Adding these costs produces the sum of $53,070 that is spent annually on computer usage associated with the review of compliance packages. Dividing this sum by 21,000, which, as previously indicated, is the number of compliance packages reviewed by OVSC in fiscal year 1997, yields a direct cost of $2.53 for each compliance package reviewed.

The average cost for record assembly, marking, and shipment is calculated at the rate of $16.56 per box. The average cost for record storage is calculated to be $7.92 per box for a storage period of three years. Based on an average of 110 records per box, these costs amount to 22 cents for each compliance package received by the agency. Adding the direct costs for contract and professional staff hours ($7.80), computer usage ($2.53), and record assembly, marking, shipment, and storage ($0.22) produces a total of $10.55 for each compliance package reviewed and processed by NHTSA.

The indirect costs include a pro rata allocation of the average benefits of persons employed in processing and reviewing conformity packages. Benefits provided by NHTSA amount to eighteen percent of the salary earned by its employees. Multiplying the $54,082.80 in professional staff costs that NHTSA incurs each year for the processing and review of compliance packages by eighteen percent yields a figure of $9,734.90.

The indirect costs also include a pro rata allocation of the costs attributable to the rental and maintenance of office space and equipment, the use of office supplies, and other overhead items. For fiscal year 1998, these costs are projected to average $21,131 for each employee and contract support staff member working at NHTSA headquarters. This figure was derived by dividing $13,566,000 in projected headquarters costs (reached by subtracting $482,000 in field operating costs from total agency costs of $14,048,000) by 642 (representing 510 full time equivalent positions that are authorized for NHTSA headquarters plus 132 on-site contract personnel). Multiplying that figure by 3.02, which represents the number of combined contract and professional staff-years devoted annually to the review and processing of compliance packages, yields a figure of $63,815.62. Adding this figure to $9,734.90 produces the sum of $73,550.52, representing the total indirect costs incurred by NHTSA in the review and processing of compliance packages. Dividing this amount by 21,000, which, as previously indicated, is the number of compliance packages reviewed by NHTSA in fiscal year 1997, yields $3.50 in indirect costs for each compliance package reviewed. Adding these indirect costs to the $10.55 in direct costs that NHTSA incurs in the review and processing of each compliance package yields a total of $14.05 in direct and indirect costs for

each compliance package reviewed by the agency.

Based on the above factors, NHTSA is establishing $14.00 as the fee to recover its costs for the review and processing of a compliance package. This fee will have to be tendered with each compliance package submitted to the agency for processing.

E. Applicability of Fee to Canadian Vehicles

As noted in the NPRM, in recent years, Canadian imports have accounted for a growing share of NHTSA's oversight program that is directed at the importation of nonconforming vehicles. In NHTSA's Calendar Year 1995 Report to Congress concerning this program, the agency stated that 15,096 of the 15,332 nonconforming vehicles that were permanently imported into the country during that year (or over 98%) were from Canada. The report noted a continuing upward trend in the importation of noncomplying vehicles from Canada since 1993, and attributed that development to the exchange rate favoring the U.S. over the Canadian dollar.

In past years, NHTSA has not collected the per vehicle import eligibility determination fee established under 49 CFR 594.8 from the importers of vehicles that were certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards and that were eligible for importation under vehicle eligibility number VSA–1. As NHTSA explained in a final import eligibility decision covering Canadian-certified motor vehicles, published on May 13, 1997 at 62 FR 26348, the per vehicle import eligibility fee was never imposed on the importers of these vehicles because the first importer of a Canadian-certified motor vehicle paid the full $1560 fee that was established in 1989 to cover the agency's costs for an eligibility decision made on the Administrator's initiative. In the May 13, 1997 final decision, NHTSA rescinded VSA–1 as the eligibility number assigned to all eligible Canadian-certified vehicles, and replaced it with four separate eligibility numbers (VSA–80 through 83), based on vehicle classification and weight.

NHTSA will collect the fee established under this rule from all importers submitting conformity packages to the agency, including the importers of Canadian-certified vehicles eligible for importation under VSA–80 through 83. The agency deems this action to be necessary because the review and processing of conformity packages submitted for Canadian imports have assumed an increasing share of the staff time within OVSC's Equipment and Imports Division and now comprise a major portion of the work performed by that division. The imposition of such a fee is also consistent with OMB's policy for Federal agencies to obtain full cost reimbursement from the recipients of agency services.

Effective Date

Section 30141(e) of Title 49, U.S. Code requires the amount of fees imposed under section 30141(a) to be reviewed, and, if appropriate, adjusted by NHTSA at least every two years. It also requires that the fee for each fiscal year be established before the beginning of that year. The fee established under this final rule will first become effective in fiscal year 1998, which begins on October 1, 1997. NHTSA is meeting the requirements of section 30141(e) by publishing this final rule establishing the fee before that date. However, in keeping with the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553, the final rule will not become effective until thirty days after its publication in the **Federal Register**. NHTSA will not collect the fee for any conformity certificates submitted before the final rule's effective date.

Rulemaking Analyses and Notices

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

This rule was not reviewed under E.O. 12866. NHTSA has analyzed this rule and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the amendment resulting from this rulemaking will not have a significant economic impact on a substantial number of small entities. Although most registered importers would qualify as small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that these companies could not pay the fee established under this rule. This fee will in all likelihood be passed along to the purchaser of the vehicle for which a conformity package is submitted to NHTSA for review. Most nonconforming vehicles that are imported into the United States are of very recent vintage, and many would be considered luxury models. Given the nominal amount of the fee established under this rule, especially when viewed in relation to the purchase price of the vehicles to which it pertains, it will not appreciably increase the purchase price of those vehicles and is unlikely to have any significant impact on their importation and sale. For that reason, registered importers and small businesses, small organizations, and small governmental units that purchase motor vehicles will not be significantly affected by the proposed fee. Accordingly, no regulatory flexibility analysis has been prepared.

3. Executive Order 12612 (Federalism)

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

4. National Environmental Policy Act

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

5. Civil Justice Reform

This rule does not have any retroactive effect. It does not repeal or modify any existing Federal regulations. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule does not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

List of Subjects in 49 CFR Part 594

Administrative practice and procedure, Imports, Motor vehicle safety.

In consideration of the foregoing, Part 594, *Schedule of Fees Authorized by 49 U.S.C. 30141*, in Title 49 of the Code of Federal Regulations is amended as follows:

PART 594—[AMENDED]

1. The authority citation for Part 594 is amended to read as follows:

Authority: 49 U.S.C. 30141, 31 U.S.C. 9701; delegation of authority at 49 CFR 1.50.

2. Section 594.5 is amended by redesignating paragraphs (g) and (h) as paragraphs (h) and (i), respectively, and by adding a new paragraph (g), to read as follows:

§ 594.5 Establishment and payment of fees.

* * * * *

(g) A fee for the review and processing of a conformity certificate shall be submitted with each certificate of conformity furnished to the Administrator.

3. A new section 594.10 is added to part 594, to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

(a) Each registered importer shall pay a fee based on the agency's direct and indirect costs for the review and processing of each certificate of conformity furnished to the Administrator pursuant to § 591.7(e) of this chapter.

(b) The direct costs attributable to the review and processing of a certificate of conformity include the estimated cost of contract and professional staff time, computer usage, and record assembly, marking, shipment and storage costs.

(c) The indirect costs attributable to the review and processing of a certificate of conformity include a pro rata allocation of the average benefits of persons employed in reviewing and processing the certificates, and a pro rata allocation of the costs attributable to the rental and maintenance of office space and equipment, the use of office supplies, and other overhead items.

(d) For certificates of conformity submitted on and after October 29, 1997, the fee is $14.00.

* * * * *

Issued on: September 23, 1997.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 97–25665 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1011, 1118, 1130 and 1132

[STB Ex Parte No. 570]

Technical Amendments Concerning Employee Boards

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rules.

SUMMARY: The Board revises its regulations to remove obsolete delegations of authority; update references to statutory provisions; eliminate several employee boards; delegate to designated offices and individuals certain of the matters formerly delegated to employee boards; and reserve to the Board the initial decision making authority for certain formerly delegated matters.

EFFECTIVE DATE: These rules are effective September 29, 1997.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 565–1578. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: The Board is revising its delegations of authority to reflect changes implemented by the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (1995) (ICCTA). The ICCTA abolished the Interstate Commerce Commission (ICC) and established the Board. Some of the ICC's functions were transferred to the Board and others were transferred to the Secretary of Transportation (and subsequently delegated to the Federal Highway Administration (FHWA)).

49 CFR 1011.6, the employee board section, establishes 10 employee boards: The Suspension/Special Permission (§ 1011.6(a)), the Insurance Board (§ 1011.6(b)(1)), the Motor Carrier Leasing Board (§ 1011.6(b)(2)), the Railroad Service Board (§ 1011.6(b)(3)), the Revocation Board (§ 1011.6(b)(4)), the Released Rates Board (§ 1011.6(c)), the Accounting Board (§ 1011.6(d)), the Special Docket Board (§ 1011.6(e)), the Regional Motor Carrier Boards (§ 1011.6(f)), and the Motor Carrier Board (§ 1011.6(g)).

Some of the delegations of authority under which these employee boards were established include matters over which the Board does not exercise jurisdiction. In particular, the remaining statutory bases for the Insurance Board, the Motor Carrier Leasing Board, the Revocation Board, and the Regional Motor Carrier Boards have been transferred to the Department of Transportation. Therefore, we are removing from the Code of Federal Regulations the regulations providing for these employee boards.

The other employee boards perform functions that continue under the Board's jurisdiction.[1] Except for the Accounting Board,[2] these employee boards are being eliminated, but their duties will be handled by the Board Members, Offices of the Board, or individuals to whom authority is being delegated.

Employee boards performed essential functions at a time when more comprehensive transportation regulation required the ICC to make a significantly greater number of decisions, and when literally thousands of decisions were made under delegations of authority each year. The elimination of much transportation regulation in recent years and the transfer of certain responsibilities to other agencies have, however, reduced the need for employee boards at the Board. In the current, less regulated environment, we believe that either delegating authority to individual Offices and employees of the Board or reserving matters for the entire Board will be a fully adequate and more efficient way of processing cases.

While the quantity of decisions issued by the agency has been reduced, certain delegations of authority continue to be warranted in areas where the action to be taken is clear under existing Board policies, and where prompt action is needed. By continuing to delegate authority in these areas, we can reduce both the time that Board members would otherwise be required to spend on routine matters, and the time and cost associated with taking the necessary actions. Nevertheless, we believe our current requirements can be more effectively met by delegations of authority to Offices and individual employees, rather than to employee boards. Actions to be taken under delegated authority can be handled more simply by an individual employee than by an employee board. Where more significant policy issues are involved, it is anticipated that staff will certify the cases to the Board for consideration in the first instance. Additionally, all actions taken pursuant to delegated authority can be appealed to the Board by the affected parties.

In some situations, cases that arise are likely to involve significant or difficult

---

[1] While some of the functions of the Motor Carrier Board have either been eliminated or transferred to the Federal Highway Administration, under new 49 U.S.C. 14303, the Board has jurisdiction over motor passenger carrier finance applications and interim approval requests. These matters will be handled by the entire Board.

[2] The Accounting Board is an employee board that rules on technical issues dealing with accounting, reporting and record retention rules, and prescribes depreciation rates used by railroads. This board consists of three employees within the Office of Economics, Environmental Analysis and Administration who have strong accounting backgrounds, and, in light of the technical nature of the issues that are considered, we believe that the retention of this employee board is desirable. Procedural rules for this board are found in revised 49 CFR part 1118.

policy or legal issues. We believe that these matters should be handled by the Board in the first instance. We also note that such Board action is not unduly burdensome, because it is unlikely that there will be large numbers of these types of cases.

Specific Disposition of Retained Authority. As indicated previously, we are retaining the Accounting Board. We are eliminating the Motor Carrier Board, and relevant authorities retained at this agency pursuant to the ICCTA will be implemented by the entire Board in the first instance.

We are eliminating the Suspension/Special Permission Board, because its remaining functions can be effectively handled elsewhere.[3] The entire Board will consider investigation and suspension of collectively set motor carrier rates under 49 U.S.C. 13703(a)(5),[4] the reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) , and petitions for discovery of railroad transportation contracts submitted pursuant to 49 CFR 1313.10. We are delegating to the Office of Compliance and Enforcement (OCE) the determination of motor common carrier applicability disputes under 49 U.S.C. 13710(a)(2) and special tariff authority applications under 49 CFR 1312.2(e). *See* 49 CFR 1011.8(d)(3) and (4).

We are also eliminating the Released Rates Board. 49 CFR 1011.6(c). While under 49 U.S.C. 14706(f), household goods motor carriers and freight forwarders need Board authority to modify, establish, or eliminate rates limiting liability, we believe that this function can be handled efficiently by the entire Board and does not have to be delegated to an employee board.[5]

The Special Docket Board (49 CFR 1011.6(e)) handled carrier and shipper resolutions of undercharge and overcharge claims.[6] Tariff filing requirements are now found at 49 U.S.C. 13702 (noncontiguous domestic trade), and the authority to resolve undercharge and overcharge claims is found in 49 U.S.C. 14709. Because we do not believe that there will be many filings under section 14709, we are eliminating this board.

Instead, uncontested requests formerly handled by the Special Docket Board will be processed by OCE. We are amending 49 CFR 1132.2 to reflect this change. Contested matters will be decided by the Board. 49 CFR 1132.2(g)(4).

The Railroad Service Board (49 CFR 1011.6(b)(3) and (b)(6)) was delegated authority to act in equipment supply complaints and to issue emergency service orders. In recent years, the entire Board has acted on these matters. We will continue this practice and eliminate the employee board.

We are also eliminating other delegations. Under 49 CFR 1011.7(e), the Director of the former Office of Tariffs was delegated authority to enter reparation orders following the conclusion of a formal case where the amount of reparations could not be determined from the existing record. We will eliminate this provision, and reparation issues will be decided by the entire Board. Under 49 CFR 1011.8(d)(1), OCE, as successor to the Office of Tariffs, was delegated authority to reject tariffs, schedules, railroad contracts, and railroad contract summaries. We are maintaining this delegation but eliminating the obsolete references to schedules and rail contracts.[7]

We believe the revised delegations and procedures strike an appropriate balance between matters that should be handled by staff in the first instance and those that warrant consideration by the Board in the first instance. Further, the elimination of employee boards will produce operating efficiencies for the actions that continue to be taken under delegated authority. Because the substantive changes in the regulations relate solely to rules of agency organization, procedure or practice, they are being implemented without requesting public comment.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 1118

Administrative practice and procedure.

49 CFR Part 1130

Administrative practice and procedure.

49 CFR Part 1132

Administrative practice and procedure.

Decided: September 17, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, parts 1011, 1118, 1130 and 1132 of title 49, chapter X, of the Code of Federal Regulations are amended as follows:

PART 1011—BOARD ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for part 1011 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 49 U.S.C. 701, 721, 13702.

§ 1011.5 [Amended]

2. In § 1011.5, paragraph (b)(3)(iii) is removed.

3. Section 1011.6 is revised to read as follows:

§ 1011.6 Employee boards.

This section covers matters assigned to the Accounting Board, a board of employees of the Board.

(a) The Accounting Board has authority:

(1) To permit departure from general rules prescribing uniform systems of accounts for carriers and other persons under the revised Interstate Commerce Act (IC Act), subtitle IV of title 49 of the U.S. Code, and from the regulations governing accounting and reporting forms;

(2) To prescribe rates of depreciation to be used by railroad and water carriers;

(3) To issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the IC Act; and

(4) To grant extensions of time for filing annual, periodic, and special reports in matters that do not involve taking testimony at a public hearing or

[3] Because 49 U.S.C. 10726, concerning long and short haul transportation, has been eliminated, the functions at 49 CFR 1011.6(a)(2) are no longer necessary. We will remove a section not pertaining to employee boards, 49 CFR 1011.5(b)(3)(iii), because this section is also based on former 49 U.S.C. 10726.

[4] We are also amending the investigation and suspension rules in part 1132.

[5] Currently, most carriers use the authority granted by the ICC in *Released Rates of Motor Carriers of HHG*, 9 I.C.C. 2d 523 (1993) as the basis for limiting their liability.

[6] These claims resulted from incorrect tariff provisions or billing errors due to the inadvertent failure to appropriately file and maintain agreed-upon rates in compliance with statutory provisions.

[7] Rail contracts are no longer filed with the Board.

the submission of evidence by opposing parties in the form of affidavits.

(b) The board may certify any matter assigned to it to the Board.

§ 1011.7 [Amended]

4. In § 1011.7, paragraph (e) is removed and reserved.

5. In § 1011.8, paragraph (d) is revised to read as follows:

§ 1011.8 Delegations of authority by the Board to specific offices of the Board.

* * * * *

(d) *Office of Compliance and Enforcement.* The Office of Compliance and Enforcement is delegated the authority to:

(1) Reject tariffs and railroad transportation contract summaries filed with the Board that violate applicable statutes, rules, or regulations. Any rejection of a tariff or contract summary may be by letter signed by or for the Director, Office of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(2) Issue, on written request, informal opinions and interpretations on carrier tariff provisions, which are not binding on the Board.

(3) Grant or withhold special tariff authority granting relief from the provisions of 49 CFR part 1312. Any grant or withholding of such relief may be by letter signed by or for the Director, Office of Compliance and Enforcement, or the Chief, Section of Tariffs, Office of Compliance and Enforcement.

(4) Resolve any disputes that may arise concerning the applicability of motor common carrier rates under 49 U.S.C. 13710(a)(2).

* * * * *

6. Part 1118 is revised to read as follows:

PART 1118—PROCEDURES IN INFORMAL PROCEEDINGS BEFORE EMPLOYEE BOARDS

Sec.
1118.1 Scope.
1118.2 Proceedings to be informal.
1118.3 Appeals.

Authority: 49 CFR 721.

§ 1118.1 Scope.

The rules in this part govern proceedings before employee boards.

§ 1118.2 Proceedings to be informal.

The proceedings in all matters governed by this part will be informal. No transcript of these proceedings will be made. Subpoenas will not be issued and, except when applications, petitions, or statements are required to be attested, oaths will not be administered.

§ 1118.3 Appeals.

(a) *Standing to appeal.* Appeals of the decisions of the employee boards subject to this part and replies to appeals may be filed by any person.

(b) *Number of copies.* The original and 10 copies of each pleading or paper permitted or required to be filed under this section should be furnished for the use of the Board.

(c) *Time for filing.* Appeals in proceedings governed by this part must be filed within 20 days after the date of service of the decision.

(d) *Where filed.* Appeals and replies to appeals of decisions issued by employee boards must be filed with the Secretary, Surface Transportation Board, 1925 K St., NW., Washington, DC 20423–0001.

(e) *Decisions on appeal.* An appeal from an employee board's initial decision in a matter subject to this part will be reviewed by the employee board, which may elect to modify its decision in light of new facts or arguments presented on appeal. If the employee board elects not to modify its prior decision, the appeal will be forwarded to the entire Board for determination. If a modified decision is issued by the employee board, a further appeal lies under this part.

PART 1130—INFORMAL COMPLAINTS

7. The authority citation for part 1130 is revised to read as follows.

Authority: 49 U.S.C. 721, 13301(f), 14709.

8. In § 1130.2, paragraph (e) is removed and reserved, and paragraphs (a), (c), the first two sentences of (f), (g)(1), and (g)(2) are revised to read as follows:

§ 1130.2 When damages sought.

(a) *Actual filing required.* Notification to the Board that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute.

* * * * *

(c) *Statement of prior claim.* A complaint filed under paragraph (b) of this section containing a claim which has been the subject of a previous informal or formal complaint must specifically refer to the previous complaint.

* * * * *

(f) *Notification to the parties; six months' rule.* If an informal complaint seeking damages (other than a contested tariff reconciliation petition) cannot be disposed of informally or is denied or withdrawn by complainant, the parties affected will be so notified in writing by the Board. Contested tariff reconciliation petitions either will be granted or denied by the entry of a decision. * * *

(g) * * *

(1) *Petitions to waive collection or permit payment.* Subject to Board review and approval, motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims under the provisions of 49 U.S.C. 14709. Petitions for appropriate authority may be filed by either the carrier, shipper or consignee on the Board's tariff reconciliation docket by submitting a letter of intent to depart from the filed rate. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the Office of Compliance and Enforcement, Surface Transportation Board, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

(i) The name(s) and address(es) of the payer(s) of the freight charges;

(ii) The name(s) of the carrier(s) involved in the traffic;

(iii) An estimate of the amount(s) involved;

(iv) The time period when the shipment(s) involved were delivered or tendered for delivery;

(v) A general description of the point(s) of origin and destination of the shipment(s);

(vi) A general description of the commodity(ies) transported;

(vii) A statement certifying that the carrier(s) and shipper(s) participating in the shipment(s) or the payer(s) of the freight charges concur(s) with the intent to depart from the filed rate; and

(viii) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition by the party that files the petition and will be made available by the Board for public inspection in the Office of Compliance and Enforcement Public File, Surface Transportation Board, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Office of Compliance and Enforcement within 30 days of Board receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition. The

Board may initiate an investigation of the petition on its own motion.

* * * * *

9. Part 1132 is revised to read as follows:

PART 1132—PROTESTS REQUESTING SUSPENSION AND INVESTIGATION OF COLLECTIVE RATEMAKING ACTIONS

Sec.
1132.1 Protests against collective ratemaking actions.
1132.2 Procedures in certain suspension matters.

Authority: 49 U.S.C. 721, 13301(f), and 13703.

§ 1132.1 Protests against collective ratemaking actions.

(a) *Content.* The protested collective ratemaking action sought to be suspended, whether or not contained in a tariff filed with the Board, should be identified by making reference to: The name of the publishing carrier or collective ratemaking organization; the identification of the tariff, if applicable, or the identification of the collective ratemaking action publication if it is not contained in a tariff filed with the Board; the specific items or particular provisions protested; and the effective date of the tariff or other collective ratemaking action publication. Reference should also be made to the tariff or collective ratemaking action, and the specific provisions proposed to be superseded. The protest should state the grounds in support thereof, and indicate in what respect the protested collective ratemaking action is considered to be unlawful. Such protests will be considered as addressed to the discretion of the Board. Should a protestant desire to proceed further against a collective ratemaking action which is not suspended, or which has been suspended and the suspension vacated, a separate later formal complaint or petition should be filed.

(b) *When filed.* Protests against, and requests for suspension of, collective ratemaking actions will not be considered unless made in writing and filed with the Board at Washington, DC. If the protestant desires action by the Board before the effective date of the collective action, protests and requests for suspension shall reach the Board at least 12 days (except as provided in paragraph (c) of this section) before such effective date. If the protested collective ratemaking action is already in effect, or if the protestant does not desire action before its effective date, protests and requests for suspension can be filed at any time.

(c) *Motor carrier tariff bureau filings.* When motor common carrier tariff bureaus take collective actions subject to the special procedures adopted in Ex Parte No. MC–82, *New Procedures in Motor Carrier Rev. Proc.* 340 I.C.C. 1 (1971), and set forth at 49 CFR part 1139, protests must reach the Board at least 22 days before the effective dates of those actions if protestants desire action by the Board before such effective dates. All statements should be served by express mail or an equivalent expedited delivery service upon any party undertaking to bear the cost. Written request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Board.

(d) *Copies; service.* In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC–82, *New Procedures in Motor Carrier Rev. Proc.* 339 I.C.C. 324, and set forth at 49 CFR part 1139, an original and 10 copies of every protest or reply filed under this section should be furnished for the use of the Board. Except as provided for proposals subject to the special procedures in Ex Parte No. MC–82, the original and 10 copies of each protest, or of each reply filed under this section, must be filed with the Board, and one copy simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested. These pleadings should be directed to the attention of the Secretary, Surface Transportation Board.

(e) *Reply to protest.* A reply to a protest filed at least 12 days before the effective date of proposed collective action provisions must reach the Board not later than the fourth working day prior to the scheduled effective date of the protested provisions unless otherwise provided. Replies to protests against motor carrier rate bureau proposals subject to Ex Parte No. MC–82 procedures, to be assured of consideration, must reach the Board no later than 14 days before the scheduled effective date of the protested provisions.

§ 1132.2 Procedures in certain suspension matters.

(a) A petition for reconsideration may be filed by any interested person within 20 days after the date of service of a Board decision which results in an order for:

(1) Investigation and suspension of collective ratemaking actions, or

(2) Investigation (without suspension) of collective ratemaking actions.

(b) Any interested person may file and serve a reply to any petition for reconsideration permitted under paragraph (a) of this section within 20 days after the filing of such petition with the Board, but if the facts stated in any such petition disclose a need for accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the rules of general applicability of the Rules of Practice.

[FR Doc. 97–25734 Filed 9–26–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1022, 1030, 1091, 1131, 1143, 1156, and 1170

[STB Ex Parte No. 572]

Removal of Miscellaneous Obsolete Regulations

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing seven obsolete parts of the Code of Federal Regulations.

EFFECTIVE DATE: These rules are effective September 29, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board. Section 204(a) of the ICCTA directs the Board to rescind all regulations established by the ICC that are based on provisions of law repealed and not substantively reenacted by the ICCTA. Pursuant to that directive, the Board has removed many such regulations. We have identified 6 additional parts of title 49, chapter X of the Code of Federal Regulations that should be removed because their statutory bases have been eliminated: Parts 1022, 1030, 1091, 1143, 1156, and 1170. A seventh part, 49 CFR part 1131, is being deleted because of revisions the Board is making in response to the ICCTA. Because it is clear that these regulations are obsolete, and in order to have these changes in place for the next issue of title 49, we are making the rule removals effective on the date of service.

Part 1022

In response to an amendment to former section 205(f) of the Interstate Commerce Act, the ICC issued the regulations now found at 49 CFR part 1022 concerning cooperative agreements with states. 31 FR 16402 (December 23, 1966). The statute authorized the ICC to make cooperative agreements with the States to enforce economic and safety laws and regulations of the States and the United States concerning highway transportation.[1] Section 205(f) was recodified,[2] as here relevant, at former 49 U.S.C. 11502.[3] This section has been removed by the ICCTA. Accordingly, we are removing the obsolete regulations at 49 CFR part 1022.

Part 1030

The regulations now found at 49 CFR part 1030 were originally published at 17 FR 7548 (August 19, 1952). This rule, concerning the filing of contracts with other carriers, was based on former section 6(5) of the Interstate Commerce Act, later recodified at former 49 U.S.C. 10764. That section has been eliminated by the ICCTA, and, accordingly, we are removing the part 1030 regulations based on that statute.

Part 1091

Part 1091 concerns tariff requirements for Alaskan motor-ocean-motor ''substituted service,'' where water carriage is substituted for motor carriage for a portion of the transportation even though the motor carrier holds itself out to perform the entire movement. Under the ICCTA, tariffs no longer have to be filed with the Board for these movements. Now, the only motor carrier tariffs that must be filed with us are those concerning joint rates with water carriers in the noncontiguous domestic trade. 49 U.S.C. 13701(a)(1)(B).[4] It is unnecessary to file a ''tariff where the entire service is held out by the motor carrier (notwithstanding that some of the service may be performed by a water carrier under substitute service rules.* * *)'' *Id.*[5] Because substituted service is not a joint rate arrangement, the tariff requirements in part 1091 are obsolete and are being removed.

Part 1131

The rules at 49 CFR part 1131 concern the procedures for rate complaints and (§ 1131.4) petitions by railroads to review state intrastate rate decisions or applications to prescribe intrastate rates. We will remove these rules. Insofar as rate complaints are concerned, the ICC revised its regulations in 1982 to provide for two sets of formal complaint rules, one for rate complaints and another for all other complaints. *See Revision and Redesignation of the Rules of Practice,* Ex Parte No. 55 (Sub-No. 55) (ICC served Nov. 1, 1982) (47 FR 49572). By decision served on October 1, 1996, in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings,* Ex Parte No. 527, published in the **Federal Register** on October 8, 1996, 61 FR 52710, the Board adopted final rules at 49 CFR part 1111 to expedite the handling of challenges to the reasonableness of railroad rates, including the adoption of a procedural schedule applicable in stand-alone rate cases.[6] Part 1111 also contains procedures for non-rate complaint cases. It is therefore unnecessary, and confusing, to have a second set of rate complaint rules.

With respect to intrastate rate decisions, the intrastate rail rate rules in § 1131.4 are based on former 49 U.S.C. 11501. The parts of § 11501 pertaining to rail matters were eliminated by the ICCTA.[7] Because the statutory basis for the § 1131.4 rules was removed, we are deleting these obsolete regulations.

Part 1143

Part 1143 provides that if an interstate motor carrier of passengers has requested permission from a state authority to raise an intrastate rate, and that request has been denied in whole or in part or the state has not taken final action on the request within a 120 days, the carrier can petition the ICC for review. This provision was based on former 49 U.S.C. 11501(e). Section 211(b)(2) of Public Law 103–311, 108 Stat. 1673 (1994) removed the procedures of former section 11501(e) for petitioning the ICC. Moreover, the ICCTA broadened the preemption of state regulation of intrastate motor carrier of passenger rates. Prior to the ICCTA, states were preempted from regulating reductions in intrastate motor carrier passenger rates over interstate routes. Now, states are preempted from regulating all intrastate motor passenger rates over interstate routes. *See* 49 U.S.C. 14501(a). Accordingly, we are removing the part 1143 regulations.

Part 1156

Part 1156 concerns submission of cost data for reimbursement for directed service. Under former section 1(16)(b) of the Interstate Commerce Act (recodified at former 49 U.S.C. 11125), the directed carrier was to be reimbursed by the Federal Government in the amount that costs for routing, handling, and moving traffic over the other carrier's lines exceeded the direct revenues from that traffic. The regulations were originally issued in *Regional Rail Reorg. Act—Submission of Cost Data,* 348 I.C.C. 251 (1975). The directed service statute under the ICCTA is now found at 49 U.S.C. 11123, and the reimbursement provision has been eliminated. Now, section 11123(b)(3) states that ''compensation for the directed operations shall derive only from revenues generated by the directed operations.''[8] Accordingly, the regulations in part 1156 for providing cost data to justify reimbursement for directed service are obsolete and are being eliminated.

Part 1170

We are removing part 1170. These regulations concern reemployment rights for employees of motor passenger carriers who lose their jobs because of discontinuances or reductions of regular-route bus service. The rules were issued in response to section 27 of the Bus Regulatory Reform Act of 1982 and published as a note to former 49

[1] The regulations were later modified, removing references to safety. 55 FR 11196 (March 27, 1990).

[2] In 1978, the Interstate Commerce Act was recodified without substantive change pursuant to Pub. L. 95–473, Oct. 17, 1978.

[3] Part of former section 205(f) concerning joint boards was recodified at former 49 U.S.C. 10344. This section was also removed by the ICCTA.

[4] In *Exemption of Freight Forwarders in the Noncontiguous Domestic Trade from Rate Reasonableness and Tariff Filing Requirements,* STB Ex Parte No. 598, __ STB __ (Feb. 21, 1997), slip. op. at 5, we interpreted the language in 49 U.S.C. 13701(a)(1)(B) (''movement by or with a water carrier'') as denoting, as here relevant, ''joint rates in which a water carrier is a participant.''

[5] *See also Sea-Land Freight Serv., Inc. et al.—Alaskan Trade Substituted Serv.—Petition for Declaratory Order,* Docket No. MC–C–10924, 1987 MCC Lexis 529, at *10 (ICC served Mar. 13, 1987): ''[S]ubstituted service is not a through route/joint rate arrangement * * *.''

[6] In an Advance Notice of Proposed Rulemaking, *Expedited Procedures for Processing Simplified Rail Rate Reasonableness Proceedings,* Ex Parte No. 527 (Sub-No. 1) (served and published in the **Federal Register** on February 12, 1997 (62 FR 6508)), the Board solicited comments to establish a general procedural schedule for cases processed under the simplified rate evaluation procedures adopted in *Rate Guidelines— Non-Coal Proceedings,* Ex Parte No. 347 (Sub-No. 2). When final rules are issued in that proceeding, the Board will have in place rules applicable to all rate complaints.

[7] Under 49 U.S.C. 10501(a)(2)(A), the Board has jurisdiction over transportation between a place in one state and a place in the same state ''as part of the interstate rail network.'' Accordingly, only if the intrastate movement is not part of the interstate rail system can a state exercise jurisdiction. In such limited areas, the Board does not have jurisdiction.

[8] The conference report accompanying the ICCTA notes that the statute ''restricts directed rail transportation to situations where no Federal funding is involved, and compensation to the carrier providing the directed service comes entirely from the revenues generated by the service.'' H.R. Conf. Rep. No. 422, 104th Cong., 1st Sess. 185 (1995), *reprinted in* 1995 U.S.C.C.A.N. 793, 870.

U.S.C. 10935. *See Employee Protection—Motor Passenger Carriers,* 133 M.C.C. 140 (1983). By its terms, the provisions of section 27 expired 12 years after its November 1982 effective date. *See* Section 27(i). The ICCTA, moreover, repealed former section 10935.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1022

Intergovernmental relations.

49 CFR Part 1030

Railroads.

49 CFR Part 1091

Alaska, Intermodal transportation, Motor carriers.

49 CFR Part 1131

Administrative practice and procedure, Investigations, Railroads.

49 CFR Part 1143

Administrative practice and procedure, Intergovernmental relations.

49 CFR Part 1156

Railroads, Uniform system of accounts.

49 CFR Part 1170

Administrative practice and procedure, Buses, Employment.

Decided: September 19, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

PART 1022—[REMOVED]

PART 1030—[REMOVED]

PART 1091—[REMOVED]

PART 1131—[REMOVED]

PART 1143—[REMOVED]

PART 1156—[REMOVED]

PART 1170—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X, of the Code of Federal Regulations is amended by removing parts 1022, 1030, 1091, 1131, 1143, 1156 and 1170.

[FR Doc. 97–25733 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 091897A]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna Angling Category

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

ACTION: Closure.

SUMMARY: NMFS closes the fishery for school, large school, and small medium Atlantic bluefin tuna (ABT) conducted by Angling category fishermen in the waters off New Jersey and states north. Closure of this fishery is necessary because the annual quota of 57 metric tons (mt) of school ABT and 80 mt of large school/small medium ABT allocated for this subcategory in waters off New Jersey and states north is projected to be attained by October 1, 1997. The intent of this action is to prevent overharvest of the quotas established for this fishery.

DATES: Effective 11:30 p.m. local time on October 1, 1997, through December 31, 1997.

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

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(d)(1) of the regulations provides for annual quotas of 57 mt of school ABT and 80 mt of large school/small medium ABT to be harvested from waters off New Jersey and states north by individuals in the Angling category. The Assistant Administrator for Fisheries, NOAA (AA), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of those statistics, to project a date when the catch of ABT will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to prohibit fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22.

The AA has determined, based on the reported catch and estimated fishing effort, that the annual quota of school, large school, and small medium ABT for those fishing in waters off New Jersey and states north will be attained by October 1, 1997. Fishing for, catching, possessing, or landing any school, large school, or small medium ABT (measuring 27 inches to less than 73 inches (69 cm to less than 185 cm)) in the closed area must cease at 11:30 p.m. local time on October 1, 1997. The southern area (the waters off Delaware and states south) fishery for school, large school, and small medium ABT was previously closed for the 1997 season (62 FR 44423, August 21, 1997; 62 FR 35447, July 1, 1997).

The fishery for large medium and giant ABT (measuring 73 inches or greater) is not affected by this closure and remains open in all areas until further notice, subject to the trophy fish limit of one-per-vessel-per-year. Such large medium or giant ABT must be reported to the nearest NMFS enforcement office as required under § 285.24. In North Carolina, trophy fish must be reported to the Coast Guard at 919–995–6403. Anglers should verify that the trophy category remains open by calling the NMFS 24–hour Information Line at 301–713–1279 prior to each fishing trip. In addition, anglers may continue to tag and release ABT of all sizes under the NMFS tag-and-release program (50 CFR 285.27).

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: September 23, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–25671 Filed 9–23–97; 4:59 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7052–02; I.D. 092297D]

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Eastern Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of shortraker/rougheye rockfish in the Eastern Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of shortraker/rougheye rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 1997 total allowable catch (TAC) of shortraker/rougheye rockfish in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 23, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1997 TAC of shortraker/rougheye rockfish in the Eastern Regulatory Area of the GOA was established as 460 metric tons by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 1997 TAC for shortraker/rougheye rockfish in the Eastern Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of shortraker/rougheye rockfish in the Eastern Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for shortraker/rougheye rockfish in the Eastern Regulatory Area of the GOA. Providing prior notice and an opportunity for public comment for this action is impracticable and contrary to public interest. The fleet has taken the 1997 TAC for shortraker/rougheye rockfish. Further delay would only result in overharvest and disrupt the FMP's objective of not exceeding the TAC throughout the year. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 23, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–25670 Filed 9–23–97; 4:59 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 092297C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific cod in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulation implementing the FMP at subpart H of CFR part 600 and 50 CFR part 679.

In accordance with Sec. 679.20(d)(1)(iii)(A), the allowance for the Pacific cod TAC apportioned for vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area was established as 4,369 metric tons (mt) by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) and subsequent apportionment of reserve (62 FR 19062, April 18, 1997). The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 3,369 mt, and set aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on February 19, 1997, in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (62 FR 8179, February 24, 1997).

NMFS has determined that as of September 13, 1997, 3,092 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA effective 1200 hrs, A.l.t., October 1, 1997.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. Providing prior notice and an opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP's objective of providing a portion of the Pacific cod TAC for processing by the offshore component in the Central Regulatory Area of the GOA. Without this action,

the Pacific cod allocation for vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA would be underharvested, resulting in an economic loss of more than 1.7 million dollars. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 24, 1997.

Gary C. Matlock,

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

[FR Doc. 97–25777 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 188
Monday, September 29, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA105–4066b; FRL–5897–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: General Conformity Rule

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, for the purpose of establishing the requirements for determining conformity of general Federal actions to applicable air quality implementation plans (General Conformity). In the Final Rules section of this **Federal Register**, EPA is approving Pennsylvania'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 October 29, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, 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 EPA office listed above; and Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566–2182, at the EPA Region III address.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title (Pennsylvania General Conformity Rule) which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Incorporation by reference, Air pollution control.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 16, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–25655 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 103–21b; FRL–5898–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of NO_X RACT Determination for Panther Creek Energy Facility

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 for the purpose of establishing nitrogen oxides (NO_X) reasonably available control technology (RACT) for Panther Creek Energy Facility located in Carbon County, Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth'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 and the accompanying technical support document. 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. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by October 29, 1997.

ADDRESSES: Written comments on this action should be addressed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, 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; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Kelly L. Bunker, (215) 566–2177, at the EPA Region III office or via e-mail at Bunker.Kelly@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, NO_X RACT determination for one individual source located in Pennsylvania, 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: September 16, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–25756 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–8; RM–8957]

Radio Broadcasting Services; Amelia, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition for rulemaking.

SUMMARY: The Commission denies the petition for rule making filed by Amelia Broadcasting of Louisiana, proposing the allotment of Channel 249C3 to Amelia, Louisiana. See 62 FR 3851, January 27, 1997. The proposal is denied because of the lack of a suitable transmitter site. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–8, adopted September 10, 1997, and released September 19, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–25589 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–264; RM–8977]

Radio Broadcasting Services; Roxton, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition for rulemaking.

SUMMARY: This action dismisses a petition for rule making filed by Northeast Texas Broadcasters requesting the allotment of Channel 257A to Roxton, Texas, because of a short-spacing conflict with a one step application filed by OARA for Channel 257C2 at Linden, Texas. *See* 62 FR 2639, January 17, 1997. With this action, this proceeding is terminated.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–264, adopted September 10, 1997, and released September 19, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–25594 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–204, RM–9143; RM–9158]

Radio Broadcasting Services; McFarland and Coalinga, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two separately-filed, mutually-exclusive petitions for rule making seeking the allotment of Channel 247A. The first, filed on behalf of Kerner Broadcasting Company, requests the allotment of Channel 247A to McFarland, California, as that community's second local FM transmission service (RM–9143). The second proponent, James K. Zahn, seeks the allotment of Channel 247A to Coalinga, California, as that community's second local commercial FM service (RM–9158). Reference coordinates used for the McFarland proposal are 35–40–16 and 119–20–30. Those used for Coalinga are 36–08–30 and 120–21–18.

DATES: Comments must be filed on or before November 10, 1997, and reply comments on or before November 25, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, Esq., 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036 (counsel for Kerner Broadcasting Company); Gary S. Smithwick, Esq., Smithwick & Belendiuk, P.C., 1990 M Street, NW., Suite 510, Washington, DC 20036 (counsel for James K. Zahn).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–204, adopted September 10, 1997, and released September 19, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–25593 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[FHWA Docket No. FHWA–97–2923; FHWA No. 97–11]

RIN 2125–AE06

Qualifications of Motor Carriers to Self-Insure Their Operations and Fees To Support the Approval and Compliance Process; Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to advance notice of proposed rulemaking (ANPRM) and request for comments.

SUMMARY: This document corrects the assigned FHWA docket number and the address for submission of comments to this ANPRM regarding standards to approve motor carriers as self-insurers which was published on Tuesday, September 23, 1997, at 62 FR 49654 in FR Doc. 97–24714. In addition, the authority citation is provided for issuance of the ANPRM.

DATES: This correction is effective September 29, 1997. Comments to the ANPRM must be received on or before November 24, 1997.

ADDRESSES: Signed, written comments should refer to FHWA Docket No. FHWA–97–2923 and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: John F. Grimm, Office of Motor Carriers, (202) 366–4039, or Stanley M. Braverman, Motor Carrier Law Division, Office of the Chief Counsel, (202) 358–7035, Federal Highway Administration, 400 Virginia Ave., SW., Suite 600, Washington, DC 20024. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION: In FR Doc. 97–24714 which was published on Tuesday, September 23, 1997, make the following corrections:

On page 49654 in the first column, in the heading of the document, change the docket number to read as follows: [FHWA Docket No. FHWA–97–2923].

On page 49654, the information under the caption **ADDRESSES** should read as set forth above in this correction document.

The authority for publishing the ANPRM and this correction for 49 CFR Part 387 reads as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.48.

Issued on: September 24, 1997.

Edward V.A. Kussy,

Federal Highway Administration, Acting Chief Counsel.

[FR Doc. 97–25763 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Northern Goshawk in the Contiguous United States West of the 100th Meridian

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the northern goshawk (*Accipiter gentilis*) in the contiguous United States west of the 100th meridian under the Endangered Species Act, as amended. Due to court remands and the need to complete a thorough status review on this controversial species, the Service has determined that the petition presents substantial information indicating that listing of the northern goshawk (comprising portions of the subspecies *A.g. atricapillus* and *A.g. apache*) as a threatened or endangered species in the contiguous United States west of the 100th meridian may be warranted. The Service initiates a status review for the northern goshawk and will prepare a 12-month finding at the conclusion of the review. Through issuance of this notice, the Service is requesting additional information regarding the subspecies *A.g. atricapillus* and *A.g. apache* in the western contiguous United States. The Service vacates the previous finding for the same petitioned action dated June 6, 1996.

DATES: Comments and materials related to this petition finding must be received on or before December 29, 1997.

ADDRESSES: Information, comments, or questions concerning this petition may be submitted to the Field Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Rd., Suite 103, Phoenix, Arizona 85021. The petition, finding, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Sam Spiller, Field Supervisor (see **ADDRESSES** section) (telephone 602/640–2720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition (90-day finding), and notice of the finding is to be published promptly in the **Federal Register**. If a finding is made that substantial information was presented, the Service is required to promptly commence a status review of the species involved and determine whether the petitioned action is warranted.

On July 19, 1991, the Service received a petition from Dr. Robin Silver, M.D., Maricopa Audubon Society, Phoenix, Arizona (Silver *et al.* 1991), to list the northern goshawk (*Accipiter gentilis*) as an endangered species in Utah, Colorado, New Mexico, and Arizona with critical habitat. On September 26, 1991, a letter was received by the Service from Mr. Charles Babbitt, Maricopa Audubon Society, and a coalition of conservation organizations (Babbitt *et al.* 1991) requesting to amend the petition already under consideration by the Service. Co-sponsors of this request to amend the previous petition were the Arizona Audubon Council, Southwest New Mexico Audubon Society, Mesilla Valley Audubon Society, Forest Guardians, Friends of the Owls, Greater Gila Biodiversity Project, HawkWatch, Rio Grande

Chapter of the Sierra Club, and Southern Utah Wilderness Alliance. The coalition requested expanding the geographic region under consideration to include the ''forested west.'' The *forested west* was subsequently defined as the forested United States west of the 100th meridian. Because the request to amend the previous petition required consideration of a listing action substantially broader in scope than the petition under review at that time, the Service informed the coalition that their request for an amendment would be considered as a separate, new petition.

On January 7, 1992, the Service published a finding that the first petition (on the northern goshawk in Utah, Colorado, New Mexico, and Arizona) did not present substantial information to indicate that the goshawk in that petitioned region constituted a listable entity (57 FR 546). However, the Service concluded that the petition presented substantial information indicating that northern goshawk population declines and loss or modification of habitat may be occurring. Therefore, the Service announced in a separate **Federal Register** notice (January 7, 1992; 57 FR 544) the initiation of a status review for the northern goshawk throughout its range in the United States. That status review specifically solicited information to be used in evaluation of the potential for distinct population segments within the range of the northern goshawk in North America.

On June 25, 1992 (57 FR 28474), the Service published a 90-day finding that the petition did not present substantial information to indicate that the northern goshawk in the western United States was a listable entity. The Service found that the petition presented no evidence of reproductive isolation or genetic differentiation between the goshawk in the west and the goshawk in the eastern United States, and that goshawk habitat was contiguous from the western United States to the eastern United States through Canada. The petitioners subsequently filed a lawsuit to have the finding set aside under the Administrative Procedure Act. On February 22, 1996, U.S. District Judge Richard M. Bilby found the June 25, 1992, not substantial petition finding to be arbitrary and capricious, and remanded the finding to the Service for a new 90-day determination and vacated the previous finding.

On June 6, 1996 (61 FR 28834), the Service published a notice vacating the petition finding of June 25, 1992, and published a new 90-day finding that the petition to list the northern goshawk in the western had not presented substantial information that the petitioned action may be warranted. The Service determined that since the entity petitioned for listing was comprised of more than one subspecies it did not meet the definition of a distinct vertebrate population as defined in the National Marine Fisheries Service and Fish and Wildlife Service Final Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (DPS policy; February 7, 1996; 61 FR 4722).

The petitioners subsequently filed a lawsuit to have that finding set aside. On June 6, 1997, Judge Bilby found the June 6, 1996, finding to be arbitrary and capricious, and remanded the finding to the Service for another 90-day finding. On August 19, 1997, Judge Bilby clarified that the decision on remand was to be made using the Service's DPS policy without the ''one subspecies'' rule the Service had relied on in making its June 6, 1996, finding. In addition, on August 22, 1997, the petitioners amended their petition to seek listing of northern goshawks west of the 100th meridian in the contiguous 48 states.

The Service has determined that a substantial 90-day finding on the petition to list northern goshawks in the contiguous United States west of the 100th meridian is appropriate at this time in order to be responsive to the court ordered remand and to allow for a thorough status review of this species. This notice serves to inform the public of the Service's new 90-day finding and vacation of the Service's June 6, 1996, finding. This finding is based on various documents, including published and unpublished studies, agency files, field survey records, and consultation with Federal and state agency personnel and other management and research authorities. All documents on which this finding is based are on file in the Fish and Wildlife Service's Arizona Ecological Services Field Office (see **ADDRESSES** section).

Northern Goshawk Taxonomy and Distribution

The northern goshawk has a wide distribution and occurs in forested regions throughout the higher latitudes of the northern hemisphere. Approximately 12 subspecies have been recognized, with seven to nine occurring across northern Europe and Asia (Gladkov 1941, Palmer 1988). Three subspecies of northern goshawk have been recognized in North America. Queen Charlotte goshawk (*A.g. laingi*) is located in coastal British Columbia and southeastern Alaska and does not occur within the petitioned area.

The population segment of the northern goshawk under petition includes portions of the ranges of *A.g. atricapillus*, and *A.g. apache*. The most widespread subspecies, *A.g. atricapillus*, occurs from the northeastern United States across the boreal forests of Canada and Alaska, and southward through the upland forests of the western United States. The Apache goshawk (*A.g. apache*) occurs in montane areas in southern Arizona and New Mexico, extending southward into the Sierra Madre of Mexico (American Ornithologists' Union 1957, Hubbard 1978, Johnsgard 1990, Monson and Phillips 1981, Palmer 1988, Phillips *et al.* 1964, Reynolds *et al.* 1992, van Rossem 1938, Wattel 1973, Webster 1988).

The taxonomic distinctness of *A.g. apache* remains in debate. The American Ornithologist's Union (1957) did not include *A.g. apache* in its last listing of birds which included subspecies. However, *A.g. apache* is recognized by Brown and Amadon (1968), Hubbard (1978 and 1992), Hellmayer and Conover (1949), Johnsgard (1990), Monson and Phillips (1981), Phillips *et al.* (1964), Stresemann and Amadon (1979), van Rossem (1938), and Wattel (1973). Mensural analysis of various size and mass parameters conducted by Whaley and White (1994) provide additional support for the recognition of *A.g. apache*.

The primary nesting habitat of the goshawk is mature riparian, coniferous, or deciduous forests with large and tall trees (Crocker-Bedford and Chaney 1988, Fischer 1986, Hayward and Escano 1989, Kennedy 1988, Marquiss and Newton 1982, Moore and Henny 1983, Reynolds 1988, Reynolds *et al.* 1982, Reynolds *et al.* 1992, Saunders 1982, Schuster 1980). Some variation exists in habitat used for breeding, but even in atypical habitat, nest sites are generally located in wooded areas with the largest trees and greatest canopy closure (Bond 1940, Bull and Hohmann 1994, Hall 1984, Hargis *et al.* 1994, White et *al.* 1965, Woodbridge and Detrich 1994). In the drier areas of the west such as the Great Basin, goshawks also nest in high-elevation shrubsteppe habitat supporting small, highly fragmented stands of mature aspen (*Populus tremuloides*) (Younk and Bechard 1994).

Goshawks display a high degree of nest site fidelity, and are generally nonmigratory or weakly migratory (Johnsgard 1990, Kennedy 1989, McGowan 1975, Palmer 1988, Reynolds 1988, Snyder 1995). Reynolds (1988) believes the goshawk is more migratory

in the northern part of its range. Seasonal movements have been documented which appear to be along north-south axes (Hoffman 1991, Mueller and Berger 1967, Titus and Fuller 1990), on elevational gradients (Phillips *et al.* 1964), or in response to food availability on breeding areas during the winter (Squires and Reynolds 1997). Juvenile dispersal is generally less than 40 kilometers (25 miles) from the natal site (Anonymous 1990, Marquiss and Newton 1982, McGowan 1975, Widen 1985). However, goshawks are capable of moving very long distances and occasionally do so, especially subadults (Hoffman 1991). The best information available suggests that goshawks do not tend to make significant movements for the purpose of seeking new breeding sites. Migratory or other seasonal movements, by definition, typically do not provide for mixing of individuals from diverse geographic regions for reproductive purposes.

Distinct Population Segment Determination

A species that is in danger of extinction throughout all or a significant portion of its range may be declared an endangered species under the Act. A species that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range may be declared a threatened species under the Act. The term ''species'' is defined by the Act to include ''* * * subspecies * * * and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature * * *'' (16 U.S.C. 1532 (15)).

The Service's decision on the issue of whether a particular population qualifies for listing under the Act is governed by the Service's DPS policy which requires that the Service consider (1) discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing.

For a listable entity, the information submitted with and referenced in the petition, and other available data, must represent ''substantial information.'' This information must present both adequate and reliable data on the status of the species' biological vulnerability and the threats to the species and/or its habitat, and which tends to show that the petitioned action may be warranted. The standard for substantial information is stated at 50 CFR 424.14(b) as ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.''

Population Discreteness

Under the DPS policy the Service must evaluate whether the northern goshawk in the contiguous United States west of the 100th meridian is a discrete population segment based on consideration whether—(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors; or (2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of Section 4(a)(1)(D) of the Act.

The goshawk and its habitat in the United States are separable into two broad regions—(1) the forested east, including the Appalachian Mountains and far northern reaches of the Great Lakes region; and (2) the forested highlands west of the 100th meridian (Johnsgard 1990). The 100th meridian bisects the United States, passing north to south approximately through the center of North and South Dakota, Nebraska, Kansas, western Oklahoma, and Texas. The intervening Great Plains lack goshawk nesting habitat. However, in Canada north of the Great Plains, potential goshawk habitat is continuous across the continent from east to west.

Eastern and western subspecies of the ''American Goshawk'' were once recognized (Baird *et al.* 1874, cited in Taverner 1940). This taxonomy was recognized by Wolfe (1932), Dixon and Dixon (1938), and Abbott (1941). However, Taverner (1940) determined that the plumage variations on which these distinctions were made are related to age, not geographic variation. The degree of genetic interchange between goshawks in eastern and western United States is unknown, as is the degree of interchange across western United States between Canada and Mexico.

The range of the goshawk in the contiguous United States west of the 100th meridian includes portions of two identified subspecies and is bounded by the ecological barrier of the Great Plains to the east. Delimiting the northern boundary of the population segment as the United States-Canadian border, and the southern boundary as the United States-Mexico border, recognizes differences in management of habitat, control of exploitation, knowledge on the status of the species, and existing regulatory mechanisms across international boundaries. For example, the goshawks in the western United States occurring on Federal lands are managed under various United States laws, such as the National Forest Management Act (U. S. Forest Service), the Federal Land Policy and Management Act (Bureau of Land Management), and the Organic Act (National Park Service). While Canada and Mexico also have laws governing management of wildlife, the Service has insufficient information to determine whether there are differences that are significant to the conservation of the species. For these reasons, the Service concludes that the available information tends to support a finding that the 100th meridian and the U.S. borders with Canada and Mexico demarcate a discrete population segment of goshawks under the DPS policy. The Service seeks further information for purposes of making a 12-month finding on this issue, including information on the status of goshawks and relevant management practices in Canada and Mexico.

Population Significance

Under the DPS policy, the Service must next evaluate whether the northern goshawk in the lower 48 states west of the 100th meridian is a significant population segment. To do so, the Service must consider whether—(1) the population represents an ecological situation unique for the taxon; (2) whether the loss of the population would result in a significant gap in the range of the taxon; (3) whether the population represents the only surviving natural occurrence of a taxon occurring elsewhere as an introduced species; and/or (4) whether the population differs markedly in its genetic characteristics.

The Service has determined that the population of northern goshawks in the contiguous United States west of the 100th meridian constitutes a significant portion of the goshawk's range, and that loss of goshawks in the petitioned area would result in a significant gap in the species' range. Thus, the Service determines that goshawks in the contiguous United States west of the 100th meridian are significant in terms of the Service's DPS policy.

Population Status

The petition contends that goshawk numbers are few and declining, essential habitat is subject to widespread present and threatened destruction, and the existing regulatory mechanisms for protection are inadequate. In an overview prepared for a northern goshawk symposium, Block

et al. (1994) reports that within the previous five years evidence has arisen which suggests that populations of northern goshawks have declined, particularly in the western United States. Declines in goshawk nest site occupancy and reproductive success have been suggested in Arizona, California, and Nevada (Crocker-Bedford 1990b; Reynolds *et al.* 1994 citing Herron *et al.* 1995 and Bloom *et al.* 1980; Snyder 1995; Zinn and Tibbitts 1990), Idaho (Patla 1991), and New Mexico (Kennedy 1989).

Keane and Morrison (1994) (citing Reynolds *et al.* 1992, Reynolds 1987, and Bloom *et al.* 1986) suggest that the major threat to the goshawk is the loss or degradation of mature forests used for nesting and foraging, due to timber harvesting and livestock grazing in some areas. Snyder (1995 citing Marshall 1957) attributes a probable decrease in goshawk carrying capacity to decreased habitat quality as a result of fire protection which has led to increased thickets of young trees, fuel buildup, and ultimately catastrophic wildfire that destroys large areas of habitat.

There exists much debate regarding the scientific validity and rigor of many of the studies citing goshawk population responses to forest management activities. The Service has not fully evaluated the scientific methods used in the studies cited in this finding, nor made determinations about the cause and effect relationships of population changes and the relationship of these changes to the range-wide status of the goshawk. The Service will do this during preparation of the 12-month finding.

The northern goshawk is known to experience fluctuations in population size, density, and nesting success, presumably in response to natural factors such as prey availability. Several authors (Doyle and Smith 1994, McGowan 1975, Mueller and Berger 1968, Snyder 1995, Widen 1985) speculated that goshawk nest site occupancy and seasonal movements may be affected by fluctuations in prey availability. Snyder (1995), studying the conservation biology of the Apache goshawk, found evidence to suggest some declines in nesting goshawk numbers over a ten year period on the Coronado National Forest in Arizona. However, Snyder was not able to conclude if this is within normal, expected variation in site occupancy due in part to drought affecting prey species. Additionally, past and potential future conflicts between people and birds is at issue due to close proximity of goshawk nest sites and human activity.

Timber extraction may significantly alter forest structure and ecology. Many studies have attempted to investigate the implications of forest management on goshawk populations. In Idaho, Patla (1991) found nest site occupancy dropped from 72 percent before timber harvesting to 18 percent following harvest. In Arizona, Crocker-Bedford (1990b) found productivity was associated with varying intensity of timber harvest, with 2.0 nestlings/nest in unharvested locales; 1.8 with 25 percent of acres harvested; 1.0 in areas 50 percent harvested; and 0.0 with 75 percent of acres harvested. Also in Arizona, Bright-Smith and Mannan (1994) found that timber harvest that creates large areas with sparse tree cover is potentially detrimental to goshawks.

In northern California, Woodbridge and Detrich (1994) found that despite intensive timber harvest and fragmentation of mature forest, their study area supported high densities of nesting goshawks. However, goshawks in this study were associated with the larger remaining patches of mature forest. Woodbridge and Detrich (1994) theorized that prey found in open habitat, in this case, the golden-mantled ground squirrel (*Spermophilus lateralis*), may offset losses of prey species associated with mature forest. Hargis *et al.* (1994) found in the Inyo National Forest of northern California, that goshawks nested in stands that were substantially more open than those used in other geographic areas. Goshawks in this study selected stands that were denser than the average available, both for nesting and foraging. In addition, Hargis *et al.* (1994) found that all goshawk territories associated with timber sales were active for approximately two-thirds of the years since the harvests, based on nesting records, over a period of 14 years.

The results of a population viability analysis conducted by the Arizona Game and Fish Department in 1992 for the goshawk on the Kaibab National Forest, North Kaibab Ranger District, Arizona, could not conclude that the population was stable, increasing, or decreasing (Maguire 1993). Kennedy (1997) concluded that there was no evidence to support the hypothesis that goshawk populations are declining. A panel with members from The Wildlife Society and American Ornithologist's Union found no evidence to indicate that northern goshawk populations are declining, threatened, or endangered in the southwest or anywhere within its range (Braum *et al.* 1996). However, the panel recognized a need to conduct additional research of goshawk demographics and additional inventory and monitoring of goshawk populations (Braum *et al.* 1996).

Presently, the northern goshawk is regarded as a management indicator species of specific habitat conditions in many regions of the U.S. Forest Service and is a Forest Service Sensitive Species within the Rocky Mountain, Intermountain, Southwest and Pacific Southwest Regions (Block *et al.* 1994; Squires and Reynolds 1997). The goshawk is not afforded sensitive status in the Pacific Northwest Region.

The Southwest Region of the Forest Service (National Forests in the states of Arizona and New Mexico) issued interim guidelines for the management of the goshawk in June 1992. These interim guidelines adopted the Management Recommendations for the Northern Goshawk in the Southwestern United States (Reynolds *et al.* 1992). Permanent guidelines were added to the Forest Service Directives System as a Regional Supplement in June, 1995 (U.S. Forest Service 1995), and the Southwestern Region of the Forest Service adopted Reynolds *et al.* (1992) in their Forest Plan Amendments in 1996 (U.S. Forest Service 1996). Management strategies for the goshawk in the Upper Columbia River Basin, including Idaho and portions of neighboring states, have been developed (Patla *et al.* 1995). The Northwest Forest Plan has established late successional reserves throughout the range of the northern spotted owl (*Strix occidentalis caurina*) in Oregon and Washington. The success of these and other strategies in the western United States will be evaluated during the status review and as the 12-month finding is prepared.

Because the court ordered the previous not substantial 90-day finding remanded and current literature offers conflicting views of goshawk population trends and threats facing goshawks in the contiguous United States west of the 100th meridian, the Service has determined that a status review is necessary to examine whether the northern goshawk warrants listing. Current literature presents contradicting views on the purported decline of goshawks. Threats to the goshawk's habitat and the effects of those threats also must be analyzed before the Service can issue a determination regarding the status of goshawks in the western contiguous United States. Current data need to be scrutinized to determine goshawk population trends and subspecies (*A. gentilis apache*) validity.

After a review of the petition, the references cited, and information otherwise available to the Service, the Service finds that, on the basis of the best scientific and commercial

information available, the petition presented substantial information that listing *A. gentilis* in the contiguous United States west of the 100th meridian as a threatened or endangered species may be warranted. The Service determines that, although significant disagreement may exist as to the status of this species, the petition presents substantial information that indicates northern goshawks in the petitioned region may be declining in response to habitat loss and modification, and lack of existing regulatory mechanisms. Upon completion of a thorough status review, a 12-month finding will be made to determine whether listing is warranted for the northern goshawk in the western contiguous United States.

The Service seeks any additional data, information, or comments from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning the status of *A.g. atricapillus* and *A.g. apache*. The Service is interested in information from throughout the subspecies' ranges in the United States, Canada, and Mexico. The following issues are of particular interest to the Service—

1. The genetic, morphological, and ecological differences, including variations or intergradation of *A.g. atricapillus* and *A.g. apache* within their range;
2. Data on historic and current population trends and dynamics, and documented or suspected influencing factors which may assist in determining population trends;
3. Reproduction trends and documented or suspected influencing factors;
4. Trends in loss, modification, and recovery of forested habitat of the two subspecies, and the extent and affect of habitat conversion and fragmentation on goshawks and their prey;
5. Taxonomic clarification of North American goshawk subspecies;
6. Migration and dispersal; and
7. Information on the status of the goshawk in Canada and Mexico, as well as information on its management and relevant regulatory mechanisms.

References Cited

A complete list of all references cited herein is available on request from the Field Supervisor, Arizona Ecological Services Field Office, (see **ADDRESSES** section).

Authors

The primary authors of this document are Michele James and Bruce K. Palmer, of the Arizona Ecological Services Field Office, (see **ADDRESSEES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: September 22, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 97–25695 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE37

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Virginia sneezeweed (Helenium virginicum), a Plant From the Shenandoah Valley of Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Helenium virginicum* (Virginia sneezeweed) as a threatened species, under the authority of the Endangered Species Act of 1973, as amended (Act). This rare plant is restricted to seasonally inundated sinkhole ponds and meadows in Augusta and Rockingham counties, Virginia. Five of the 25 known extant populations are on U.S. Forest Service land; the others are on private land. This perennial plant is threatened by residential development, incompatible agricultural practices, filling and ditching of its wetland habitat and other disruptions of its habitat and the hydrology that maintains it. At several sites, ditches have been constructed to reduce the length of time that standing water is present. This has caused the *H. virginicum* population at one of the sites to be reduced to near extinction. *Helenium virginicum* is presently listed as endangered by the State of Virginia. This proposal, if made final, would implement Federal protection and recovery provisions afforded by the Act for this species.

DATES: Comments from all interested parties must be received by November 28, 1997. Public hearing requests must be received by November 13, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Chesapeake Bay Field Office, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, MD 21401. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Andy Moser, Chesapeake Bay Field Office (see ADDRESSES section) (telephone 410/573–4537; facsimile 410/269–0832).

SUPPLEMENTARY INFORMATION:

Background

Helenium virginicum (Virginia sneezeweed) is a perennial member of the aster family (Asteraceae) known only from Augusta and Rockingham counties, Virginia. The common name, sneezeweed, is based on the use of the dried leaves of these plants in making snuff, inhaled to cause sneezing that would supposedly rid the body of evil spirits (Niering 1979). *Helenium virginicum* stems grow to a height of 4 to 11 decimeters (1.5 to 3.5 feet) above a rosette of basal leaves. Coarse hairs are visible on the basal and lower stem leaves. The basal leaves may be broad in the middle tapering toward the ends, but otherwise may appear oblong. Stem leaves are lance-shaped, and become progressively smaller from the base to the tip of the stem. The stems are winged, the wings being continuous with the bases of the stem leaves. The flower ray petals are yellow, and wedge-shaped with three lobes at the ends. The central disk of the flower is nearly ball-shaped. Flowering occurs from July to October (Virginia Department of Conservation and Recreation 1995).

Helenium virginicum is similar to common sneezeweed (*Helenium autumnale*), but differs in having a sparsely-leaved stem, larger basal leaves, and longer pappus scales (appendages which crown the ovary or fruit). It is also differentiated by leaf shape, stem and leaf hairs, and habitat requirements.

Helenium virginicum was first described by S.F. Blake in 1936 from specimens collected near Stuart's Draft, Virginia. It is a perennial wetland species found only on the shores of shallow, seasonally flooded ponds in Virginia's Shenandoah Valley. From 1985 through 1995, extensive status survey work was conducted for *H. virginicum* in over 100 limestone sinkhole ponds along the western edge of the Blue Ridge Mountains in the Shenandoah Valley of Virginia. A total of 28 separate populations were located during these surveys. The ponds at these locations range in size from less than 0.04 hectare(ha) (0.1 acre (ac)) to 3 ha (8 ac) and are seasonally flooded, semipermanent, or permanent bodies of water. The ponds supporting *H.*

virginicum have poorly drained, acidic, silty loam soils, and are typically flooded from January through July.

Helenium virginicum is adapted to survive the water level fluctuations of the seasonal ponds, giving it a competitive advantage in this habitat. From year to year, the number of *H. virginicum* plants at any given site may vary greatly. A high water level one year may leave the ponds flooded, resulting in less shoreline for plants to become established or to survive. However, a high water level also eliminates the invading shrubs and trees that may compete with *H. virginicum* on the pond shores. When the water level is lower, more pond shore is exposed and the surviving plants and the seeds stored in the soil enable the *H. virginicum* populations to rebound (Virginia Department of Conservation and Recreation 1995).

Seeds of *Helenium virginicum* are dispersed in late fall and winter; germinating in late summer or early fall of the following year if conditions are suitable. Seeds will not germinate in the dark or under a standing column of water. In the first year of growth, the plant exists as a basal rosette with a diffuse root system. Plants seem to grow year-round, even while submerged. Flowering usually does not occur until the plant is more than one year old. One aerial stem bearing several flower heads is formed during the first flowering season; in subsequent years several flowering stems may be formed in a season. Plants may live for five years, flowering in consecutive years (J.S. Knox, Washington and Lee University, pers. comm. 1997).

Of the 28 populations of *Helenium virginicum* identified during the 10-year survey period, 25 currently are considered to be extant. The remaining three populations, where no *H. virginicum* have been seen in recent years, may be extirpated. Of the 25 extant populations, 5 are on U.S. Forest Service land and the remaining 20 are on private lands. The most recent status report (Van Alstine 1996) provides an excellent review of the status and trends for the species. The report indicates that the majority of sites on private land are in wetlands and have a range of disturbances and threats including ditching, filling, mowing, and grazing.

Previous Federal Action

Federal government actions on this species began on November 28, 1983, when the Service published a notice of review in the **Federal Register** (48 FR 53640) covering all native plants being considered for listing as endangered or threatened. *Helenium virginicum* was included in that notice as a category 2 species. Category 2 species were defined as those taxa for which the Service lacked information to determine if category 1 status was warranted. It was subsequently retained as a category 2 species when the Notice of Review for Native Plants was revised in 1985 (50 FR 39526), and again in 1990 (55 FR 61184).

In 1985, the Service contracted with The Nature Conservancy to conduct status survey work on *Helenium virginicum* and numerous other rare plant species. Their final report, dated October 20, 1986, recommended threatened status for this plant but indicated that additional ponds should be checked for the presence of this species.

In 1990 and 1991, the Virginia Department of Conservation and Recreation's Division of Natural Heritage conducted further fieldwork, funded in part by the Service, to locate additional *Helenium virginicum* populations. An exhaustive search resulted in the discovery of seven additional locations of the species, but three of these locations contained very few individuals. Based largely on this new information, *H. virginicum* was moved to category 1 when the Notice of Review for Plant Taxa was revised in 1993 (58 FR 51144). Category 1 species were defined as those taxa for which the Service had on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. Upon publication of the February 28, 1996, Notice of Review (61 FR 7596), the Service ceased using category designations and included *H. virginicum* as a candidate species. As currently defined, candidate species are those taxa for which the Service has on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1513) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Helenium virginicum* Blake (Virginia sneezeweed) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat modification is the principal threat to *Helenium virginicum*. It is threatened by residential development, incompatible agricultural practices, filling and ditching of wetland habitats, groundwater withdrawal, and other disruptions of hydrology. Because the survival and maintenance of *H. virginicum* populations depend on seasonal water level fluctuations, either wetland drainage or increases in the time of inundation may result in high levels of mortality. Of the 18 populations visited in 1995, eight were located in relatively undisturbed wetlands, while the remaining 10 were in wetlands altered by ditching, mowing, grazing or filling (Van Alstine 1996). At least four of the sites where recently the species has dramatically declined have modified hydrology (Van Alstine and Ludwig 1991). Three of these sites have been either ditched or filled, thereby shortening or eliminating the wet phase.

Among the most threatened populations of *Helenium virginicum* are those in the area south and southwest of Lyndhurst, Virginia, where land use is increasingly being converted from agricultural to residential. Increased drainage control which accompanies such development will adversely affect many of the sites located on or near agricultural lands over the next 10 years (Van Alstine and Ludwig 1991).

One proposed project, the widening of Route 340 from two to four lanes in Augusta County, could have severe impacts on one of the largest populations of *Helenium virginicum*. However, it may be possible to avoid or reduce impacts by careful routing of the highway, controlling runoff, and maintaining current hydrology.

Cattle grazing and mowing affect many of the sites supporting the species. In general, the effects of moderate levels of grazing and mowing appear to be beneficial, since several of the regularly grazed or mowed sites are among the largest and best established populations. Nonetheless, there is a potential that overly frequent, or poorly timed mowing (and perhaps overgrazing) could have a long-term adverse effect on the species by interfering with flowering and seed production (Van Alstine and Ludwig 1991).

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Other species in the genus *Helenium* have been shown to contain compounds with antitumor properties. However, there is no information to show that *Helenium virginicum* is in commercial trade for these compounds. Overcollection has not been documented as a problem for the

species. Most collections, to date, have been for scientific purposes and have been taken from locally large populations which can tolerate these low levels of collection. Overcollection could become a problem at some of the sites supporting smaller populations of *H. virginicum*.

C. *Disease or predation*. Disease and predation are currently not believed to be factors affecting the continued existence of the species. Although grazing may affect *Helenium virginicum*, its effects are thought to be mostly positive, because most grazers appear to feed preferentially on competing vegetation while avoiding *H. virginicum*. The effects of long-term heavy grazing are not known.

D. *The inadequacy of existing regulatory mechanisms. Helenium virginicum* is currently listed as an endangered species by the State of Virginia. State law prohibits the taking of this species from State or private lands without consent of the landowner but does not protect the species' habitat. The Corps of Engineers' regulatory program provides limited regulation of the species' wetland habitats. This has not prevented draining and filling of sites supporting the species.

E. *Other natural or manmade factors affecting its continued existence.* Invasion of an exotic species, the purple loosestrife (*Lythrum salicaria*), is a potential threat. Purple loosestrife is slowly extending its range throughout freshwater wetland areas in Virginia and may invade *Helenium virginicum* habitats, outcompeting the species at affected sites. Climate changes (either natural or human-caused) are also a potential threat to the species. Several consecutive years of unusually wet or unusually dry weather can dramatically lower population numbers; at these times the populations may be especially vulnerable to the modifications to hydrology discussed under factor A.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Helenium virginicum* as a threatened species. This species is faced with increasing threats from loss and degradation of habitat due to development and related changes in hydrology as well as other activities incompatible with the species long-term survival. These threats are compounded by the species' restricted range and small number of populations. While not in immediate danger of extinction, *H. virginicum* is likely to become an endangered species in the foreseeable future if the present threats and declines in the number and sizes of populations continue. In accordance with the definitions for endangered and threatened species found in section 3 of the Act, threatened is the most appropriate classification for *H. virginicum*.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for conservation of the species. *Conservation* means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Helenium virginicum*, at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Twenty of the 25 known extant populations of *Helenium virginicum* are on private land. Most of these populations are located near or adjacent to residential areas or public roads. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required in a proposal for critical habitat, would make this plant vulnerable to incidents of collection and vandalism and, therefore, could contribute to the decline of the species. Although this species is not known to be sought by collectors, related members of the genus are commercially cultivated and at least one member of the genus, *H. amarum*, has been shown to contain compounds of possible medicinal value. The listing of this species as threatened also publicizes its rarity and, thus, may make this plant more attractive to researchers, collectors, and those wishing to see rare plants. The desirability and accessibility of the species, therefore, could make the plants subject to collection if their precise locations were publicized.

In addition, critical habitat designation for *Helenium virginicum* is not prudent due to lack of benefit. Five of the species' 25 known extant populations occur on Federal land in the George Washington and Jefferson National Forest. The U.S. Forest Service is aware of the locations of these populations and has protected four of them through designation as Special Interest Areas (Biological). The fifth population, discovered more recently, is likely to receive a similar designation. The Forest Service has indicated a commitment to assisting in the recovery of this species by protecting these sites. Because it is highly likely that a Forest Service activity which would cause adverse modification of critical habitat would also cause jeopardy to the species, the designation of critical habitat on Federal lands would not provide greater protection for this species or its habitat than that provided by listing.

The remaining 20 of the 25 known extant populations of *Helenium virginicum* are located on private lands. The owners and managers of these private lands were informed of the population locations and of the importance of protecting the species and its habitat. It is highly likely that an activity on private land involving Federal permitting or funding which causes adverse modification of critical habitat would also cause jeopardy to the species. For this reason, the designation of critical habitat on private lands would not provide greater protection for this species or its habitat than that provided by listing. As outlined above, the designation of critical habitat could cause additional threats but likely would provide no additional benefits for the species. Therefore, the Service concludes that designation of critical habitat for *H. virginicum* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land

acquisition and cooperation with the states and requires that recovery plans be developed for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed or proposed for listing as endangered or threatened and with respect to those species' designated or proposed critical habitat, if any. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the Federal agency must enter into formal consultation with the Service. Federal agency actions that may require conference and/or consultation include U.S. Forest Service land management activities and U.S. Army Corps of Engineers permitting of projects such as road construction and filling of wetlands subject to section 404 of the Clean Water Act (U.S.C. 1344 *et seq.*).

The Act and its implementing regulations set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. The protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, education purposes, or special purposes consistent with the purposes of the Act. In the case of *Helenium virginicum*, it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation nor in the wild.

It is the policy of the Service published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. Collection, damage, or destruction of listed species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Such activities on non-Federal lands would constitute a violation of section 9, if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that would affect *Helenium virginicum* and result in a violation of section 9. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Chesapeake Bay Field Office (see **ADDRESSES** section).

Requests for copies of the regulations concerning listed plants and general inquiries regarding prohibitions and permits may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, the Service hereby solicits comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Helenium virginicum;*

(2) The locations of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range and distribution of the species; and

(4) Current or planned activities in the subject area and their possible impacts on the species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, Chesapeake Bay Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

Blake, S.F. 1936. A New Helenium from Virginia. Claytonia 3(2):13–15.

Niering, W.A. 1979. The Audubon Society Field Guide to North American Wildflowers—Eastern Region. Alfred A. Knopf, New York. p. 383.

Van Alstine, N.E. 1996. A Reassessment of the Status of the *Helenium virginicum* Populations in the Shenandoah Valley of Virginia. Natural Heritage Technical Report 96–6. VA Dept. of Conservation and Recreation, Richmond, VA. Unpublished report to the U.S. Fish and Wildlife Service. 36pp.

Van Alstine, N.E., and J.C. Ludwig. 1991. Natural Heritage Inventory: *Helenium virginicum*. 1990 Final Report. VA Dept. of Conservation and Recreation, Div. of Natural Heritage, Richmond, VA. Unpublished report. 50pp.

Virginia Department of Conservation and Recreation. 1995. Natural Resources Fact Sheet—Virginia Sneezeweed (*Helenium virginicum*). VA Dept. of Conservation and Recreation, Richmond, VA. 2pp.

Author

The primary author of this proposed rule is Andy Moser, Chesapeake Bay Field office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	*
Helenium virginicum	Virginia sneezeweed	U.S.A. (VA)	Asteraceae	T		NA	NA
*	*	*	*	*	*	*	*

Dated: September 15, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 97–25694 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 62, No. 188

Monday, September 29, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Commission on Small Farms; Meeting

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of meeting.

SUMMARY: The Secretary of Agriculture by Departmental Regulation No. 1043–43 dated July 9, 1997, established the National Commission on Small Farms (Commission) and further identified the Natural Resources Conservation Service to provide support to the Commission. The purpose of the Commission is to gather and analyze information regarding small farms and ranches and recommend to the Secretary of Agriculture a national policy and strategy to ensure their continued viability. The Commission's next meeting is October 14 and 15, 1997.

PLACE, DATE AND TIME OF MEETING: The Commission's fifth meeting is October 14 and 15, 1997, at the U.S. Department of Agriculture, Jamie L. Whitten Building, Room 107A, 1400 Independence Avenue S.W., Washington, D.C. The meeting is open to the public. On each day the Commission will meet from 8:00 a.m. to 5:00 p.m. to conduct Commission business. The purpose of the meeting is to finalize the Commission's findings and recommendations for consideration by the Secretary of Agriculture.

ADDRESSES: National Commission on Small Farms, USDA, PO Box 2890, Room 5237, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jennifer Yezak Molen, Director, National Commission on Small Farms, at the address above or at (202) 690–0648 or (202) 690–0673. The fax number is (202) 720–0596.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to gather and evaluate background information, studies, and data pertinent to small farms and ranches, including limited-resource farmers. On the basis of the review, the Commission shall analyze all relevant issues and make findings, develop strategies, and make recommendations for consideration by the Secretary of Agriculture toward a national strategy on small farms. The national strategy shall include, but not be limited to: changes in existing policies, programs, regulations, training, and program delivery and outreach systems; approaches that assist beginning farmers and involve the private sectors and government, including assurances that the needs of minorities, women, and persons with disabilities are addressed; areas where new partnerships and collaborations are needed; and other approaches that it would deem advisable or which the Secretary of Agriculture or the Chief of the Natural Resources Conservation Service may request the Commission to consider.

The Secretary of Agriculture has determined that the work of the Commission is in the public interest and within the duties and responsibilities of USDA. Establishment of the Commission also implements a recommendation of the USDA Civil Rights Action Report to appoint a diverse commission to develop a national policy on small farms. Individuals may submit written comments to the contact person listed above before or after the meeting.

Dated: September 24, 1997.

Pearlie S. Reed,

Acting Assistant Secretary for Administration.

[FR Doc. 97–25741 Filed 9–26–97; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–97–330]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for ''Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.''

DATES: Comments on this notice must be received by November 28, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Mr. James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090–6456, (202) 720–4693 telephone; (202) 690–1087 Fax.

SUPPLEMENTARY INFORMATION:

Title: ''Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products—7 CFR 52.''

OMB Number: 0581–0123.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Information is needed to carry out inspection and grading services to evaluate products as to quality for compliance with the respective grade standards or product specifications. Affected public may include any partnership, association, business trust, corporation, organized group, and State, County or Municipal government, and any authorized agent that has a financial interest in the commodity involved.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.0538 hours per response.

Respondents: Applicants who are applying for grading and inspection services.

Estimated Number of Respondents: 1,700.

Estimated Number of Responses per Respondent: 12.189.

Estimated Total Annual Burden on Respondents: 1,114.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Mr. James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, DC 20090–6456, (202) 720–4693 telephone; (202) 690–1087 Fax.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 23, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–25760 Filed 9–26–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–057–1]

General Conference Committee of the National Poultry Improvement Plan; Renewal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of renewal.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the General Conference Committee of the National Poultry Improvement Plan for a 2-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, Suite A102, 1500 Klondike Road, Conyers, Georgia 30207–5115, (404) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee with 4-year staggered terms. This Committee differs somewhat from other advisory committees in the selection process and composition of its membership. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large. The membership is not subject to the U.S. Department of Agriculture's review, and a formal request for nominations for membership is not published in the **Federal Register**.

Done in Washington, DC, this 24th day of September 1997.

Pearlie S. Reed,

Acting Assistant Secretary for Administration.

[FR Doc. 97–25759 Filed 9–26–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Request for Extension of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Commodity Credit Corporation (CCC) to request an extension for an information collection currently approved in support of the Cotton Loan Program Regulations issued under authority of the CCC Charter Act (15 U.S.C. 714 *et seq.*).

DATES: Comments on this notice must be received on or before November 28, 1997 to be assured consideration.

ADDITIONAL INFORMATION: George A. Stickels, Agricultural Program Specialist, USDA, Farm Service Agency (FSA), Price Support Division, STOP 0512, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0512; telephone (202) 720–7935; e-mail gstickel@wdc.fsa.usda.gov; or facsimile (202) 690–3307.

SUPPLEMENTARY INFORMATION:

Title: Cotton Loan Program, 7 CFR part 1427.

1OMB Control Number: 0560–0074.

Expiration Date: January 31, 1998.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Control Number 0560–0074, as identified above, is needed to enable the FSA to effectively administer the regulation relating to all aspects of the cotton loan program.

USDA Service Centers, independent Cotton Clerks, Cooperative Marketing Associations and Loan Servicing Agents use various manual and automated forms to collect information from cotton producers for purposes of administering the cotton loan program. The public reporting burden for cotton loan program participants is shown in the following estimates:

Respondents: Cotton producers.

*Estimated Number of Respondents:*200,000.

Estimated Average Time to Respond: 15 minutes.

Estimated Total Annual Responses: 513,255.

Estimated Number of Reports Filed per Person: 2.56.

Estimated Total Burden Hours: 128,318 hours.

Topics for comments include, but are not limited to, the following: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to 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. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to George A. Stickels, Program Specialist, USDA, Farm Service Agency, Price Support Division, STOP 0512, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0512; telephone (202) 720–7935; e-mail gstickel@wdc.fsa.usda.gov; e-mail copies of the information collection may be obtained from George A. Stickels at

the above address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Signed at Washington, DC, on September 21, 1997.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–25674 Filed 9–26–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 08/21/97–09/17/97

Firm name	Address	Date Petition Accepted	Project
Voorwood Company	2350 Barney Street, Anderson, CA 96007	08/21/97	Woodworking and Finishing Equipment.
Freeway Corporation	9301 Allen Drive Cleveland, OH 44125	08/22/97	Steel Roller Bearings Assemblies, Washers, and Dimension Stampings.
Catahoula Manufacturing, Inc.	2901 Fourth Street, Jonesville, LA 71343	08/25/97	Fishing Nets.
Overhoff Technology Corporation	1160 U.S. Route 50, Milford, OH 45150	09/02/97	Tritium Monitors.
New Bedford Panoramex Corporation	1037 West Ninth Street, Upland, CA 91786.	09/03/97	Airfield Navagation Systems.
Granite Knitwear, Inc.	P.O. Box 498, Granite Quarry, NC 28072	09/08/97	Tee Shirts for Adults and Youth.
Hauser Corporation	3265 Blue Heron View, Macedon, NY 14502.	09/08/97	Auto Transmission Parts and Cases, Auto Gear parts, Water Pump housings, and Misc. Metal parts.
Greg Arceneaux Cabinetmakers	67230 Industry Lane, Covington, LA 70433.	09/09/97	Wooden Furniture.
Perfect Measuring Tape Company (The)	1116 Summit Street, Toledo, OH 43604	09/12/97	Printed Paper Measuring Tape and Tape Dispensers.
Dacor Corporation	161 Northfield Road, Northfield, IL 60093	09/12/97	Regulators for Scuba diving, Diving instruments for calculating depth, direction, time, etc.
Merrick Industries, Inc.	10 Arthur Drive, Lynn Haven, FL 32444	09/15/97	Scales for Continuous Weighing of Goods on conveyors.
Alloy Trailers, Inc.	P.O. Box 19208, Spokane, WA 99219	09/16/97	Truck Trailer and Related parts.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: September 19, 1997.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 97–25714 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091297A]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Notice of extension of letter of authorization.

SUMMARY: NMFS announces approval of a 4-year extension to the Letter of Authorization (LOA) to the State of Washington for the lethal removal of individually identifiable California sea lions that are having significant negative impact on the status and recovery of winter steelhead that migrate through

the Ballard Locks in Seattle, WA. This action is authorized under Section 120 of the Marine Mammal Protection Act (MMPA).

ADDRESSES: A copy of the LOA may be obtained by writing to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, or to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Joe Scordino (206) 526–6143, or Tom Eagle (301) 713–2322.

SUPPLEMENTARY INFORMATION: Pursuant to Section 120(b) of the MMPA, NMFS initially issued a 3-year Letter of Authorization (LOA) that was valid through June 30, 1997, to the Washington Department of Fish and Wildlife (WDFW) for the lethal removal of California sea lions that are having significant negative impact on the status and recovery of winter steelhead that migrate through the Ballard Locks in Seattle, WA. Information on Washington's application for lethal removal, the process for considering the application which included formation of a Pinniped-Fishery Task Force (Task Force), and the terms and conditions of the LOA issued to WDFW were published in the **Federal Register** on August 2, 1994 (59 FR 39325), September 27, 1994 (59 FR 49234), January 19, 1995 (60 FR 3841), August 15, 1995 (60 FR 42146), March 26, 1996 (61 FR 13153), and August 26, 1996 (61 FR 43737). Background information on the sea lion-steelhead conflict at the Ballard Locks and findings on the environmental consequences of issuance of the LOA are provided in two Environmental Assessments prepared by NMFS in 1995 and 1996 (available from **ADDRESSES**).

On October 10, 1996, the State of Washington requested that NMFS extend the LOA for an additional 8 years (with a new expiration date of June 30, 2005) citing a need to manage the problem of sea lion predation on winter steelhead beyond June 30, 1997.

The Task Force, which met in September 1996, also submitted a report to NMFS dated October 29, 1996, that recommended the LOA be extended because insufficient time had passed to evaluate the success of management actions at Ballard Locks. The majority of Task Force members recommended that the LOA be extended for 4 years.

Notice of the State's request and the Task Force recommendations and a request for public comments was published in the **Federal Register** on June 19, 1997 (62 FR 33396). The public comment period closed on July 21, 1997, and seven written comments were received. Five commenters supported an extension of the LOA and two opposed it. A summary of the comments received and responses to the comments is as follows.

Comment 1: Five commenters recommended extension of the LOA for 8 years to provide protection for two steelhead life cycles. One commenter recommended 8 years or until some significant change in status of the steelhead or the sea lions occurs. One commenter stated that 8 years would allow the steelhead stock two full cycles in their rebuilding process and allow time to measure the full benefit of changes which are ongoing at the Locks. Two commenters felt 8 years was a more reasonable time to determine the effectiveness of the program to protect steelhead from sea lions and to determine the success of WDFW efforts regarding steelhead recovery. Another stated that lethal removal of sea lions by WDFW for the next 8 years is needed to preserve and enhance the steelhead run through the Locks.

Response: NMFS agrees that there is a need to extend the LOA in order to continue protecting and enhancing the winter steelhead population and to allow sufficient time to evaluate the effectiveness of lethal removal. NMFS has determined, however, that a 4-year extension is appropriate at this time for providing steelhead continued protection from sea lion predation and allowing for collection of additional information to determine the effectiveness of the authorization. Also, the 4-year period is consistent with the Task Force recommendation.

Comment 2: It is essential that the current sea lion control program continue in order to ensure a reasonable chance of success for the steelhead supplementation program and the ultimate objective of sustainable tribal and sport fisheries in the Lake Washington watershed.

Response: NMFS agrees that reduction of sea lion predation should continue along with programs to monitor sea lion presence and activity in the Locks area and steelhead passage through the fishway. By reducing predation, thereby increasing escapement, WDFW may realize maximum benefit from other efforts contained in their comprehensive plan for steelhead recovery.

Comment 3: Removal of the ''repeat offender'' sea lions at the Ballard locks has been largely responsible for substantial increase in spawning escapement in 1997. It is essential that WDFW be permitted to continue with a lethal take authorization over the next several years to allow recovery of the severely depressed steelhead population.

Response: Preliminary data from 1997 indicate reductions in the presence of sea lions at the Locks due to the removal of the ''repeat offender'' sea lions. The three ''repeat offender'' sea lions (#17, 45 and 225) that were removed and placed into permanent captivity in 1996, along with one additional animal (#87) were responsible for about 60 percent of the sea lion presence and foraging at the Locks in 1996. Animal #87 was observed at the Locks in the fall of 1996, preying on salmon, but its presence ended abruptly in October. This animal has not been sighted during the 1997 steelhead season and is assumed to be dead. NMFS is concerned, however, that other unmarked sea lions may have developed the same behavior of repeatedly foraging at the Locks during the steelhead run and, therefore, agrees that the LOA should be extended to allow for continued removal of sea lions that may be identified as having significant negative impacts on the recovery of the winter steelhead population. In spite of the reduced sea lion presence in 1997, several unmarked sea lions did continue to enter the Locks area and forage in the presence of the acoustic deterrence devices. Four steelhead were observed killed by one unmarked sea lion in March 1997. It is not known whether the unmarked sea lions observed in 1997 represent ''new'' sea lions that have developed the predatory behavior, or unmarked sea lions that were present in the past but have yet to be marked for positive identification. Each year, there are a number of sightings of unmarked sea lions at the Locks, and it is unknown whether some of these unmarked sea lions have developed the behavior of repeated occurrence and foraging at the Locks during the steelhead run. Therefore, the sea lion marking program should continue so that individual pinnipeds may continue to be identified and monitored.

Comment 4: Available data indicate that the steelhead population is increasing significantly, and these data support the abolition of the LOA. The number of steelhead passing through the Locks tripled from 234 in 1996 to an estimated 610 in 1997.

Response: NMFS agrees that the 1997 steelhead returns are encouraging. One year's data, however, should not be interpreted as direct evidence of a significant population increase. The steelhead population consists of several year classes that return to spawn after

spending 1–3 years at sea, and the returns from a single year cannot be used to predict the status or trend of the population.

Further, the spawning escapements in 1998 and 1999 are progeny of smaller spawning escapements than the 1997 return, so those escapements may not provide for a increasing trend in the population. Thus, the number returning to spawn in 1997 is not directly dependent upon the number that returned in 1995 or 1996, nor will it affect returns in 1998 and 1999. Additional details of steelhead life history are provided in the Environmental Assessment (EA) prepared for the initial LOA (January 1995) or may be found in the scientific literature (e.g., Shapovalov, L., and A. Taft. 1954. The life histories of the steelhead rainbow trout, *Salmo gairdneri gairdneri*, and silver salmon, *Onchorhynchus kisutch*. California Dept. of Fish and Game, Fish Bulletin No. 98. 375 pp.).

The Task Force recognized the complexity of assessing trends in the steelhead population during their discussions in 1996 and recommended that the LOA be extended because insufficient time had passed to evaluate the success of management actions at Ballard Locks. The Task Force opinions on the extension ranged from no extension to a period of 8 years (two steelhead cycles) with the majority of the Task Force favoring an extension of 4 years (one steelhead cycle). The October 1996 Report of the Task Force acknowledged that efforts to recover the Lake Washington steelhead will be a long-term undertaking and should be continued until such time as: (1) The escapement goal of 1600 fish is reached; or (2) it becomes clear that the process is unlikely to achieve the stated goal.

Comment 5: It is inappropriate for NMFS to consider extending the LOA given existing legal challenges. NMFS should postpone its consideration of the extension pending judicial resolution of legal challenges.

Response: Consistent with Task Force advice, NMFS believes the conditions that warranted the initial LOA (i.e., critically low numbers of returning steelhead) are still apparent. Therefore, the conservation objective of stabilizing and recovering the steelhead run necessitate continued lethal removal authority despite the unresolved status of the legal challenge.

Comment 6: There is no authority in Section 120 of the MMPA to extend the LOA.

Response: Section 120 of the MMPA does not specify any timeframes for authorizations. NMFS initially limited the LOA to three years so that the authorization would not be ''open-ended.'' The Task Force, which was established in accordance with Section 120 of the MMPA to evaluate the effectiveness of the authorization, recommended that the LOA be extended because insufficient time had passed to evaluate the success of management actions at Ballard Locks. Based on the Task Force recommendations, the State's request, and consideration of public comments, NMFS has determined it is appropriate and consistent with the intent of Section 120 of the MMPA to extend the LOA for a discrete period coinciding with 1 steelhead life cycle.

Comment 7: Further review under the National Environmental Policy Act (NEPA) is required before an extension can be considered.

Response: NEPA requirements on this action have been fulfilled. The environmental impacts of an extension of the LOA are not different than those evaluated in prior EAs because all aspects of the conditions of the LOA are retained except for the expiration date. For example, the LOA authorized the lethal removal of up to 15 individually identifiable sea lions; up to the present no sea lions have been lethally removed under the LOA (although 3 sea lions were removed from the population and placed in permanent captivity for public display). Further, the proposed extension is within the scope of the Environmental Assessment prepared for the original LOA (NMFS, January 1995) and the supplemental EA prepared for the modified LOA (NMFS, March 1996). The State has requested no changes to the terms and conditions of the current authorization, except for the time period; the number of sea lions authorized for removal, the means of removal and other aspects of the current LOA would not be modified. Likewise, there is no other significant new circumstances or information that would indicate that the conclusions of the previous EAs would change. The environmental consequences of the extension of the authorization are expected to be the same as those previously assessed. Consequently, no further analysis under NEPA is necessary.

Comment 8: Any and all sea lions found southeast of a line between Meadow Point and West Point should be lethally removed.

Response: The LOA only authorizes lethal removal of individually identifiable sea lions that: (1) have been observed by biologists monitoring sea lion predation to have preyed on returning steelhead in the inner bay area of the Lake Washington Ship Canal (upstream of the railroad bridge); (2) have penetrated the acoustic barrier and have been observed foraging in the ensonified zone during the steelhead run since January 1, 1994, (when the acoustic deterrence program began); and (3) are observed engaging in foraging behavior in the inner bay area (upstream of the railroad bridge) during the current steelhead season between January 1 and May 31 by biologists monitoring sea lion predation at the Locks. NMFS does not intend to change this.

Comment 9: The steelhead run at the Ballard Locks has for too many years been dangerously close to extinction, and it seems appropriate to allow WDFW to continue the program for protecting steelhead and to monitor the situation closely.

Response: NMFS has extended the LOA for lethal removal of individually identifiable California sea lions that are having significant negative impact on the status and recovery of winter steelhead that migrate through the Ballard Locks in Seattle, WA.

NMFS Action

Based on the Task Force recommendations, the State's request, and consideration of public comments, NMFS has extended the LOA for 4 years to June 30, 2001. No other changes were made to the terms and conditions of the LOA. Copies of the LOA are available upon request (see **ADDRESSES**).

Dated: September 23, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–25778 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091997C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Law Enforcement Advisory Panel (AP).

DATES: This meeting will be held on October 15, 1997, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: This meeting will be held at the Quality Inn Beachside, 931 West Beach Boulevard, Gulf Shores, AL; telephone: 800–844–6913.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review management alternatives being considered by the Council as part of Draft Amendment 16 to the Fishery Management Plan (FMP) for Reef Fish in the Gulf of Mexico. Amendment 16 readdresses a 2-year phase-out of fish traps with allowances for retention of reef fish species taken in spiny lobster and stone crab traps; however, if the Council continues the present 10-year phase-out, this amendment also includes options for reducing the number of traps being fished over time. This amendment considers size limits, including a slot limit, and bag limits for some lesser amberjack species. Additionally, alternatives are presented that could effect the Council's continued management of sand perch, dwarf sand perch, queen triggerfish, and hog fish. Amendment 16 includes consideration of compatible size and bag limits with the state of Florida for various reef fish species, as well as additional regulations of speckled hind and warsaw grouper. Language that would modify the Framework Procedure for setting total allowable catch is also included.

The Law Enforcement AP will also review a Draft Amendment 9 to the Fishery Management Plan for Coastal Migratory Pelagic Resources (Mackerels). Draft Amendment 9 addresses a number of problems that have been discussed in the past, as well as recent concerns that have developed with regard to allocations and a derby fishery for king mackerel. Amendment 9 includes alternatives that would:

1. Modify the fishing year;
2. Prohibit sale of king and Spanish mackerel;
3. Require mandatory reporting;
4. Reallocate the king mackerel total allowable catch (TAC) by area in the Eastern Zone and user group (commercial/recreational);
5. Further subdivide the hook-and-line allocation of TAC for king mackerel on the west coast of Florida by area and/or season;
6. Establish subdivisions of the Western Zone allocation of TAC for king mackerel by area and/or season;
7. Establish trip limits for Gulf group king mackerel in the Western Zone;
8. Provide for further restrictions on the net fishery for king mackerel;
9. Increase the minimum size limit for king mackerel and/or establish a maximum size limit; and
10. Reestablish a purse seine allocation for Gulf group Spanish mackerel.

In addition to these draft amendments, the Law Enforcement AP will review the status of implementation of Amendment 9 to the Shrimp FMP and Amendment 15 to the Reef Fish FMP, as well as problems with having a ''paper trail'' to track imported seafood.

In a joint session with the Gulf States Marine Fisheries Commission's Law Enforcement Committee, which is comprised of basically the same members, the Law Enforcement AP will receive information from NMFS regarding its penalty schedule and a report on the use of satellite transponders to track fishing vessels. It will also receive enforcement reports from the individual Gulf States.

The Law Enforcement AP consists of chief enforcement agents for the state and Federal fishery agencies in the Gulf area who advise the Council on fishery issues.

Although other issues not contained in this agenda may come before this Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 8, 1997.

Dated: September 22, 1997.

Bruce Morehead,

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

[FR Doc. 97–25672 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Adminstration

[I.D. 072197E]

Marine Mammals

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

ACTION: Issuance of photography permit no. 867–1388.

SUMMARY: Notice is hereby given that Moana Productions, Inc., 311 Portluck Road, Honolulu, Hawaii 96825, has been issued a permit to take by Level B harassment several species of non-threatened, non-endangered marine mammals for purposes of commerical photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS,1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Protected Species Program Manager, Pacific Area Office, NMFS, 2570 Dole Stree, Room 106 Honolulu, HI 96822–2396 (808/973–2987), and

Regional Director, Southeast Region, NMFS, 9731 Executive Center Drive, St. Petersburg, FL 33702–2434 (813/570–5301)

Director, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/585–7221).

SUPPLEMENTARY INFORMATION: On June 6, 1997, notice was published in the **Federal Register** (62 FR 31083 that the above-named applicant had submitted a request for a permit to take several species of marine mammals by Level B Harassment during the course of commerical photographic activities in Hawaii and South Carolina waters. The required permit has been issued, under the authority of S104 (c) (6) of the Marine Mammals Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

Dated: July 25, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office Of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–25673 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. No. 092497B]

Marine Mammals; Permits (758–1431 and 1024)

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

ACTION: Receipt of application for permit and amendment to permit.

SUMMARY: Notice is hereby given that Dr. Kimberlee Beckmen, Institute of Arctic Biology, University of Alaska Fairbanks, P.O. Box 757000, Fairbanks, AK 99775–7000, has applied for a permit to take Northern fur seals (*Callorhinus ursinus*), and the Southwest Fisheries Science Center, NMFS, P.O. Box 271, La Jolla, CA 92038–0271, has applied for amendment to Permit No. 1024 to take Antarctic fur seals (*Arctocephalus gazella*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before October 29, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment (see **SUPPLEMENTARY INFORMATION**):

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on these particular requests would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by email or other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of these applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

(758–1431) - Dr. Kimberlee Beckmen requests a permit to vaccinate two captive female Northern fur seals with a benign antigen, Fort Dodge tetanus toxoid, in order to elicit an antibody response (produce immunoglobulin). The immunoglobulin will be purified from the serum and used to validate an enzyme-linked immunosorbent assay (ELISA). The ELISA will then be used to determine the antibody levels in frozen fur seal serum samples previously collected from free-ranging pups vaccinated with the same benign antigen. The research will provide a determination of the effects of environmental contaminants.

P772#69 - The Southwest Fisheries Science Center requests to amend section A.3. of Permit No. 1024 and to increase the number of animals taken annually. Permit No. 1024 authorizes: Level B harassment on southern elephant seals (*Mirounga leonina*), Antarctic fur seals (*Arctocephalus gazella*), crabeater seals (*Hydrurga leptonyx*), Weddell seals (*Leptonychotes weddellii*), and Ross seals (*Ommatophoca rossii*) annually during census surveys on Sea Island and Cape Shirreff; capture, handle and mark up to 105 *A. gazella* pups annually at Cape Shirreff, of which 100 would also be tagged with monel tags; section A.3. authorizes capture up to 50 perinatal female *A. gazella* and their pups. The females may be tagged and instrumented with TDRs and/or transmitters and recaptured to remove instruments, and the pups are authorized to be bleach marked and handled. Further, up to 110 pups may be collected on Seal Island and marked, handled and released; and samples, parts or whole specimens obtained from dead animals may be imported. The permit also authorizes the accidental mortality of one animal annually. The permittee now requests to amend A.3 by collecting one milk sample from 40 of the 50 perinatal females, and tagging and handling 40 of the 50 pups.

The permittee also wishes to increase the number animals to be taken in three additional studies. These studies are: Adult female foraging location and energetics, 40 female/pup pairs; pup energetics, 100 pups; and long-term tagging, 1000 pups.

For the adult female foraging location and energetics study, up to 40 adult females will be captured per year and tagged, instrumented with transmitters, anesthetized with diazepam and milk-sampled (up to 3 times, which includes injection of 5 I.U. oxytocin), given an enema, injected with tritiated water and oxygen–18 (90g isotopes), injected with Evan's Blue (1.5cc), and blood sampled (up to 4 times). Up to 40 pups will be captured per year and: tagged, bleach marked, gastrically intubated and lavaged, injected/intubated with 200g of doubly-labeled water (DLW), and blood sampled up to 3 times.

For the pup energetics study 100 pups will be captured, tagged, and bleached marked. Of these 100 pups, 30 pups will be: captured (9 additional times) gastrically lavaged and intubated (3 times), injected/intubated with 200g DLW (3 times), injected with 0.5cc Evan's Blue (3 times), and blood sampled (15 times).

For the long-term tagging study, the permittee requests to tag up to 1000 pups.

Additionally, the permittee requests to incidentally harass: up to 128 southern elephant seals (*Mirounga leonina*), 3468 Antarctic fur seals (*Arctocephalus gazella*), 2 crabeater seals (*Hydrurga leptonyx*), 16 Weddell seals (*Leptonychotes weddellii*), and 2 leopard seals (*Hydrurga leptonyx*); and accidentally kill up to 2 adults and 2 pups *A. gazella* during the conduct of these activities.

Addresses: Applications and related documents are available in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

(758–1431) - Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg., 1, Seattle, WA 98115–0070 (206/526–6150);

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–2166 (907/586–7221); and

(P772#69) - Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4001).

Dated: September 24, 1997

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–25776 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Mexico

September 23, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: September 30, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 443 is being increased for swing.

The restrictions and consultation levels in the October 17, 1996 directive to the Commissioner of Customs do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300-B, Chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 54986, published on October 23, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of Annex 300(B) of the North American Free Trade Agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 23, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 17, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997. The levels established in that directive do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300-B, Chapter 4 and Annex 401 of NAFTA or to goods assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

Effective on September 30, 1997, you are directed to increase the limit for Category 443 to 197,414 numbers [1], pursuant to the provisions of the agreement between the Governments of the United States, Mexico and Canada.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–25735 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1996.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

September 23, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, carryover and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 58043, published on November 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 23, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 1, 1997, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement concerning textile products from Taiwan:

Category	Twelve-month limit [1]
Sublevel in Group I	
300/301/607	1,781,302 kilograms of which not more than 1,484,417 kilograms shall be in Category 300, not more than 1,484,417 kilograms shall be in Category 301, and not more than 1,484,417 kilograms shall be in Category 607.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [2], 359–H/659–H [3], 359–O [4], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [5], 659–O [6], 831–844 and 846–859, as a group.	734,181,180 square meters equivalent.
Sublevels in Group II	
336	119,485 dozen.
338/339	963,832 dozen.
347/348	1,438,065 dozen.
352/652	2,971,396 dozen.
436	5,198 dozen.
438	29,344 dozen.
444	63,146 numbers.
445/446	142,831 dozen.
631	5,154,153 dozen pairs.
633/634/635	1,667,128 dozen of which not more than 953,707 dozen shall be in Categories 633/634 and not more than 867,079 dozen shall be in Category 635.
638/639	6,573,137 dozen.
642	839,303 dozen.
647/648	5,464,466 dozen of which not more than 5,141,289 dozen shall be in Categories 647–W/648–W [7].
Group II Subgroup	
333/334/335, 341,342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	76,086,284 square meters equivalent.
Within Group II Subgroup	
342	227,061 dozen.
351	353,271 dozen.
447/448	20,747 dozen.
636	400,814 dozen.
651	473,731 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[5] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[7] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–25736 Filed 9–26–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Description of Vessels, Description of Operations; ENG Forms 3931, 3932; OMB Number 0710–0009.

Type of Request: Extension.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Annual Responses: 2,500.

Average Burden per Response: 48 minutes.

Annual Burden Hours: 2,000 hours.

Needs and Uses: This information collection is the basic data from which the Army Corps of Engineers (COE) compiles and publishes the ''Waterborne Transportation Lines of the United States'' (WTLUS), Volumes 1, 2 and 3. This publication provides information on the vessel operators and their American flag vessels operating or available for operation in the transportation of freight and passengers. The following information is included in this publication: (a) Summary of U.S. vessel inventory for current and previous year; (b) names of vessel operators with business address of each operator; (c) descriptive information for each vessel in the domestic fleet; and (d) a description of operations which includes the area of operation and principle commodities carried. The data is used extensively by the COE as a quality control mechanism by the Enforcement Office of the Waterborne Commerce Statistics Center. The data is also used by the U.S. Coast Guard and other Federal and State agencies involved in transportation.

Affected Public: Business or Other For-Profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed

information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for U.S. Army COE, Room 10202, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: September 22, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–25711 Filed 9–26–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: October 30, 1997 from 0800 to 1700.

Place: National Highway Institute Conference Room 302, 901 North Stuart Street, Arlington, VA.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

For Further Information Contact: Ms. Amy Levine, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Signature for Strategic Environmental Research and Development Program Notice.

Dated: September 23, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–25710 Filed 9–26–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Amended Language for Civilian Personnel Per Diem Bulletins 195, 196, and 197

AGENCY: DOD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Amended language for civilian personnel per diem bulletins 195, 196, and 197.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing amended language for the above Civilian Personnel Per Diem Bulletin Numbers. Bulletin 194, effective 1 May 1997, announced ''the ceiling on reimbursements for actual subsistence expenses authorized civilian personnel when traveling to Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. For travel in those areas involving special or unique circumstances, the reimbursement of actual and necessary itemized daily subsistence expenses shall not exceed 300 percent of the applicable locality per diem allowance (rounded to the next higher dollar). For regulations governing maximum per diem rates and reimbursement of the actual and necessary subsistence expenses in the continental United States and the District of Columbia, see the Federal Travel Regulation (41 CFR 301–304), parts 301–7 and 301–8 issued by the General Services Administration, and maximum per diem rates and reimbursement of the actual and necessary subsistence expenses in foreign overseas locations, see 6 FAM 150 or Standardized Regulation, Section 925 issued by U.S. Department of State.'' This change remains in effect. Subsequent Civilian Personnel Bulletins 195, 196, and 197 revised only the per diem rates for the non-foreign areas.

EFFECTIVE DATE: September 18, 1997.

SUPPLEMENTARY INFORMATION: This document gives notice of amended language for Civilian Personnel Per Diem Bulletins 195, 196, and 197 previously published by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revision in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office.

Dated: September 23, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–25709 Filed 9–26–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a record system.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The alteration will be effective without further notice on October 29, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DLA-CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the record system being altered are set forth below followed by the notice, as altered, published in its entirety.

An altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on September 17, 1997, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 23, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S330.20 DLA-KS

SYSTEM NAME:

Complaints *(February 22, 1993, 58 FR 10881).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S180.10 CA.'

SYSTEM NAME:

Delete entry and replace with 'Congressional, Executive, and Political Inquiry Records.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals, organizations, and other entities who have asked the Congress, White House officials, or political figures to make inquiries on their behalf.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Records contain representative's name, constituent's name, details surrounding the issue being researched, and case number. The records may also contain the constituent's Social Security Number, home address, home telephone number, or related personal information provided by the representative making the inquiry.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental regulations; 5 U.S.C. 302, Delegation of authority; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; E.O. 9397 (SSN); and DoD Directive 5400.4, Provision of Information to Congress.'

PURPOSE(S):

Delete entry and replace with 'Information is collected in order to reply to queries and to determine the need for and course of action to be taken for resolution. Information may be used by the DLA Director, field commanders, and decision makers as a basis to institute policy or procedural changes.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Add a new paragraph 'To Federal and local government agencies having cognizance over or authority to act on the issues involved.'

* * * * *

STORAGE:

Delete entry and replace with 'Records are stored in paper and electronic form.'

RETRIEVABILITY:

Delete entry and replace with 'Retrieved by constituent name, representative name, or case number.'

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in a secure, limited access, or monitored work area. Physical entry by unauthorized persons is restricted by the use of locks, guards, or administrative procedures. Access to personal information is restricted to those who require the records in the performance of their official duties. Access to computer records is further restricted by the use of passwords which are changed periodically. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are destroyed after eight years.'

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Staff Director, Congressional and Public Affairs, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Commanders of the DLA PLFAs. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Information is provided by constituent, the constituent's representative, and from agency files.'

* * * * *

S180.10 CA

SYSTEM NAME:

Congressional, Executive, and Political Inquiry Records.

SYSTEM LOCATION:

Records are maintained by the Office of Congressional and Public Affairs, Headquarters Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA, 22060–6221, and the DLA Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, organizations, and other entities who have asked the Congress, White House officials, or political figures to make inquiries on their behalf.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain representative's name, constituent's name, details surrounding the issue being researched, and case number. The records may also contain the constituent's Social Security Number, home address, home telephone number, or related personal information provided by the representative making the inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations; 5 U.S.C. 302, Delegation of authority; 10 U.S.C. 133, Under Secretary of Defense for Acquisition and Technology; E.O. 9397 (SSN); and DoD Directive 5400.4, Provision of Information to Congress.

PURPOSE(S):

Information is collected in order to reply to queries and to determine the need for and course of action to be taken for resolution. Information may be used by the DLA Director, field commanders, and decision makers as a basis to institute policy or procedural changes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is furnished to individuals or organizations who wrote to DLA on behalf of the complainant and who use it to respond to the complainant, or for other related purposes.

To Federal and local government agencies having cognizance over or authority to act on the issues involved.

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper and electronic form.

RETRIEVABILITY:

Retrieved by constituent name, representative name, or case number.

SAFEGUARDS:

Records are maintained in a secure, limited access, or monitored work area. Physical entry by unauthorized persons is restricted by the use of locks, guards, or administrative procedures. Access to personal information is restricted to those who require the records in the performance of their official duties. Access to computer records is further restricted by the use of passwords which are changed periodically. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Records are destroyed after eight years.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Congressional and Public Affairs, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Commanders of the DLA PLFAs. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, HQ DLA-CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Privacy Act Officer, HQ DLA-CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Information is provided by constituent, the constituent's representative, and from agency files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–25712 Filed 9–26–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Alter a record system.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds new categories of records to the system of records notice.

DATES: The alteration will be effective without further notice on October 29, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

An altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on September 17, 1997, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427). The specific changes to the record system are set forth below followed by the system notice, as altered, in its entirety.

Dated: September 23, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.50 DMDC

SYSTEM NAME:

Defense Enrollment/Eligibility Reporting System (DEERS) *(June 25, 1996, 61 FR 32782).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Defense Eligibility Records'.

SYSTEM LOCATION:

Delete second paragraph.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Line seven, after 'Coast Guard personnel' add 'and their family members'.

Line sixteen, add 'civilian employees of the Department of Defense;'.

Line eighteen, after 'under the heath care program' add 'or to other DoD benefits and privileges;'.

CATEGORIES OF RECORDS IN THE SYSTEM:

Line fourteen, after 'sponsor' add 'index fingerprints and photographs of beneficiaries,'.

Line fourteen, delete everything after 'sponsor;' and add 'index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23 (Internal Security); DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'The purpose of the system is to provide a database for determining eligibility to DoD entitlements and privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Disposition pending'.

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, the National Oceanic and Atmospheric Administration, Department of Commerce, and other Federal agencies.'

* * * * *

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records.

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93920–5000.

Back-up files: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their family members, retired Armed Forces personnel and their family members; surviving family members of deceased active duty or retired personnel; active duty and retired Coast Guard personnel and their family members; active duty and retired Public Health Service personnel (Commissioned Corps) and their family members; active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their family members; and State Department employees employed in a foreign country and their family members; civilian employees of the Department of Defense; and any other individuals entitled to care under the health care program or to other DoD benefits and privileges; providers and potential providers of health care; and any individual who submits a health care claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of Service of sponsor, dates of beginning and ending eligibility, number of family members of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of sponsor, rank/pay grade of sponsor, index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23 (Internal Security); DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to provide a database for determining eligibility to DoD entitlements and privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and family members.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DoD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment-related group health insurance, to coordinate insurance benefits provided by DoD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DoD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DoD with those provided by Medicare.

To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an on going computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

To provide dental care providers assurance of treatment eligibility.

The 'Blanket Routine Uses' published at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks, and are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm which uses name, Social Security Number, date of birth, rank, and duty location as possible inputs. Retrievals are made on summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exits used solely for emergency situations are secured to prevent unauthorized intrusion.

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

All those officials whose duties require access to, or processing and maintenance of personal information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 87 John J. Kingman Road, Suite 2533 Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, CAAV, 87 John J. Kingman Road, Suite 2533 Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, Department of Commerce, the National Oceanic and Atmospheric Administration, Department of Commerce, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–25713 Filed 9–26–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, 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 November 28, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, 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: September 23, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Survey of Middle School Parents on Level of Knowledge Concerning College Costs and Admission Requirements.

Frequency: One time.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 42.

Abstract: This collection of information will provide baseline data on the level of knowledge concerning college costs and college admission requirements among parents of middle school children. The data will help the U.S. Department of Education to evaluate and refine its early awareness initiative.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Report of Financial Need and Certification Report for the Jacob K. Javits Fellowship Program.
Frequency: Annually.
Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 100.
Burden Hours: 400.
Abstract: These instructions and forms provide the means to collect data in order to make funding determinations for fellows selected under the Jacob K. Javits Fellowship Program.

[FR Doc. 97–25721 Filed 9–26–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. This document is intended to notify the general public. Note: This teleconference meeting had to be arranged on short notice, therefore, we were unable to publish it 15 days in advance of the scheduled meeting date as required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: Tuesday, September 30, 1997, beginning at 11:00 a.m. and ending at approximately 12:30 p.m.

ADDRESSES: Advisory Committee on Student Financial Assistance, 1280 Maryland Avenue, S.W., Room 601, Portals Building, Washington, D.C. 20202–7582.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Pub. L. 100–50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, conducting a study of institutional lending in the Stafford Student Loan Program and an in-depth study of student loan simplification. The Advisory Committee fulfills its charge by conducting objective, nonpartisan, and independent analyses of important student aid issues. As a result of passage of the Omnibus Budget Reconciliation Act (OBRA) of 1993, Congress assigned the Advisory Committee the major task of evaluating the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP). The Committee was directed to report to the Secretary and Congress on not less than an annual basis on the operation of both programs and submit a final report by January 1, 1997. The Committee submitted to Congress its final recommendations on the advisability of fully implementing the FDLP on December 11, 1996. The Advisory Committee has now focused its energies on activities related to reauthorization of the Higher Education Act of 1998.

The Advisory Committee will hold a teleconference meeting in Washington, D.C. on Tuesday, September 30, 1997, from 11:00 a.m. to approximately 12:30 p.m.

The proposed agenda includes (a) an update on activities related to reauthorization of the Higher Education Act; and (b) other Committee business. Space is limited and you are encouraged to contact the Advisory Committee staff at 202–708–7439 no later than 3:00 p.m. on Monday, September 29, if you wish to participate.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. from the hours of 9:00 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: September 24, 1997.

Brian K. Fitzgerald,

Staff Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 97–25775 Filed 9–26–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–532–000]

Missouri Gas Energy, a Division of Southern Union Company v. Williams Natural Gas Company; Notice of Complaint

September 23, 1997.

Take notice that on September 19, 1997, pursuant to Section 5 of the Natural Gas Act, 15 U.S.C. ¶ 717d, and Rules 206 and 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 and 385.212, Missouri Gas Energy, A Division of Southern Union Company (MGE) filed a complaint requesting that the Commission order Williams Natural Gas Company (WNG) to comply with its tariff and allow MGE to nominate Trans-Storage Service (TSS) in its component parts. MGE states that WNG's FERC Gas Tariff, Service Revised Volume No. 1, in both the General Terms and Conditions, as well as the TSS Rate Schedule, describe TSS as being available in its component parts

MGE argues that despite the clear language of WNG's Tariff, however, WNG has refused to allow MGE to nominate its new TSS (TA–0890) agreement in component parts. MGE requests that the Commission order WNG to honor the terms of its Tariff and allow customers to nominate TSS service in its component parts, before the commencement of the winter heating season in November. If the relief sought by MGE cannot be granted on the basis of the complaint, MGE requests a full and immediate evidentiary hearing.

MGE states that copies of the filing have been served upon each person designated on the official service list compiled by the Secretary of the Commission in this proceeding.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before October 3, 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 file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Answers to this complaint shall be due on or before October 3, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25720 Filed 9–26–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–755–000]

Northern Natural Gas Company; Notice of Application

September 23, 1997.

Take notice that on September 15, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed, in Docket No. CP97–755–000, an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of certain compressor station facilities and a certificate of public convenience and necessity to construct and operate approximately 25 miles of 36-inch pipeline, with appurtenant facilities, all located in the state of Kansas, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern proposes to (1) abandon in place eleven (11) 1,600 HP horizontal compressor units (units 12 through 22) at its Bushton Compressor Station located in Rice County, Kansas; and (2) install and operate two pipeline stitches totaling approximately 25 miles of 36-inch pipeline and appurtenant facilities to connect and complete its existing ''E-Line'' between its Mullinville and Mackville Compressor Stations in Edward and Pawnee Counties, Kansas (Mullinville to Macksville Stitch) and between its Macksville and Bushton Compressor Stations in Barton and Rice Counties, Kansas (Macksville to Bushton Stitch). Northern states that, when compared to currently existing capacity, the overall capacity of Northern's mainline will be essentially the same when both the abandonment and pipeline stitches are completed. Northern estimates that the cost of the proposed project is approximately $25,655,000, which will be financed with internally generated funds. Northern requests that authorization be issued by early spring 1998 in order for the facilities to be constructed and placed in service during Spring 1998.

Northern asserts that the rate impact to its existing shippers is within the 5 percent threshold applied by the Commission for a presumption in favor of rolled-in rates. Northern states the proposed abandonment, in conjunction with the new pipeline segment, is integral to Northern's existing pipeline system to ensure pipeline reliability during peak periods of demand thereby meeting the operational standard for rolled-in rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 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 385.211 and 385.214) 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 in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commentors will not be required to serve copies of filed documents on all other parties. However, commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the 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 and a grant of the certificate 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 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 Northern to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25717 Filed 9–26–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–761–000]

Venice Gathering System, L.L.C., Notice of Application

September 23, 1997.

Take notice that on September 18, 1997, Venice Gathering System, L.L.C. (VGS), 1000 Louisiana, Suite 5800, Houston, Texas 77002–5050, filed an application with the Commission in Docket No. CP97–761–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon a transportation service currently performed for Samedan Oil Corporation (Samedan), all as more fully set forth in the application which is open to public inspection.

VGS states that it currently transports natural gas on an interruptible basis for Samedan under the month-to-month evergreen provisions of an October 1, 1991, gathering agreement while VGS' request in Docket Nos. CP97–533–000, *et al.*, for a Part 284 blanket certificate is pending before the Commission.[1]

[1] The Commission declared VGS to be a jurisdictional entity subject to the Natural Gas Act

VGS notified Samedan via a letter dated June 27, 1997, that it would terminate its transportation service for Samedan as of October 1, 1997. Samedan then filed with the Commission, as a complaint against VGS, an emergency request on September 12, 1997, for an order prohibiting unlawful abandonment and motion for shortened time to answer.[2]

VGS states that Samedan's gas reaches VGS' jurisdictional Venice system, offshore Louisiana, via a non-jurisdictional feeder lateral[3] between Samedan's South Timbalier Block 163 production platform and Chevron U.S.A. Inc.'s (Chevron) South Timbalier Block 141 platform. VGS states that it believes its interim service obligation to Samedan extends only to transportation service provided via the now jurisdictional Venice system and that VGS would continue to transport said gas for Samedan subject to capacity availability on the Venice system. VGS further states that following expiration of the gathering agreement's primary term, and in response to VESCO's open-season solicitation June 16–20, 1997, Samedan Chose not to submit a qualifying bid, instead submitting a bid for a limited-term commitment at a rate that was approximately one-half of VGS's cost-based rate and about one-half of the rate Samedan paid under the existing contract. VGS also states that while other shippers were willing to make long-term commitments at compensatory rates, Samedan would make only a limited commitment geared to securing cheap service until its alternative arrangements could be put into service.

Accordingly, to the extent necessary, VGS seeks to abandon the service provided under the gathering agreement. The subject service is a non-firm service that provides no guarantee of the availability or use of VGS' capacity. Further, VGS believes that to ignore these market signals and to require service to continue under manifestly non-competitive terms and conditions would fly in the face of the Commission's policies promoting allocative and productive efficiencies and the rational allocation of capacity.

No facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 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 NGA (18 CFR 15710). 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 within 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 NGA 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 VGS to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25718 Filed 9–26–97; 8:45 am]

BILLING CODE 6717–01–M

---

in the order issued April 17, 1997, in Docket No. CP95–202–000, 79 FERC ¶ 61,037 (1997).

[2] The subject application was included, in the alternative, in VGS' answer to Samedan's emergency request.

[3] The lateral is owned by Venice Energy Services Company (VESCO), an affiliate of VGS.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4437–000, et al.]

The Detroit Edison Company et al.; Electric Rate and Corporate Regulation Filings

September 22, 1997.

Take notice that the following filings have been made with the Commission:

1. The Detroit Edison Company

[Docket No. ER97–4437–000]

Take notice that on September 2, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for Network Integration Transmission Service (the Service Agreement) between Detroit Edison Transmission Operations and the City of Croswell, Michigan, under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1, dated as of November 1, 1997. Detroit Edison requests that the Service Agreement be made effective as of November 1, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. The Detroit Edison Company

[Docket No. ER97–4438–000]

Take notice that on September 2, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for wholesale power sales transactions (the Service Agreement) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the WPS–1 Tariff), between Detroit Edison and AYP Energy, Inc., dated as of June 30, 1997. The parties have not engaged in any transactions under the Service Agreement. Detroit Edison requests that the Service Agreement be made effective as of August 4, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Energy Corporation

[Docket No. ER97–4439–000]

Take notice that on September 2, 1997, Duke Power, a division of Duke Energy Corporation, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company (Duke), filed forms of service agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between Duke Power Company, as the Transmission Provider, and Duke Power Company, as the Transmission Customer, dated as of July 9, 1996.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Energy, Inc.

[Docket No. ER97–4440–000]

Take notice that on September 2, 1997, Puget Sound Energy, Inc. tendered for filing an unexecuted Amendment No. 1 to Transmission Agreement (the Amendment) with The City of Seattle, acting by and through its City Light Department (City of Seattle). A copy of the filing was served on City of Seattle.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Energy, Inc.

[Docket No. ER97–4441–000]

Take notice that on September 2, 1997, Puget Sound Energy, Inc. tendered for filing an unexecuted Parallel Operation Agreement with the Public Hospital District No. 1 of King County, doing business as Valley Medical Center (Valley Medical Center). A copy of the filing was served on Valley Medical Center.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Co.

[Docket No. ER97–4442–000]

Take notice that on September 2, 1997, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, ''CSW Operating Companies) submitted for filing an unexecuted network integration transmission service agreement between WTU and PSO/SWEPCO. The submission of this agreement complies with *Allegheny Power System, Inc., et al.,* 80 FERC ¶ 61,143, slip op. at 23–24 (1997).

The CSW Operating Companies state that a copy of this filing has been served on the Public Utility Commission of Texas, the Arkansas Public Service Commission, the Louisiana Public Service Commission and Oklahoma Corporation Commission.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER97–4443–000]

Take notice that on September 2, 1997, Maine Public Service Company (Maine Public) filed an executed Service Agreement for non-firm point-to-point transmission service under Maine Public's open access transmission tariff with NorAm Energy Services, Inc.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Puget Sound Energy, Inc.

[Docket No. ER97–4444–000]

Take notice that on September 2, 1997, Puget Sound Energy, Inc., tendered for filing an unexecuted Amendment No. 2 to Transfer Agreement (the Amendment) with The City of Seattle, acting by and through its City Light Department (City of Seattle). A copy of the filing was served on City of Seattle.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Commonwealth Edison Company

[Docket No. ER97–4445–000]

Take notice that on September 2, 1997, Commonwealth Edison Company (ComEd) submitted for filing a Firm Point-to-Point Transmission Service Agreement with Wisconsin Power and Light Company (WPL), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of September 1, 1997, for the service agreement, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served upon WPL and the Illinois Commerce Commission.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corporation

[Docket No. ER97–4446–000]

Take notice that on September 2, 1997, Central Vermont Public Service Corporation tendered for filing a form of service agreement that reflects its use of the Phase I/Phase II HVDC Facilities to import 54 MW of capacity and energy from Hydro Quebec in the period July 1, 1996–June 30, 2001.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER97–4447–000]

Take notice that on September 2, 1997, PJM Interconnection, L.L.C. (PJM), tendered for filing forms of service agreements for point-to-point service under the PJM Open Access Tariff to cover uses of the PJM transmission system by transmission owners in PJM.

Copies of this filing were served upon the parties to the service agreements.

PJM requests an effective date of April 1, 1997, for the service agreements, with the exception of one agreement, for which it requests an effective date of July 1, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. New York State Electric & Gas Corporation

[Docket No. ER97–4448–000]

Take notice that on September 2, 1997, New York State Electric & Gas Corporation (NYSEG), tendered for filing a supplement to its Agreement with Consolidated Edison Company of New York, Inc. (Con Edison), designated Rate Schedule FERC No. 87. The supplement is made pursuant to the rate update provisions of the rate schedule.

NYSEG requests an effective date of September 1, 1997, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consolidated Edison Company of New York and on the Public Service Commission of the State of New York.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Union Electric Company

[Docket No. ER97–4449–000]

Take notice that on September 2, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between UE and The Energy Authority, Rainbow Energy Marketing Corporation and Tennessee 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: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER97–4450–000]

Take notice that on September 2, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Firm Point-to-Point Transmission Services between UE and Cinergy Services, Inc., The Power Company of America, LP and Tennessee 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: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER97–4451–000]

Take notice that on September 2, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing forms of service agreements for service to Entergy Services under the

Entergy Services Open Access Transmission Tariff.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Idaho Power Company

[Docket No. ER97–4452–000]

Take notice that on September 2, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission non-firm and firm short term transmission service agreements between Idaho Power's Marketing Department and Idaho Power's Delivery Department.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. PacifiCorp

[Docket No. ER97–4453–000]

Take notice that on September 2, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Service Agreement with Constellation Power Sources, Inc., under PacifiCorp's FERC Electric Tariff, Original Revised Volume No. 12.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Tucson Electric Power Company

[Docket No. ER97–4454–000]

Take notice that on September 2, 1997, Tucson Electric Power Company (TEP), tendered for filing two (2) service agreements for firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreements to become effective as of the earliest date service commenced under these agreements. The service agreements are as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc., dated August 11, 1997.
2. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing dated August 22, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. The Detroit Edison Company

[Docket No. ER97–4455–000]

Take notice that on September 2, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for Network Integration Transmission Service (the Service Agreement) between Detroit Edison Transmission Operations and the Village of Sebewaing, Michigan, under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1, dated as of November 1, 1997. Detroit Edison requests that the Service Agreement be made effective as of November 1, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Consumers Energy Company

[Docket No. ER97–4456–000]

Take notice that on September 2, 1997, Consumers Energy Company (Consumers), tendered for filing two service agreements for non-firm point-to-point transmission service pursuant to the Joint Open Access Transmission Tariff filed on December 31, 1996, by Consumers and The Detroit Edison Company (Detroit). The two transmission customers are Enron Power Marketing and Engage Energy US, L.P. A copy of the filing was served on the Michigan Public Service Commission, Detroit and the two transmission customers.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Carolina Power & Light Company

[Docket No. ER97–4457–000]

Take notice that on September 2, 1997, Carolina Power & Light Company (Carolina), tendered for filing an executed Service Agreement between Carolina and the following Eligible Entity: CMS Marketing, Services and Trading Company. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Illinois Power Company

[Docket No. ER97–4458–000]

Take notice that on September 2, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Caterpillar Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 11, 1997.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Black Hills Power & Light Company

[Docket No. ER97–4459–000]

Take notice that on September 2, 1997, Black Hills Corporation, doing business as and operating its electric utility under the name Black Hills Power and Light Company, tendered for filing a transmission service agreement to provide non-firm transmission service under its open access transmission tariff for Black Hills Power and Light Company.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Pacific Gas and Electric Company

[Docket No. ER97–4460–000]

Take notice that on August 29, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing a true-up to rates pursuant to Contract No. 14–06–200–2948A, Rate Schedule FERC No. 79 (Contract 2948A), between PG&E and the Western Area Power Administration (Western).

Pursuant to Contract 2948A and the PG&E-Western Letter Agreement dated February 7, 1992, electric capacity and energy sales are made initially at rates based on estimated costs and then trued-up at rates based on recorded costs after the necessary data becomes available. The proposed rate change establishes recorded cost based rates for true-up of capacity sales and energy sales from Energy Account No. 2 made during 1994 and 1995, at rates based on estimated costs.

Copies of this filing have been served upon Western and the California Public Utilities Commission.

Comment date: October 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Florida Power Corporation

[Docket No. ER97–4461–000]

Take notice that on September 2, 1997, Florida Power Corporation (Florida Power), tendered for filing a Form of Service Agreement for Network Integration Transmission Service providing for Network Integration Transmission Service to itself pursuant

to Part III of Florida Power's open access transmission tariff. Florida Power requests that the Commission waive its notice of filing requirements and allow the agreement to become effective on September 3, 1997.

Comment date: October 6, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25716 Filed 9–26–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Major License

September 23, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 2674–003.

c. *Date Filed:* May 30, 1997.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Vergennes Project.

f. *Location:* On Otter Creek in the city of Vergennes, Addison County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Craig T. Moyotte, Green Mountain Power Corporation, 25 Green Mountain Drive, P.O. Box 850, South Burlington, VT 05402, (802) 864–5731.

i. *FERC Contact:* Lee Emery (202) 219–2779.

j. *Deadline Date:* November 14, 1997.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* The project as licensed consists of the following features: (1) Three concrete overflow dams, each about ten feet high, with a total length of 231 feet, each having a crest elevation of about 132.78 feet mean sea level (msl) surmounted by 1.5-foot-high flashboards, and a 29-foot-long, non-overflow dam; (2) an 8.8-mile long, 133 acre surface area reservoir having a 200 acre-foot useable storage capacity at normal water surface elevation of 134.28 feet msl; (3) the north forebay with trashracks, headgates and two 7-foot-diameter steel penstocks; (4) the north powerhouse known as Plant 9B, having a 1,000-KW generating unit; (5) the south forebay, with trashracks, headgates, two surge tanks, and two 10-foot-diameter penstocks; (6) the south powerhouse, known as Plant 9, having two 700-kW generating units; (7) the generator leads from Plant 9 to the Vergennes Substation and the 950-foot-long, 2,400-volt overhead generator leads from Plant 9B to the Vergennes Substation; and (8) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the project's average annual generation would be 9.455 Mwh and the Applicant owns all the existing project facilities.

m. *Purpose of Project:* All project energy generated would be sold to commercial and residential customers within the Applicant's own regional transmission and distribution system.

n. *This notice also consists of the following standard paragraphs:* B1, and E.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1371. A copy is also available for inspection and reproduction at 25 Green Mountain Drive, South Burlington, VT 05402, (802) 864–5731 and at the City of Vergennes, City Manager's Office, Route 22A (Main Street), Vergennes, VT 05491, (802) 877–3637.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25719 Filed 9–26–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System Power Rates

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of extension.

SUMMARY: The Deputy Secretary of Energy, acting under Amendment No. 3 to Delegation Order No. 0204–108, dated November 10, 1993, 58 FR 59717, and pursuant to the implementation authorities in 10 CFR 903.22(h) and 903.23(b), has approved Rate Order No. SWPA–35 which extends the existing power rates for the Integrated System. This is an interim rate action effective October 1, 1997, and extending for a period of six months through March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101–1619, (918) 595–6696.

SUPPLEMENTARY INFORMATION: The existing rate schedules for the Integrated System were approved on a final basis by the Federal Energy Regulatory Commission on September 18, 1991, for the period ending September 30, 1994. These rates were extended on an interim basis by the Deputy Secretary of Energy on August 24, 1994, August 8, 1995, and September 23, 1996. The rates expire on September 30, 1996.

The FY 1997 Integrated System Power Repayment Study indicates the need for a 3.3 percent ($3,212,635) annual revenue increase. Based on the revenue requirement needed to meet repayment criteria, Southwestern Power Administration (Southwestern) has announced in the **Federal Register**, on August 22, 1997, its intention to file new Integrated System rates and provided for a 90-day public comment period pursuant to requirements set forth in 10 CFR 903. In order to provide time in which to complete the public participation process and implement the new rates by January 1, 1998, Southwestern is seeking a six-month extension of current rates. This extension will provide a three-month contingency period if unforeseen difficulties should arise that would create a delay in the January 1, 1998, implementation date, and avoiding the need for an additional extension.

The Deputy Secretary is authorized to implement such temporary extension based on authorities provided in 10 CFR 903.22(h) and 903.23(b) and Amendment No. 3 to Delegation Order No. 0204–108.

Following review of Southwestern's proposal within the Department of Energy, I approved, Rate Order No. SWPA–35, which extends the existing Integrated System rates for six months beginning October 1, 1997.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

Order Approving Extension of Power Rates on an Interim Basis

(October 1, 1997)

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for the Southwestern Power Administration were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983, 48 FR 55664, the Secretary of Energy delegated to the Deputy Secretary of Energy on a non-exclusive basis the authority to confirm, approve and place into effect, on an interim basis, power and transmission rates, and delegated to the Federal Energy Regulatory Commission (FERC) on an exclusive basis the authority to confirm, approve and place in effect on a final basis, or to disapprove power and transmission rates. Amendment No. 1 to Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744, revised the delegation of authority to confirm, approve and place into effect on an interim basis power and transmission rates by delegating such authority to the Under Secretary of Energy rather than the Deputy Secretary of Energy. This delegation was reassigned to the Deputy Secretary of Energy by Department of Energy (DOE) Notice 1110.29, dated October 27, 1988, and clarified by Secretary of Energy Notice SEN–10–89, dated August 3, 1989, and subsequent revisions. By Amendment No. 2 to Delegation Order No. 0204–108, effective August 23, 1991, 56 FR 41835, the Secretary of the Department of Energy revised Delegation Order No. 0204–108 to delegate to the Assistant Secretary, Conservation and Renewable Energy, the authority which was previously delegated to the Deputy Secretary in that Delegation Order. By Amendment No. 3 to Delegation Order No. 0204–108, effective November 10, 1993, the Secretary of Energy re-delegated to the Deputy Secretary of Energy, the authority to confirm, approve and place into effect on an interim basis power and transmission rates of the Power Marketing Administrations. This rate order is issued by the Deputy Secretary pursuant to said Amendment to Delegation Order No. 0204–108.

This is a temporary rate extension. It is made pursuant to the authorities as implemented in 10 CFR 903.22(h) and 903.23(b).

Background

Southwestern Power Administration (Southwestern) currently has marketing responsibility for 2.2 million kilowatts of power from 24 multiple-purpose reservoir projects, with power facilities constructed and operated by the U.S. Army Corps of Engineers, generally in all or portions of the states of Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas. The Integrated System, comprised of 22 of the projects, is interconnected through a transmission system presently consisting of 138- and 161-kV high-voltage transmission lines, 69-kV transmission lines, and numerous bulk power substations and switching stations. In addition, contractual transmission arrangements provide for integration of other projects into the system.

The remaining two projects, Sam Rayburn Dam and Robert Douglas Willis, are isolated hydraulically and electrically from the Southwestern transmission system, and their power is marketed under separate contracts through which the customer purchases the entire power output of the project at the dam. A separate Power Repayment Study (PRS) is prepared for each isolated project, and each has a special rate which is not a part of this study.

The existing rate schedules for the Integrated System were confirmed and approved on a final basis by the FERC on September 18, 1991, for the period October 1, 1990, through September 30, 1994. These rates were extended for one year periods on an interim basis by the Deputy Secretary of Energy on August 28, 1994, on August 8, 1995, and again on September 23, 1996. These rates are now scheduled to expire September 30, 1997.

Pursuant to implementing authority in 10 CFR 903.22(h) and 903.23(b), the Deputy Secretary of Energy may extend a FERC-approved rate on a temporary basis without advance notice or comment pending further action. Southwestern is in the process of its rate development and public participation process. The FY 1997 rate development process has been expanded to incorporate issues impacting Southwestern with respect to the Federal Energy Regulatory

Commission's Order No. 888 on open transmission access. Consequently, an extension of the current rates is needed to provide sufficient time in which to comply with the public participation process required by 10 CFR 903. Southwestern is developing open access tariffs consistent with Order No. 888. Southwestern has announced in the **Federal Register** on August 22, 1997, a 90-day public comment period on the FY 1997 proposed rates with a planned implementation on January 1, 1998.

Discussion

The existing Integrated System rates are based on the FY 1990 PRS. PRSs have been completed on the Integrated System each year since approval of the existing rates. Rate changes identified by the PRSs since that period have indicated the need for minimal rate increases or decreases. Since the revenue changes reflected by the PRSs were within Southwestern's plus-or-minus two percent Rate Adjustment Threshold, these rate adjustments were deferred in the best interest of the government and provided for the subsequent year's PRS to determine the appropriate level of revenues needed for the next rate period.

The FY 1997 PRS indicates the need for an annual revenue increase of 3.3 percent ($3,212,635). A rate adjustment of this magnitude, together with the need to revise rate schedules to address the intent of FERC's Order No. 888, requires a formal rate filing. With existing rates expiring on September 30, 1997, Southwestern proposes to extend the existing rates for a six-month period ending September 30, 1998, on a temporary basis under the implementation authorities noted in 10 CFR 903.22(h) and 903.23(b) to provide sufficient time to complete the FY 1997 proposed rate development.

Southwestern continues to make significant progress toward repayment of the Federal investment in the Integrated System. Through FY 1996, cumulative amortization for the Integrated System was over $369 million, which represents approximately 37 percent of the $1 billion cumulative Federal investment for the Integrated System. The repayment status has increased over 100 percent since the existing rates were placed in effect.

Inquiries regarding this rate extension may be addressed to Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, One West Third Street, Tulsa, Oklahoma 74101–1619.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby extend on an interim basis, for the period of six months, effective October 1, 1997, the current FERC-approved Integrated System Rates for the sale of power and energy.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 97–25747 Filed 9–26–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Notice of Firm Power Service Base Charge

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of base charge.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of the Base Charge and its components for the Boulder Canyon Project (BCP) firm power service. The Fiscal Year (FY) 1998 Base Charge and its components for BCP firm power are based on an Annual Revenue Requirement of $43,479,183. The Base Charge consists of an energy dollar amount of $22,527,359 and a capacity dollar amount of $20,951,824. This Base Charge and its components are used for calculating the monthly charges and forecast rates pursuant to Rate Schedule BCP–F5 as approved by the Federal Energy Regulatory Commission (FERC) on April 19, 1996 (Rate Order No. WAPA–70).

DATES: The Base Charge and its components, used in calculating the monthly charges and forecast rates pursuant to Rate Schedule BCP–F5, will be effective on the first day of the first full billing period beginning on or after October 1, 1997, and will be in effect through FY 1998.

FOR FURTHER INFORMATION CONTACT:

Mr. J. Tyler Carlson, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2453.

Mr. Joel K. Bladow, Assistant Administrator for Power Marketing Liaison, Western Area Power Administration, Room 8G–027, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0001, (202) 586–5581.

SUPPLEMENTARY INFORMATION: The Base Charge and its components were calculated in accordance with the methodology approved under Rate Order WAPA–70. The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR Part 903, have been followed by Western Area Power Administration (Western) in determining the Base Charge and its components. The following summarizes the steps taken by Western to ensure involvement of all interested parties in the determination of the Base Charge and its components:

1. On April 18, 1997, a letter was mailed from Western's Desert Southwest Customer Service Regional Office to all BCP customers and other interested parties. The letter provided a copy of the BCP Proposed Rate Adjustment data, dated April 18, 1997.

2. Discussion of the proposed Base Charge and its components was initiated at an informal BCP Contractor meeting held on May 6, 1997, in Phoenix, Arizona. At this informal meeting, representatives from Western and the Bureau of Reclamation (Reclamation) explained the basis for estimates used in the calculation of the Base Charge and its components. A question and answer session was convened for those persons attending.

3. A **Federal Register** Notice (FRN) was published on May 7, 1997 (62 FR 24913), officially announcing the proposed Base Charge adjustment process, initiating the public consultation and comment period, announcing the public information and public comment forums, and presenting procedures for public participation.

4. At the public information forum held on May 15, 1997, in Phoenix, Arizona, Western and Reclamation representatives explained the proposed Base Charge and its components for Rate Year 1998 in greater detail. A question and answer session was convened for those persons attending. A response to a data request from the public information forum was mailed to the customers on June 2, 1997.

5. A public comment forum was held on June 12, 1997, in Phoenix, Arizona, to give the public an opportunity to comment for the record. Three persons representing customers and customer groups made oral comments. A response to the comments and data requests from the public comment forum was mailed to the customers on July 18, 1997.

6. Three comment letters were received during the 90-day consultation

and comment period. The consultation and comment period ended August 5, 1997. All submitted written comments have been considered in the preparation of this FRN. Most of the comments received during the public meetings dealt with Hydrology (surplus water), Realistic and Appropriate Costs, Rate Impacts and Philosophy, and Differences between Financial Documents. All comments were considered in developing the Base Charge for FY 1998. Additional written comments and responses, paraphrased for brevity, are presented below.

Issue: Contractor raised concern with the status of dispute regarding the blind vendor services at Hoover and requested to be kept informed and provided with all pertinent correspondence.

Response: Reclamation will continue to further evaluate the situation and will keep the contractors informed of the status to the blind vendor litigation.

Issue: Contractor requested Western to ask Reclamation to convene dialogue with Contractor representatives aimed at accelerating delivery of a $5 million revenue stream to offset certain construction costs on the visitors facilities.

Response: Western is committed to working with Reclamation in partnership with the Contractors to recover revenues as soon as possible to offset certain costs for the visitor facilities. Substantial progress has been made in meeting the $5 million revenue goal. Revenue opportunities, as well as expenses, are currently being discussed with the BCP Engineering and Operations Committee (E&OC) representatives utilizing the Revenue Subcommittee as the primary focal point of exploring new opportunities. As dialogue continues, Reclamation and Western will continue to support the E&OC process and welcome all suggestions for meeting the revenue goal as quickly as possible. Western will initiate an agenda item relating to this request at the October 1997 E&OC meeting.

Issue: Contractors shared concern on the estimates of, and cost responsibility for, Highway 93 rehabilitation work.

Response: Three bids received from local contractors were evaluated by a contract specialist and found to be reasonable. The evaluation revealed that the engineer's estimate appeared to be low in the areas of mobilization and removal/disposal of existing pavement. Mobilization bids were significantly higher. The low bidder plans to set up a batch plant on site. The engineer's estimate did not include cost consideration for offsite disposal requirements. Recognizing that cost estimates are not exact, cost estimating practices will be continually reviewed for improvement.

The cost responsibility for rehabilitation of Highway 93 has been the topic of previous discussions and correspondence with the BCP E&OC representatives. Reclamation attempted to obtain separate funding for rehabilitation of the roadway with no results.

The BCP E&OC was made aware of this effort by a letter dated June 2, 1994. It is critical the subject work be accomplished due to concern for public safety. Because no alternate funding sources have been identified, funding must come from revenues authorized under the Boulder Canyon Project Act.

Issue: The House and Senate committee reports on the Energy and Water Development Appropriation bills contain directions to Reclamation to involve customers in developing cost estimates prior to budget submission. Western is to initiate dialogue with Reclamation to ensure proper coordination with existing E&OC process.

Response: Western will initiate this dialogue and believes that both Western and Reclamation are committed to ensure the congressional directives to Reclamation and the E&OC process are consistent.

Issue: Contractor requested an assessment to determine justification for a specific replacement cost, and a reduction in costs for certain replacements.

Response: The assessment regarding the Station Service Electrical item was initially in the 1995 Ten Year Operating Plan scheduled for FY97 and budgeted at $445,000. The scope of work was to replace the station service transformer and station service circuit breaker. The transformer was being replaced due to age, and the circuit breaker was being replaced due to problems operating the breaker and inability to procure repair parts. The station service transformer provides the only tie to system power to augment and stabilize frequency for station power. Hoover had experienced power fluctuations when operating isolated on station service power that tripped equipment and limited operation of equipment that drew large amounts of power such as cranes, elevators and pumps. It was felt, at that time, these problems could be eliminated by replacing the transformer and the circuit breaker.

The first Technical Review Committee (Blue Ribbon Task Force) commented, unless testing showed the transformer was nearing the end of its service life, it should not be replaced. The committee also commented, replacing the transformer would not eliminate the problems encountered in running the plant isolated on station service. If the new transformer failed, instability would still be a problem.

Reclamation agreed with these comments and focused on minimizing the need to run the plant isolated on station service. Funding of $300,000 was budgeted for FY98 to eliminate the station service breaker and to procure a spare single phase transformer. Eliminating the station service breaker and providing a tie to the existing circuit breakers was a lower cost alternative to purchasing a new circuit breaker. Purchasing a spare single phase transformer would eliminate long lead times in procuring a new transformer in case of an in-service failure. The Project believes that the probability of multiple failures of the single phase transformer is unlikely and would accept that risk.

The Technical Review Committee that met in June 1997 questioned the need for a spare transformer since there were new governors on the Arizona station service generator and the Nevada station service generator that would likely correct frequency instability.

Reclamation will be simulating operating the plant isolated on station service in September. Based on this simulation, the Project will assess the need for a spare transformer. Reclamation will report on this assessment and our decision on the transformer at the October 1997 BCP E&OC meeting. If it is determined a spare transformer is not necessary, the program expenditures for the transformer would become carryover in the next fiscal year. The work to tie to existing circuit breakers also funded under this item would still proceed in FY 1998.

A meeting with customer representatives was held August 13, 1997, to review the communication and control system upgrades related to the Reclamation Alternative Modular SCADA System (RAMS) in use at Hoover Dam. No changes will be made to estimated costs in the proposed FY 1998 revenue requirements at this time, however, should the existing plans for future RAMS related investments be modified as a result of this review, changes to the items in the level of FY 1998 expenditures for these items may result. And lastly, the FY 1998 rate includes $150,000 for the piping replacements. In Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy (Secretary) delegated (1) the authority to develop long-term power and

transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

These charges and rates are established pursuant to section 302(a) of the DOE Organization Act, 42 U.S.C. § 7152(a), through which the power marketing functions of the Secretary of the Interior and Reclamation under the Reclamation Act of 1902, 43 U.S.C. § 371 et seq, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c), and other acts specifically applicable to the project system involved, were transferred to and vested in the Secretary.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 97–25749 Filed 9–26–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Central Valley Project and California-Oregon Transmission Project—WAPA–77

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: Notice is given of the confirmation and approval by the Deputy Secretary of the Department of Energy (DOE) of Rate Order No. WAPA–77 and Rate Schedules CV–F9, CV–FT3, CV–NFT3, CV–TPT4, CV–NWT1, CV–PSS1, CV–RFS1, CV–EID1, CV–SPR1, CV–SUR1, COTP–FT1, and COTP–NFT1 placing provisional rates for the Central Valley Project (CVP) commercial firm power and transmission services, power scheduling service, and ancillary services of the Western Area Power Administration (Western), and placing provisional rates for the California-Oregon Transmission Project (COTP) transmission services into effect on an interim basis. The provisional rates, will remain in effect on an interim basis until the Federal Energy Regulatory Commission (FERC) confirms, approves, and places them into effect on a final basis or until they are replaced by other rates. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period.

DATES: The provisional rates will be placed into effect on an interim basis on October 1, 1997, and will be in effect until FERC confirms, approves, and places the provisional rates in effect on a final basis for a 5-year period ending September 30, 2002, or until superseded.

FOR FURTHER INFORMATION CONTACT: Ms. Zola Jackson, Power Marketing Manager, Western Area Power Administration, Sierra Nevada Customer Service Region, 114 Parkshore Drive, Folsom, CA 95630–4710, Telephone (916) 353–4421 or Mr. Joel K. Bladow, Power Marketing Liaison Office, Room 8G–027, 1000 Independence Avenue SW., Washington, DC 20585–0001, Telephone (202) 586–5581.

SUPPLEMENTARY INFORMATION: The Deputy Secretary of Energy, approved the existing Rate Schedule CV–F8 for CVP commercial firm power on September 19, 1995 (Rate Order No. WAPA–72, 60 FR 52671, October 10, 1995) and FERC confirmed and approved the rate schedule on March 14, 1996, under FERC Docket No. EF95–5012–000 (74 FERC ¶ 62,136). The existing Rate Schedule CV–F8 became effective on October 1, 1995, for the period ending April 30, 1998, and is being superseded by Rate Schedule CV–F9. Under Rate Schedule CV–F8, the composite rate on October 1, 1997, is 26.50 mills per kilowatt-hour (mills/kWh), the base energy rate is 16.93 mills/kWh, the energy tier rate is 26.48 mills/kWh, and the capacity rate is $4.58 per kilowatt-month (kW-month). The provisional rates for CVP commercial firm power in Rate Schedule CV–F9 will result in an overall composite rate of 20.95 mills/kWh on October 1, 1997, and will result in a decrease of approximately 21 percent when compared with the existing CVP commercial firm power rates under Rate Schedule CV–F8.

The Acting Assistant Secretary of Energy, approved the existing Rate Schedules CV–FT2, CV–NFT2, and CV–TPT3 for CVP transmission services, and the existing Rate Schedule CV–PC1 for peaking capacity service on April 12, 1993 (Rate Order No. WAPA–59, 58 FR 35933, July 2, 1993), and FERC confirmed and approved the rate schedules on September 22, 1993, under FERC Docket No. EF93–5011–000 (64 FERC ¶ 61,332). The existing rate schedules became effective on May 1, 1993, for the period ending April 30, 1998. Rate Schedule CV–PC1 is being terminated effective October 1, 1997. Rate Schedules CV–FT2, CV–NFT2, and CV–TPT3 are being superseded by Rate Schedules CV–FT3, CV–NFT3, and CV–TPT4. Under Rate Schedules CV–FT2 and CV–NFT2, the CVP transmission firm and non-firm services rates on October 1, 1997, are $0.43 per kW-month for firm service and 1.23 mills/kWh for non-firm service. On October 1, 1997, the provisional rates in Rate Schedules CV–FT3 and CV–NFT3 will be $0.51 per kW-month for firm CVP transmission service, an 18.6 percent increase when compared with the existing rate, and 1.00 mill/kWh for non-firm CVP transmission service, an 18.7 percent decrease when compared with the existing rate. The provisional rate for transmission of CVP power by others in Rate Schedule CV–TPT4 is a direct pass through cost and will result in no change on October 1, 1997, when compared with the existing rate under Rate Schedule CV–TPT3.

Since the COTP went into operation in 1993, Western has sold COTP transmission services on a short-term basis using rates approved by the Administrator of Western. Rate schedules are being promulgated for COTP firm and non-firm transmission services to be consistent with FERC Order No. 888. The provisional rates for firm transmission service for Western's share of the COTP will result in 9.9 percent (FY 1998) and 34.0 percent (FY 1999 through FY 2002) reductions in the existing rate of $2.03 per kW-month. The provisional rates are $1.83 per kW-month for FY 1998 and $1.34 per kW-month for FY 1999 through FY 2002. The provisional rates for non-firm COTP transmission service will result in 21.2 percent (FY 1998) and 47.8 percent (FY 1999 through FY 2002) reductions in the existing rate of 2.78 mills/kWh. The provisional rates are 2.19 mills/kWh for FY 1998 and 1.45 mills/kWh for FY 1999 through FY 2002.

Power scheduling service, network transmission service, and ancillary services are new services. The provisional rates are designed to recover only the cost incurred for providing the services.

Provisional Rates for CVP Commercial Firm Power

The provisional rates for CVP commercial firm power are designed to recover an annual revenue requirement that includes the investment repayment, interest, purchase power, and operation and maintenance expense. A cost of service study was used to allocate the

projected annual revenue requirement for commercial firm power between capacity and energy. Based on this study the capacity revenue requirement includes 100 percent of capacity purchase costs, 50 percent of the CVP investment repayment, interest expense, and power operation and maintenance expense allocated to commercial power, and 100 percent of purchased transmission service expense. These annual costs are reduced by the projected revenue from sales of CVP transmission to determine the capacity revenue requirement. The energy revenue requirement includes 100 percent of energy purchase costs and 50 percent of the CVP investment repayment, interest expense, and power operation and maintenance expense allocated to commercial power. These annual costs are reduced by the projected revenue from sales of surplus power to determine the energy revenue requirement.

The provisional rates will also include an Annual Energy Rate Alignment (AERA). The AERA will be applied to energy purchases from Western under Rate Schedule CV–F9 at or above an average annual load factor of 80 percent, calculated at the end of each fiscal year. The AERA will provide revenues to cover the increased costs of purchased energy. The AERA is the difference between the estimated rate for short-term energy purchases used in the cost of service study for CVP commercial firm power and the provisional CVP energy rate. The AERA is in addition to the provisional CVP energy rate and replaces the existing energy tier rate in Rate Schedule CV–F8.

Adjustment Clauses Associated With the Provisional Rates for CVP Commercial Firm Power

Adjustments for power factors, low voltage losses, and revenue were included in Rate Schedule CV–F8, and will be continued in Rate Schedule CV–F9.

Power Factor Adjustment

The power factor adjustment is included in Rate Schedule CV–F9. The low power factor charge or LPF Charge is a charge that will be applied when the customer does not maintain a calculated 95 percent or greater power factor.

Low Voltage Loss Adjustment

A 1.035 loss adjustment factor will be applied to the billed amounts for low voltage CVP commercial firm power deliveries on the Pacific Gas and Electric system.

Revenue Adjustment

The revenue adjustment clause or RAC, is included in Rate Schedule CV–F9. The RAC, tracks variances in future revenues and expenses, and lessens the probability of significant revenue surplus or deficit to the CVP repayment. The methodology for computing the RAC is a comparison of estimated total revenues less estimated total expenses to actual total revenues less actual total expenses.

Provisional Rates for CVP Transmission Services

The provisional rates in Rate Schedules CV–FT3 and CV–NFT3 for CVP transmission services are based on a revenue requirement that recovers: (1) The CVP transmission system costs for facilities associated with providing all transmission services; and (2) the non-facility costs allocated to transmission services. These provisional firm and non-firm CVP transmission service rates include the costs for scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the transmission service. The provisional rates are applicable to existing firm and non-firm CVP transmission services and future point-to-point transmission services. The rates charged for firm and non-firm CVP transmission services for a period of one year or less will be no higher than the provisional rates.

Provisional Rate for Transmission of CVP Power by Others

Transmission service costs incurred by Western in the delivery of CVP power over a third party's transmission system to a CVP customer, will be directly passed through to that CVP customer. The provisional rate in Rate Schedule CV–TPT4 is proposed to be automatically adjusted as third party transmission costs are adjusted.

Provisional Rate Formula for Network Transmission Service

Network transmission service, if offered by Western, will be made available consistent with FERC Order No. 888. Due to existing contractual arrangements and not being a control area operator for the CVP, Western may not be able to provide network transmission service but has included a rate formula in case Western offers the service. The provisional rate formula includes the costs for scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide network transmission service.

Provisional Rate for Power Scheduling Service

Power scheduling is a new service being offered by Western that provides for the scheduling of resources to meet loads and reserve requirements. The provisional rate for power scheduling service is designed to recover only the cost incurred for providing the service.

Provisional Rates for Ancillary Services

Western will provide six ancillary services consistent with FERC Order No. 888. Of the six ancillary services offered by Western, two will be provided in conjunction with the sale of CVP and/or COTP transmission services. These are scheduling, system control and dispatch service, and reactive supply and voltage control service. The remaining four ancillary services, regulation and frequency response service, energy imbalance service, spinning reserve service, and supplemental reserve service will be offered subject to availability. The availability and type of ancillary service will be determined based on excess resources available at the time the service is requested, except for the two ancillary services provided in conjunction with the sale of CVP and/or COTP transmission services. The costs associated with scheduling, system control and dispatch service, and for reactive supply and voltage control service are included in the appropriate transmission services rates.

Provisional Rates for COTP Transmission Services

The provisional rates in Rate Schedules COTP–FT1 and COTP–NFT1 for COTP transmission services include a revenue requirement that recovers the costs associated with: (1) Western's participation in the COTP; and (2) scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the transmission service. The rates are applicable to existing firm and non-firm COTP transmission services and future point-to-point transmission services. The rates charged for firm and non-firm COTP transmission services for a period of one year or less will be no higher than the provisional rates.

The provisional rates for CVP commercial firm power and transmission services, power scheduling service, ancillary services, and for COTP transmission services are developed pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), through which the power marketing functions of the Secretary of the Interior and the Bureau of

Reclamation under the Reclamation Act of 1902 (43 U.S.C. 371 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts specifically applicable to the project involved, were transferred to and vested in the Secretary of Energy.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993, (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the FERC. Existing DOE procedures for public participation in power rate adjustments are located at 10 CFR Part 903, effective on September 18, 1985 (50 FR 37835).

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, have been followed by Western in the development of these provisional rates.

Rate Order No. WAPA–77, confirming, approving, and placing the proposed CVP commercial firm power and transmission services rates, power scheduling service, ancillary services, and the COTP transmission services rates into effect on an interim basis, is issued, and the new Rate Schedules CV–F9, CV–FT3, CV–NFT3, CV–TPT4, CV–NWT1, CV–PSS1, CV–RFS1, CV–EID1, CV–SPR1, CV–SUR1, COTP–FT1, and COTP–NFT1 will be submitted promptly to FERC for confirmation and approval on a final basis.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

Order Confirming, Approving, and Placing the Central Valley Project; Commercial Firm Power and Transmission Services Rates, Power Scheduling Service and Ancillary Services Rates, and the California-Oregon Transmission Project Transmission Services Rates Into Effect on an Interim Basis

October 1, 1997.

These rates are developed pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (43 U.S.C. 371 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts specifically applicable to the project involved, were transferred to and vested in the Secretary of the Department of Energy (DOE).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments are located at 10 CFR part 903.

Acronyms and Definitions

As used in this rate order, the following acronyms and definitions apply:

Administrator: The Administrator of Western Area Power Administration.

AERA: Annual energy rate alignment. An energy rate applied at the end of each fiscal year to all energy purchases under Rate Schedule CV–F9 at or above an annual load factor of 80 percent.

Ancillary Services: Those services necessary to support the transfer of electricity while maintaining reliable operation of the transmission system in accordance with good utility practice. Ancillary services are generally described in Federal Energy Regulatory Commission Order No. 888, Docket Nos. RM95–8–000 and RM94–7–001, issued April 24, 1996.

California-Oregon Transmission Project (COTP): The 500-kilovolt transmission project in which Western has part ownership.

Capacity: The electric capability of a generator, transformer, transmission circuit or other equipment. It is expressed in kW.

Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in $ per kW-month and applied to each kW delivered to each customer.

Central Valley Project (CVP): A multipurpose Federal water development project extending from the Cascade Range in northern California to the plains along the Kern River south of the City of Bakersfield.

Composite Rate: The rate for commercial firm power and is the total annual revenue requirement for capacity and energy divided by the total annual energy sales. It is expressed in mills/kWh and used for comparison purposes.

Contract 2947A: Western's contract with Pacific Gas and Electric, Southern California Edison, and San Diego Gas and Electric Companies for extra high voltage transmission and exchange service; Contract No. 14–06–200–2947A, as amended.

Contract 2948A: Pacific Gas and Electric Company's contract with Western for the sale, interchange and transmission of power; Contract No. 14–06–200–2948A, as amended.

Corps: United States Army Corps of Engineers.

CRD: Contract rate of delivery. The maximum amount of capacity made available to a preference customer for a period specified under a contract.

Customer: An entity with a contract and receiving service from Western's Sierra Nevada Region.

DOE: United States Department of Energy.

DOE Order RA6120.2: An order dealing with power marketing administration financial reporting and rate making procedure.

EA2: Energy Bank Account No. 2 between Western and PG&E under Contract 2948A.

Energy: Measured in terms of the work it is capable of doing over a period of time. It is expressed in kWh.

Energy Rate: The rate which sets forth the charges for energy. It is expressed in mills/kWh and applied to each kWh delivered to each customer.

Energy Tier Rate: Existing energy rate in Rate Schedule CV–F8 applied to energy sales at a 70 percent and higher monthly load factor.

FERC: Federal Energy Regulatory Commission.

Firm: A type of product and/or service that is available at the time requested by the customer.

First Preference Customer: An entity qualified to use preference power within a county of origin (Trinity, Calaveras and Tuolumne) as specified under the Trinity River Division Act of August 12, 1955 (69 Stat. 719), and the Flood Control Act of 1962 (76 Stat. 1180).

FY: Fiscal year; October 1 to September 30.

Interior: United States Department of the Interior.

Intertie: Pacific Northwest-Pacific Southwest Intertie.

kV: Kilovolt—the electrical unit of measure of electric potential that equal one thousand volts.
kvar: Kilovolt-ampere reactive—the electrical unit of measurement for reactive power in a circuit that equals one thousand volt-amperes.
kW: Kilowatt—the electrical unit of capacity that equal one thousand watts.
kW-month: The electrical unit of the monthly amount of capacity.
kWh: Kilowatt-hour—the electrical unit of energy that equals one thousand watts in one hour.
Load Factor: The ratio of average load in kW supplied during a designated period to the peak or maximum load in kW occurring in that period.
LPF Charge: Low power factor charge.
Mill: A monetary denomination of the United States that equal one tenth of a cent or one thousandth of a dollar.
Mills/kWh: Mills per kilowatt-hour—the unit of charge for energy.
MW: Megawatt—the electrical unit of capacity that equal one million watts or one thousand kilowatts.
NEPA: National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).
Net Revenue: Revenue remaining after paying all annual expenses.
Non-Firm: A type of product and/or service that is not always available at the time requested by the customer.
Northwest: Northwest United States.
O&M: Operation and maintenance.
PG&E: Pacific Gas and Electric Company.
Power: Capacity and energy.
Power Factor: The ratio of real to apparent power at any given point and time in an electrical circuit. Generally it is expressed as a percentage ratio.
Power Scheduling Service: A service that provides for the scheduling of resources to meet loads and reserve requirements.
Preference: The requirements of Reclamation law which provide that preference in the sale of Federal power shall be given to municipalities and other public corporations or agencies and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 (Reclamation Project Act of 1939, section 9(c), 43 U.S.C. 485h(c)).
Project Use: Power as defined by Reclamation law and/or used to operate CVP facilities.
Provisional Rates: Rates which have been confirmed, approved, and placed in effect on an interim basis by the Deputy Secretary of the Department of Energy.
PRS: Power repayment study.
RAC: Revenue Adjustment Clause.
Rate Brochure: A document prepared for public distribution explaining the rationale and background of the rate proposal contained in this rate order dated March 25, 1996.
Reclamation: United States Department of the Interior, Bureau of Reclamation.
Reclamation Law: A series of Federal laws. Viewed as a whole, these laws create the originating framework in which the Western Area Power Administration markets power.
Revenue Requirement: The revenue required to recover O&M expenses, purchase power and transmission service expenses, interest, deferred expenses, and repayment of Federal investments, or other assigned costs.
Sierra Nevada Region: The Sierra Nevada Customer Service Region of Western Area Power Administration.
Secretary: Secretary of Energy.
Western: United States Department of Energy, Western Area Power Administration.
Withdrawable: Power that may be withdrawn under certain conditions.

Effective Date

The new rates will become effective on an interim basis on the first day of the first full billing period beginning on or after October 1, 1997, and will be in effect pending FERC's approval of them or substitute rates on a final basis for a 5-year period ending September 30, 2002, or until superseded.

Public Notice and Comment

The Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, have been followed by Western in the development of these rates. The following summarizes the steps Western took to ensure involvement of interested parties in the rate process:

1. The proposed rate adjustment was initiated on May 1, 1996, when a letter announcing the first of four informal customer workshops was mailed to all CVP customers. The first workshop was held on May 13, 1996, in Folsom, California. Sequential workshops were held on August 21, October 25, and December 17, 1996, in Folsom, California. At these informal workshops, Western explained the rationale for the rate adjustment, presented rate designs and methodologies, and answered questions.

2. A **Federal Register** notice was published on March 4, 1997 (62 FR 9763), officially announcing the proposed rates for the CVP and COTP, initiating the public consultation and comment period, and announcing the public information and public comment forums.

3. On March 7, 1997, letters were mailed from Western's Sierra Nevada Regional Office to all CVP preference customers and interested parties transmitting the **Federal Register** notice of March 4, 1997, and announced the times and locations for the two public forums.

4. On March 25, 1997, beginning at 9 a.m. PST, the public information forum was held at Western's Sierra Nevada Regional Office in Folsom, California. At the public information forum Western provided detailed explanations of the proposed rates for the CVP and COTP, provided a list of issues that could change the proposed rates, and answered questions. Notice was given that additional information would be provided at the public comment forum. A rate brochure and an information handout were provided at the forum.

5. On April 24, 1997, beginning at 9 a.m. PDT, the public comment forum was held at Western's Sierra Nevada Regional Office in Folsom, California. At the start of the forum, Western presented the updated rates for the CVP and COTP, provided a detailed explanation of the changes to the proposed rates, and answered questions. A handout containing information regarding the updated rates was provided. After providing this information, Western gave the public an opportunity to comment for the record. Three representatives made oral comments.

6. Twelve comment letters were received during the consultation and comment period. The consultation and comment period ended June 2, 1997. All formally submitted comments have been considered in the preparation of this rate order.

Project History

The CVP is a large water and power system, initially authorized by Congress in 1935, which covers approximately one-third of the State of California. Legislatively defined purposes set the priorities for the CVP as: (1) River regulation; (2) improvement of navigation; (3) flood control; (4) irrigation; (5) domestic uses; and (6) power. In addition, the CVP Improvement Act of 1992 added fish and wildlife habitat as a priority to the list of CVP purposes.

The CVP is located within the Central Valley and Trinity River basins of California. The CVP includes 18 dams and reservoirs with a total storage capacity of 13 million acre-feet. The system includes 615 miles of canals, 5

pumping facilities, 11 powerplants with a maximum operating capability of about 2,044 MW, approximately 948 circuit-miles of high voltage transmission lines, 15 substations, and 23 communication sites. Reclamation operates the water control and delivery system and all of the powerplants with the exception of the San Luis Unit, which is operated by the State of California for Reclamation.

The Emergency Relief Appropriations Act of 1935 initially authorized the CVP to be constructed by Reclamation to include Shasta Dam on the Sacramento River in the north and Friant Dam on the San Joaquin River in the south. Located between these are the Tracy Pumping Plant; the Delta-Mendota, Contra Costa, Friant-Kern, and Madera canals; and the Delta Cross Channel. Powerplants at Shasta and Keswick dams were also included in the initial authorization, along with high voltage transmission lines designed to transmit power from Shasta and Keswick powerplants to the Tracy pumps, and to integrate the Federal hydropower into other electric systems.

In 1944, Congress authorized the American River Division, to be constructed by the Corps. This Division included Folsom Dam and Powerplant, Nimbus Dam and Powerplant, and the Sly Park Unit, all located on the American River. In 1949, the Division was reauthorized for integration into the CVP.

The Trinity River Division was authorized by Congress in 1955 to include Trinity Dam and Powerplant, Lewiston Dam and Powerplant, and the Lewiston Fish Facilities, all located on the Trinity River. The Trinity Division also includes Judge Francis Carr Powerplant, Whiskeytown Dam, and the Spring Creek Powerplant.

The San Luis Unit, including the B.F. Sisk San Luis Dam and San Luis Reservoir, San Luis Canal, Coalinga Canal, O'Neill and Dos Amigos pumping plants, and William R. Gianelli Pump-Generator, was authorized by Congress in 1960.

In 1965, Congress authorized construction of the Auburn-Folsom South Unit as an addition to the CVP. This unit included four subunits, three of which have been constructed; the Foresthill, Folsom-Malby, and Folsom South Canal subunits. Funding to complete the construction of the Auburn Dam, Reservoir and Powerplant, which is part of the fourth subunit, has not been authorized by Congress.

Congress authorized the San Felipe Division in 1967, and the Allen Camp Unit in 1976.

Three Corps projects, Buchannan, Hidden, and New Melones, were authorized for integration into the CVP in 1962. Black Butte, another Corps project completed in the 1960's, was added to the CVP in 1970 by the Black Butte Integration Act.

In 1964, Congress authorized the 500-kV Intertie, of which Western has a 400 MW entitlement of transmission capacity. On July 31, 1967, Western, PG&E, Southern California Edison Company, and San Diego Gas & Electric Company entered into Contract 2947A, as amended, to coordinate the operation of the Intertie for the purpose of transmitting electric power between the Northwest and the Pacific Southwest.

Western, in marketing the Federal hydroelectric power generated from the CVP, currently has 80 CVP preference and 34 CVP project use customers, serving an estimated two million people.

In 1967, PG&E and Western executed Contract 2948A. This contract provides for the sale, interchange, and transmission of electric capacity and energy between Western and PG&E. Contract 2948A also includes provisions for the integration of power generated from the CVP with the 400 MW of entitlement on the Intertie. The contract also provides that PG&E will support a maximum simultaneous demand of 1,152 MW for the preference customers through 2004. If CVP power cannot meet obligations to the preference customers, Contract 2948A provides Western with the right to purchase capacity and energy from PG&E to meet those requirements. Any energy in excess of Western's obligations to preference customers can be sold to PG&E through a banking provision in the contract. The energy made available under this banking arrangement allows Western to supplement CVP generation to meet preference customer load.

Power generated from the CVP is first dedicated to project use. The remaining power is allocated to various preference customers in California. Preference customers consist of: (1) Irrigation and water districts; (2) public utility districts; (3) municipalities; (4) Federal agencies; (5) State agencies; (6) rural electric cooperatives; (7) local and suburban passenger transportation entities; and (8) joint power authorities.

Each preference customer's CRD is composed of firm long-term power allocations, and may include withdrawable allocations that are currently allocated, but unused by another customer. For this rate adjustment it is assumed that all customer withdrawable CRDs can be withdrawn in the event the load level of 1,152 MW set forth in Contract 2948A is exceeded.

Western's preference customer load level is limited under Contract 2948A to a maximum simultaneous demand, excluding project loads, of 1,152 MW. The maximum simultaneous demand is the sum of each preference customer's demand for CVP power at a coincidental moment, adjusted to the load center at the Tracy Switchyard. Notwithstanding the simultaneous demand limit, Western has contractual obligations to serve approximately 1,470 MW of firm CRD to its preference customers. This level of CRD can be served because of the diversity in customers' loads.

The COTP is a 342-miles long 500-kV transmission project that electrically interconnects the Northwest to California with what is called the Third AC Intertie. Operational since March 1993, the COTP interconnects with the transmission systems of the Northwest at the Captain Jack Substation, and with the Pacific Southwest by its connection near the Tesla Substation to the existing Intertie. The project owners include Western as well as several non-Federal participants.

Power Repayment Study

Power repayment studies are prepared each fiscal year to determine if power revenues will be sufficient to pay, within the prescribed time periods, all costs assigned to the CVP power function. Repayment criteria are based on law, policies, and authorizing legislation. DOE Order RA6120.2, section 12b, requires that:

In addition to the recovery of the above costs (operation and maintenance and interest expenses) on a year-by-year basis, the expected revenues are at least sufficient to recover: (1) Each dollar of power investment at Federal hydroelectric generating plants within 50 years after they become revenue producing, except as otherwise provided by law; plus, (2) each annual increment of Federal transmission investment within the average service life of such transmission facilities or within a maximum of 50 years, whichever is less; plus, (3) the cost of each replacement of a unit of property of a Federal power system within its expected service life up to a maximum of 50 years; plus, (4) each dollar of assisted irrigation investment within the period established for the irrigation water users to repay their share of construction costs.

CVP Transmission Service Rate Study

Transmission service rates are charged to CVP customers receiving transmission services over the CVP

system for the transmission of non-CVP power. A transmission service rate study was prepared to ensure that transmission service rates are based on the cost of service of the CVP transmission system.

A review of the CVP transmission service rate study indicated that the existing firm and non-firm CVP transmission service rates under Rate Schedules CV–FT2 and CV–NFT2, needed to be adjusted. The provisional rate for firm CVP transmission service is $0.51 per kW-month, an 18.6 percent increase from the existing rate of $0.43 per kW-month. The provisional rate for non-firm CVP transmission service is 1.00 mill/kWh, an 18.7 percent reduction in the existing 1.23 mills/kWh rate. The change in the firm CVP transmission service rate is due to increases in transmission facilities costs and in the basis for assigning miscellaneous and non-facility investment and O&M costs to transmission to better reflect costs associated with transmission for all users. The change in the non-firm CVP transmission service rate is primarily due to a change in the load factor used in determining the denominator in the rate calculation. The same revenue requirement is used in determining the firm and non-firm CVP transmission service rates.

Existing and Provisional Rates

CVP Commercial Firm Power

The provisional rates for CVP commercial firm power are designed to recover an annual revenue requirement that includes the investment repayment, interest, purchase power, and O&M expenses. The provisional rates will also include an AERA. The AERA will be applied to energy purchases from Western under Rate Schedule CV–F9 at or above an average annual load factor of 80 percent, calculated at the end of each fiscal year. The AERA will provide revenues to cover the increased costs of purchased energy. The AERA is in addition to the provisional CVP energy rate and replaces the existing energy tier rate.

A comparison of the existing and provisional rates for CVP commercial firm power follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES

CVP Commercial firm power rate schedule			
Effective period	Existing (effective 10/01/97 to 04/30/98)	Provisional	Percent change from existing rate
Composite Rate (mills/kWh):			
10/01/97 to 04/30/98	26.50	20.95	(21)
05/1/98 to 09/30/98	.....	20.95	(21)
10/01/98 to 09/30/99	.....	19.31	(27)
10/01/99 to 09/30/00	.....	19.31	(27)
10/01/00 to 09/30/01	.....	18.56	(30)
10/01/01 to 09/30/02	.....	20.08	(24)
Capacity Rate ($ per kW-month):			
10/01/97 to 04/30/98	4.58	5.03	10
5/1/98 to 09/30/98	.....	5.03	10
10/01/98 to 09/30/99	.....	4.37	(5)
10/01/99 to 09/30/00	.....	4.31	(6)
10/01/00 to 09/30/01	.....	3.81	(17)
10/01/01 to 09/30/02	.....	4.02	(12)
Energy Rate (mills/kWh):			
10/01/97 to 04/30/98	16.93	10.31	(39)
05/1/98 to 09/30/98	.....	10.31	(39)
10/01/98 to 09/30/99	.....	10.06	(41)
10/01/99 to 09/30/00	.....	10.19	(40)
10/01/00 to 09/30/01	.....	10.51	(38)
10/01/01 to 09/30/02	.....	11.58	(32)
AERA Rate (mills/kWh) supersedes existing energy tier rate in Rate Schedule CV–F8.[1]			
10/01/97 to 04/30/98	([2])	2.86	.....
05/1/98 to 09/30/98	([2])	2.86	.....
10/01/98 to 09/30/99	([2])	3.57	.....
10/01/99 to 09/30/00	([2])	3.92	.....
10/01/00 to 09/30/01	([2])	4.09	.....
10/01/01 to 09/30/02	([2])	3.53	.....

[1] The existing energy tier rate under Rate Schedule CV–F8 is 26.48 mills/kWh and is effective for the period October 1, 1997, to April 30, 1998.

[2] None.

CVP Transmission Services and Transmission of CVP Power by Others

A comparison of the existing and provisional rates for CVP transmission services and for transmission of CVP power by others follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES

CVP Transmission rate schedules			
Effective period	Existing (effective 10/01/97 to 04/30/98)	Provisional	Percent change from existing rate
Firm Transmission Rate ($ per kW-month);			
10/01/97 to 04/30/98	0.43	0.51	18.6
05/1/98 to 09/30/02	.....	0.51	18.6
Non-Firm Transmission Rate (mills/kWh):			
10/01/97 to 04/30/98	1.23	1.00	(18.7)
05/1/98 to 09/30/02	.....	1.00	(18.7)
Transmission of CVP Power by Others Rate Schedule:			
10/01/97 to 04/30/98	(1)	(1)	(2)
05/1/98 to 09/30/02	(1)	(1)	(2)

1 Pass through cost.
2 Not applicable.

Network Transmission Service

The provisional rate formula for network transmission service, if offered by Western, is the product of the network customer's load ratio share times one twelfth (1/12) of the annual network transmission revenue requirement. The load ratio share is based on the network customer's hourly load, including its designated network load not physically interconnected with the CVP transmission system, coincident with Western's monthly CVP transmission system peak minus coincident peak usage of all firm CVP (including reserved capacity) point-to-point transmission service. The provisional network transmission service rate formula includes the cost for scheduling, system control and dispatch service, and reactive supply and voltage control services associated with the transmission service. The provisional rate is effective for the period beginning October 1, 1997, through September 30, 2002.

Power Scheduling Service

Power scheduling service is a new service being offered by Western that provides for the scheduling of resources to meet load and reserve requirements. The provisional rate for power scheduling service is $75.80 per hour and will be applied based on an estimated time to provide the service to each customer receiving the service. The provisional rate is effective for the period beginning October 1, 1997, through September 30, 2002.

Ancillary Services

Of the six ancillary services offered by Western, two will be provided in conjunction with the sale of CVP and/or COTP transmission services. These are scheduling, system control and dispatch service, and reactive supply and voltage control service. The remaining four ancillary services, regulation and frequency response service, energy imbalance service, spinning reserve service, and supplemental reserve service will be offered subject to availability. The availability and type of ancillary service will be determined based on excess resources available at the time the service is requested, except for the two ancillary services provided in conjunction with the sale of CVP and/or COTP transmission services. The provisional rates and descriptions for the six ancillary services are as follow:

PROVISIONAL RATES

Ancillary services rate schedules	
Ancillary service type	Rate
Scheduling, System Control and Dispatch Service—is required to schedule the movement of power through, out of, within, or into a control area.	Included in appropriate transmission rates.
Reactive Supply and Voltage Control Service—is reactive power support provided from generation facilities that is necessary to maintain transmission voltages within acceptable limits of the system.	Included in appropriate transmission rates.
Regulation and Frequency Response Service—providing generation to match resources and loads on a real-time continuous basis. Rate will be applied to resources reserved for this service.	Monthly: $1.48 per kW-month; Weekly: $0.3360 per kW-week; Daily: $0.0480 per kW-day.
Energy Imbalance Service—is provided when a difference occurs between the scheduled and actual delivery of energy to a load or from a generation resource within a control area over a single month. Hourly deviation (MW) is the net scheduled amount of energy for the hour minus the hourly net metered (actual delivered) amount.	*Within Limits of Deviation Band:* Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations that are accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate for CVP commercial firm power, then in effect. *Outside Limits of Deviation Band:* (i) Positive Deviations—no charge, lost to the system. (ii) Negative Deviations—during on-peak hours, the greater of 3 times the composite.
Rate for CVP commercial firm power, then in	Effect, or any additional cost incurred. During off-peak hours, the greater of the composite rate for CVP commercial firm power, then in effect, or any additional cost incurred.

PROVISIONAL RATES—Continued

Ancillary services rate schedules	
Ancillary service type	Rate
Spinning Reserve Service—is providing capacity that is available the first ten minutes to take load and is synchronized with the power system. Rate will be applied to resources reserved for this service.	Monthly: $1.35 per kW-month; Weekly: $0.3024 per kW-week; Daily: $0.0432 per kW-day; Hourly: $0.0018 per kWh.
Supplemental Reserve Service—is providing capacity that is not synchronized, but can be available to serve loads within ten minutes. Rate will be applied to resources reserved for this service.	Monthly: $1.27 per kW-month; Weekly: $0.2856 per kW-week; Daily: $0.0408 per kW-day; Hourly: $0.0017 per kWh.

Provisional Rates for COTP Transmission Services

A comparison of the existing and provisional rates for transmission services for Western's share of the COTP follows:

COMPARISON OF EXISTING AND PROVISIONAL RATES

COTP Transmission rate schedules			
Effective Period	Existing	Provisional	Percent change
Firm Transmission Rate ($ per kW-month):			
10/01/97 to 09/30/98	2.03	1.83	(9.9)
10/01/98 to 09/30/02	2.03	1.34	(34.0)
Non-Firm Transmission Rate (mills/kWh):			
10/01/97 to 09/30/98	2.78	2.19	(21.2)
10/01/98 to 09/30/02	2.78	1.45	(47.8)

Certification of Rate

Western's Administrator has certified that the CVP commercial firm power, CVP transmission services, transmission of CVP power by others, network transmission service, power scheduling service, and ancillary services rates, and COTP transmission services rates placed into effect on an interim basis herein are the lowest possible rates consistent with sound business principles. The provisional rates have been developed in accordance with administrative policies and applicable laws.

Discussion

CVP Commercial Firm Power

According to Reclamation law, Western must establish power rates sufficient to recover operation, maintenance, and purchased power expenses, and repay the Federal government's investment in generation and transmission facilities. Rates must also be set to cover interest expenses on the unpaid balance of facilities' investments, replacements and additions, and certain non-power costs in excess of the irrigation users' ability to repay.

The existing CVP commercial firm power rates were confirmed and approved by FERC for the period October 1, 1995 through April 30, 1998, in a FERC Order issued March 14, 1996. Under Rate Schedule CV–F8 for the FY 1998, the composite rate on October 1, 1997, is 26.50 mills/kWh, the base energy rate is 16.93 mills/kWh, the energy tier rate is 26.48 mills/kWh, and the capacity rate is $4.58 per kW-month. The provisional rates for CVP commercial firm power will result in an overall composite rate decrease of approximately 21 percent on October 1, 1997, when compared to the existing FY 1998 CVP commercial firm power rates in Rate Schedule CV–F8. On a composite rate basis, the proposed rates continue to decrease in four years of the 5-year period ending September 30, 2002. The renegotiation and termination of several long term firm purchase power contracts are the major factors contributing to this decrease.

The provisional rates consist of a capacity rate, an energy rate, and an annual energy rate alignment. The AERA will be an additional cost for energy purchases from Western under Rate Schedule CV–F9 at or above an average annual load factor of 80 percent, calculated at the end of each fiscal year. The AERA will provide revenues to cover the increased costs of purchased energy needed to meet the higher levels of sales. The AERA is the difference between the estimated rate for short-term energy purchases used in the cost of service study for CVP commercial firm power and the provisional CVP energy rate, as shown below.

Fiscal year	Estimated purchase rate (mills/kWh)	CVP commercial firm energy rate (mills/kWh)	AERA (mills/kWh)
1998	13.17	10.31	2.86
1999	13.63	10.06	3.57
2000	14.11	10.19	3.92
2001	14.60	10.51	4.09
2002	15.11	11.58	3.53

The AERA provides risk mitigation for the assumptions used in the cost of service study for CVP commercial firm power. If the estimated purchase costs are too low and customers increase their energy purchases from Western, then the AERA will provide additional revenues to cover the increased costs of energy. The AERA applies to only those customers who purchase energy from Western under Rate Schedule CV–F9 at or above an average annual load factor of 80 percent. The AERA is in addition to the provisional CVP energy rate and replaces the existing energy tier rate in Rate Schedule CV–F8. The billing for the AERA will be based on the customer's average annual load factor and will occur at the end of each fiscal year, based on the following formula:

AERA=(Total kWh − (ALF * Hours in fiscal year * 0.7999)) * AERA rate

Where:

AERA=Annual Energy Rate Alignment

kWh=Energy purchased from Western during a fiscal year.

ALF=Average of monthly billed capacity purchased from Western during a fiscal year.

An example of AERA billing follows:

Example of AERA Billing for FY 1998

Assumption: Average of monthly billed capacity purchased from Western during the FY 1998 is 50 MW and the total annual energy purchased from Western is 394,200,000 kWh.

Calculation of energy below 80 percent load factor:

50,000 kW × 8,760 hours × 0.7999=350,356,200 kWh

Energy at or above 80 percent load factor billed at AERA rate:

394,200,000 kWh − 350,356,200 kWh=43,843,800 kWh

43,843,800 kWh × 2.86 mills/kWh0=$125,393.27

In order to utilize the CVP power resources to their maximum benefit, Western supports CVP generation with capacity and energy purchases, mainly from Northwest resources and PG&E. The cost of the CVP power generation is split equally between the capacity and energy revenue requirements. The amount of capacity and energy available from the CVP hydroelectric system varies widely because of hydrologic conditions. These conditions can also impact the value of the capacity and energy. Due to this variability, an equal split between the capacity and energy revenue requirements for recovery of the cost of the CVP power generation is reflective of its actual costs associated with providing power to all CVP customers.

Currently, the existing rates under Rate Schedule CV–F8 reflect a split of 35 percent capacity and 65 percent energy. The provisional rates for CVP commercial firm power are based on the total annual CVP revenue requirement being allocated between capacity and energy in the following manner:

1. The capacity revenue requirement includes 100 percent of capacity purchase costs, 100 percent of purchased transmission service expense, and 50 percent of the annual CVP investment repayment, interest expense, and power O&M expense allocated to commercial power. These annual costs are reduced by the projected revenue from CVP transmission sales to determine the capacity revenue requirement.

2. The energy revenue requirement includes 100 percent of energy purchase costs and 50 percent of the annual CVP investment repayment, interest expense, and power O&M expense allocated to commercial power. These annual costs are reduced by the projected revenue from surplus power sales to determine the energy revenue requirement.

The resulting percentage splits between the capacity and energy revenue requirements for the provisional rates varies from 51 percent allocated to capacity in FY 1998 to 42 percent allocated to capacity in FY 2002 due to changes in costs and revenues each year. The average split for the 5-year period is 46 percent to capacity and 54 percent to energy. The annual percentage splits between the capacity and energy revenue requirements are as follow:

Effective period	Capacity (percent)	Energy (percent)
10/1/97—9/30/98	51	49
10/1/98—9/30/99	48	52
10/1/99—9/30/00	47	53
10/1/00—9/30/01	43	57
10/1/01—9/30/02	42	58
5-year average	46	54

Power Factor Adjustment

The power factor adjustment under existing Rate Schedule CV–F8 will continue and is included with the provisional rates for CVP commercial firm power. The low power factor charge or LPF Charge, will continue to encourage preference customers to monitor their power factors and maintain them at 95 percent or greater. Western will continue the existing LPF Charge under Rate Schedule CV–F9, which includes a rate of $2.50 per kvar for additional kvar required to raise the customer's power factor to 95 percent. The $2.50 per kvar rate represents the estimated cost of Western purchasing and installing equipment to increase a customer's power factor plus an additional charge to encourage customers to monitor poor power factors. The LPF Charge will be applied when the customer does not maintain a calculated 95 percent or greater power factor.

The customer's calculated power factor used to determine if a charge will be assessed is the arithmetic mean of the customer's measured monthly average power factor and the measured monthly on-peak power factor, rounded to the nearest whole percent with 0.5 percent or greater rounded to the next higher percent. The measured on-peak power factor is equal to the power factor measured during a customer's maximum peak demand for each month, as recorded at the customer's point of delivery. In the event of multiple occurrences of the same peak demand, the lowest associated power factor will be used. The measured average power factor will be the average power factor for the billing month. Those customers with multiple meter points will be charged for the ''totalizer'' of the multiple meter points. The monthly on-peak and average power factors are those recorded for CVP power only.

Low Voltage Loss Adjustment

The low voltage adjustment under existing Rate Schedule CV–F8 will continue and is included in the provisional rates for CVP commercial firm power. A 1.035 loss adjustment factor will be applied to the billed amounts for low voltage CVP power deliveries on PG&E's system under Contract 2948A.

Revenue Adjustment

The revenue adjustment clause or RAC, tracks variances in future revenues and expenses, and lessens the probability of significant revenue surplus or deficit to the CVP repayment. The methodology for computing the RAC is a comparison of estimated total revenues less estimated total expenses to actual total revenues less actual total expenses. If the actual net revenue is more than the estimated net revenue, CVP preference customers receive a credit. If actual net revenue is less than the estimated net revenue, CVP preference customers may have a surcharge, if needed to make a minimum investment payment. The limit for surcharges is $20 million. The limit for credits is $20 million plus the amount of EA2 credit or other purchase power contract adjustments used during the fiscal year for which the RAC is being calculated. The RAC is a carryover from Rate Schedule CV–F8.

CVP Transmission Services and Transmission of CVP Power by Others

The provisional rate for firm CVP transmission service is $0.51 per kW-month, an 18.6 percent increase from the existing rate of $0.43 per kW-month under Rate Schedule CV–FT2. The provisional rate for non-firm CVP transmission service is 1.00 mill/kWh, an 18.7 percent reduction in the existing 1.23 mills/kWh rate under Rate Schedule CV–NFT2. The change in the firm CVP transmission service rate is due to increases in transmission facilities costs and in the basis for assigning miscellaneous and non-facility O&M costs to transmission to better reflect costs associated with transmission for all users. The change in the non-firm CVP transmission service rate is primarily due to a change in the load factor used in determining the denominator in the rate calculation. The same revenue requirement is used in

determining the firm and non-firm CVP transmission service rates.

The provisional rates for CVP transmission services are based on a revenue requirement that recovers: (1) The CVP transmission system costs for facilities associated with providing all transmission services; and (2) the non-facility costs allocated to transmission service. These provisional firm and non-firm CVP transmission service rates include the costs for scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the transmission service. If scheduling, system control and dispatch service, and reactive supply and voltage control service are not provided by Western, the customers will be given credit for the cost associated with these services, as agreed by the parties. The provisional rates are applicable to existing firm and non-firm CVP transmission services and future point-to-point transmission services. The rates charged for firm and non-firm CVP transmission services for a period of one year or less will be no higher than the provisional rates.

Transmission service costs incurred by Western in the delivery of CVP power over a third party's transmission system to a CVP customer, will be directly passed through to that CVP customer. Both annual revenues and expenses are included in the PRS to account for all charges, even though the net effect is zero. Transmission pass through revenues and expenses are estimated using existing customer load forecasts and project use requirements, and applicable transmission service rates. Transmission pass through revenues and expenses primarily consist of payments to PG&E for transmission services to preference and project use loads, and payments to the Sacramento Municipal Utility District for transmission services to preference customers.

Network Transmission Service

Network transmission service is a new service and, if offered by Western, will be made available consistent with FERC Order No. 888. Due to existing contractual arrangements and not being a control area operator for the CVP, Western may not be able to provide network transmission service but has included a rate formula in case Western offers the service. The provisional rate formula for network transmission service is based on a revenue requirement that recovers the CVP transmission system costs for facilities associated with providing all transmission services and the non-facility costs allocated to transmission service. The provisional rate formula includes the costs for scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the network transmission service.

Power Scheduling Service

Power scheduling is a new service being offered by Western that provides for the scheduling of resources to meet loads and reserve requirements. The provisional rate for power scheduling service is designed to recover only the cost incurred by Western for providing the service. The provisional rate includes two cost components. The first cost component is the FY 1997 hourly cost for dispatcher and/or scheduler resources, escalated for the rate adjustment period of FY 1998 through FY 2002 to obtain an average hourly cost. The second cost component is an estimated hourly cost for equipment necessary in providing the service.

Ancillary Services

Ancillary services are new services and, if offered by Western, will be made available consistent with FERC Order No. 888. Of the six ancillary services offered by Western, two will be provided in conjunction with the sale of CVP and/or COTP transmission services. These are scheduling, system control and dispatch service, and reactive supply and voltage control service. The remaining four ancillary services, regulation and frequency response service, energy imbalance service, spinning reserve service, and supplemental reserve service will be offered subject to availability. Western's sales of ancillary services are subject to the availability of its power resources because Western allocates most of its power resources to preference entities under long-term commitments. The availability and type of ancillary service will be determined based on excess resources available at the time the service is requested.

The provisional rates for ancillary services are designed to recover only the costs associated with providing the service(s). The costs for providing scheduling, system control and dispatch service, and reactive supply and voltage control service are included in the provisional transmission services rates. The provisional rate for energy imbalance service is based on standards and practices used in the electric utility industry. For the provisional rates for regulation and frequency response, spinning reserve, and supplemental reserve services, Western used a detailed cost of service study to determine these rates, which are based on CVP facilities that are used in providing the service(s). Only those CVP facilities costs are considered in the determination of rates for regulation and frequency response, spinning reserve, and supplemental reserve services. The CVP facilities that are used in providing regulation and frequency response, spinning reserve, and supplemental reserve services are the Shasta, Folsom, Trinity, New Melones, Spring Creek, and Judge F. Carr powerplants. The Nimbus and Keswick powerplants are not available because of river run conditions. There are no governors at the O'Neill and San Luis powerplants, which makes them unavailable for providing the services.

COTP Transmission Services

Since the COTP went into operation in 1993, Western has sold COTP transmission services on a short-term basis using rates approved by the Administrator. Rate schedules are being promulgated for COTP firm and non-firm transmission services to be consistent with FERC Order No. 888. The provisional rates for firm transmission service for Western's share of the COTP are $1.83 per kW-month for FY 1998 and $1.34 per kW-month for FY 1999 through FY 2002. These rates for firm COTP transmission service result in 9.9 percent (FY 1998) and 34.0 percent (FY 1999 through FY 2002) reductions in the existing rate of $2.03 per kW-month. The provisional rates for non-firm COTP transmission service are 2.19 mills/kWh for FY 1998 and 1.45 mills/kWh for FY 1999 through FY 2002. These rates for non-firm COTP transmission service result in 21.2 percent (FY 1998) and 47.8 percent (FY 1999 through FY 2002) reductions in the existing rate of 2.78 mills/kWh. These rates are lower than the existing rates for COTP firm and non-firm transmission services due to reduced costs for and the terminations of some contracts for COTP transmission capacity.

The provisional rates for COTP transmission services includes a revenue requirement that recovers the costs associated with: (1) Western's participation in the COTP; and (2) scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the transmission service. If scheduling, system control and dispatch service, and reactive supply and voltage control service are not provided by Western, the customers will be given credit for the cost associated with these services, as agreed by the parties. The provisional rates are applicable to existing firm and non-firm COTP transmission services and future point-to-point transmission

services. The rates charged for firm and non-firm COTP transmission services for a period of one year or less will be no higher than the provisional rates.

Statement of Revenue and Related Expenses

The following table provides a summary of revenues and expenses for the 5-year provisional rate period and the 3-year existing rate period.

CVP COST EVALUATION RATE PERIOD REVENUES AND EXPENSES ($1,000)

	Provisional rate PRS FY 1998–02	Existing rate PRS FY 1996–98	Difference
Total Revenues	824,651	609,954	Not Applicable See Note below.
Revenue Distribution:			
O&M	216,776	105,521	Note: The revenues and expenses for the provisional rates are for 5 years. Those for the existing rates are for 3 years. Therefore, the difference is not applicable.
Purchase Power	390,689	407,804	
Transmission	80,335	45,098	
Interest	54,536	29,933	
Other	9,073	0	
Investment Repayment	73,242	21,598	
Capitalized Expenses	0	0	
Prior-Year Adjustment	0	0	

The following table provides a summary of the average annual revenues and expenses for the provisional and existing rate periods.

CVP COMPARISON OF COST EVALUATION RATE PERIOD AVERAGE ANNUAL REVENUES AND EXPENSES ($1,000)

	Provisional rate average annual	Existing rate average annual	Difference
Total Revenues	164,930	203,318	(38,388)
Revenue Distribution:			
O&M	43,355	35,174	8,181
Purchase Power	78,138	135,935	(57,797)
Transmission	16,067	15,033	(1,034)
Interest	10,907	9,978	(929)
Other	1,815	0	1,815
Investment Repayment	14,648	7,199	7,449
Capitalized Expenses	0	0	.....
Prior-Year Adjustment	0	0	.....

Basis for Rate Development

The existing rates for CVP commercial firm power, CVP transmission services and transmission of CVP power by others in Rate Schedules CV–F8, CV–FT2, CV–NFT2, and CV–TPT3 expire April 30, 1998. Reduced costs for and the terminations of some of Western's power purchase and COTP transmission contracts have occurred. Power scheduling, network transmission, and ancillary services are new services being offered by Western. The proposed rate adjustment is needed to put into place rates, which will replace the existing rates, that reflect reduced purchase power expenses due to a decrease in customers' CVP power purchases, reduced costs of transmission contracts, current methodology in rate design, and to provide rates for new services. The provisional rates will provide sufficient revenue to pay all annual costs, including interest expense, and repayment of required investment within the allowable period. The provisional rates are scheduled to go in effect on October 1, 1997, to correspond with the start of the Federal fiscal year, and will remain in effect through September 30, 2002.

The provisions for power factor adjustment, low voltage loss adjustment, and revenue adjustment are part of the provisional rates for CVP commercial firm power. The provisions and methodologies for these adjustments are not being modified and will remain as specified in Rate Schedule CV–F8.

Comments

During the public consultation and comment period, Western received 12 written comments on the rate adjustment. In addition, three customer representatives commented during the April 24, 1997 public comment forum. All comments received by the end of the public consultation and comment period, June 2, 1997, were reviewed and considered in the preparation of this rate order.

Written comments were received from the following sources:

Bookman-Edmonston Engineering, Inc. (California)
Calaveras Public Power Agency (California)
National Aeronautics and Space Administration, Ames Research Center (California)
Northern California Power Agency (California)
City of Palo Alto (California)
City of Redding (California)
City of Roseville (California)
Sacramento Municipal Utility District (California)
City of Santa Clara (California)
Trinity County Board of Supervisors (California)
Trinity County Public Utilities District (California)

Tuolumne Public Power Agency (California)

The comments received in correspondence dealt with the CVP commercial firm power rate design, specifically, the capacity and energy split for revenue recovery and the AERA, the CVP transmission service rate design, separate county-of-origin rate, and the RAC. All comments supported Western's efforts to reduce the rates. The following is a summary of the comments received by the end of the consultation and comment period and Western's responses to those comments. The comments and responses, paraphrased for brevity are presented below. Specific comments are used for clarification where necessary.

CVP Commercial Firm Power (Capacity and Energy Revenue Requirement Split)

The following comments relate to the change in CVP rate design from recovering 35 percent of the revenue requirement from capacity and 65 percent from energy, to capacity and energy revenue requirement percentage splits that varies from 51 percent allocated to capacity in FY 1998 to 42 percent allocated to capacity in FY 2002.

Comments: Five customers commented that they want the provisional rates for CVP commercial firm power to reflect a true cost of service allocation by including investment payment, interest expense, and O&M expense in the capacity revenue requirement. This would result in a capacity and energy revenue requirement split of 70 percent allocated to capacity and 30 percent allocated to energy. Three of the customers commented that they support a ''phasing-in'' approach in achieving a rate design toward the ''true cost of service'' allocation of 70 percent capacity and 30 percent energy. Two other customers commented that they also support the phasing-in approach, but want a split closer the existing rate design in the first year and eventually moving toward a split of 50 percent capacity and 50 percent energy. A representative that represents a coalition of fourteen agricultural CVP power customers, commented that it prefers the existing allocation split, but supports the proposed splits in the provisional rates as an effective balance among Western's customers.

Responses: Western believes its proposed revenue requirement percentage splits between capacity and energy reflects a ''true cost of service'' allocation. The cost of the CVP power generation is split equally between the capacity and energy revenue requirements. The amount of capacity and energy available from the CVP hydroelectric system varies widely because of hydrologic conditions. These conditions can also impact the value of the capacity and energy. Due to this variability, Western believes that an equal split between the capacity and energy revenue requirements for recovery of the cost of the CVP power generation is reflective of its actual costs associated with providing power to all CVP customers. However, in order to utilize the CVP power resources to their maximum benefit, Western supports the CVP generation with capacity and energy purchases, mainly from Northwest resources and from PG&E. Therefore, capacity purchase costs are allocated to capacity and energy purchase costs are allocated to energy. Western believes that all CVP customers benefit from this marketing approach and should pay for these benefits. Because the CVP costs vary annually, the percentage splits also vary annually.

In response to comments relating to ''phasing-in'' the change in the capacity and energy revenue requirement split, Western believes that it is inappropriate for this rate adjustment period. The annual changes in the revenue requirement splits reflect the change in annual costs for providing firm power service.

Comment: One customer commented that the rates being generated are for the benefit of the high load factor customers, and put the low load factor customers at a significant disadvantage. Also, this customer commented that it does not like the financial burden of supplemental thermal energy spread to all customers, since high load factor customers benefit from this arrangement. This customer wants to ''unbundle'' the cost of thermally generated supplemental energy from the cost of CVP hydroelectric power.

Response: Western markets power based on a pool of resources, all of which can be used to serve firm power contractual loads. It is Western's position that Western has an obligation to meet all its contractual commitments. The provisional rates reflect Western's actual costs associated with providing power to all CVP customers, not an individual customer's consumption of capacity or energy. All resources necessary to supply the total CVP commercial power obligation are considered in each kWh and kW of power sales. This results in a homogenous and nondiscriminatory rate design. The generalization that high load factor customers cause the purchase of energy in excess of CVP generation, while low load factor customer do not, is inaccurate. The annual CVP generation follows a pattern of high generation in the spring and summer months, and low generation in the fall and winter months. If low load factor customers were to peak significantly and have high loads in a fall or winter month, a substantial portion of the energy served by Western for such loads is likely from purchased power.

CVP Commercial Firm Power (AERA)

The following comments relate to the CVP annual energy rate alignment, which is an additional cost for firm energy purchases at or above an average load factor of 80 percent.

Comments: Two customers want to eliminate the AERA. They argued that given the conservatism of the forecasts used to develop the rates, the AERA is equivalent to ''wearing both a belt and suspenders''. One other customer wants a redefinition of the AERA to, ''* * * is equal to the pass-through energy costs above the CVP commercial firm energy rate.''

Responses: Western is adopting the change in the definition of the AERA to, ''* * * the difference between the estimated rate for short term energy purchases used in the cost of service study for CVP commercial firm power and the provisional CVP energy rate.'' The AERA provides risk mitigation for the purchase rate assumptions used in this rate adjustment. If the estimated purchase costs are too low and customers increase their energy purchases from Western, then the AERA will provide additional revenues to cover the increased costs of energy. The AERA will be an additional cost for energy purchases from Western at or above an average annual load factor of 80 percent. The AERA replaces the existing energy tier rate and is designed to reduce the impact of purchasing additional CVP support energy on all customers. The AERA applies to only those customers who purchase energy from Western at or above an average annual load factor of 80 percent.

CVP Transmission Services Rates

The following comments relate to the provisional rates for CVP transmission services.

Comment: Three customers commented that the costs of non-transmission items and certain customer specific items in Western's plant-in-service study should not be included as part of the rates development. These customers believe that these items have been either paid for through other sources of funds or paid entirely by a particular customer, and therefore

should not be charged to all CVP customers. Examples of items, which the customers gave to be excluded from the calculations are Roseville Substation and COTP lands.

Response: Western reviewed the costs allocated under the non-facility specific O&M and concluded that the some costs allocated for COTP lands was incorrect. This amount totaling $4,060 was omitted from the final rate calculation. In response to the Roseville Substation, there were no plant-in-service costs allocated in the rate calculation, however, there were costs associated with interest expense at an 8.875 percent rate. The interest expense was revised, as explained below.

Comments: Three customers commented that certain interest expenses for various transmission facilities, those with higher interest rates, have been either retired or paid off by Western. It is their understanding that as a result of the 1992–93 settlement between Western and PG&E, Western was not able to refund the large cash settlement from PG&E through the RAC process, and therefore Western used some of the refund to purchase down some of the higher interest loans. These customers believe that it is inappropriate to be charged for interest obligations which do not exist. The three customers want the rate calculations to be based on only the actual interest rates for costs remaining, or be based on average system-wide interest costs.

Responses: Western reviewed the costs included in the plant-in-service study and determined that there was an error in the interest rate calculation for the facilities listed as plant in service (P–I–S). This error has been corrected, and as a result, all interest expenses for repaid investment was excluded from the transmission rate study. The interest associated with the Roseville Substation mentioned above was also excluded. Western applied interest to P–I–S facilities at the interest rates applicable to each project. When a specific interest rate was not identified, a 3.0 percent rate was applied. The average interest rate applied to P–I–S facilities in the CVP transmission rate study calculates to be 3.08 percent.

In order to recognize the P–I–S paid through transmission revenue, Western made an adjustment to account for repayment of transmission investment that have been made during FY 1993 to FY 1997 as follows:

1. The total investment amount for this rate adjustment was reduced by the total payment on investment for five years of the 50-year repayment period of the 1993 rate adjustment.

2. The remaining investment payment amount from the 1993 rate adjustment was amortized over 45 years.

3. The remainder of the total investment for this rate adjustment that was not included in the 1993 rate adjustment was amortized for 50 years, to calculate an annual payment for these investments. The result was deducted from the annual payment.

Comment: Two customers recommended that since the provisional rates represent a net 20 percent increase in the existing CVP transmission services rates, which is a significant change, a ''phasing-in'' approach would be better for them to have time to adjust. Also, this phasing-in approach would allow time to evaluate the possible impacts from the future California's Independent System Operator on transmission usage and costs.

Response: Western believes that the CVP transmission rates accurately reflect the cost of providing CVP transmission service. Therefore, Western will not be implementing a ''phasing-in'' period for the provisional CVP transmission services rates.

Comment: Three customers recommended a formation of a customer group to work with Western on the tracking, monitoring and allocating of Western's transmission expenses.

Response: At several meetings during the informal public process, Western discussed with the preference customers the transmission rate costs and rate design methodology. The comment recommending a formation of a customer group to work with Western on the tracking, monitoring, and allocating of Western's transmission expenses is outside the scope of this rate adjustment and public process.

County of Origin Rate for First Preference Customers

The following comments relate to inquiries for a separate county of origin rate for first preference customers.

Comments: Four customers commented that they believe there must be a county of origin rate for first preference customers and encourage Western to recognize the need to ''treat first preference customers in a unique manner, since they are legislated recipients of CVP power''. These customers want Western to establish a first preference county of origin rate which is reflective of the actual cost of power generation from CVP facilities in those counties. One customer commented that in the past, they have ''been penalized by having to pay for purchased power to meet other customers' load requirements' and that they have been ''deprived of most of the first preference benefits.'' Another customer argued that ''the rights granted by Congress to them should be met first before other Western customers receive extra services'' and that the provisional rates are ''many times higher than the rates contemplated by Congress as partial mitigation''.

Responses: The Flood Control Act of 1962 authorized construction of the New Melones Project and specifically granted first preference to preference customers in Calaveras and Tuolumne counties, in a quantity to the extent needed but not to exceed 25 percent of such additional CVP energy resulting from the construction of the New Melones Project power facility and its integration into the CVP system. The Act of August 12, 1955 authorized construction of the Trinity River Division and granted a similar first preference to preference customers in Trinity County, to the extent of 25 percent of such additional energy available from the CVP power system as a result of the construction of the Trinity River Project, as integrated into the CVP system, and who are ready, able and willing to enter into contracts for the energy.

The Acts entitled the preference customers in those counties who are ready, able and willing to enter contracts with Western to a first preference in the purchase of CVP energy to the extent needed, but not to exceed 25 percent and under certain conditions. The authorizing legislation also provides that the Trinity and New Melones projects be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the CVP. In *Trinity County* v. *Harrington* the court determined first preference customers are not entitled to preferential rates based on the operating costs of Trinity and New Melones projects alone, as opposed to operating costs of the CVP system as a whole. The provisional rates for CVP commercial firm power are based on the operation costs of the CVP system as whole, and will be applied to all CVP customers who purchase CVP power from Western. In addition, since the CVP power service provided to first preference customers is the same as that provided to other customers who receive CVP power, the provisional rates for CVP commercial firm power charged to other CVP customers will be the same for the first preference customers.

Other Comments

The following comments relate to the RAC, project use power, allocation of

multipurpose joint costs, EA2, energy tier rate, and general rate design.

Comment: The RAC distribution should be reset for each 6-month period rather than the 9-month period. This would enable Western to adjust revenues for wholesale customers more promptly.

Response: The annual maximum RAC credit is $20 million plus the use of EA2 credit from PG&E and/or other adjustments from purchase power contracts. Limiting the distribution of the RAC to 6 months would make it difficult to refund the maximum RAC credit allowed. Using a 9 month distribution ensures most, if not all customers, will receive maximum benefit from the RAC calculation.

Comment: Allocating larger portions of multipurpose joint costs to the CVP power customers must be stopped because it impairs Western's efforts to remain competitive in the new restructured California's electric market.

Response: The Bureau of Reclamation is responsible for the allocation of CVP multipurpose costs. Comments pertaining to the allocation of these costs should be directed to Reclamation during their public participation process on the CVP cost allocation.

Comment: Western needs to rethink its use of the EA2 energy based on its recent discussions with PG&E and work closely with the customers on this matter.

Response: Future use of EA2 can be impacted by many variables, some of which can not be evaluated at this time because information is not available. An example would be the possible impact on EA2 from the divesture of PG&E's generation. Western has based its projections for EA2 usage on the information currently available. The RAC is available to cover possible changes in the costs associated with EA2.

Comment: Project use customers have underpaid Western for project use power during past years in an amount between $15–20 million. Request that Western increase project use revenue collection to bring such balance to zero by the end of this 5-year rate adjustment period. Also request that the project use additional revenue be included in the initial setting of Western's rates, instead of allowing the additional revenue to roll through the RAC.

Response: The amount owed by the project use customers is still being determined. Western is anticipating full payment by December 2004, however the exact timing and magnitude of payments from the project use customers is not known. Given this uncertainty, Western believes it is prudent to exclude any estimated amount in the provisional rates. Any payments made will flow through the annual RAC calculation.

Comments: The proposed CVP energy component of the rates appears marginally competitive. Western should set the rates based on a ''high use'' scenario instead of the ''average use'' scenario. This will give lower rates and the scheduling customers will more likely utilize CVP power. In the event that CVP energy delivery is less than planned, the RAC would be used to meet revenue requirement. It would highly be unlikely that the $20 million RAC limit for revenue recovery would cause a revenue shortfall if rates are based on very high usage and lower than average usage occurred. Western should adopt a higher energy use basis in the derivation of rates.

Responses: In developing the provisional rates, Western performed studies that considered maximum, minimum and average use (power sales) scenarios based on historical sales. The results of these studies indicated that the maximum sales or high sales scenario was not justifiable because of the magnitude of increase from the FY 1996 recorded amounts for firm commercial power sales. The average sales scenario was an appropriate transition given the historical sales levels and the change to the power rates contained in this rate adjustment. Due to the volatility of the electric industry, the $20 million RAC limit may not be sufficient to cover the assumptions of average versus maximum power sales if the actual costs are substantially higher that those projected in this rate adjustment.

Comment: Western's energy forecast for FY 1999 is wrong and the proposed rates undercuts the 1999 market energy rates by over 50 percent. Believes this will have customers purchasing energy as much as possible from Western, thus depleting the EA2 energy and cause a clamor by the high load factor customers for Western to get back into procuring supplemental thermal energy.

Response: The studies Western performed in developing the provisional rates indicate that the EA2 energy will be available throughout the 5-year rate adjustment period. In fact, there is a balance remaining in EA2 after the 5-year period.

Comment: A customer commented it liked the tiered energy rate arrangement since it represented Western's effort toward ''marginal cost'' pricing and caused a reduction in consumption of Western's supplemental thermal energy. This customer recommends that Western adopts a rate form like the existing tier rate and establish a tier rate at the 2.2 to 2.4 cents per kWh range for energy sales over 70 percent load factor.

Response: Western performed an analysis that considered the implementation of an energy tier rate. The methodology and the assumptions used were the same as those used in developing the existing energy tier rate. The result of this analysis indicated that the difference between the base and energy tier rates was minimal. Therefore, Western decided an energy tier rate will not be implemented for this rate adjustment.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500 through 1508); and the DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Availability of Information

Information regarding this rate adjustment, including power repayment studies, comments, letters, memorandums, and other supporting material made or kept by Western for the purpose of developing the provisional rates, is available for public review in the Sierra Nevada Regional Office, Western Area Power Administration, Office of the Power Marketing Manager, 114 Parkshore Drive, Folsom, California 95630, and the Power Marketing Liaison Office, Room 8G–027, 1000 Independence Avenue SW., Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I confirm and approve on an interim basis, effective October 1, 1997, Rate Schedules CV–F9, CV–FT3, CV–NFT3, CV–TPT4, CV–NWT1, CV–PSS1, CV–RFS1, CV–EID1, CV–SPR1, CV–SUR1, COTP–FT1, and COTP–NFT1 for the Central Valley Project and for the California-Oregon Transmission Project of the Western Area Power Administration. The rate schedules will remain in effect on an interim basis, pending confirmation and approval on a final basis by the Federal Energy Regulatory Commission, through September 30, 2002, or until superseded.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

Rate Schedule CV–F9

(Supersedes Schedule CV–F8)

Central Valley Project

Schedule of Rates for Commercial Firm Power

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To the commercial firm power customers for general power service supplied through one meter, at one point of delivery, unless otherwise provided by in the service agreement.

Character and Conditions of Service: Alternating current, 60 hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly rates: Period	Capacity (kW=Month)	Energy (mills/kWh)	AERA (mills/kWh)
10/01/97–09/30/98	$5.03	10.31	2.86
10/01/98–09/30/99	4.37	10.06	3.57
10/01/99–09/30/00	4.31	10.19	3.92
10/01/00–09/30/01	3.81	10.51	4.09
10/01/01–09/30/02	4.02	11.58	3.53

Billing: Demand: The rates listed above for capacity will be the charge per kW of billing demand. The billing demand is the highest 30-minute integrated demand measured or scheduled during the month up to, but not in excess of, the delivery obligation under the power sales contract.

Energy: The rates listed above for energy will be a charge per kWh for all energy use up to, but not in excess of, the maximum kWh obligation of the United States during the month as established under the power sales contract.

Annual Energy Rate Alignment (AERA): The rates listed above for AERA will be an additional charge per kWh for energy purchases at or above an average annual load factor of 80 percent, calculated at the end of each Federal fiscal year (September 30). The AERA is in addition to the CVP energy rate. The billing for the AERA will be based on the following formula:

AERA=(Total kWh − (ALF * Hours in fiscal year * 0.7999)) * AERA rate

Where:

AERA=Annual Energy Rate Alignment

kWh = Energy purchased from Western during a fiscal year.

ALF=Average of monthly billed capacity purchased from Western during a fiscal year.

Adjustments

Billing for Unauthorized Overruns. For each billing period in which there is a contract violation involving an unauthorized overrun of the contractual obligation for capacity and/or energy, such overrun will be billed at 10 times the applicable rates above.

For Revenue Adjustment. The following methodology will be used for the revenue adjustment clause (RAC) calculation:

1. If the actual net revenue is greater than the projected net revenue for the RAC calculation period, a revenue credit will be allocated during the RAC adjustment period. The credit will equal the difference between the actual net revenue and projected net revenue, represented by the following formula:

ANR>PNR; C=ANR − PNR

Where:

ANR=Actual Net Revenue
PNR=Projected Net Revenue
C=Credit

2. If actual net revenue is less than the projected net revenue for the RAC calculation period, a revenue surcharge will be allocated during the RAC adjustment period.

2.1 If the actual net revenue is negative, the surcharge will be equal to the minimum investment payment plus the annual deficit, represented by the following formula:

ANR<PNR and<0; S=MIP+AD

Where:

ANR=Actual Net Revenue
PNR=Projected Net Revenue
MIP=Minimum Investment Payment
AD=Annual Deficit
S=Surcharge

2.2 If the actual net revenue is positive, the surcharge will equal the minimum investment payment less the actual net revenue, represented by the following formula:

ANR<PNR and>0; S=MIP − ANR (if ANR>MIP, S=0)

Where:

ANR=Actual Net Revenue
PNR=Projected Net Revenue
MIP=Minimum Investment Payment
S=Surcharge

Provided, that if the actual net revenue is greater than the minimum investment payment, the surcharge will be equal to zero.

3. The maximum RAC credit allocation will equal $20 million plus the amount of the Pacific Gas and Electric Company refund credit applied to Western power bills for the fiscal year, or other purchase power contract adjustments used in recording associated expense.

4. The maximum allocation for a RAC surcharge will not exceed $20 million.

5. The RAC credit or surcharge will be allocated to each CVP commercial firm power customer based on the proportion of the customer's billed obligation to Western for CVP commercial firm capacity and energy to the total billed obligation for all CVP commercial firm power customers for CVP commercial firm capacity and energy for the RAC calculation period.

6. For purposes of the RAC calculation, the following terms are defined:

6.1 Actual Net Revenue—The recorded net revenue.

6.2 Annual Deficit—The amount the recorded annual expenses, including interest, exceeding recorded annual revenues.

6.3 Minimum Investment Payment—The lesser of 1 percent of the recorded

unpaid investment balance at the end of the prior fiscal year that the RAC is being calculated, or the projected net revenue.

6.4 Projected Net Revenue—The annual net revenue available for investment repayment projected in the PRS for the rate case during the fiscal year that the RAC is being calculated (see Table 1).

6.5 RAC Adjustment Period—The period January 1 through September 30, following the RAC calculation period when credits or surcharges will be applied to the power bills.

6.6 RAC Calculation Period—The last recorded fiscal year (October 1 through September 30).

6.7 Recorded Net Revenue—The annual net revenue available for repayment recorded in the PRS for the fiscal year that the RAC is being calculated.

7. Subject to modification by a superseding rate schedule, the final RAC will be allocated to the customers during the period January 1, 2003, to September 30, 2003.

TABLE 1.—PROJECTED NET REVENUE AVAILABLE FOR INVESTMENT REPAYMENT FOR REVENUE ADJUSTMENT CLAUSE

Period	Projected net revenue
October 1, 1997–September 30, 1998.	$5,522,851
October 1, 1998–September 30, 1999.	9,534,973
October 1, 1999–September 30, 2000.	12,196,514
October 1, 2000–September 30, 2001.	17,039,731
October 1, 2001–September 30, 2002.	28,948,352

For Transformer Losses

If delivery is made at transmission voltage but metered on the low voltage side of the substation, the meter readings will be increased to compensate for transformer losses as provided for in the contract.

For Power Factor Adjustment

The customer will be required to maintain a power factor at all points of measurement between 95 percent lagging and 95 percent leading. The low power factor charge (LPF Charge) will be applied when the customer does not maintain a 95 percent or greater power factor. The charge for additional kilovolt-ampere reactive (kvar) required to raise the customer's power factor to 95 percent will be calculated by multiplying the customer's monthly maximum peak demand by the LPF Charge for the customer's calculated power factor as provided in the Table 2. The kvar rate in the LPF Charge is $2.50 per kvar.

TABLE 2.—LOW POWER FACTOR CHARGE

Calculated power factor	LPF charge ($ per kW)
0.95	$0.00
0.94	0.09
0.93	0.17
0.92	0.24
0.91	0.32
0.90	0.39
0.89	0.46
0.88	0.53
0.87	0.60
0.86	0.66
0.85	0.73
0.84	0.79
0.83	0.86
0.82	0.92
0.81	0.99
0.80	1.05
0.79	1.12
0.78	1.18
0.77	1.25
0.76	1.32
0.75 & below	1.38

The rules and limitations of the LPF Charge are as follow:

(a) The calculated power factor used to determine if a charge will be assessed is the arithmetic mean of the customer's measured monthly average power factor and their measured monthly on-peak power factor, rounded to the nearest whole percent with 0.5 percent or greater rounded to the next higher percent.

(b) The measured on-peak power factor is equal to the power factor measured during the customer's maximum peak demand for each month, as recorded at the customer's point of delivery. In the event of multiple occurrences of the same peak demand, the lowest associated power factor will be used. The measured average power factor will be the average power factor for the billing month. If the customer has multiple points of delivery, the power factor will be determined from totalized information from the points of delivery. The monthly average and on-peak power factors are those recorded for CVP power only.

(c) The upper limit for both the monthly average and measured on-peak power factors is 95 percent. No credit will be given for customers operating between 100 percent and 95 percent power factors.

(d) The LPF Charge will be applicable to calculated power factors less than 95 percent, lagging or leading.

(e) Customers that have a monthly maximum peak demand less than or equal to 50 kW will not be subject to the LPF Charge.

(f) Western may waive the LPF Charge for good cause in whole or in part.

Rate Schedule CV–FT3

(Supersedes Schedule CV–FT2)

Central Valley Project

Schedule of Rate for Firm Transmission Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To firm transmission service where power is received into the CVP system at points of interconnection with other systems and transmitted and delivered to points of delivery on the CVP system as agreed to by the parties.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. Transmission service includes scheduling, system control and dispatch service, and reactive supply and voltage control service needed to support the transmission service provided.

Rate: Firm Transmission Service Charge: $0.51 per kW-month.

Billing: The rate listed above will be applied monthly to the maximum amount of capacity reserved, payable whether utilized or not.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule CV–NFT3

(Supersedes Schedule CV–NFT2)

Central Valley Project

Schedule of Rate for Non-Firm Transmission Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To non-firm transmission service where power is received into the CVP system at points of receipt with other systems and transmitted and delivered, subject to the availability of transmission capacity, to points of

delivery on the CVP system as agreed to by the parties.

Character and Conditions of Service: Transmission service on an intermittent basis for capacity, three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. Transmission service includes scheduling, system control and dispatch service, and reactive supply and voltage control service needed to support the transmission service provided.

Rate: Non-firm Transmission Service Charge: 1.00 mill per kWh.

Billing: The rate listed above will be applied monthly to the maximum amount of capacity reserved, payable whether utilized or not.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule CV–TPT4

(Supersedes Schedule CV–TPT3)

Central Valley Project

Schedule of Rate for Transmission of CVP Power by Others

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To power service customers of the CVP who require transmission service by a third party to receive power sold by Western.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery as agreed to by the parties.

Rate Formula: When Western utilizes transmission facilities, other than its own, in providing service under a customer's power sales contract, and costs are incurred by Western for the use of such facilities, the customer will pay all costs, including transmission losses, incurred in the delivery of such power. The transmission losses chargeable to the customer will be those losses which are in excess of the ''at or above 44-kV'' transmission losses specified by Contract No. 14–06–200–2948A. For billing purposes, transmission losses will be added to the meter readings of the power and energy delivered to the customer under the customer's power sales agreement with Western.

Rate Schedule CV–NWT1

Central Valley Project

Schedule of Rate for Network Transmission Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers of the CVP who receive network transmission service, subject to the availability of transmission capacity, to points of delivery specified in the service agreement.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. Transmission service includes scheduling, system control and dispatch service, and reactive supply and voltage control service needed to support the transmission service provided.

Rate Formula: The rate formula for network transmission service is the product of the network customer's load ratio share times one twelfth (1/12) of the annual network transmission revenue requirement. The load ratio share is based on the network customer's hourly load, including its designated network load not physically interconnected with the CVP transmission system, coincident with the monthly CVP transmission system peak minus the coincident peak for all firm CVP (including reserved capacity) point-to-point transmission service.

Billing: Billing determinants for the rate formula above will be as specified in the service agreement.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for in accordance with the service agreement.

Rate Schedule CV–PSS1

Schedule of Rate for Power Scheduling Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers receiving power scheduling service from Western.

Character and Conditions of Service: Power scheduling service provides for the scheduling of resources to meet loads and reserve requirements.

Rate: $75.80 per hour.

Billing: The rate listed above will be applied to the number of hours required by Western staff to perform the power scheduling service. A power scheduling service charge will be specified in the service agreement.

Rate Schedule CV–RFS1

Central Valley Project

Schedule of Rates for Regulation and Frequency Response Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers receiving regulation and frequency response service from Western.

Character and Conditions of Service: Regulation and frequency response service provides generation to match resources and loads on a real-time continuous basis.

Rates: Regulation and Frequency Service Charge: Monthly: $1.48 per kW-month; Weekly: $0.3360 per kW-week; Daily: $0.0480 per kW-day.

Billing: The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether utilized or not.

Rate Schedule CV–EID1

Central Valley Project

Schedule of Rate for Energy Imbalance Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers receiving energy imbalance service from Western.

Character and Conditions of Service: Energy imbalance service provides energy when a difference occurs between the scheduled and actual delivery of energy to a load or from a generation resource within a control area over a single month. The hourly deviation, in megawatt units, is the net scheduled amount of energy for the hour minus the hourly net metered (actual delivered) amount.

Rates Formula

Within Limits of Deviation Band

Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations that are accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate for CVP commercial firm power, then in effect.

Outside Limits of Deviation Band

(i) Positive Deviations—no charge, lost to the system.

(ii) Negative Deviations—during on-peak hours, the greater of (1) 3 times the composite rate for CVP commercial firm power, then in effect; or (2) any additional cost incurred. During off-peak hours, the greater of (1) the composite rate for CVP commercial firm power, then in effect; or (2) any additional cost incurred.

Billing: The billing determinants for the above rates formula will be specified in the service agreement.

Rate Schedule CV–SPR1

Central Valley Project

Schedule of Rates for Spinning Reserve Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers receiving spinning reserve service from Western.

Character and Conditions of Service: Spinning reserve service provides capacity that is available the first ten minutes to take load and is synchronized with the power system.

Rates: Spinning Reserve Service Charge: Monthly: $1.35 per kW-month; Weekly: $0.3024 per kW-week; Daily: $0.0432 per kW-day; Hourly: $0.0018 per kWh.

Billing: The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether utilized or not.

Rate Schedule CV–SUR1

Central Valley Project

Schedule of Rates for Supplemental Reserve Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To customers receiving supplemental reserve service from Western.

Character and Conditions of Service: Supplemental reserve service provides capacity that is not synchronized with the power system, but can be available to serve load within ten minutes.

Rates: Supplemental Reserve Service Charge: Monthly: $1.27 per kW-month; Weekly: $0.2856 per kW-week; Daily: $0.0408 per kW-day; Hourly: $0.0017 per kWh.

Billing: The rates listed above will be applied to the maximum service amount in kilowatts agreed to in the service agreement, payable whether utilized or not.

Rate Schedule COTP–FT1

California-Oregon Transmission Project

Schedule of Rates for Firm Transmission Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To firm transmission service customers where power is received into the COTP system at points of interconnection with other systems and transmitted and delivered to points of delivery on the COTP system as agreed to by the parties.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. Transmission service includes scheduling, system control and dispatch service, and reactive supply and voltage control service needed to support the transmission service provided.

Rates: October 1, 1997—September 30, 1998: $1.83 per kW-month. October 1, 1998—September 30, 2002: $1.34 per kW-month.

Billing: The rates listed above will be applied monthly to the maximum amount of capacity reserved, payable whether utilized or not.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power under this rate schedule will be accounted for as agreed to by the parties.

Rate Schedule COTP–NFT1

California-Oregon Transmission Project

Schedule of Rates for Non-Firm Transmission Service

Effective: October 1, 1997.

Available: Within the marketing area served by the Sierra Nevada Customer Service Region.

Applicable: To non-firm transmission service customers where power is received into the COTP system at points of receipt with other systems and transmitted and delivered, subject to the availability of transmission capacity, to points of delivery on the COTP system as agreed to by the parties.

Character and Conditions of Service: Transmission service on an intermittent basis for capacity, three-phase alternating current at 60 hertz, delivered and metered at the voltages and points of delivery. Transmission service includes scheduling, system control and dispatch service, and reactive supply and voltage control service needed to support the transmission service provided.

Rates: October 1, 1997–September 30, 1998: 2.19 mills per kWh; October 1, 1998–September 30, 2002: 1.45 mills per kWh.

Billing: The rates listed above will be applied monthly to the maximum amount of capacity reserved, payable whether utilized or not.

Adjustments

For Losses

Losses incurred in connection with the transmission and delivery of power and energy under this rate schedule will be accounted for as agreed to by the parties.

[FR Doc. 97–25746 Filed 9–26–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Colorado River Storage Project—Notice of Order Confirming and Approving an Extension of the Firm Transmission Service Rate—WAPA–74

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order

SUMMARY: This action is to extend the existing Colorado River Storage Project firm transmission rate until March 31, 1998. Without this action, the existing firm transmission rate will expire September 30, 1997 and no rate will be in effect for this service.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Sabo, CRSP Manager, CRSP Customer Service Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, (801) 524–5493.

SUPPLEMENTARY INFORMATION: By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

Pursuant to Delegation Order No. 0204–108 and existing Department of Energy procedures for public

participation in power rate adjustments at 10 CFR Part 903, Western's Colorado River Storage Project (CRSP) firm transmission rate case was submitted to the Federal Energy Regulatory Commission for confirmation and approval on August 13, 1992. On February 18, 1993, in Docket Nos. EF92–5172–000 and EF92–5172–001, at 62 FERC ¶ 61,159, FERC issued an order confirming, approving, and placing in effect on a final basis Rate Schedule SP–FT4 for firm transmission service over the CRSP transmission system. The rate was approved for the 4-year period beginning October 1, 1992, and ending September 30, 1996. The Deputy Secretary of Energy extended the rate through September 30, 1997, in an Order published at 61 FR 52338, on October 7, 1996.

Following review of Western's proposal within the Department of Energy, I approved rate order No. WAPA–74, which extends the existing CRSP firm transmission Rate Schedule SP–FT4 until March 31, 1998.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

Order Confirming and Approving an Extension of the Colorado River Storage Project Firm Transmission Rate

October 1, 1997.

This firm transmission rate was established pursuant to Section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. § 7152(a), through which the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. § 485h(c), and other acts specifically applicable to the project system involved, were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This rate extension is issued pursuant to the Delegation Order and the DOE rate extension procedures at 10 CFR Part 903.

Background

In the order issued February 18, 1993, at 62 FERC ¶ 61,159, in Docket Nos. EF92–5172–000 and EF92–5172–001, the FERC confirmed, approved, and placed in effect on a final basis Rate Schedule SP–FT4 for firm transmission service over the Colorado River Storage Project (CRSP) transmission system. The rate was approved for the period from October 1, 1992, through September 30, 1996. The Deputy Secretary of Energy extended the rate through September 30, 1997, in an Order published at 61 FR 52448, on October 7, 1996. During the last firm-power rate adjustment for the Salt Lake City Area Integrated Projects, placed into effect on December 1, 1994 (SLIP–F5), the CRSP firm transmission rate was also examined for possible adjustment. It was determined that the existing firm transmission rate was adequate to meet revenue requirements.

Discussion

On September 30, 1997, Western's CRSP firm transmission rate will expire. This makes it necessary to extend the current Rate Schedule SP–FT4 pursuant to 10 CFR 903.23.

Western proposes to extend the existing CRSP transmission rate until March 31, 1998, to allow Western to develop transmission and ancillary services rates consistent with those required of public utilities under FERC Order No. 888 and the laws and regulations that govern Western's actions. Western began a public rate adjustment process with the publication of a notice in the **Federal Register** on June 25, 1997. That public rate adjustment process will include the proposal of transmission rates which are consistent with FERC Order No. 888. Western is developing open access tariffs consistent with FERC Order No. 888.

We anticipate that process, which will provide opportunities for public information and comment forums, will take several months to complete, given the complex issues Western and its interested public must address.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary, I hereby extend for a period effective October 1, 1997, until March 31, 1998, the existing Rate Schedule SP–FT4 for firm transmission service over the Colorado River Storage Project transmission system.

Dated: September 19, 1997.

Elizabeth A. Moler,

Deputy Secretary.

[FR Doc. 97–25748 Filed 9–26–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5899–5]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Cohen Property Superfund Site; Taunton, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed prospective purchaser agreement and request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into a prospective purchaser agreement to address claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq*. This document is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of the City of Taunton, Massachusetts and certain successors-in-title who may become parties to this agreement, for injunctive relief and for costs incurred or to be incurred by EPA in conducting response actions at the Cohen Property Superfund Site in Taunton, Massachusetts.

DATES: Comments must be provided on or before October 29, 1997.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RAA, Boston, Massachusetts 02203, and should refer to: In re: City of Taunton, Massachusetts, U.S. EPA Docket No. CERCLA–I–97–1079.

FOR FURTHER INFORMATION CONTACT: Beth Tomasello, U.S. Environmental Protection Agency, Region I, J.F.K. Federal Building, Mailcode SEL, Boston, Massachusetts 02203, (617) 565–3455.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given of a proposed prospective purchaser agreement concerning the Cohen

Property Superfund Site in Taunton, Massachusetts. The settlement was approved by EPA Region I on September 9, 1997, and by the U.S. Department of Justice on September 16, 1997 subject to review by the public pursuant to this document. The City of Taunton, Massachusetts has executed a signature page committing them to participate in the settlement. Under the proposed settlement, the City has agreed to: (1) Allow EPA to dispose of up to 15,000 tons of contaminated soil which passes EPA's Toxicity Characteristic Leaching Procedure (''TCLP'') in the Taunton Landfill, saving EPA up to $1 million in response costs; (2) perform Operation & Maintenance and long-term monitoring on the Site, which will save EPA approximately $170,000 over 30 years; (3) pave a portion of the Site which eliminates the need for EPA to cover that portion of the Site with an impermeable cap; (4) purchase a portion of the Site from an adjoining property owner to consolidate the contaminated property under common ownership; and (5) abide by institutional controls and to provide access to the Site. In exchange, the Settling Respondent is granted a covenant not to sue under CERCLA and protection from contribution actions or claims under CERCLA with respect to the existing contamination at the site. EPA believes the settlement is fair and in the public interest.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this document.

A copy of the proposed administrative settlement may be obtained in person or by mail from Beth Tomasello, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode SEL, Boston, Massachusetts 02203, (617) 565–3455.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RAA, Boston, Massachusetts 02203 (U.S. EPA Docket No. CERCLA–I–97–1079).

Dated: September 16, 1997.

John P. DeVillars,

Regional Administrator.

[FR Doc. 97–25754 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5899–6]

Clean Water Act Class II: Proposed Administrative Penalty, Steven Kraus, Fenton, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Steven Kraus, Fenton, MO.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of civil Penalties and the Revocation of Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public document.

On August 27, 1997, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. (913) 551–7630, the following Complaint:

In the Matter of Steven Kraus, Fenton, Missouri, CWA Docket No. VII–97–W–0026.

The Complaint proposes a penalty of Ten Thousand Dollars ($10,000.00) for the discharge or causing to be discharged pollutants into a public sewer in violation of sections 301 and 307(d) of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Vanessa Cobbs, Regional Hearing Clerk at (913) 551–7630.

The Administrative Record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by Steven Kraus is available as part of the Administrative Record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: September 17, 1997.

U. Gale Hutton,

Acting Regional Administrator.

[FR Doc. 97–25752 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5899–7]

Clean Water Act Class II: Proposed Administrative Penalty, Douglas Leach, St. Louis, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding Douglas Leach, St. Louis, MO.

SUMMARY: EPA is providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public document.

On August 27, 1997, EPA commenced the following Class II proceeding for the

assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913) 551–7630, the following Complaint:

In the Matter of Douglas Leach, St. Louis, Missouri, CWA Docket No. VII–97–W–0027.

The Complaint proposes a penalty of Two Thousand Dollars ($2,000.00) for the discharge or causing to be discharged pollutants into a public sewer in violation of sections 301 and 307(d) of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact Vanessa Cobbs, Regional Hearing Clerk at (913) 551–7630.

The Administrative Record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by Douglas Leach is available as part of the Administrative Record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this document.

Dated: September 17, 1997.

U. Gale Hutton,

Acting Regional Administrator.

[FR Doc. 97–25753 Filed 9–26–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 23, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 29, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–XXXX.

Title: DTV Report on Construction Progress.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 24.

Estimated Time Per Response: 0.33 hours.

Cost to Respondents: N/A.

Total Annual Burden: 16 hours.

Needs and Uses: By letter to the Commission, 24 stations voluntarily committed to building DTV facilities within 18 months. These stations are requested to file reports at six-month intervals stating that their plans to meet these construction plans are on schedule or specifying any difficulties encountered in attempting to meet these deadlines. The data will be used by FCC staff to monitor the progress of DTV applicants in the construction of their DTV facilities.

OMB Approval Number: 3060–0034.

Title: Application for Construction Permit for Noncommercial Educational Broadcast Station.

Form Number: FCC Form 340.

Type of Review: Revision of a currently approved collection.

Respondents: Not-for-profit institutions.

Number of Respondents: 646.

Estimated Time Per Response: 37 and 114 hours. (This time varies depending on the type of application filed. This collection is contracted out to communications attorneys and consulting engineers for completion of the form).

Cost to Respondents: $5,9109,598.

Total Annual Burden: 2,736 hours.

Needs and Uses: The FCC Form 340 is used to apply for authority to construct a new noncommercial educational AM, FM, TV or DTV broadcast station, or to make changes in the existing facilities of such a station. The data is used by FCC staff to determine whether the applicant meets basic statutory requirements to become a Commission licensee. The form will be revised to add the new requirements regarding antenna two registration. This unique antenna registration number identifies an antenna structure and must be used on all filings related to the antenna structure. Several questions will be added to the engineering portions of the FCC 340 to collect this information. This collection also includes a third party disclosure requirement contained in Section 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25676 Filed 9–26–97; 8:45 am]

BILLING CODE 6712–01–P

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 October 24, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Warwick Community Bancorp, Inc., Warwick, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Warwick Savings Bank, Warwick, New York.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Trust No. 3 Under Will of Charles Henderson, Troy, Alabama, and Henderson Bancshares, Inc., Troy, Alabama; to acquire 100 percent of the voting shares of Pea River Capital, Corporation, Elba, Alabama, and thereby indirectly acquire Peoples Bank of Coffee County, Elba, Alabama.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Community Bancshares of West Plains, Inc., West Plains, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Community First National Bank of West Plains, West Plains, Missouri, a *de novo* bank.

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. U.S. Bancorp, Minneapolis, Minnesota; to merge with Zappco, Inc., St. Cloud, Minnesota, and thereby indirectly acquire The First National Bank of Little Falls, Little Falls, Minnesota; Melrose State Bank, Melrose, Minnesota; and Zapp National Bank of St. Cloud, St. Cloud, Minnesota.

In connection with this application, Applicant also has applied to acquire Zapp Data, Inc., St. Cloud, Minnesota, and thereby engage in providing data processing services, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 24, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–25766 Filed 9–26–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Thursday, October 2, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 25, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–25856 Filed 9–25–97; 11:07 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

National Directory of New Hires; Submission for OMB Review; Comment Request

OMB No.: New.

Description: Public Law 104–193, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' requires the Office of Child Support Enforcement (OCSE) to develop a National Directory of New Hires (NDNH) to improve the ability of State child support agencies to locate noncustodial parents and collect child support across State lines.

The NDNH will contain employment, earning and unemployment compensation data on all employees within the United States. The law requires States and territories to periodically transmit new hire data received from employers to the NDNH, and to transmit quarterly wage and unemployment compensation claims data to the NDNH on a quarterly basis.

Employers must report specified information (based on information reported on the IRS W–4 Form) on all new hires to State agencies for transmittal to the NDNH. States will transmit all data to the NDNH electronically. The purpose of the NDNH is to develop a repository of information on newly-hired employees, and on the earnings and unemployment compensation claims data on all employees, to provide the necessary information to locate child support obligors, and to establish and enforce child support orders.

Respondents: States and Employers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Hire: Employers Reporting Manually	[1] 5,166,00	[2] 3.484	.0417	750,531
New Hire: Employers Reporting Electronically [1]	[1] 1,134,000	[2] 37,037	[3] .00028	11,760
New Hire: States	54	[4] 83.333	[5] 266.668	1,200,001

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Multistate Employers' Notification Form	375,000	1	.050	18,750
Quarterly Wage and Unemployment Compensation	54	[6] 4	.033	7.13
Estimated Total Annual Burden Hours: 1,981,049.				

Footnotes:

The above numbers are based on the following:

[1] Eighteen percent of all employers will report manually and 82% will report electronically (based on SSA's experience).

[2] For the ''Employers'' tiers, ''response'' is defined as the number of new hire reports. Thirty percent of all new hire reports will be reported manually and 70% will be reported electronically (based on SSA's experience).

[3] Based on the assumption that employers reporting new hires electronically will most likely transmit their reports in a batch file, thus significantly reducing the per-response burden.

[4] For the ''States'' tiers, ''response'' is defined as the number of transmissions to the NDNH. All States are required by law to transmit new hire data to the NDNH electronically, within three business days after entering the data into the SDNH. There are 250 business days per year. States will send a transmission once every three business days, which is equal to 83.333 transmissions per year.

[5] Based on the average number of reports per transmission and the average burden per new hire report. The average number of reports per transmission is calculated by dividing 60,000,000 (total number of new hire reports) by 54 (total number of States). The result (1,111,111) is then divided by 83.333 (estimated number of transmission per State, see above explanation). Based on this calculation, the average number of reports per transmission is 13,333.39 reports. The average burden per new hire report is estimated to be .02 hours (1.2 minutes), which is based on a range of two seconds to four minutes. The burden is estimated to be two seconds per report for the 70% of new hire reports submitted to the State electronically. This two second burden estimate is based on the same batch-file assumption as above, and includes data receipt and data transmission. If the State has to manually enter the new hire data before transmitting to the NDNH (which is the case for 30% of all new hire reports), the burden is estimated to be four minutes (based on the number of characters in a record). The average burden hours per report (.02) multiplied by the average number of reports per transmission (13,333.39) is equal to the average burden hours per transmission (266.668).

[6] ''Response'' is defined here as the number to transmissions to the NDNH. States are required to transmit quarterly wage and unemployment compensation data four times a year.

RECORD LAYOUTS AND FIELD DESCRIPTIONS FOR INPUT TO THE NATIONAL DIRECTORY OF NEW HIRE (NDNH)

Field name	Location/position	Length	Alpha/numeric	Description remarks	Mandatory/optional
W4 Transmitter Record					
Record Identifier	1–2	2	A/N	'H4'	M.
Transmitter State Code	3–4	2	N	State FIPS code (for states only).	M for states.
Transmitter Agency Code	5–13	9	A/N	Federal Agency Code (for federal agencies only).	M for agencies.
Transmission Type	14–15	2	A/N	'W4' for W4 data	M.
Department of Defense Code	16	1	A	'A' for active duty 'C' for civilian. 'R' for reserves. States may leave this field blank.	M for DOD.
Version Control Number	17–18	2	A/N	Must be '01', controlled by OCSE.	M.
Date Stamp	19–26	8	N	Format = YYYYMMDD Must be current system date of file generation.	M.
Batch Number	27–32	6	N	Sequential number to identify a submission as unique.	M.
Filler	33–801	769	A/N	Spaces. To be used for future versions.	
W4 Total Record					
Record Identifier	1–2	2	A/N	'T4'	M.
Data Record Count	3–13	11	N	Total record for transmission, including header and trailer records.	M.
Filler	14–801	788	A/N	Spaces. To be used for future versions.	
W4 Data Record					
Record Identifier	1–2	2	A/N	'W4'	M.
Employee SSN	3–11	9	N	As reported by employee	M.
Employee Name:					
First Name	12–27	16	A	At least one character No special characters.	M.

RECORD LAYOUTS AND FIELD DESCRIPTIONS FOR INPUT TO THE NATIONAL DIRECTORY OF NEW HIRE (NDNH)—Continued

Field name	Location/position	Length	Alpha/numeric	Description remarks	Mandatory/optional
Middle Name	28–43	16	A	If non-blank, must be at least one character. No special characters.	O.
Last Name	44–73	30	A	At least one character No special characters, except for hyphen.	M.
Employee Addresses:					
Street Address (line 1)	74–113	40	A/N	Non-blank	M.
Street Address (line 2)	114–153	40	A/N	If your address line is less than 40 characters, do.	O.
Street Address (line 3)	154–193	40	A/N	Not concatenate into one line.	O.
City	194–218	25	A	At least two characters No special characters, except for hyphen.	M.
State	219–220	2	A	Valid state or territory abbreviation.	M.
Zip Code (1)	221–225	5	N	Must be numeric	M.
Zip Code (2)	226–229	4	A/N	If present, must be numeric	O.
Employee Foreign Address:					
Foreign Country Code	230–231	2	A/N	Refer to U.S. Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).	M for foreign address.
Foreign Country Name	232–256	25	A/N	If present, at least two characters.	O.
Foreign Zip Code	257–271	15	A/N		O.
Employee Date of Birth	272–279	8	A/N	If present, numberic Format—YYYYMMDD.	O.
Employee Date of Hire	280–287	8	A/N	If present, numeric Format—YYYYMMDD.	O.
Employee State of Hire	288–289	2	A	Alphabetic state or territory abbreviation.	O.
Federal EIN	290–298	9	N	Federal Employer Identification Number.	M.
State EIN	299–310	12	A/N	If no FEIN is available, send the State Ein. If present and less than 12 characters, left justify.	O.
Employer Name	311–355	45	A/N	At least two characters.	
Employer Address				FEIN address from W4.	
Street Address (line 1)	356–395	40	A/N	At least two characters	M.
Street Address (line 2)	396–435	40	A/N	If your address line is less than 40 characters, do.	O.
Street Address (line 3)	436–475	40	A/N	Not concatenate into one line.	O.
City	476–500	25	A	At least two characters	M.
State	501–502	2	A	Valid state or territory abbreviation.	M.
Zip Code (1)	503–507	5	N	Must be numeric	M.
Zip Code (2)	508–511	4	A/N	If present, must be numeric	O.
Employer Foreign Address:					
Foreign Country Code	512–513	2	A/N	Refer to U.S. Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).	M for foreign address.
Foreign Country Name	514–538	25	A/N	If present, at least two characters.	O.
Foreign Zip Code	539–553	15	A/N		O.
Employer Optional Address				This address will be blank if only collecting one address. If there is a second address, it should be the address where child support orders should be sent.	O.
Street Address (line 1)	554–593	40	A/N	If your address line is less than 40 characters, do.	O.
Street Address (line 2)	594–633	40	A/N	Not concatenate into one line.	O.
Street Address (line 3)	634–673	40	A/N		O.

RECORD LAYOUTS AND FIELD DESCRIPTIONS FOR INPUT TO THE NATIONAL DIRECTORY OF NEW HIRE (NDNH)—Continued

Field name	Location/position	Length	Alpha/numeric	Description remarks	Mandatory/optional
City	674–698	25	A	If present, at least two characters.	O.
State	699–700	2	A	If present, valid state or territory abbreviation.	O.
Zip Code (1)	701–705	5	A/N	If present, must be numeric	O.
Zip Code (2)	706–709	4	A/N	If present, must be numeric	O.
Employer Optional Foreign Address:					
Foreign Country Code	710–711	2	A/N	Refer to U.S. Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).	O.
Foreign Country Name	712–736	25	A/N	If present, at least two characters.	O.
Foreign Zip Code	737–751	15	A/N		O.
Filler	752–801	50	A/N	Spaces. To be used for future versions.	
Quarterly Wage Transmitter Record					
Record Identifier	1–2	2	A	'HQ'	M.
Transmitter State Code	3–4	2	N	State FIPS code (for states only).	M for states.
Transmitter Agency Code	5–13	9	A/N	Federal Agency Code (for federal agencies only).	M for agencies.
Transmission Type	14–15	2	A/N	'QW' for quarterly wage data	M.
Department of Defense Code	16	1	A	'A' for active duty 'C' for civilian. 'R' for reserves. States may leave this field blank.	M for DOD.
Version Control Number	17–18	2	A/N	Must be '01', controlled by OCSE.	M.
Date Stamp	19–26	8	N	Format=YYYYMMDD Must be current system date of file generation.	M.
Batch Number	27–32	6	N	Sequential number to identify a submission as unique.	M.
Filler	33–601	569	A/N	Spaces. To be used for future versions.	
Quarterly Wage Total Record					
Record Identifier	1–2	2	A	'TQ'	M.
Data Record Count	3–13	11	N	Total record count for transmission, including header and trailer record.	M.
Filler	14–601	588	A/N	Spaces. To be used for future versions.	
Quarterly Wage Data Record					
Record Identifier	1–2	2	A	'QW'	M.
Employee SSN	3–11	9	N	As reported by employee	M.
Employee Name:					
First Name	12–27	16	A	At least one character No special characters.	M.
Middle Name	28–43	16	A	If non-blank, must be at least one character. No special characters.	O.
Last Name	44–73	30	A	At least one character No special characters, except for hyphen.	M.
Employee Wage Amount	74–84	11	N	Last two positions are decimal places. No negative values, zeroes are allowed. Gross amount paid within the quarter.	M.

RECORD LAYOUTS AND FIELD DESCRIPTIONS FOR INPUT TO THE NATIONAL DIRECTORY OF NEW HIRE (NDNH)—Continued

Field name	Location/position	Length	Alpha/numeric	Description remarks	Mandatory/optional
Reporting Period	85–89	5	N	Format—QYYYY for Calendar year. Q=1 for Jan–Mar. Q=2 for Apr–Jun. Q=3 for Jul–Sep. Q=4 for Oct–Dec.	M.
Federal EIN	90–98	9	N	Federal Employer Identification Number.	M.
State EIN	99–110	12	A/N	If present and less than 12 characters, left justify.	O.
Employer Name	111–155	45	A/N	At least two characters	M.
Employer Address				FEIN address.	
Street Address (line 1)	156–195	40	A/N	At least two characters	M.
Street Address (line 2)	196–235	40	A/N	If your address line is less than 40 characters, do.	O.
Street Address (line 3)	236–275	40	A/N	Not concatenate into one line.	O.
City	276–300	25	A	At least two characters	M.
State	301–302	2	A	Valid state or territory abbreviation.	M.
Zip Code (1)	303–307	5	N		M.
Zip Code (2)	308–311	4	A/N	If present, must be numeric	O.
Employer Foreign Address:					
Foreign Country Code	312–313	2	A/N	Refer to U.S. Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).	M for foreign address.
Foreign Country Name	314–338	25	A/N	If present, at least two characters.	O.
Foreign Zip Code	339–353	15	A/N		O.
Employer Optional Address				This address will be blank if only collecting one address. If there is a second address, it should be the address where child support orders should be sent.	
Street Address (line 1)	354–393	40	A/N	At least two characters	O.
Street Address (line 2)	394–433	40	A/N	If your address is less than 40 characters, do.	O.
Street Address (line 3)	434–473	40	A/N	Not concatenate into one line.	O.
City	474–498	25	A	If present, at least two characters.	O.
State	499–500	2	A	If present, valid state or territory abbreviation.	O.
Zip Code (1)	501–505	5	A/N	If present, must be numeric	O.
Zip Code (2)	506–509	4	A/N	If present, must be numeric	O.
Employer Optional Foreign Address:					
Foreign Country Code	510–511	2	A/N	Refer to U.S. Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).	O.
Foreign Country Name	512–536	25	A/N	If present, at least two characters.	O.
Foreign Zip Code	537–551	15	A/N		O.
Filler	552–601	50	A/N	Spaces. To used for future versions.	
UI Transmitter Record					
Record Identifier	1–2	2	A	'HU'	M.
Transmitter State Code	3–4	2	N	State FIPS code (for states only).	M for states.
Transmitter Agency Code	5–13	9	A/N	Federal Agency Code (for federal agencies only).	M for agencies.
Transmission Type	14–15	2	A/N	'UI' for unemployment insurance data.	M.
Filler	16	1	A/N		M for DOD.

RECORD LAYOUTS AND FIELD DESCRIPTIONS FOR INPUT TO THE NATIONAL DIRECTORY OF NEW HIRE (NDNH)—Continued

Field name	Location/position	Length	Alpha/numeric	Description remarks	Mandatory/optional
Version Control Number	17–18	2	A/N	Must be '01', controlled by OCSE.	M.
Date Stamp	19–26	8	N	Format=YYYYMMDD Must be current system date of file generation.	M.
Batch Number 27–32	27–32	6	N	Sequential number to identify a submission as unique.	M.
Filler	32–295	263	A/N	Spaces. To be used for future versions.	
UI Total Record					
Record Identifier	1–2	2	A	'TU'	M.
Data Record Count	3–13	11	N	Total record count for transmission, including header and trailer record.	M.
Filler	14–295	282	A/N	Spaces. To be used for future versions.	
Record Identifier	1–2	2	A	'UI'	M.
Claimant SSN	3–11	9	N	As reported by claimant	M.
Claimant Name:					
First Name	12–27	16	A	At least one character No special characters.	M.
Middle Name	28–43	16	A	In non-blank, must be at least one character. No special characters.	O.
Last Name	44–73	30	A	At least one character No special characters, except for hyphen.	M.
Claimant Address:					
Street Address (line 1)	74–113	40	A/N	Non-blank	M.
Street Address (line 2)	114–153	40	A/N	If your address line is less than 40 characters, do.	O.
Street Address (line 3)	154–193	40	A/N	Not concatenate into one line	O.
City	194–218	25	A	At least two characters No special characters, except for hyphen.	M.
State	219–220	2	A	Valid state or territory abbreviation.	M.
Zip Code (1)	221–225	5	N	Must be numeric	M.
Zip Code (2)	226–229	4	A/N	If present, must be numeric	O.
Benefit Amount	230–240	11	N	Last two positions are decimal places. No negative values, zeroes are allowed. Gross amound paid within the quarter before withholding offsets. This amount is a total of all benefits that are tracked electronically.	M.
Reporting Period	241–245	5	N	Format—QYYYY for Calendar year. Q=1 for Jan–Mar. Q=2 for Apr–Jun. Q=3 for Jul–Sep. Q=4 for Oct–Dec.	M.
Filler	246–295	50	A/N	Spaces. To be used for future versions.	

Supplement to New Hire Record Specifications

At the suggestion of the workgroup that assisted in developing the record specifications for the National Directory of New Hires (NDNH), this is an accompanying document that contains some additional clarification or explanation of items in the record specifications.

Mandatory Fields: The legislation mandates the collection of only the following six data elements from the W–4 form:

Employee SSN
Employee Name
Employee Address
Employee Name
Employee Address

Employee ID number

On the W–4 record specifications these fields are marked with (M) to designate mandatory. There are three additional optional fields that are highly desirable for the New Hire data base. These are:

Employee Date of Birth
Employee Date of Hire
Employee State of Hire

While the legislation precludes the federal government from mandating the collection and retention of additional data elements, the states are not bound by those rules. The New Hire record specifications were developed in collaboration with State child support enforcement staff, State Employment Security Agency (SESA) staff, and federal and Department of Defense staff. Consequently, the specifications include additional data elements that can be collected by the states and passed to the NDNH. These data elements can then be used by the states and other authorized users of NDNH data.

Following are some clarifying statements that apply to all of the NDNH data elements and record formats.

All data is to be in EBCDIC format.

All alphanumeric data are to be in upper case.

I. All alphanumeric data are to be left justified.

II. All numeric data are to right justified and zero filled.

III. All dates are to be in the Year 2000-complaint format of YYYYMMDD.

IV. Name and city data are to be stripped of special characters except for the hyphen.

State and territory abbreviations in addresses should be the US Postal Service abbreviations.

Name fields should not include suffixes such as ''Jr.'', ''Sr.'', and ''III''.

The NDNH will contain two addresses for the employer. The first address is that noted on the W–4 form. The second address is where child support orders should be sent. If only one address is available or known, use the first set of address data elements and leave the second set of data elements blank. National standard codes are to be used for foreign country code abbreviations as assigned by the Department of Commerce FIPS codes (FIPS PUB 10–4).

V. For Quarterly Wage data, the employee wage amount is to be the gross amount paid during the quarter, regardless of when the amount was earned.

For Unemployment Insurance data, the benefit amount is to be the gross amount paid within the quarter before any deductions or offsets are applied, regardless of when the benefit was earned or accrued.

When in doubt, send the data. While the NDNH wants to receive clean, edited data, we want to receive all data in a timely manner. Consequently, if some data is missing or incomplete at the time of transmission, include the record(s) in the transmission. Hopefully, this will also make processing easier at the State level.

Output records returned from the NDNH will contain all of the input data sent to the NDNH and indications of errors or changes that took place at the federal level.

VI. States have the option of receiving error records. The NDNH will maintain a matrix of which states want to be notified of errors and which do not.

Input Records

When sending data to the federal level, there will be three record types in each transmission of data. These will include a header record, a series of data records, and concluded by a trailer record.

Header Record

The header record will be the first record in the data set and will contain the following fields.

Field name	Comments
Record Identifier	Enter 'H4' for W4 data. Enter 'HQ' for Quarterly Wage data. Enter 'HU' for Unemployment Insurance data.
Transmitter State Code	Refer to US Department of Commerce FIPS code manual, National Institute of Standards and Technology, FIPS PUB 10–4 (April 1995).
Transmitter Agency Code	Some federal agencies act as service bureaus for other federal agencies. Enter the Federal Employer Identification Number (FEIN) of the agency transmitting the data to the National Directory of New Hires.
Transmission Type	Identifies the type of data in this data set. Enter 'W4' for W4 data. Enter 'QW' for Quarterly Wage data. Enter 'UI' for Unemployment Insurance data.
Department of Defense Code	This field is mandatory only for DOD data transmissions. All others can ignore this field. DOD data is separated into several categories. This field indicates with category of data is being transmitted. Enter 'A' for active duty personnel. Enter 'C' for civilian personnel. Enter 'R' for reservist personnel.
Version Control Number	It is assumed that the system will be modified over time to accommodate future requirements. The version Control Number indicates which version of the system is in operation and will provide a means of communicating with data suppliers about record formats. Enter '01' until notified by OCSE to change this value.
Date Stamp	Enter the system generated date on the date the data set is transmitted to the federal level. Enter the date in the format YYYYMMDD.
Batch Number	A sequential number generated by the transmitting agency. This field is to uniquely identify a transmission. Do not repeat batch numbers.
Filler	Each record contains filler to be used for future versions of the record formats.

Total Record

Each data set is to be terminated with a Total Record which will contain the count of the total number of records transmitted in this data set.

Field name	Comments
Record Identifier	Enter 'T4' for W4 data. Enter 'TQ' for Quarterly Wage data. Enter 'TU' for Unemployment Insurance data.
Data Record Count	Enter the total number of records transmitted in this data set, including the header and trailer records. This will be used to verify that all records are received and processed.
Filler	Spaces. To be used for future versions of the system.

Data Record

Each of the data records for W4, Quarterly Wage, and UI is different in several ways. Following is further explanation of some of the data elements in those record layouts. See the Record Layout specifications for detailed information on all data elements.

Field name	Comments
Record Identifier	Enter 'W4' for the W4 record. Enter 'QW' for the Quarterly Wage record. Enter 'UI' for the Unemployment Insurance record.
Foreign Address Data Elements	If an address supplied for the employee or employer is outside the United States, include the Foreign Country Code for the address, the Foreign Country Name, and the Foreign Zip Code.
Employee Wage Amount (QW)	For Quarterly Wage data, provide the gross amount paid to the employee during the quarter, regardless of when the amount was earned.
Reporting Period	Use the quarters that correspond to the calendar year rather than quarters that correspond to fiscal accounting periods. Use the format QYYYY where: Q = 1 for January–March. Q = 2 for April–June. Q = 3 for July–September. Q = 4 for October–December.
Benefit Amount (UI)	The UI Benefit Amount is the gross amount paid within the reporting quarter before any withholding offsets are applied. This amount should be the sum of benefits received from all programs tracked electronically by the State. However, only include those benefits that are housed in the same hardware environment. Do not include benefits from sources that must be translated or imported to the mainframe environment.

Output Records

FPLS will return records to the data transmitters when errors were detected. The states can elect to have these records returned for error resolution or not as they choose. Federal agencies, however, will receive all error records from each transmittal.

The record formats for the error records are identical to the input record provided by the submitter except that error codes will be appended that explain the nature of the error. Errors can occur at the transmission level and at the individual record level.

Transmission Control Records: This is the output equivalent of the input TRANSMITTER RECORD and includes counts of records received, records rejected, error records returned, records posted to the National Director of New Hires, records posted to the Suspense File, and up to five Error Codes pertaining to the transmission level error conditions encountered.

Data Records: Each output version of the input DATA RECORD had appended to it up to five record level error codes that indicate the nature of the error encountered during editing. It also contains a Social Security Number Verification Indicator that indicates whether multiple valid SSNs were encountered during the SSN verification process. In addition, a corrected SSN is returned if during the SSN verification process the supplied SSN was determined to be incorrect and the verification procedure was able to provide the correct SSN.

Total Records: No transmission total records will be returned to the submitting State or federal agency.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

In addition, comments may also be forwarded to ACF at the following address: The Administration for Children and Families, Office of Information Services, Division of Information Resources, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: Reports Clearance Officer, Internet address: rjdriscoll@acf.dhhs.gov.

Dated: September 23, 1997.

Robert Driscoll,

Reports Clearance Officer.

[FR Doc. 97–25769 Filed 9–26–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0389]

FDA Approval of Animal Drugs for Minor Uses and Minor Species; Draft Guidance Document; Availability; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comment on a draft Level 1 guidance document entitled ''FDA Approval of Animal Drugs for Minor Uses and for Minor Species.'' The guidance document defines minor species and minor uses and sets forth suggestions for generating safety and effectiveness data to support the approval of minor use and minor species drugs. The draft Level 1 guidance document sets forth substantive changes in policy that warrant input from affected parties.

DATES: Submit written comments on the draft guidance document by December 29, 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. Comments should be identified with the full title of the draft guidance document and the docket number found in brackets in the heading of this document.

Submit written requests for single copies of the draft guidance document to the Communications and Education Team (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT: Margaret R. Oeller, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1650. E-mail: moeller@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA's draft guidance document entitled ''FDA Approval of Animal Drugs for Minor Uses and for Minor Species,'' is a Level 1 guidance document by definition in the Good Guidance Practices (62 FR 8961, February 27, 1997). This notice of availability for comment should not be confused with the **Federal Register** document of June 23, l997 (62 FR 33781), entitled ''Request for Comments on Development of Options to Encourage Animal Drug Approvals for Minor Species and for Minor Uses,'' which dealt with the same subject matter but was issued to seek comment and suggestions on legislative and regulatory options which could be utilized if adopted in the future to facilitate approval of new animal drugs for minor uses and minor species.

This draft, when finalized, will replace the previous guidance entitled ''Guidelines for the Preparation of Data to Satisfy the Requirements of Section 512 of the Act Regarding Minor Use of Animal Drugs,'' (guidelines) dated April 1986. In the **Federal Register** of May 30, l986 (51 FR 19612), FDA issued a notice of availability of the guidelines. No comments were received on the guidelines. A previous version of the draft guidance document was made available in November 1996 to interested parties who requested a copy.

The draft guidance document suggests procedures that could be used to demonstrate the safety and efficacy of a minor use animal drug. Minor use animal drugs are defined as: (1) New animal drugs used in minor animal species or (2) new animal drugs used in any animal species for the control of a disease that occurs infrequently or in limited geographic areas. ''Minor species'' are defined by regulation as animals other than cattle, horses, swine, chickens, turkeys, dogs, and cats. According to current regulations, sheep are a minor species except with respect to human food safety data collection requirements, for which sheep are considered a major species. FDA intends to issue a proposed regulation in which sheep would be considered a minor species for all requirements of the drug approval process.

The procedures set forth in the draft guidance document for demonstrating the safety and efficacy of a minor use animal drug apply to production drugs as well as therapeutic drugs.

The draft guidance document has been organized in two parts. Part 1 includes general information on the document, an overview of the approval process, data extrapolation, advice on working with the Center for Veterinary Medicine (CVM), and definitions. Part 2 presents specific options for satisfying data requirements for minor uses in major species, minor avian species (gamebirds, semi-domestic waterfowl, and ratites), minor ruminants (goats, bison, semi-domestic deer), rabbits, and aquatic species (finfish, aquatic invertebrates, alligators, etc.). Each section in part 2 contains information on efficacy, target animal safety, human food safety, and environmental data requirements. The major data components, excluding manufacturing chemistry, of the animal drug approval process are represented in part 2.

When finalized, the draft guidance document will represent the agency's current thinking on the means of generating efficacy and safety data to support approval of new animal drug applications for minor use of new animal drugs. This draft guidance document will not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

II. Request for Comments

Interested persons may, on or before December 29, 1997, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document, and with the full title of the guidance document. The comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. After review of these comments, FDA will implement the guidance document with any appropriate changes. Thereafter, interested persons may submit written comment on the guidance document directly to the CVM Communications and Education Team (address above).

III. Electronic Access

A copy of the draft guidance document may be obtained from the CVM Home Page (http://www.cvm.fda.gov) on the Internet.

Dated: September 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–25667 Filed 9–26–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0282]

General Principles of Software Validation; Draft Guidance; Extension of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to December 30, 1997, the comment period for the notice announcing the availability of a draft guidance entitled ''General Principles of Software Validation'' that published in the **Federal Register** of July 25, 1997 (62 FR

40099). The draft guidance discusses how the general provisions of the Quality System Regulation apply to software and the agency's current approach to evaluating a software validation system. The agency is taking this action in response to a request for an extension to allow additional time for comment on this draft guidance document.

DATES: Written comments by December 30, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: E. Stewart Crumpler, Center for Devices and Radiological Health (HFZ–343), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 25, 1997 (62 FR 40099), FDA announced the availability of a draft guidance entitled ''General Principles of Software Validation.'' The draft guidance discusses how the general provisions of the Quality System Regulation apply to software and the agency 's current approach to evaluating a software validation system. Interested persons were given until October 1, 1997, to submit written comments on the notice. FDA received a request from the Health Industry Manufacturers Association to extend the comment period for 90 days. This would give them sufficient time to review the document and ensure quality comments on the document.

FDA is extending the comment period for 90 days to assure adequate time for preparation of comments. Accordingly, FDA finds under section 520(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C 360j(d)) that there is good cause for such an extension.

Interested persons may, on or before December 30, 1997, submit to the Docket Management Branch (address above) written comments regarding the notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 28, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–25669 Filed 9–26–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Application and Annual Report, Maternal and Child Health Block Grant Program (OMB No. 0915–0172)—Extension and Revision

The Health Resources and Services Administration (HRSA) has revised and reformatted the Maternal and Child Health Block Grant Guidance. This guidance is used annually by the 50 States and 9 jurisdictions in making application for Block Grants under Title V of the Social Security Act, and in preparing the required annual report. The revisions are designed to simplify and clarify the guidance and required forms and to reduce duplication, while still allowing for clear, concise, useful, and accurate communication about the States' programs. More specifically, the revisions are designed to: (1) Make the program descriptions more readable; (2) alleviate the disconnect between the application for the next fiscal year and the annual report for the previous fiscal year that makes programmatic and data reviews difficult; (3) clarify budget and expense tables, through better design of forms and by carrying totals from form to form; (4) report objectives in a standard format, including the relationship to Healthy People 2000 goals, to facilitate year-to-year comparisons and multi-State tabulations; and, (5) incorporate uniform performance measures across all States and jurisdictions as well as State/jurisdiction-specific performance measures.

The HRSA revision also combines the current three guidance documents into one document by eliminating the separate annual application and annual report in favor of a combined document, and every fifth year explicitly including the results of the needs assessment, which would be incorporated only by reference in the intervening years. The HRSA revision efforts are intended not only to simplify and expedite the rational submission of necessary data and reports, but also to reduce the burden on States and jurisdictions by eliminating duplicative requirements and streamlining the presentation of information. Estimates of burden to complete the application and annual report are as follows:

Type of form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Application and Annual Report, 1998–99 (without needs assessment):*				
States	50	1	500	25,000
Jurisdictions	9	1	200	1,800
Five-Year Application and Annual Report, 2000 (with needs assessment): *				
States	50	1	750	37,500
Jurisdictions	9	1	400	3,600
Weighted Annual Average (over next three years):				
States	50	1	555	29,167
Jurisdictions	9	1	267	2,400

*The Annual Application and Annual Report, without needs assessment, will be submitted in FY 1998 and FY 1999. The five-year Annual Application and Annual Report will be submitted in FY 2000. The average annual response burden for the next three years is 31,567 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 22, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–25727 Filed 9–26–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Ryan White Comprehensive AIDS Resources and Emergency (CARE) Act Women's Initiatives (WIN)—New

The Health Resources and Services Administration's HIV-AIDS Bureau proposes to collect information about HIV-related services provided to women of child-bearing age and their children. Information will be collected annually from eight grantees funded under Sections 2671 and 2691 of the Public Health Service Act and 320 of the individual and institutional providers who provide services to HIV-infected pregnant women in the grantee service areas. The eight funded sites will collect the information in person or by telephone from the providers in their service areas, and forward the data collection forms to a HRSA contractor. There are no plans to collect or transmit the data electronically.

The purpose is to document current care system characteristics and facilitate planning for services to women with HIV and their children. The information will be used within and outside HRSA to inform the administration and Congress about HIV counseling and testing services for pregnant women, services and referral resources for pregnant women with HIV, antiretroviral therapies, and outreach related to perinatal HIV transmission reduction. Annual burden estimates are as follows:

Type of respondent	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Providers	320	1	.75	240
Funded Sites	8	40	1	320
Total	328			560

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 22, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–25729 Filed 9–26–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Magnesium in Coronaries (MAGIC).

Date: October 15–16, 1997.

Time: 7:00 p.m.

Place: Holiday Inn Gaithersburg, 2 Montgomery Village Avenue, Gaithersburg, Maryland 20814.

Contact Person: Anthony M. Coelho, Ph.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7956, (301) 435–0288.

Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Demonstration and Education Research Applications (R18).

Date: October 28, 1997.

Time: 8:30 a.m.

Place: Washington National Airport Hilton, 2399 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact Person: Louise Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25704 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following National Institute on Drug Abuse (NIDA) Initial Review Group and Special Emphasis Panel meetings.

Purpose/Agenda: To review and evaluate grant applications and contract proposals.

Name of Committee: Human Development Research Subcommittee.
Date: October 6, 1997.
Time: 8:30 a.m.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Human Development).
Date: October 6, 1997.
Time: 2:00 p.m.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Basic Behavioral Science Research Subcommittee.
Date: October 7–8, 1997.
Time: 8:30 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20818.
Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: Epidemiology and Prevention Research Subcommittee.
Date: October 7–9, 1997.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Basic Behavioral Science).
Date: October 8, 1997.
Time: 11:00 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20818.
Contact Person: Khursheed Asghar, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: Neuropharmacology Research Subcommittee.
Date: October 14–16, 1997.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (Centers).
Date: October 16, 1997.
Time: 8:30 a.m.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Mary C. Custer, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neurophysiology and Neuroanatomy Research Subcommittee.
Date: October 20–21, 1997.
Time: 8:30 a.m.
Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Molecular, Cellular and Chemical Neurobiology Research Subcommittee.
Date: October 22–24, 1997.
Time: 8:30 a.m.
Place: Marriott Hotel of New Orleans, 555 Cannal Street, New Orleans, LA 70130.
Contact Person: Rita Liu, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: Health Service Research Subcommittee.
Date: October 28–29, 1997.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: Treatment Research Subcommittee.
Date: October 28–30, 1997.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Treatment).
Date: October 29, 1997.
Time: 9:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Khursheed Asghar, Ph.D, Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (Contract Review).
Date: October 30, 1997.
Time: 9:00 a.m.
Place: Parklawn Bldg., 3rd Floor Conference Center, 5600 Fishers Lane, Rockville, MD 20857.
Contact Person: Mr. Lyle Furr, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–1644.

Name of Committee: NIDA Special Emphasis panel (RFA DA–98–001—Neurobiological Substrates of Cognitive functioning in Drug Abuse).
Date: November 17–18, 1997.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, room 10–22, Telephone (301) 443–9042.

Name of Committee: AIDS Biomedical and Clinical Research Subcommittee.
Date: November 18–19, 1997.
Time: 8:30 a.m.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20818.
Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278; Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25699 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Role of Human Milk in Infant Nutrition and Health.

Date: September 28–29, 1997.

Time: September 28–7:30 p.m.–10:00 p.m., September 29–8:30 a.m.-adjournment.

Place: Omni Waterside Hotel, 777 Waterside Drive, Norfolk, Virginia 23510.

Contact Person: Gopal Bhatnagar, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building–Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a grant application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research Mothers and Children], National Institutes of Health)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25700 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National institute of Mental Health Special Emphasis Panel:

Agenda Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: October 7–October 8, 1997.

Time: 9 a.m.

Place: Holiday Inn, Silver Spring, 8777 Georgia Ave, Silver Spring, MD 20910–3763.

Contact Person: Phyllis D. Artis, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

The meeting will be closed in accordance with the provisions set forth in secs. 552b (c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and persona information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: September 18, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25705 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amend (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Environmental Health Sciences Review Committee.

Date: November 20–21, 1997.

Time: 8:30 a.m.

Place: National Institute of Environmental Health Sciences, South Campus, Building 101, Conference Room B, Research Triangle Park, North Carolina 27709.

Contact Person: Dr. Ethel B. Jackson, Scientific Review Administrator, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–7826.

Purpose: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Research and Manpower Development, National Institutes of Health)

Dated: September 23, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25706 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Statistical and Clinical Coordinating Center (SACCC) for Women and Infants Transmission Study (WITS).

Date: October 29, 1997.

Time: 8:30 p.m. to Adjournment.

Place: Bethesda Ramada Hotel and Conference Center, Ambassador II, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654–1000.

Contact Person: Dr. Allen C. Stoolmiller, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C05, Bethesda, MD 20892, (301) 496–7966.

Purpose/Agenda: To evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25707 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meetings:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: November 5, 1997.

Time: 1:00 pm to adjournment.

Place: 6120 Executive Blvd., Rockville, MD 20892 (telephone conference call).

Date: November 17–18, 1997.

Time: November 17—8 am–5 pm; November 18—8 am to adjournment.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Richard S. Fisher, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, Bethesda MD 20892–7180, 301–496–8693.

Purpose Agenda: To review and evaluate grant applications. The meetings will be closed in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25708 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Library of Medicine Special Emphasis Panel (SEP) meeting.

Name of SEP: National Library of Medicine Special Emphasis Panel.

Date: October 7–8, 1997.

Place: University of Pittsburgh, Pittsburgh, PA.

Contact: Frances Johnson, Acting Scientific Review Administrator, EP, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–506, Bethesda, Maryland 20894, 301/496–4621.

Purpose/Agenda: To review Phase II IAIMS application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93–879—Medical Library Assistance, National Institutes of Health)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25701 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Multidisciplinary Sciences.

Date: October 29, 1997.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 5116, Telephone Conference.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: November 5–6, 1997.

Time: 8:30 a.m.

Place: Holiday Inn, Silver Spring, MD.

Contact Person: Dr. Betty Hayden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4206, Bethesda, Maryland 20892, (301) 435–1223.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25702 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Warren Grant Magnuson Clinical Center; Notice of Meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center, October 22, 1997. The Board of Governors will meet at the National Institutes of Health, Clinical Center (Building 10), Medical Board Room (2C116), 9000 Rockville Pike, Bethesda, Maryland, from 9:00 a.m. until approximately 2:00 p.m.

The meeting will be open to the public form 9:00 a.m. to 12:30 p.m. and will include review of the minutes of the July 10 meeting, the Clinical Center Advisory Council, Report of the Medical Executive Committee, and closure of the FY 97 budget.

In accordance with the provisions set forth in sec. 552b(c)(6) of Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting may be closed to the public from approximately 12:30 p.m. to adjournment for discussion of personnel qualifications and salaries, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Attendance by the public will be limited to space available.

For further information, contact Ms. Maggi Stakem, Office of the Director, Warren Grant Magnuson Clinical Center, Building 10, Room 2C146, Bethesda, Maryland 20892, (301) 496–4114.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Stakem in advance of the meeting.

Dated: September 22, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25703 Filed 9–26–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for California Freshwater Shrimp for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability, extension of public comment period.

SUMMARY: On July 21, 1997, the U.S. Fish and Wildlife Service announced the availability for public review of a draft recovery plan for the California freshwater shrimp (*Syncaris pacifica* Holmes 1895) listed as an endangered species on October 30, 1988 (53 FR 43889). The California freshwater shrimp occurs in the Marin, Sonoma and Napa counties north of San Francisco Bay, California. The Service extends the public review and comment period for this draft recovery plan.

DATES: Comments on the draft recovery received by October 29, 1997 will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, California 95825–1846. Written comments and material regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Please contact Karen Miller or Matthew Vandenberg, U.S. Fish and Wildlife Service, at 916/979–2752 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe the site specific management actions considered necessary for conservation and survival of the species, establish objectives, and measurable criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires the public notice and an opportunity for public review and comment be provided during recovery plan development. The Service, and other affected Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The California freshwater shrimp is endemic to Marin, Sonoma, and Napa Counties. There are 16 coastal streams with extant shrimp populations. Management issues and concerns include introduced fish, deterioration or loss of habitat resulting from water diversion, impoundments, livestock and dairy activities, agricultural activities and developments, flood control activities, gravel mining, timber harvesting, migration barriers, and water pollution.

The California freshwater shrimp draft recovery plan has been reviewed by the appropriate Service staff in Region 1 and was developed with input from selected experts on the biology of the species. The plan will be finalized and approved following incorporation of comments and material received during this comment period.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan described. All biological comments received by the date specified above will be considered prior to the approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 17, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region I, Portland, Oregon.

[FR Doc. 97–25725 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Technical/Agency Draft Recovery Plan for Pleodendron macranthum and Eugenia haematocarpa for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The Fish and Wildlife Service announces the availability for public review of the technical/agency draft recovery plan for *Pleodendron macranthum* and *Eugenia haematocarpa*. Both species are known only from Puerto Rico *Pleodendron macranthum* occurs in the Caribbean National Forest and the Rio Abajo Commonwealth Forest. *Eugenia haematocarpa* occurs in the Caribbean National Forest and on private property adjacent to the Carite Commonwealth Forest. These two species, restricted in distribution and low in population numbers, are extremely vulnerable to habitat destruction or modification, impacts by plant collectors, forest management practices and hurricanes. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 28, 1997 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Boquerón Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622 (Telephone 787/851–7297). Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Foote at the address and telephone shown above.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, The Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended 1988, requires that public notice and opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other

Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

This Technical/Agency draft is for *Pleodendron macranthum* and *Eugenia haematocarpa* two tree species endemic to Puerto Rico. *Pleodendron macranthum* (Chupacallos) has fewer than 50 individuals in five localities of the Subtropical Wet and the Subtropical Lower Montane Wet Forests of northern and eastern Puerto Rico (Caribbean National and Rio Abajo Commonwealth Forests). *Eugenia haematocarpa* (Uvillo) is known from six localities with fewer than 125 trees in the Caribbean National Forest and one population of 15 individuals on private land adjacent to the Carite Commonwealth Forest. This species is found only in Subtropical Lower Montane Wet Forests of the Sierra de Luquillo and Sierra de Cayey. These two species are threatened by habitat destruction and modification, plant collection, forest management practices and impacts by hurricanes.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this section is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 22, 1997.

James P. Oland,

Field Supervisor.

[FR Doc. 97–25758 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mission Valley Power Utility, Montana Power Rate Adjustment

ACTION: Notice of rate adjustment.

SUMMARY: The Bureau of Indian Affairs (BIA) is adjusting the electric power rates for customers of Mission Valley Power (MVP), the Confederated Salish and Kootenai Tribal entity operating the power facility of the Flathead Irrigation and Power Project of the Flathead Reservation under a Public Law 93–638 contract. The Notice of Proposed Rate Adjustment for MVP was published in the **Federal Register** on August 18, 1997, 62 FR 44013. The public and interested parties were provided an opportunity to submit written comments during the 30-day period subsequent to August 18, 1997. No comments were received. The following table illustrates the impact of the rate adjustment:

POWER RATE REVISION FOR MVP

Rate class	Present rate	Rate adjustment
Residential:		
Basic Rate	$11.00/mo. (includes 125 kwh)	$5.00/mo.
Energy Rate	$0.04828/KWH (over 125 kwh)	$0.04725/kwh.
Minimum Monthly Bill	Not Applicable	$10.00/mo—May 1 thru October 31. $20.00/mo—November 1 thru April 30.
#2 General:		
Basic Rate	$11.00/mo.(includes 107 kwh)	This rate is replaced by Small Commercial (without demand):
Energy Rate	$ 0.05604/KWH(over 107 kwh)	
Small Commercial (without demand):	Rate Replaces #2 General Above.	
Basic Rate		$5.00/mo.
Energy Rate		$0.05495/kwh.
Small and Large Commercial (with Demand):		
Basic Rate	None	Rate is replaced, See new separate rate structures for Small Commercial and Large Commercial
Monthly Minimum	$38.00	
Demand Rate	$4.514/kw of billing demand	
Energy Rate	$0.04345/kwh—First 18,000kwh $0.03592/kwh—Over 18,000kwh	
Small Commercial with Demand:	Rate Replaces Previous Small and Large Commercial.	
Basic Rate:.		
Single Phase		$20.00/mo.
Three Phase		$40.00/mo.
Demand Rate		$ 4.50/kw.
Energy Rate		$ 0.0405/kwh.
Large Commercial with Demand:	Rate Replaces Previous Small and Large Commercial.	
Basic Rate		$125.00/mo.
Monthly Minimum		None.
Demand Rate		$5.00/KW.
Energy Rate		$0.03115/kwh.
Irrigation:		
Horsepower Rate	$ 11.30/hp	$11.05/hp.
Energy Rate	$ 0.03642/kwh	$ 0.03572/kwh.
Minimum Seasonal Rate.	$132.00 or $6.00/hp, whichever is greater.	No Adjustment.

POWER RATE REVISION FOR MVP—Continued

Rate class	Present rate	Rate adjustment
Area Lights Installed on Existing Pole or Structure:	Monthly Rate	Monthly Rate
7,000 lumen unit, M.V.*.	$7.00	$6.85.
20,000 lumen unit, M.V.*.	10.00	9.80.
9,000 lumen unit, H.P.S.	6.50	6.35.
22,000 lumen unit, H.P.S.	8.75	8.58.
Area Lights Installed with New Pole:	Monthly Rate	Monthly Rate
7,000 lumen unit, M.V.*.	$8.75	$8.60.
20,000 lumen unit, M.V.*.	11.50	11.25.
9,000 lumen unit, H.P.S.	8.25	8.10.
22,000 lumen unit, H.P.S.	10.50	10.30.
Street Lighting (Metered):		
Basic Rate	$11.00/mo. (includes 107 kwh)	$5.00/mo.
Energy Rate:	$ 0.05615 (over 107 kwh)	$0.05495/kwh).
Street Lighting (Unmetered):	This rate class applies to municipalities or communities where there are ten or more lighting units billed in a group. This rate schedule is subject to a negotiated contract with MVP and is unchanged as part of this rate adjustment.	

*Continuing Service Only.

DATES: The new rates will become effective on October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Portland Area Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, telephone (503) 231–6702; or, General Manager, Mission Valley Power, P. O. Box 1269, Polson, Montana 59860–1269, telephone (406) 883–5361.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301; the Act of August 7, 1946, c. 802, Section 3 (60 Stat. 895; 25 U.S.C. 385c); the Act of May 25, 1948 (62 Stat. 269); and the Act of December 23, 1981, section 112 (95 Stat. 1404). The Secretary has delegated this authority to the Assistant Secretary-Indian Affairs pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

Dated: September 22, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–25774 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–010–5101–00–K022, WYW–131027]

Availability of Final Environmental Impact Statement for the Greybull Valley Irrigation District Dam and Resevoir Project

AGENCIES: Bureau of Land Management, Interior, and U.S. Army Corps of Engineers, Defense.

ACTION: Notice of availability of the Final Environmental Impact Statement (FEIS) for the Greybull Valley Irrigation District Dam and Reservoir Project for public review and comment.

SUMMARY: The FEIS for a proposal from the Greybull Valley Irrigation District (GVID) to construct, operate, and maintain a 150-foot-high zoned-earth embankment dam and an associated 33,470 acre-foot impoundment in an unnamed drainage south of Roach Gulch, a tributary of the Greybull River, on public lands in Park County, Wyoming, is available for public review. The FEIS was prepared by WEST, Inc., a third-party contractor for the Bureau of Land Management (BLM) and the U.S. Army Corps of Engineers (COE) under the provisions of Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. The FEIS supplements the Draft Environmental Impact Statement (DEIS), providing additional information, changes, and corrections to the DEIS.

DATES: Written comments concerning the analysis will be accepted for 30 days following the date the Environmental Protection Agency (EPA) publishes the notice of filing of the FEIS in the **Federal Register**, which is expected to be on September 19, 1997.

ADDRESSES: Copies of the DEIS and the FEIS may be reviewed at the following locations: Worland District BLM Office, 101 South 23rd Street, (contact Don Ogaard, BLM Project Manager), Worland, WY; Wyoming State BLM Office, 5353 Yellowstone Road, Cheyenne, WY, (Jon Johnson, Environmental Protection Specialist); COE Cheyenne Regulatory Office, 2232 Dell Range Blvd., Suite 210, Cheyenne, WY (Chandler Peter, COE Project Manager); COE Omaha District Office, 215 N. 17th Street, Omaha, NE (Becky Latka, EIS Technical Manager); and county and city libraries near the proposed project.

FOR FURTHER INFORMATION CONTACT: Don Ogaard, BLM Project Manager, Bureau of Land Management, Worland District Office, P.O. Box 119, 101 South 23rd Street, Worland, WY 82401–0119, telephone 307–347–5100; or Chandler Peter, U.S. Army Corps of Engineers,

Cheyenne Regulatory Office, 2232 Dell Range Blvd., Suite 210, Cheyenne, WY 82009, telephone 307–772–2300.

SUPPLEMENTARY INFORMATION: The GVID proposes to construct a 150-foot-high zoned-earth embankment dam in an unnamed drainage south of Roach Gulch, a tributary of the Greybull River, in Park County, Wyoming. This dam would impound 33,470 acre-feet of water, inundating about 700 acres of public lands. The GVID's purpose and need for the proposal is primarily to provide early and late season water for irrigated crops and to allow better overall regulation of their system. The DEIS also studied an alternative location in Blackstone Gulch, another tributary of the Greybull River, as well as the ''No Action'' Alternative, under which no dam would be built.

The FEIS is not a decision document. The FEIS supplements the DEIS, providing additional information, changes, and corrections to the DEIS, as well as responses to comments received on the DEIS. The FEIS does not reiterate those sections of the DEIS which were not changed; therefore, the reader must have a copy of the DEIS to use the FEIS. The BLM's Preferred Alternative remains Alternative B, Proposed Action, as modified by the mitigation described in Chapter 5 of the DEIS. The COE does not identify a Preferred Alternative at this time.

Before GVID may construct the project, it must obtain Federal, State, county, and local permits. Because the reservoir would inundate public land administered by the BLM, GVID must obtain a Right-of-Way Grant from the Federal Government. A permit under Section 404 of the Clean Water Act to conduct operations in a Water of the United States, issued by COE, would also be required. As part of the process for granting the permits, these agencies must consider GVID's proposal under NEPA. The agencies will accept public comment on the FEIS for 30 days from the date of publication of EPA's Notice of Filing. At this time, comments will be most helpful if they focus on any remaining technical or factual errors in the final analysis, and factors the agencies should consider in reaching a decision. The BLM's and the COE's decisions will be documented in Records of Decision which could be issued anytime after the 30-day public comment period.

Comments, including names and street addresses of respondents will be available for public review at the Worland District Office, 101 South 23rd Street, Worland, WY, during regular business hours (7:30 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: September 18, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–25726 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–5410–00-B092; CACA 38603]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The private land described in this notice, aggregating 441.32 acres, is segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine its suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, 2135 Butano Drive, Sacramento, California 95825, (916) 978–4677.

Mount Diablo Meridian

T. 4 S., R. 16 E.,
Sec. 25, Lot 3;
Sec. 25, S½NE¼, SE¼NW¼, SW¼, N½ SE¼, SE¼SE¼.
T. 4 S. R. 16 E.,
Sec. 26, Lot 3.
County—Mariposa.

Minerals Reservation—All coal and other minerals.

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Dated: September 22, 1997.

David McIlnay,

Chief, Branch of Lands.

[FR Doc. 97–25724 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30313]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 2,916.31 acres of National Forest System land to protect the Arnett Creek/Picketpost Mountain Special Interest Area. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System land.

DATES: Comments and requests for a meeting should be received on or before December 29, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Tonto National Forest, 2324 E. McDowell Road, Phoenix, Arizona 85006.

FOR FURTHER INFORMATION CONTACT: Jim Young, Tonto National Forest, 602–225–5200, or Stu Herkenhoff, Globe Ranger District, 520–402–6200.

SUPPLEMENTARY INFORMATION: On July 11, 1997, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the

United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

Tonto National Forest

T. 2 S., R. 11 E.,
Sec. 12, S½ of lot 1, lots 2, 3, and 4, S½NW¼NE¼, SW¼NE¼, S½NE¼NW¼, SE¼NW¼, E½SW¼, and W½SE ¼;
Sec. 13, lots 1 to 4, inclusive, W½E½, and E½NE¼NW¼;
Sec. 24, lot 1.
T. 2 S., R. 12 E.,
Sec. 7, lots 2 to 12, inclusive, S½N½NE¼, S½NE¼NW¼, and NE¼SW¼;
Sec. 8, SW¼, S½N½SE¼, and S½SE¼, excluding MS 4677, and MS 4859;
Sec. 16, W½NW¼, excluding MS 4703, MS 4704, MS 4705, and MS 4859;
Sec. 17, N½, SW¼, and NW¼SE¼;
Sec. 18, lots 1 to 10, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 19, lot 1, N½NE¼, and NE¼NW¼.

The area described contains 2,916.31 acres in Pinal County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor, Tonto National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Forest Supervisor, Tonto National Forest within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: September 18, 1997.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–25723 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board: Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the National Preservation Technology and Training Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 3, 4, and 5, 1997, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet on the campus of Northwestern State University of Louisiana in the Board Room of the Louisiana School for Math, Science and the Arts at 715 College Street, Natchitoches, Louisiana. Matters to be discussed will include, officer and committee reports; Northwestern University report; staff program updates; the establishment of non-Federal support for the Center's programs; budget review; grant program, five-year plan and cooperating organizations.

Monday, November 3 and Tuesday, November 4 the meeting will start at 8:30 am and end at 5:00 pm. On Wednesday, November 5, the meeting will begin at 8:30 am and end at 11:30 a.m. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Elizabeth A. Lyon, Chair, National Preservation Technology and Training Board, P. O. Box 1269, Flowery Branch, Georgia 30542.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Chief, HABS/HAER, National Park Service, P.O. Box 37127, Washington, DC 20013–7127, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Preservation Assistance Division, Suite 200, 800 North Capitol Street, Washington, DC.

Dated: September 22, 1997.

E. Blaine Cliver,

Chief, Preservation Assistance Division, Designated Federal Official, National Park Service.

[FR Doc. 97–25722 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 20, 1997. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by October 14, 1997.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Drew County

Drew County Courthouse, 210 S. Main St., Monticello, 97001226

COLORADO

Jefferson County

Coors, Herman, House, 1817 Arapahoe St., Golden, 97001227

FLORIDA

Polk County

Babson Park Woman's Club, 1300 N. Scenic Hwy, Babson Park, 97001229
Munn Park Historic District, Roughly bounded by E. Bay St., N. Florida Ave., E. Orange St., and E. Main St., Lakeland, 97001228

TENNESSEE

Bedford County

Jenkins Lutheran Chapel and Cemetery, 364 Shofner Bridge Rd., Shelbyville vicinity, 97001231
Shofners' Lutheran Church and Cemetery, Alt US 41, 2 mi. W of jct. of Alt. US 41 and TN 130, Shelbyville vicinity, 97001232

Knox County

Savage House and Garden (Knoxville and Knox County MPS) 3237 Garden Dr., Knoxville, 97001230

TEXAS

Orange County

Lucas, Joseph and Annie, House, 812 W. Pine St., Orange, 97001233

[FR Doc. 97–25731 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Chugachuk Island, AK in the Possession of the University of Alaska Museum, Fairbanks, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003(d), of the completion of an inventory of human remains and associated funerary objects from Chugachuk Island, AK in the possession of the University of Alaska Museum, Fairbanks, AK.

A detailed assessment of the human remains was made by University of Alaska Museum professional staff in consultation with representatives of Chugach Alaska Corporation, Cook Inlet Region, Inc., Kenaitze Indian Tribe, Ninilchik Village Traditional Council, Port Graham Village Council, Nanwalek Village Council, Native Village of Salamatof, and the Seldovia Village Tribe.

In 1967, human remains representing five individuals were excavated from a large midden on the south side of Chugachuk Island, Kachemak Bay, AK by David Schimberg and Peter Schlederman during an archeological survey and salvage project sponsored by the University of Alaska-Fairbanks Department of Anthropology and the Institute of Arctic Biology. No known individuals were identified. The sixteen associated funerary objects include faunal remains.

Based on cultural material of the site, including chipped lithics, slate, modified cobbles, a stone lamp fragment, ochre, and worked bone, this midden site has been determined to be pre-European contact in age. The cultural material is consistent with objects found within sites known to be affiliated with Chugach Alaska Corporation, Cook Inlet Region, Inc., Kenaitze Indian Tribe, Ninichik Village Traditional Council, Port Graham Village Council, Nanwalek Village Council, Native Village of Salamatof, and the Seldovia Village Tribe, and Chugachuk Island lies within the traditional territories of these Native Alaska Villages and Native Corporations. Consultation with Native Elders of these Native Alaska Villages indicates there is a traditional association with Chugachuk Island and these villages.

Based on the above mentioned information, officials of the University of Alaska Museum have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of five individuals of Native American ancestry. Officials of the University of Alaska Museum have also determined that, pursuant to 25 U.S.C. 3001(3)(A), the sixteen objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Alaska Museum have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Chugach Alaska Corporation, Cook Inlet Region, Inc., Kenaitze Indian Tribe, Ninilchik Village Traditional Council, Port Graham Village Council, Nanwalek Village Council, Native Village of Salamatof, and the Seldovia Village Tribe.

This notice has been sent to officials of the Chugach Alaska Corporation, Cook Inlet Region, Inc., Kenaitze Indian Tribe, Ninilchik Village Traditional Council, Port Graham Village Council, Nanwalek Village Council, Native Village of Salamatof, and the Seldovia Village Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Gray Selinger, Special Projects Manager, University of Alaska Museum, 907 Yukon Drive, Fairbanks, AK 99775–1200; telephone: (907) 474–6117, before November 28, 1997. Repatriation of the human remains and associated funerary objects to the Chugach Alaska Corporation, Cook Inlet Region, Inc., Kenaitze Indian Tribe, Ninilchik Village Traditional Council, Port Graham Village Council, Nanwalek Village Council, Native Village of Salamatof, and the Seldovia Village Tribe may begin after that date if no additional claimants come forward.

Dated: September 23, 1997.

Francis P. McManamon,

Department Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–25730 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 8:00 a.m., Tuesday, October 21, 1997.

PLACE: Sheraton National Hotel, 900 South Orme Street, Arlington, VA 22204.

STATUS: Open.

MATTERS TO BE CONSIDERED: Updates on NIC's strategic planning, the survey concerning civil commitment of sex offenders, interstate compact, the victims issues discussion points; amendment of the Bylaws; election of officers/liaisons; orientation for new Board members; and the Office of Justice Programs quarterly report.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 97–25682 Filed 9–26–97; 8:45 am]

BILLING CODE 4410–36–M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, November 18, 1997 from 8:45 a.m. to 9:45 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, November 18, from 10:00 a.m. to 6:00 p.m., on Wednesday, November 19, from 8:30 a.m. to 6:30 p.m., and on Thursday, November 20, from 9:00 a.m. to 1:00 p.m.

PLACE: The Fairbanks Princess Hotel, 4477 Pikes Landing Road, Fairbanks, Alaska, 99709.

STATUS: The executive session will be closed to the public. At it, matters relating to personnel, the internal practices of the Commission, and international negotiations in process will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and it is

determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The focus of the meeting, however, will be on Arctic issues and on those marine mammal species that occur in Alaska. While subject to change, major issues that the Commission plans to consider at the meeting include: marine mammal co-management agreements; domestic and international polar bear and walrus programs; research and management issues related to bowhead whales, Steller sea lions, harbor seals, North Pacific fur seals, and sea otters; the Arctic Environmental Protection Strategy; the Arctic Council; marine mammal programs of the Russian Federation; the Bering Sea ecosystem; Hawaiian monk seals; and West Indian manatees.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD 20814, 301/504–0087.

Dated: September 24, 1997.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 97–25912 Filed 9–25–97; 12:46 pm]

BILLING CODE 6820–31–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–141]

NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Airframe Systems Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Airframe Systems Subcommittee meeting.

DATES: October 21, 1997, 8:00 p.m. to 4:30 p.m., October 22, 1997, 8:00 a.m. to 4:30 p.m., and October 23, 1997, 8:00 a.m. to 12:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681–0001.

October 21, 1997: Building 1219, Room 225.

October 22, 1997:
Building 1229, Room 124 (Structures and Materials).
Building 1212, Room 200 (Aerodynamics and Aerothermodynamics).
Building 1268A, Room 1141 (Airborne Systems).

October 23, 1997: Building 1219, Room 225.

FOR FURTHER INFORMATION CONTACT: Ms. Gloria Hernandez, National Aeronautics and Space Administration, Mail Stop 113, Langley Research Center, Hampton, VA 23681–0001, 757/864–6033.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

- Status of the Airframe Systems Program
- Overview of the High-Speed Research Program
- Overview of the Advanced Subsonic Technology Program
- Overview of the Aviation Safety Program
- Review of Airframe Systems Structures and Materials Research
- Review of Airframe Systems Aerodynamics and Aerothermodynamics Research
- Review of Airframe Systems Airborne Systems Research

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated:September 22, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 97–25767 Filed 9–26–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–140]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee on Behavioral and Biometical Research; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, NASA–NIH Advisory Subcommittee on Behavioral and Biomedical Research.

DATES: October 23, 1997, 8:00 a.m. to 4:30 p.m.; and October 24, 1997, 8:00 a.m. to 10:30 a.m.

ADDRESSES: NASA Headquarters, Room 7H46, 300 E Street SW, Washington, DC 20546

FOR FURTHER INFORMATION CONTACT: Dr. Joan Vernikos, Code UL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2530.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- OLMSA/NIH Overview
- Biology Pillars Update
- National Space Biomedical Research Institute Briefing
- Update of NASA–NIH Activities
- Neurovestibular NSCORT
- Protein Crystallography
- Remote Sensing/Disease Prediction Program
- Recent Flight Research Findings

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 22, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–25768 Filed 9–26–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

Meeting

AGENCY: National Commission on the Cost of Higher Education.

ACTION: Notice of public meetings

TIMES AND DATES: Thursday, October 16, 1997; 8:15 A.M.–5:30 A.M.; Monday, October 27, 1997; 9:00 A.M.–11:30 A.M. and 1:00 P.M.–3:00 P.M.; Friday, November 7, 1997; 8:15 A.M.–5:30 P.M.; Monday & Tuesday, November 17–18, 1997; 8:15 A.M.–5:30 P.M.

SUMMARY: The National Commission on the Cost of Higher Education was created by the Congress to submit to the President and the Congress a report which shall contain a detailed statement of the findings and conclusions of the Commission on the issues of what is

truly happening with respect to the cost of a college education and what steps can or should be taken to ensure that a quality post secondary education remains affordable. This report is to include the Commission's recommendations for administrative and legislative actions that the Commission considers advisable on the issues it is investigating. The Commission announces its meeting schedule, thereby notifying the general public of their opportunity to attend. These meetings are designed to give interested parties the opportunity to present the Commission with information these parties believe will assist the Commission in its task.

DATE AND TIME: October 16, 1997; 8:15 A.M.–5:30 P.M. Agenda items and topics to be discussed: Chairman's report; update on research agenda and work plan as this relates to the functions of the Commission established by statute; laws, regulations, and mandates in higher education; student financial aid policies and programs; instructional, administrative, and technological cost factors in higher education; and other substantive items raised by Commission members or Commission working groups.

LOCATION: Herbert Hoover Memorial Building, Stauffer Auditorium, Serra and Galvez Streets, Stanford, California. Parking is available for a fee in the lot on Galvez Street.

DATE AND TIME: October 27, 1997; 9:00 A.M.–11:30 A.M. and 1:00 P.M.–3:00 P.M. A hearing will be held at which interested members of the public will be given an opportunity to present representatives of the Commission with information on the issues which the Commission has been charged with considering. The period for submitting comments in writing begins with the publication of this notice. Only comments received by COB October 20 will be considered for possible oral testimony on October 27. The Commission may need to limit the number of individuals who appear before it and the time allotted to these individuals. Persons also may be assigned a specific time to appear. A schedule will be announced by COB October 23.

DATE AND TIME: November 7, 1997; 8:15 A.M.–5:30 P.M. Agenda items and topics to be discussed: Chairman's report; update on research agenda and work plan as this relates to the functions of the Commission established by statute; laws, regulations, and mandates in higher education; student financial aid policies and programs; instructional, administrative, and technological cost factors in higher education; and other substantive items raised by Commission members or Commission working groups.

LOCATION: Boston, Massachusetts.

DATE AND TIME: November 17–18, 1997, 8:15 A.M.–5:30 P.M., each day. Agenda items and topics to be discussed: Chairman's report; update on research agenda and work plan as this relates to the functions of the Commission established by statute; laws, regulations, and mandates in higher education; student financial aid policies and programs; instructional, administrative, and technological cost factors in higher education; and other substantive items raised by Commission members or Commission working groups.

LOCATION: Belmont University, 1900 Belmont Boulevard, Nashville, Tennessee.

DATE AND TIME: December 4, 1997, 8:15 A.M.–5:00 P.M.

LOCATION: Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, National Commission on the Cost of Higher Education, 1615 M Street, N.W., Suite 240, Washington, D.C. 20036. Telephone (202) 634–6501. Facsimile: (202) 634–6038.

SUPPLEMENTARY INFORMATION: The National Commission on the Cost of Higher Education was established by Public Law 105–18, dated June 12, 1997. Transcripts are kept of all public Commission proceedings and are available for public inspection at the offices of the National Commission on the Cost of Higher Education, 1615 M Street, N.W., Suite 240, Washington, D.C. 20036. Contact Carmelita Pratt at the phone number listed above.

Carmelita Pratt,

Administrative Officer.

[FR Doc. 97–25681 Filed 9–26–97; 8:45 am]

BILLING CODE 6820–DR–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39109; File No. 265–19]

Consumer Affairs Advisory Committee; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of the Securities and Exchange Commission (''Commission'') Consumer Affairs Advisory Committee (''Commission'').

SUMMARY: The Securities and Exchange Commission's Consumer Affairs Advisory Committee will meet on Tuesday, October 14, 1997, in Room 1C30 at the Commission's Headquarters, 450 Fifth Street, N.W., Washington, D.C., beginning at 9:30 a.m. The meeting will be open to the public. This notice also serves to invite the public to submit written comments to the Committee.

ADDRESSES: You should submit written comments in triplicate and refer to File No. 265–19. Send your comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Geraldine M. Walsh, Special Counsel to the Director, Office of Investor Education and Assistance, (202) 942–7040; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, requires the Securities and Exchange Commission to give notice that the Consumer Affairs Advisory Committee will meet on October 14, 1997, in Room 1C30 at the Commission's Headquarters, 450 Fifth Street, N.W., Washington, D.C., beginning at 9:30 a.m. The meeting will be open to the public.

The Committee's responsibilities include assisting the Commission in identifying investor problems and being more responsive to their needs. The Committee will explore fundamental issues of concern to investors, including matters currently under consideration by the Commission and topics of emerging concern to investors and the financial services industry.

Dated: September 22, 1997.

Jonathan G. Katz,

Advisory Committee Management Officer.

[FR Doc. 97–25693 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39115; File No. SR–CBOE–96–75]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Listing and Trading of Packaged Butterfly Spreads

September 22, 1997.

I. Introduction

On December 16, 1996, the Chicago Board Options Exchange, Inc. (''CBOE''

or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to list for trading Packaged Butterfly Spreads based upon the S&P 100 and the S&P 500 Indexes.

Notice of the proposal was published for comment and appeared in the **Federal Register** on February 4, 1997.[3] The Exchange filed with the Commission Amendment Nos. 1,[4] 2,[5] and 3[6] to the proposal on March 18, May 2, and June 5, 1997, respectively.

No comment letters were received on the proposed rule change. This order orders the Exchange's proposal, as amended.

II. Description of the Proposal

The Exchange proposes to list for trading Packaged Butterfly Spreads based upon the S&P 100 index and the S&P 500 index. A Packaged Butterfly Spread is a packaged European-style option that replicates the behavior and payout of a butterfly spread[7] composed of standard index option contracts. The Exchange proposes that the Packaged Butterfly Spreads on the S&P 100 and 500 indexes will have a multiplier of 100. Because Packaged Butterfly Spreads composed of puts are identical to those composed of calls the Exchange will not list both puts and calls; there will be only one call option listed for each strike price and butterfly interval.

The Exchange believes Packaged Butterfly Spreads on the Indexes will provide advantages to the investing public that are not provided for by standard index options. First, the Exchange believes Packaged Butterfly spreads offer investors a relatively low risk security which results because Packaged Butterfly Spreads, by their nature, have a maximum gain and loss that can be realized regardless of the movement in the index level. Packaged Butterfly Spreads allow investors to profit from trendless markets with limited risk. Second, the ''packaging'' of a strategy of four option positions into one option product reduces transaction-related expenses because the investor will only have to enter into one transaction. Third, in the case of Packaged Butterfly Spreads overlying the S&P 100, the investor will have the opportunity to invest in an option product that has European-style exercise.[8] Standard S&P 100 options (''OEX'') have American-style exercise.[9] The Exchange expects Packaged Butterfly Spreads to be supported enthusiastically by market-makers because butterfly spread trading is a familiar strategy to professional traders and the Packaged Butterfly Spreads can be easily incorporated into the overall risk profile of the market-maker's trading strategy in standard index options.

The Exchange proposes to amend Rule 24.1 to describe the new product[10] as well as the term ''butterfly spread interval''.[11]

Position and Exercise Limits

The Exchange is proposing position limits for Packaged Butterfly Spreads overlying the S&P 100 of 25,000 contracts. The Exchange is proposing position limits for Packaged Butterfly Spreads overlying the S&P 500 of 100,000 contracts. For position limit purposes, Packaged Butterfly Spreads will be aggregated with option contracts on the same index. These position limits are consistent with the position limits that have been established for standard index options on the S&P 100 and 500 indexes, respectively. The exercise limits for Packaged Butterfly Spreads will be equal to the position limits set forth above in accordance with the terms of CBOE Rule 24.5.

Margin

With respect to margin, risk exposure is limited in Packaged Butterfly Spreads, and therefore, the maximum margin requirements should not exceed the maximum exposure amount which, for each Packaged Butterfly Spread option contract equals the butterfly spread interval times the index multiplier. The proposed amendments state that the maximum margin required for a Packaged Butterfly Spread option contract carried in a short position shall not exceed this maximum exposure amount. In addition, margin requirements for spread positions set forth in Rule 24.11(c)(1)(B) does not apply for spread positions where one or both positions comprising the spread are Packaged Butterfly Spreads. If a spread position involves a Packaged Butterfly Spread, as either the long position or the short position, the minimum margin required on such a position will be the full purchase price on the long position plus the margin required in Rule 24.11(b) for the short position.[12]

Listing of Series. The Exchange expects to list contracts having butterfly spread intervals of ranging from 10 to 50 points. The Exchange does not intend to simultaneously open series with more than one butterfly spread interval. However, the CBOE may introduce a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38213 (January 28, 1997), 62 FR 5265 (February 4, 1997).

[4] In Amendment No. 1, the Exchange provided a new definition for ''butterfly spread interval'' and several revisions to the margin rules, as described more fully herein. *See* Letter from Tim Thompson, Senior Attorney, CBOE, to John Ayanian, Special Counsel, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated March 18, 1997 (''Amendment No. 1'').

[5] In Amendment No. 2, the Exchange amended its margin rules as they apply to spread positions where the long index option contract is a Packaged Butterfly Spread. Amendment No. 2, also verified that CBOE will list and add series for Packaged Butterfly Spreads in accordance with Rule 24.9, Interpretation and Policy .01(c). Finally, in Amendment No. 2, the Exchange indicated that position limits for Packaged Butterfly Spreads based on the S&P 500 and 100 will be the same as existing position limits for the respective index options and will be aggregated with other option contracts on the same index. *See* Letter from William M. Speth, Sr. Research Analyst, Product Development, Research Department, CBOE, to Howard L. Kramer, Senior Associate Director, OMS, Market Regulation, Commission, dated May 2, 1997 (''Amendment No. 2'').

[6] In Amendment No. 3, the Exchange made several technical, non-substantive changes to the proposal. In addition, the Exchange made changes to the margin rules. In particular, the Exchange amended its margin rules (and modified Amendment No. 2), to indicate that margin treatment for spread positions set forth in Rule 24.11(c)(1)(B) do not apply for spread positions where one or both positions comprising the spread are Packaged Butterfly Spreads. As proposed in new Rule 24.11(c)(1)(D), if a spread position involves a Packaged Butterfly Spread, as either the long options position or the short options position, the minimum margin required on such a position will be the full purchase price on the long position plus the margin required in Rule 24.11(b) for the short position. The Exchange also clarified its policy for changing butterfly spread intervals, as described more fully herein. *See* Letter from Eileen Smith, Director, Product Development, Research Department, CBOE, to John Ayanian, Special Counsel, OMS, Market Regulation, Commission, dated June 4, 1997 (''Amendment No. 3'').

[7] A butterfly spread is a combination of four option positions of the same type (put or call) and the same expiration on thee same underlying interest using three different strike prices. For example, using only calls, a butterfly spread would consist of buying one call at the lowest strike price, selling two calls at the middle strike price and buying one call at the highest strike price. A butterfly spread with a butterfly spread interval of 30 might consist of one long December (expiration month) 670 (strike price) call option, two short December 700 call options, and one long December 730 call option.

[8] Only European-style Packaged Butterfly Spreads will be available to investors. A European-style option is one that may be exercised only during a limited period of time prior to expiration.

[9] An American-style option is one that may be exercised at any time prior to expiration.

[10] *See* Amendment No. 3, *supra* note 6.

[11] Specifically, the ''butterfly spread interval'' means a value specified by the Exchange which, when added to the exercise price and subtracted from the exercise price defines a range of index values over which the option has an exercise settlement amount greater than $0. *See* Amendment No. 1, *supra* note 4.

[12] See Rule 24.11(c)(a)(D) and Amendment No. 3, *supra* note 6.

new series with a new butterfly spread interval with a new ticker symbol resulting in a brief period (1 or 2 months) of open series with two butterfly spread intervals. Initially, the Exchange intends to list an at-the-money and various strikes around the at-the-money in the first two near-term months in accordance with Rule 24.9, Interpretation and Policy .01(c).[13] New strikes will be added when the underlying trades through the highest or lowest strike available.

Settlement

The expiration date for Packaged Butterfly Spreads will be the Saturday immediately following the third Friday of the expiration month. Exercise will result in the delivery of cash on the business day following expiration. The exercise settlement amount is equal to the greater of: (1) Butterfly spread interval minus the difference between the index settlement value and the midpoint of the butterfly multiplied by the multiplier ($100), and (2) $0. Packaged Butterfly Spreads will have a European-style of exercise.

Miscellaneous

CBOE will use the same surveillance methods it currently employs with respect to their broad-based index options.

CBOE has also been informed that the Options Price Reporting Authority recently added another outgoing high speed line from OPRA processor and thus, has the capacity to support the new series associated with the listing of Packaged Butterfly Spreads.[14]

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[15] Moreover, the Exchange's proposal to list and trade Package Butterfly Spreads on the S&P 100 and S&P 500 indexes strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system while protecting investors and the public interest.[16] Specifically, the Commission finds that the Packaged Butterfly Spreads are an innovative financial product that will provide investors with additional choices and flexibility in their use of derivatives.[17] In addition, Packaged Butterfly Spreads offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Under the terms of Packaged Butterfly Spreads, the option writer's (holder's) maximum loss (gain) is established at the time of the investment by the option's butterfly spread interval. Accordingly, Packaged Butterfly Spreads permit investors to participate in the options market at a known cost. In addition, the Commission believes that Packaged Butterfly Spreads, which replicate the combination of four separate option positions on the same underlying interest and expiration, likely will benefit investors by providing them with a more efficient and cost effective method of executing spread transactions.

The Commission also finds that the specific rules proposed by the CBOE to accommodate Packaged Butterfly Spreads are consistent with the Act.[18] Specifically, the Commission believes that it is reasonable for the Exchange to set a butterfly spread interval range from 10 to 50 points. In response to the Commission's concerns about investor confusion by having series of Packaged Butterfly Spreads simultaneously open with different butterfly spread intervals, the Exchange does not intend to simultaneously open series with more than one butterfly spread interval. However, the CBOE may introduce a new series with a new butterfly spread interval with a new ticker symbol resulting in a brief period (1 or 2 months) of open series with two butterfly spread intervals.[19] The Commission notes that the Exchange may submit a ''noncontroversial filing'' pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder if it decided to change the present butterfly spread range (currently 10 to 50 points) and the proposal does not raise any other regulatory issues.

The Commission also notes that Packaged Butterfly Spreads on the S&P 500 and S&P 100 indexes will be subject to the same position and exercise limit requirements that currently apply to S&P 500 and S&P 100 index options, respectively. In particular, Packaged Butterfly Spreads on the S&P 500 will be aggregated with all other S&P 500 index options, subject to a 100,000 contract limit under Rule 24.4(b). Packaged Butterfly Spreads on the S&P 100 index will be aggregated with all other S&P 100 index options, subject to a 25,000 contract limit under Rule 24.4(b).

The Commission believes that the proposed margin treatment for Packaged Butterfly Spreads in cash and margin accounts is consistent wit the Act. Specifically, the Commission believes that, similar to short capped options positions,[20] it is reasonable to permit short Packaged Butterfly Spreads positions in a cash account so long as the maximum exposure (the butterfly spreads interval) is deposited. This position is the equivalent of a completely covered position, because the maximum risk of loss is already on deposit. In addition, the Commission believes that the proposed margin requirements for Packaged Butterfly Spreads in margin accounts is reasonable because they are virtually identical to the margin requirements for traditional short stock index options positions held in margin accounts, except that a limit equal to the maximum exposure to the option writer is placed on the margin requirement. It is reasonable to limit the margin in this way because the margin would cover 100% of the writer's exposure, thereby requiring no additional margin calls.

The Commission also believes it is reasonable to require for any spread position involving a Packaged Butterfly Spread a minimum margin deposit equal to the full purchase price on the long position plus the margin required in Rule 24.11(b) for the short position.[21] Accordingly, the Commission believes it is reasonable under such circumstances to prohibit application of margin

[13] *See* Amendment No. 2, *supra* note 5.

[14] *See* Memorandum from Joe Corrigan, OPRA, to Eileen Smith, CBOE, dated November 21, 1996.

[15] 15 U.S.C. 78f(b)(5).

[16] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of Packaged Butterfly Spreads on the S&P 500 and 100 will provide investors with another hedging vehicle that should reflect the overall movement of the U.S.-listed stock market.

[18] The Commission notes that CBOE Rule 24.1, as amended, defines Packaged Butterfly Spreads. Because the current Exchange proposed definition is limited to Packaged Butterfly Spreads on the S&P 500 and 100 Indexes, the Exchange is required to submit a rule filing pursuant to Section 19(b) of the Act in order to list Packaged Butterfly Spreads on another stock index or individual security.

[19] The Exchange represents that it would not allow margin offset, pursuant to Rule 24.11(c), between spread with different spreads intervals. *See* Amendment No. 3, *supra* note 6.

[20] *See* Securities Exchange Act Release No. 29865 (October 28, 1991), 56 FR 56255 (November 1, 1991).

[21] *See supra* note 12.

requirements for spread positions involving a Packaged Butterfly Spread because the required margin deposit would not always cover 100% of the writer's exposure. For example, a spread involving a long 670 S&P 500 index call option and a short 650 Packaged Butterfly Spread on the S&P 500, with a butterfly spread interval of 50, the margin deposit requirement under the margin rule for spread transactions would be the lesser of (1) The difference in aggregate exercises prices ((670 − 650)×100=$2,000) and (2) the butterfly spread interval times the multiplier (i.e., 50×100=$5,000). The margin deposit requirement under the spread rule, if allowed, would be $2,000. The writer's maximum exposure (when the current index level is 650), however, is $3,000.[22] For this spread position, the margin requirement under proposed CBOE Rule 24.11(c)(1)(D) will be the full purchase price of the long position (premium×$100) *plus* the butterfly spread interval times the index multiplier (50×$100) of the short position.

In summary, the Commission believes that the Packaged Butterfly Spreads on the S&P 500 and S&P 100 Indexes will provide investors with additional choices and flexibility in their use of derivatives and offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Further, the Commission notes that in order to promote investor protection and to ensure adequate disclosure in connection with Packaged Butterfly Spreads, the rules pertaining to standardized options and the requirements of Exchange Act Rule 9b–1 will apply to trading in Packaged Butterfly Spreads. The Commission believes it is important to provide investors with information regarding the rights and characteristics of Packaged Butterfly Spreads. In this regard, Packaged Butterfly Spread investors will receive a special supplement to the Options Clearing Corporation's (''OCC'') Options Disclosure Document (''ODD Supplement'') explaining in detail the risks and characteristics of Packaged Spreads.[23]

The Commission finds good cause for approving Amendment Nos. 1, 2, and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Specifically, Amendment No. 1 to CBOE's proposal set forth a new definition for ''butterfly spread interval'' and several technical revisions to the margin rules, as described above.

Amendment No. 2 to CBOE's proposal: (1) Verifies that CBOE will list and add series for Packaged Butterfly Spreads in accordance with Rule 24.9, Interpretation and Policy .01(c); and (2) sets position limits for Packaged Butterfly Spreads based on the S&P 500 and 100 to equal existing position limits for the respective index options.[24]

The first change described above is clarifying in nature and will prevent undue proliferation of options series on Packaged Butterfly Spreads. The Commission believes the Exchange's proposed reduction in position limits from those originally proposed presents no new regulatory issues and can be approved on an accelerated basis. Further, the originally proposed higher position limits were subject to the full 21-day comment period without any comments being received by the Commission.

Amentment No. 3 to CBOE's proposal also makes several technical non-substantive changes. In addition, the Exchange amended the definition of Packaged Butterfly Spread to further clarify that the product is intended to replicate the behavior of the combination of four separate options, as described above. Finally, Amendment No. 3 provides that margin requirements for spread positions set forth in Rule 24.11(c)(1)(B) do not apply for spread positions where one or both positions comprising the spread are Packaged Butterfly Spreads. [25] The Commission believes that the proposed changes to the margin requirements present no new regulatory issues and further strengthens the Exchange's proposal by ensuring that adequate margin will be deposited by those with positions involving Packaged Butterfly Spreads.

The Commission believes that the changes proposed in Amendment Nos. 1, 2, and 3, unless otherwise stated above, merely clarify in the rule text what was originally proposed by the Exchange and will help to ensure that investors understand the specifications and trading characteristics of the Packaged Butterfly Spread contracts. In addition, the Commission notes that the original proposal was published for the full 21-day comment period without any comments being received by the Commission. Moreover, the Commission believes that the foregoing amendments raise no new regulatory issues.

Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve Amendment Nos. 1, 2, and 3 to the proposed rule change, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR–CBOE–96–75 and should be submitted by October 20, 1997.

V. Conclusion

Based upon the aforementioned factors, the Commission finds that the proposed changes relating to the listing and trading of Packaged Butterfly Spreads on the S&P 500 and 100 are consistent with the requirements of Section 6(b)(5) and the rules and regulations thereunder. The initiation of Packaged Butterfly Spread trading, however, is conditioned upon the issuance of an order approving an ODD Supplement, pursuant to Rule 9b–1 of the Act.

---

[22] The writer's maximum exposure of this spread position is determined as follows:

short loss − long gain=maximum exposure

$5,000 − (670 − 650)×100

$5,000 − (20)×100

$500 − $2,000=($3,000)

[23] In reviewing any disclosure materials submitted, the Commission intends to assure that the materials specifically describe the risks and characteristics associated with trading Packaged Spreads. Trading trading of Packaged Butterfly Spreads is Packaged Spreads. The trading of Packaged Butterfly Spreads is expressly contingent upon the Commission's approval of such an ODD supplement.

[24] As described above, Packaged Butterfly Spreads on the S&P 500 and 100 indexes will be aggregated with other options on the same index.

[25] Accordingly, this proposed amendment eliminates the provision in Amendment No. 2 which would have allowed spread positions involving long Packaged Butterfly Spread positions to receive margin treatment under the spread rule. *See* Amendment No. 3, *supra* note 6.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (File No. SR–CBOE–96–75), is amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25688 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39116; File No. SR–CBOE–96–76]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 2, and 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Listing and Trading of Packaged Vertical Spreads

September 22, 1997.

I. Introduction

On December 16, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to list for trading Packaged Vertical Spreads based upon the S&P 100 and the S&P 500 Indexes.

Notice of the proposal was published for comment and appeared in the **Federal Register** on February 4, 1997.[3] The Exchange filed with the commission Amendment Nos. 1,[4] 2,[5] and 3[6] to the proposal on March 18, May 2, and June 5 1997, respectively.

No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

The Exchange proposes to list for trading Packaged vertical Spreads based upon the S&P 100 index and the S&P 500 index (''Indexes''). A Packaged Vertical Spread is a packaged European-style option that replicates the behavior and payout of a vertical spread [7] composed of standard index option contracts. The Exchange proposes that the Packaged Vertical Spreads may have a multiplier of 100 (as with standard index options overlying the S&P 100 and the S&P 500) or a multiplier of 500. To date, the Exchange has not determined whether Packaged Vertical Spreads will initially have a multiplier of 100 or 500. The Exchange, however, does not intend to simultaneously open series with both a 100 and a 500 multiplier. If the Exchange introduces Packaged Vertical Spreads with a new multiplier with a new tricker symbol, it will only result in a brief period (1 or 2 months) of open series with both a 100 and a 500 multiplier. The Exchange represents further that it will notify the Commission so that it can be determined what appropriate steps should be taken prior to listing Packaged Vertical Spreads with the different multiplier.[8]

The Exchange believes Packaged Vertical Spreads on the Indexes will provide advantages to the investing public that are not provided for by standard index options. First, the Exchange believes the Packaged Vertical Spreads on the Indexes will offer investors a relatively low risk security which results because Packaged Vertical Spreads, by their nature, have a maximum gain and loss that can be realized regardless of the movement in the index level. These options are the equivalent of standard vertical spreads (*i.e.*, the combination of one long and one short options position with the same expiration) traded as a single security. Second, the ''packaging'' of a strategy of two option positions into one option product reduces transaction-related expenses because the investor will only have to enter into one transaction. In the case of Packaged Vertical Spreads with a multiplier of 500, the transaction-related expenses would be substantially reduced from a comparable trade involving standard index options which currently have a 100 multiplier. Third, in the case of Packaged Vertical Spreads overlying the S&P 100, the investor will have the opportunity to invest in an option product that has European-style exercise.[9] Standard S&P 100 options (''OEX'') have American-style exercise.[10] Accordingly, with Packaged Vertical Spreads there is no early exercise risk. The Exchange expects Packaged Vertical Spreads on the Indexes to be supported enthusiastically by market-makers because vertical spread trading is a familiar strategy to professional traders and the Packaged Vertical Spreads can be easily incorporated into the overall risk profile of the market-maker's trading strategy in standard index options.

The Exchange proposes to amend Rule 24.1 to describe the new product [11] as well as the term ''vertical spread interval''.[12]

---

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38213 (January 28, 1997), 62 FR 5265 (February 4, 1997).

[4] In Amendment No. 1, the Exchange provided a new definition for ''vertical spread interval'' and several technical non-substantive revisions to the margin rules. *See* Letter from Tim Thompson, Senior Attorney, CBOE, to John Ayanian, Special Counsel, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated March 18, 1997 (''Amendment No. 1'').

[5] In Amendment No. 2, the Exchange amended its spread rules for margin when the short index option of a spread position is a Packaged Vertical Spread, as described more fully herein. Amendment No. 2 also verified that CBOE will list and add series for Packaged Vertical Spreads in accordance with Rule 24.9, Interpretation and Policy .01(c). Finally, in Amendment No. 2, the Exchange indicated that position limits for Packaged Vertical Spreads based on the S&P 500 and 100 will be the same as existing position limits for the respective index options and will be aggregated with other option contracts on the same index. *See* Letter from William M. Speth, Sr. Research Analyst, Product Development, Research Department, CBOE, to Howard L. Kramer, Senior Associate Director, OMS, Market Regulation, Commission, dated May 2, 1997 (''Amendment No. 2'').

[6] In Amendment No. 3, the Exchange made several non-substantive changes to the proposal. In addition, added Rule 24.4(e) to reflect that position limits for Packaged Vertical Spreads with multipliers of 500 would have position limits equal to 1/5th of the position limits for products with multipliers of 100. The Exchange also clarified that for Packaged Vertical Spreads with multipliers of 500, the spread rules for margin would only apply when there are 5 contracts with a 100 multiplier offsetting one contract with a 500 multiplier. Finally, the Exchange also clarified its policy for changing the multiplier and/or the vertical spread intervals, as described more fully herein. *See* vertical spread intervals, as described more fully herein. *See* Letter from Eileen Smith, Director, Product Development, Research Department, CBOE, to John Ayanian, Special Counsel, OMS, Market Regulation, Commission, dated June 4, 1997 (''Amendment No. 3'').

[7] A vertical spread is the combination of one long and one short options position having the same expiration. A call vertical spread will have a lower strike price on the long options and a put spread will have a higher strike price on the long option. For example, a call vertical spread might consist of one long December (expiration month) 700 (strike price) call option and one short December 690 call option.

[8] *See* Amendment No. 3, *supra* note 6.

[9] Only European-style Packaged Vertical Spreads will be available to investors. A European-style option is one that may be exercised only during a limited period of time prior to expiration.

[10] An American-style option is one that may be exercised at any time prior to expiration.

[11] *See* Amendment No. 3, *supra* note 6.

[12] Specifically, the ''vertical spread interval'' means a value specified by the Exchange which, when added to the exercise price for call series or subtracted from the exercise price for put series defines the index level over which (for calls) and under which (for puts) the value of the contract will have its maximum value at expiration. *See* Amendment No. 1, *supra* note 4.

Position and Exercise Limits

The Exchange is proposing position limits for Packaged Vertical Spreads overlying the S&P 100 of 25,000 contracts. The Exchange is proposing position limits for Packaged Vertical Spreads overlying the S&P 500 of 100,000 contracts. For position limit purposes, Packaged Vertical Spreads will be aggregated with option contracts on the same index. These position limits are consistent with the position limits that have been established for standard index options on the S&P 100 and 500 indexes, respectively. The exercise limits for Packaged Vertical Spreads will be equal to the position limits set forth above in accordance with the terms of CBOE Rule 24.5.

To the extent that the Exchange lists and a member holds Packaged Vertical Spread positions with multipliers other than 100 (*e.e.,* 500), the contract will be counted for position limit purposes as the number of contracts times the contract multiplier divided by 100. For example, each Packaged Vertical Spread based on the S&P 100 with a multiplier of 500 would count as 5 Packaged Vertical Spread contracts for the purpose of determining compliance with the position limits.[13] In addition, if a member holds Packaged Vertical Spread positions with different multipliers, that overlie the same index, these positions would be aggregated in determining compliance with the position limits.

Margin

With respect to margin requirements, risk exposure is limited in Packaged Vertical Spreads, and therefore, the maximum margin requirements should not exceed the maximum exposure amount which, for each Vertical Spread option contract equals the vertical spread interval times the index multiplier. The proposed amendments state that the maximum margin required for a put or call Vertical Spread option contract carried in a short position shall not exceed this maximum exposure amount. In addition, the amendment provides that for each put or call Vertical Spread option contract carried in a short position in a cash account, the customer must deposit cash equal to the maximum exposure amount. The rules will also provide that the required margin for a spread when the exercise price of the long call index option is greater than the exercise price of the short call index option where at least one leg of the spread is a CAPS or Vertical Spread would be the lesser of (1) The difference in the aggregate exercise prices or (2) the cap interval or the vertical spread interval as appropriate. For Packaged Vertical Spreads with multipliers of 500, the spread rules for margin would only apply when there are 5 contracts with a 100 multiplier offsetting a contract with a 500 multiplier.[14]

Listing of Series

The Exchange expects to list contracts having vertical spread intervals of ranging from 10 to 50 points. The Exchange does not intend to simultaneously open series with more than one vertical spread interval. However, the CBOE may introduce a new series with a new vertical spread interval with a new ticker symbol resulting in a brief period (1 or 2 months) of open series with two vertical spread intervals.[15]

Initially, the Exchange intends to list an at-the-money and various strikes around the at-the-money in the first two near-term months in accordance with Rule 24.9, Interpretation and Policy .01(c).[16] New strikes will be added when the underlying trades through the highest or lowest strike available.

Settlement

The expiration date for Packaged Vertical Spreads will be the Saturday immediately following the third Friday of the expiration month. Exercise will result in the delivery of cash on the business day following expiration. The exercise settlement amount will be equal to the difference between the OEX or SPX settlement value, as appropriate, and the strike price of the Packaged Vertical Spread contract; or the amount of the spread interval, whichever is less, multiplied by the multiplier, *i.e.,* either $100 or $500. As noted above, Packaged Vertical Spreads will have a European-style of exercise.

Miscellaneous

CBOE will use the same surveillance methods it currently employs with respect to their broad-based index options.

CBOE has also been informed that the Options Price Reporting Authority recently added another outgoing high speed line from OPRA processor and thus, has the capacity to support the new series associated the listing of Packaged Vertical Spreads.[17]

By adopting rules that will provide for the trading of index options that will provide investors with certain advantages over current products in the way of reduced transaction costs and risk reduction, CBOE believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[18] Moreover, the Exchange's proposal to list and trade Package Vertical Spreads on the S&P 100 and S&P 500 indexes strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.[19] Specifically, the Commission finds that the Packaged Vertical Spreads are an innovative financial product that will provide investors with additional choices and flexibility in their use of derivatives,[20] In addition, Packaged Vertical Spreads offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Under the terms of Packaged Vertical Spreads, the option writer's (holder's) maximum loss (gain) is established at the time of the investment by the option's vertical spread interval. Accordingly, Packaged Vertical Spreads permit investors to participate in the

[13] *See* Amendment No. 3, *supra* note 6.

[14] *See* Amendment No. 3, *supra* note 6.

[15] The Exchange represents that it would not allow margin offset, pursuant to Rule 24.11(c), between spreads with different spread intervals. *See* Amendment No. 3, *supra* note 6.

[16] *See* Amendment No. 2, *supra* note 5.

[17] *See* Memorandum from Joe Corrigan, OPRA, to Eileen Smith, CBOE, dated November 21, 1996.

[18] 15 U.S.C. 78f(b)(5).

[19] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of Packaged Vertical Spreads will provide investors with another hedging vehicle that should reflect the overall movement of the U.S.-listed stock market.

options market at a known cost. In addition, the Commission believes that Packaged Vertical Spreads, which replicate the combination of two options at different exercise prices, on the same underlying interest and expiration, likely will benefit investors by providing them with a more efficient and cost effective method of executing spread transactions.

The Commission also finds that the specific rules proposed by the CBOE to accommodate Packaged Vertical Spreads are consistent with the Act.[21] Specifically, the Commission believes that it is reasonable for the Exchange to set a vertical spread interval range from 10 to 50 points. In response to the Commission's concerns that having series of Packaged Vertical Spreads simultaneously open with different vertical spread intervals might be confusing to investors, the Exchange does not intend to simultaneously open series with more than one vertical spread interval. However, the CBOE may introduce a new series with a new vertical spread interval with a new ticker symbol resulting in a brief period (1 or 2 months) of open series with two vertical spread intervals.[22] The Commission notes that the Exchange may submit a ''noncontroversial filing'' pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder if it decided to change the present vertical spread range (currently 10 to 50 points) and the proposal does not raise any other regulatory issues.

Similarly, the Commission believes it is reasonable for the Exchange to list Packaged Vertical Spreads with either a 100 or 500 multiplier. In response to the Commission's concerns that having series of Packaged Vertical Spreads simultaneously open with different multipliers might be confusing to investors, the Exchange does not intend to simultaneously open series with two different multipliers. However, the CBOE may introduce a new series with a new multiplier with a new ticker symbol resulting in a brief period (1 or 2 months) of open series with two multipliers. The Commission notes that it will be notified by the Exchange to determine what appropriate steps should be taken prior to listing Packaged Vertical Spreads with the different multiplier.[23]

The Commission also notes that Packaged Vertical Spreads on the S&P 500 and S&P 100 indexes will be subject to the same position and exercise limit requirements that currently apply to S&P 500 and S&P 100 index options, respectively. In particular, Packaged Vertical Spreads on the S&P 500 will be aggregated with all other S&P 500 index options, subject to a 100,000 contract limit under Rule 24.4(b). Packaged Vertical Spreads on the S&P 100 index will be aggregated with all other S&P 100 index options, subject to a 25,000 contract limit under Rule 24.4(b).[24]

The Commission believes that the proposed margin treatment for Packaged Vertical Spreads in cash and margin accounts is consistent with the Act. Specifically, the Commission believes that, similar to short capped options positions,[25] it is reasonable to permit short Packaged Vertical Spreads positions in a cash account so long as the maximum exposure (the vertical spreads interval) is deposited. This position is the equivalent of a completely covered position, because the maximum risk of loss is already on deposit. In addition, the Commission believes that the proposed margin requirements for Packaged Vertical Spreads in margin accounts is reasonable because they are virtually identical to the margin requirements for traditional short stock index options positions held in margin accounts, except that a limit equal to the maximum exposure to the option writer is placed on the margin requirement. It is reasonable to limit the margin in this way because the margin would cover 100% of the writer's exposure, thereby requiring no additional margin calls.

The Commission also believes that the proposed margin treatment for a spread transaction where: (1) The short leg of the spread is a Packaged Vertical Spread; (2) the long leg of the spread is a long call index option (not a Packaged Butterfly Spread);[26] and (3) the exercise price of the long call index option is greater than the exercise price of the short call Packaged Vertical Spread is consistent with the Act. Specifically, it is reasonable to limit the margin in this case to the lesser of the difference in aggregate exercise prices or the vertical spread interval because the margin would cover 100% of the writer's exposure, thereby requiring no additional margin calls.[27] For example, a spread involving a long 670 S&P 500 index call option and a short 650 Packaged Vertical Spread on the S&P 500, with a vertical spread interval of 10, the margin deposit requirement would be the lesser of: (1) The difference in aggregate exercise prices ($(670-650)\times 100 = \$2{,}000$)) and (2) the vertical spread interval times the multiplier (i.e., $10\times 100 = \$1{,}000$). The margin requirement in this case would be $1,000. The writer's maximum exposure is when the current index level is 650, and is limited to $1,000.

For the same spread transaction where the vertical spread interval is 50, the margin deposit requirement would be the lesser of: (1) The difference in aggregate exercise prices ($(670-650)\times 100 = \$2{,}000$) and (2) the vertical spread interval times the multiplier (i.e., $50\times 100 = \$5{,}000$). The margin deposit requirement in this case would be $2,000. The writer's maximum exposure is when the current index level is 700, and is limited to $2,000.[28]

In summary, the Commission believes that the Packaged Vertical Spreads on the S&P 500 and S&P 100 Indexes will provide investors with additional choices and flexibility in their use of derivatives and offer both holders and writers of options a means to participate in the options markets at a predetermined maximum gain or loss. Further, the Commission notes that in order to promote investor protection and to ensure adequate disclosure in connection with Packaged Vertical Spreads, the rules pertaining to standardized options and the requirements of Exchange Act Rule 9b–1 will apply to trading in Packaged

[21] The Commission notes that CBOE Rule 24.1, as amended, defines Packaged Vertical Spreads. Because the current Exchange proposed definition is limited to Packaged Vertical Spreads on the S&P 500 and 100 Indexes, the Commission believes the Exchange is required to submit a rule filing pursuant to Section 19(b) of the Act in order to list Packaged Vertical Spreads on another stock index or individual security.

[22] The Exchange represents that it would not allow margin offset, pursuant to Rule 24.11(c), between spreads with different spread intervals. *See* Amendment No. 3, *supra* note 6.

[23] *See* Amendment No. 3, *supra* note 6.

[24] If the Exchange introduces Packaged Vertical Spreads with a multiplier of 500, it will count each Packaged Vertical Spreads as 5 Packaged Vertical Spread contracts for the purpose of determining compliance with the position limits.

[25] *See* Securities Exchange Act Release No. 29865 (October 28, 1991), 56 FR 56255 (November 1, 1991).

[26] For any long Packaged Butterfly Spread position which is offset by a short option position of any type, the minimum margin required on such a position shall be the full purchase price on the Packaged Butterfly Spread plus the margin required in Rule 24.11(b) for the short position. *See* Rule 24.11(c)(1)(D). In addition, for any long Packaged Vertical Spread position which is offset by short position that is not a capped option or a Packaged Vertical Spread, the minimum margin required on such a position is the full purchase price of the long Packaged Vertical Spread position plus the margin required in Rule 24.11(b) for the short position. *See* Rule 24.11(c)(1)(C).

[27] In addition, the long contract must be paid in full. The proceeds from the short option can be used to pay for the long contract.

[28] The writer's maximum exposure for this spread position is determined as follows:

short loss − long gain = maximum exposure

$\$5{,}000-(700-670)\times 100$

$\$5{,}000-(30)\times 100$

$\$5{,}000-\$3{,}000 = (\$2{,}000)$

Vertical Spreads. The Commission believes it is important to provide investors with information regarding the rights and characteristics of Packaged Vertical Spreads. In this regard, Packaged Vertical Spread investors will receive a special supplement to the Options Clearing Corporation's (''OCC'') Options Disclosure Document (''ODD Supplement'') explaining in detail the risks and characteristics of Packaged Spreads.[29]

The Commission finds good cause for approving Amendment Nos. 1, 2, and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 to CBOE's proposal set forth a new definition for ''vertical spread interval'' and several technical non-substantive revisions to the margin rules.

Amendment No. 2 to CBOE's proposal describes changes to its spread rules for margin when the short index option of a spread position is a Packaged Vertical Spread, as described above; (2) verifies that CBOE will list and add series for Packaged Vertical Spreads in accordance with Rule 24.9, Interpretation and Policy .01(c); and (3) sets position limits for Packaged Vertical Spreads based on the S&P 500 and 100 to equal existing position limits for the respective index options.[30] The Commission believes the Exchange's proposed reduction in position limits from those originally proposed presents no new regulatory issues and can be approved on an accelerated basis. Further, the originally proposed higher position limits were subject to the full 21-day comment period without any comments being received by the Commission. Amendment No. 3 to CBOE's proposal also makes several technical non-substantive changes. In addition, the Exchange amended the definition of Packaged Vertical Spread to further clarify the structure of the product.

The Commission believes that the changes proposed in Amendment Nos. 1, 2, and 3, unless otherwise stated above, merely clarify in the rule text what was originally proposed by the Exchange and will help to ensure that investors understand the specifications and trading characteristics of the Packaged Vertical Spread contracts. In addition, the Commission notes that the original proposal was published for the full 21-day comment period without any comments being received by the Commission.

Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve Amendment Nos. 1, 2 and 3 to the proposed rule change, on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR–CBOE–96–76 and should be submitted by October 20, 1997.

V. Conclusion

Based upon the aforementioned factors, the Commission finds that the proposed changes relating to the listing and trading of Packaged Vertical Spreads on the S&P 500 and 100 are consistent with the requirements of Section 6(b)(5) and the rules and regulations thereunder. The initiation of Packaged Vertical Spread trading, however, is conditioned upon the issuance of an order approving an ODD Supplement, pursuant to Rule 9b–1 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (File No. SR–CBOE–96–76), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25689 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

[29] In reviewing any disclosure materials submitted, the Commission intends to assure that the materials specifically describe the risks and characteristics associated with trading Packaged Spreads. The trading of Packaged Vertical Spreads is expressly contingent upon the Commission's approval of such an ODD supplement.

[30] As described above, Packaged Vertical Spreads on the S&P 500 and 100 indexes will be aggregated with other options on the same index.

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39117; File No. SR–CHX–96–14]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating to Trading of Particular Investment Company Units

September 22, 1997.

I. Introduction

On April 23, 1996, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19(b)–4 thereunder,[2] a proposed rule change to amend Article XXVIII of the CHX's Rules to permit them to trade certain units representing an interest in a registered investment company (''Units'') on CHX.

The proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 37228 (May 20, 1996) 61 FR 26940 (May 29, 1996). One comment letter was received in response to the proposal.[3]

II. Background and Description

In SR–CHX–96–12, the Exchange requested and received approval of proposed rule changes allowing the listing and/or trading of Units.[4] CHX is proposing to apply its existing listing standards for the trading of Units to the trading of World Equity Benchmark Securities (''WEBS'') pursuant to unlisted trading privileges (''UTP''). CHX is also proposing to amend Article

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from James F. Duffy, Executive Vice President and General Counsel, Legal and Regulatory Policy, American Stock Exchange (''Amex''), to Jonathan G. Katz, Secretary, Commission, dated June 20, 1996 (''Amex letter'').

[4] *See* Securities Exchange Act Release Nos. 37121 (April 17, 1996), 61 FR 17932 (April 23, 1996) (notice of File No. SR–CHX–96–12) and 37589 (August 21, 1996), 61 FR 44370 (August 28, 1996) approval order). In that rule filing, the Exchange also stated its intent to trade CountryBasket securities, pursuant to a request for unlisted trading privileges. CountryBasket securities are Units designed to track the performance of specific foreign indices, more fully described in SR–CHX–96–12 and SR–NYSE–95–23. *Id. See also* Securities Exchange Act Release No. 36923 (March 5, 1996), 61 FR 10410 (March 13, 1996) (order approving File No. SR–NYSE–95–23).

XXVIII, Rule 24, to add Interpretation and Policy .02 to specifically allow the Exchange to trade WEBS pursuant to unlisted trading privileges. WEBS currently are approved for trading on the American Stock Exchange (''Amex'').[5] If at a later time CHX desires to list WEBS, rather than only trade WEBS pursuant to UTP, the Exchange will request Commission approval for that listing in a separate proposed rule change filed pursuant to Section 19(b) of the Act.[6]

Structure of WEBS

Rules to accommodate the trading of Index Fund Shares generally on Amex, along with Amex's trading of WEBS, were previously approved by the Commission.[7] The information provided below is intended to provide a description of how WEBS are created and traded and is similar to that discussed in the original Amex WEBS Approval Order.

WEBS are issued by Foreign Fund, Inc., and based on seventeen Morgan Stanley Capital International (''MSCI'') Indices (each individually an ''MSCI Index'' or ''Index'' and collectively ''MSCI Indices'' or ''Indices''). The countries whose markets are represented by those indices are: Australia, Austria, Belgium, Canada, France, Germany, Hong Kong, Italy, Japan, Malaysia, Mexico, Netherlands, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

The investment objective of each WEBS series is to seek to provide investment results that correspond generally to the price and yield performance of public securities traded in the aggregate in particular foreign markets, as represented by specific MSCI Indices. Each WEBS series will use a ''passive'' or indexing investment approach which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures.

A WEBS series normally will invest at least 95% of its total assets in stocks that are represented in the relevant MSCI Index and will at all times invest at least 90% of its total assets in such stocks. A WEBS series will not hold all of the issues that comprise the subject MSCI Index, but will attempt to hold a representative sample of the securities in the Index in a technique known as ''portfolio sampling.''

Foreign Fund, Inc. will issue and redeem WEBS of each Index Series only in aggregations of shares specified for each Index Series (each aggregation a ''Creation Unit''). The number of shares per Creation Unit will range from 40,000 to 600,000. In its original filing to list and trade WEBS, Amex anticipated that the value of a Creation Unit at the start of trading would range from $450,000 to $10,000,000, and the net asset value (''NAV'') of an individual WEBS would range from $10 to $20.

The MSCI Indices

MSCI generally seeks to have 60% of the capitalization of a country's stock market index reflected in the MSCI Index for such country. Thus, the MSCI Indices seek to balance the inclusiveness of an ''all share'' index against the replicability of a ''blue chip'' index. MSCI applies the same criteria and calculation methodology across all markets for all indices, developed and emerging.

All single-country MSCI Indices are market capitalization weighted. For countries that restrict foreign ownership, MSCI calculates two Indices. The additional Indices are called ''free'' Indices, and they exclude companies and share classes not purchasable by foreigners. Free Indices are currently calculated for Singapore, Mexico, the Philippines, and Venezuela, and for those regional and international indices which include such markets. The Mexico and Singapore WEBS series will be based on the free Indices for those countries. There are no WEBS series corresponding to the Philippines and Venezuela MSCI Indices.

All MSCI Indexes are calculated daily. The calculation method weights stocks in an index by their beginning-of-period market capitalization. Share prices are ''swept clean'' daily and adjusted for any rights issues, stock dividends or splits. The MSCI Indices currently are calculated in local currency and in U.S. dollars, without dividends and with gross dividends reinvested.

Prices used to calculate the MSCI Indices are the official exchange closing prices. All prices are taken from the dominant exchange in each market. To calculate the applicable foreign currency exchange rate, MSCI uses WM/Reuters Closing Spot Rates for all developed and emerging markets except those in Latin America. Because of the high volatility of currencies in some Latin American countries, MSCI continue to calculate its own rates for those countries. Under exceptional circumstances MSCI may elect to use an alternative exchange rate for any country if the WM/Reuters rate is believed not to be representative for a given currency on a particular day.

Each MSCI Index on which a WEBS series is based is calculated by MSCI for each trading day in the applicable foreign exchange market based on official closing prices in such exchange market. For each trading day, MSCI publicly disseminates each Index value for the previous day's close. MSCI Indices are reported periodically in major financial publications and also are available through vendors of financial information.

Foreign Fund, Inc. will cause to be made available daily the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS series, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends applicable to such WEBS series. This information will be made available by the Fund Advisor to any National Securities Clearing Corporation (''NSCC'') participant requesting such information. In addition, other investors can request such information directly from the Fund distributor. The NAV for each WEBS series will be calculated directly by the Fund administrator, PFPC, Inc. NAVs will be made available to the public from the Fund distributor by means of a toll-free number, and also will be available to NSCC participants through data made available from NSCC.

To provide current WEBS pricing information, Amex represented that it anticipated it would disseminate through the facilities of the Consolidated Tap Association (''CTA'') an indicative optimized portfolio value'' (''Value'') for each WEBS series as calculated by Bloomberg, L.P. (''Bloomberg''). The Value will be disseminated on a per WEBS basis every fifteen seconds during regular Amex trading hours of 9:30 A.M. to 4:00 P.M. New York time.[8]

The Value likely will not reflect the value of all securities included in the applicable benchmark MSCI Index. In addition, the Value will not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS series at a particular moment. Therefore, the Value on a per WEBS basis disseminated during Amex trading hours should not

[5] *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) (''Amex WEBS Approval Order'').

[6] The remainder of this section discusses the structure of WEBS, the details of which are taken from SR–Amex–95–43 and its Amendments Nos. 1, 2, 3. The information provided here is significantly condensed from Amex's filing. CHX notes that the Amex has represented that customers who purchase WEBS will receive a detailed prospectus from the issuer.

[7] *See* Amex WEBS Approval Order, *supra* note 5.

[8] These are the same trading hours as at the CHX.

be viewed as a real-time update of the net asset value of the Fund, which is calculated only once a day. It is expected, however, that during the trading day the Value will closely approximate the value per WEBS share of the portfolio of securities for each WEBS series except under unusual circumstances.

The Exchange will distribute an information circular to its members in connection with the trading of WEBS. The circular will discuss the special characteristics and risks of trading this type of security. Specifically, the circular, among other issues, will discuss what WEBS are, how they are created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing WEBS prior to or concurrently with the confirmation of a WEBS transaction, applicable Exchange rules, dissemination information, trading information, and the applicability of suitability rules.[9] The Exchange also intends to utilize its existing surveillance procedures to surveil trading in WEBS, including surveilling specialist compliance with Article XXX, Rule 23(a), which contemplates specialists engaging in transactions with the issuer of WEBS under certain circumstances.

III. Summary of Comments

Amex filed a comment letter to the proposed rule change.[10] Amex states that CHX, or any market trading or proposing to trade WEBS, should be required to submit for Commission review an information circular to distribute to their members prior to trading WEBS on the exchange. Amex also states that any such information circular should adequately explain the unique characteristics and risks of this type of security, including member responsibilities, and identify the Exchange personnel who can be contacted to discuss any issues or answer any inquiries relating to the trading of WEBS.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[11] The Commission believes that the Exchange's proposal to trade WEBS pursuant to unlisted trading privileges will provide investors with a convenient way of participating in foreign securities markets and could produce added benefits to investors through the increased competition between other market centers trading the product. Specifically, the Commission believes that CHX's proposal should help provide investors with increased flexibility in satisfying their investment needs, by allowing them to purchase and sell at negotiated prices throughout the trading day securities that replicate the performance of several portfolios of stock,[12] and by increasing the availability of WEBS as an investment tool. Accordingly, as discussed below, the rule proposal is consistent with the requirements of Section 6(b)(5) that Exchange rules facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[13]

As the Commission noted in greater detail in the order approving WEBS for listing and trading on Amex,[14] the estimated cost of an individual WEBS[15] should make it attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of foreign stocks. The Commission also notes that WEBS should provide investors with several advantages over standard open-end investment companies; in particular, investors can trade WEBS continuously throughout the day in secondary markets at negotiated prices.[16] In contrast, Investment Company Act Rule 22c–1[17] limits holders and prospectus holders of open-end management investment company shares to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors. Thus, WEBS should allow investors to respond quickly to market changes through intra-day trading opportunities, expand the opportunity for retail investors to engage in hedging strategies, and reduce transaction costs for trading a portfolio of stocks. The Commission notes that under the proposed rule change, these benefits of WEBS will now be available to investors trading on CHX and believes that the addition of their trading on CHX pursuant to UTP could produce added benefits to investors through the increased competition.

The Commission notes that although the value of WEBS are based on the value of the securities and cash held in the Fund, WEBS are not leveraged instruments. WEBS are essentially equity securities that represent an interest in a portfolio of stocks designed to reflect substantially the applicable MSCI Index. Accordingly, it is appropriate to regulate WEBS in a manner similar to other equity securities. Nonetheless, the Commission believes that the unique nature of WEBS raises certain, disclosure, trading, and other issues that need to be addressed. The remainder of this section addresses these issues, although they are discussed in greater detail in the Amex WEBS Approval Order, where the Commission initially approved WEBS for trading as a new product.

Trading of WEBS On CHX

The Commission notes that, pursuant to Rule 12f–5 under the Act,[18] prior to trading a particular class or type of security pursuant to UTP, CHX must

[9] The Commission notes that CHX has filed a proposed rule change (SR–CHX–97–21) which would require, in part, that any CHX member, before recommending a transaction in any security, have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

[10] *See supra* note 3.

[11] 15 U.S.C. 78f(b)(5).

[12] The Commission notes that unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in WEBS can redeem them in creation unit size aggregations only.

[13] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] *See* Amex WEBS Approval Order, *supra* note 5. The Commission hereby incorporates by reference the discussion and rational for approving WEBS provided in the Amex WEBS Approval Order.

[15] As noted in the Background and Description section *supra*, the estimated cost at the time of the approval for trading on Amex was $10 to $20 per individual WEBS.

[16] The Commission believes that WEBS will not trade at a material discount or premium in relation to their net asset value, because of potential arbitrage opportunities. *See* Amex WEBS Approval Order, *supra* note 5, at 31. the mere potential for arbitrage should keep the market price of WEBS comparable to their net asset values; therefore, arbitrage activity likely will not be significant. In addition, the Fund will redeem in-kind, thereby enabling the Fund to invest virtually all of its assets in securities comprising the MSCI Indices.

[17] 17 CFR 270.22c–1. Investment Company Act Rule 22c–1 generally provides that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem, or resell. The net asset value of an open-end management investment company generally is computed once daily Monday to Friday as designated by the investment company's board of directors. The Commission granted WEBS an exemption from this provision to allow them to trade in the secondary market at negotiated prices. *See* Amex WEBS Approval Order, *supra* note 5.

[18] 17 CFR 240.12f–5.

have listing standards comparable to those of the primary market on which the security is listed. The Commission finds that adequate rules and procedures exist to govern the trading of WEBS on CHX, pursuant to UTP. WEBS will be deemed equity securities subject to CHX's rules governing the trading of equity securities. Accordingly, the Exchange's existing general rules that currently apply to the trading of equity securities will also apply to WEBS. In addition, CHX's Article XXVIII, rule 24,[19] which contains specific listing and delisting criteria to accommodate the trading of Units, will apply to the trading of WEBS.[20] These criteria should help to ensure that a minimum level of liquidity will exist in each WEBS series to allow for the maintenance of fair and orderly markets. The delisting criteria allow the Exchange to consider the suspension of trading and the delisting of a series of Units, including suspending trading in WEBS traded on the Exchange pursuant to UTP, if an event were to occur that made further dealings in such securities inadvisable. This will give the Exchange flexibility to suspend trading in WEBS if circumstances warrant such action. Accordingly, the Commission believes that CHX's equity rules in general, and CHX's Article XXVIII, Rule in 24 particular, provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.[21]

The Commission notes that once CHX receives approval to trade WEBS pursuant to UTP, CHX intends to request that WEBS be declared an Intermarket Trading System (''ITS'') eligible security. WEBS could then be traded through ITS, subjecting the trading of WEBS to all the ITS rules and procedures, including the ITS trade-through rule.

Disclosure

The Commission believes that CHX's proposal should provide for adequate disclosure to investors relating to the terms, characteristics, and risks of trading WEBS. All WEBS investors, including those purchasing WEBS on CHX pursuant to UTP, will receive a prospectus regarding the product. Because WEBS trading on CHX pursuant to UTP will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply to both the initial investors and to investors purchasing such securities in the secondary market on CHX. The prospectus addresses the special characteristics of WEBS, including a statement regarding their redeemability and method of creation, and that WEBS are not individually redeemable.

CHX has also drafted an information circular that will be sent to all CHX members prior to the commencement of trading of WEBS. The Commission notes that it has reviewed this draft information circular and believes it adequately explains the unique characteristics and risks of WEBS. The circular will note, for example, Exchange member responsibilities, including that before an Exchange member undertakes to recommend a transaction in WEBS, it should make a determination that it is in compliance with applicable rules of other self-regulatory organizations of which it is a member, including suitability rules.[22] The circular will also address members' responsibility to deliver a prospectus to all investors purchasing WEBS, as well as highlight the characteristics of WEBS, including that they are only redeemable in Creation Unit size aggregation.[23] The Commission also notes that CHX's draft circular is essentially the same as the Amex WEBS circular previously reviewed by the Commission. The Commission also believes that CHX's draft information circular adequately addresses Amex's comments.[24]

Dissemination of WEBS Portfolio Information

The Commission believes that since Amex is disseminating the Values for the seventeen WEBS series, investors will be provided with timely and useful information concerning the value of WEBS, on per WEBS basis. The Commission notes that information is disseminated through facilities of the CTA and reflects the currently available information concerning the value of the assets comprising the Deposit securities. The information is disseminated every 15 seconds during the hours of 9:30 a.m. to 4:00 p.m., Eastern standard time and will be available to all investors, irrespective of where the transaction is executed. Also, since the value is expected to closely track the applicable WEBS series, the Commission believes the Values will provide investors with adequate information to determine the intra-day value of a given WEBS series.[25] In the Amex WEBS Approval Order, the Commission noted that it expected Amex to monitor the disseminated Value, and if Amex determines that the Value does not closely track applicable WEBS series, it will arrange to disseminate an adequate alternative.

Surveillance

The Commission notes that CHX has submitted surveillance procedures for WEBS and believes that those procedures are adequate to address concerns associated with the listing and trading of such securities, including any concerns associated with specialists purchasing and redeeming Creation Units. The Exchange has represented that its surveillance procedures should allow it to identify situations where specialists purchase or redeem Creation Units to ensure compliance with CHX Article XXX, Rule 23(a), which requires that such purchases or redemptions facilitate the maintenance of a fair and orderly market in the subject security.[26]

Specialists

The Commission finds that it is consistent with the Act to allow a specialist registered in a security issued by an Investment Company to purchase or redeem the listed security from the

[19] The Commission approved generic rules for the listing and/or trading of investment company units on CHX in 1996. *See* Securities Exchange Act Release No. 37589 (August 21, 1996), 61 FR 44370 (August 28, 1996).

[20] The Commission notes the listing and delisting criteria is similar to those adopted by Amex to trade WEBS.

[21] The Commission also believes that the proposed rule change should help protect investors and the public interest, and help perfect the mechanisms of a national market system, in that it will allow for the trading of WEBS on CHX pursuant to UTP, making WEBS more broadly available to the investing public.

[22] *See supra* note 9.

[23] The Commission notes that the information circular also discusses exemptive relief granted by the Commission from certain rules under the Act, exemptions that CHX members can rely upon. The applicable rules are: Rule 10b–10(e); Rule 10b–13; Rule 10b–17(b)(2); Rule 11(d)(1); Rules 15cl–5 and 15cl–6; and Regulation M to the extent it superseded Rules 10b–6 and 10b–7.

[24] In particular, in response to the comments in Amex's comment letter, the Commission notes it has reviewed CHX's draft information circular and that it believes the circular adequately explains the unique characteristics and risks of WEBS, including member responsibilities, and that it identifies the Exchange personnel to contact regarding issues relating to the trading of WEBS.

[25] In addition, the Amex WEBS Approval Order states that the statement of additional information (''SAI'') to the preliminary prospectus states that each series will calculate its NAV per share at the close of the regular trading session for the NYSE on each day that the Amex is open for business. NAV generally will be based on the last quoted sales price on the exchange where the security primarily is traded. *See* Amex WEBS Approval Order, *supra* note 5.

[26] The Commission notes that, in the Amex WEBS Approval Order, it discussed the concerns raised when a broker-dealer is involved in the development and maintenance of a stock index upon which a product such as WEBS is based. Adequate procedures to prevent the misuse of material, non-public information regarding changes to component stocks in an MSCI Index have been adopted and should help to address concerns raised by Morgan Stanley's involvement in the management of the Indices.

issuer as appropriate to facilitate the maintenance of a fair and orderly market in that security. The Commission believes that such market activities should enhance liquidity in such security and facilitate a specialist's market making responsibilities. In addition, because the specialist only will be able to purchase and redeem WEBS on the same terms and conditions as any other investor (and only at the NAV), and Creation transactions must occur through the distributor and not directly with the issuer, the Commission believes that concerns regarding potential abuse are minimized. As noted above, the Exchange's surveillance procedures also should ensure that such purchases are only for the purpose of maintaining fair and orderly markets, and not for any other improper or speculative purposes. Finally, the Commission notes that its approval of this aspect of the Exchange's rule proposal does not address any other requirements or obligations under the federal securities laws that may be applicable.[27]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change (SR–CHX–96–14) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25687 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

[27] The Commission notes that with respect to WEBS, broker-dealers and other persons are cautioned in the prospectus and/or the Fund's SAI that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933.

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39114; File No. SR–DTC–97–15]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to the Coupon Collection Service

September 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 15, 1997, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises DTC's fee schedule for its coupon collection service (''CCS''). DTC will give participants that use CCS a discount of $0.25 per shell for any month in which the participant's shell deposit volume is 6,250 or greater. If a participant's year-end shell deposit volume is 75,000 or greater, DTC will rebate to the participant the $0.25 per shell for any month(s) in that year for which the participant did not receive a discount because its shell deposit volume was less than 6,250.

In addition, DTC will charge participants $0.60 per shell received without a valid CUSIP number. This additional fee is designed to serve as an incentive to Participants to identify their shells properly. As all of DTC's fees are reviewed on an annual basis, this surcharge will be reevaluated each year, based on the proportion of shells that DTC receives without a valid CUSIP number.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CCS provides participants with a method for the collection of interest relating to coupons from municipal bearer bonds.[3] Participants using CCS are required to deposit coupons in a standard sealed envelope or ''shell'' each of which may contain no more than 200 coupons. Participants also must identify each shell properly, which includes labeling each shell with a valid CUSIP number.[4] After verifying the contents of the shells, DTC credits the participants with the interest due on the coupons contained in the shells.

The purpose of the proposed rule change is to revise the fees associated with CCS. DTC continually strives to align service fees with estimated service costs and the subject revisions are part of that effort.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among DTC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(e)(2) thereunder[7] because the proposal establishes or changes a due, fee, or other charge imposed by DTC.[8] At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] For a more detailed description of CCS, refer to Securities Exchange Act Release No. 35750 (January 22, 1996), 61 FR 2852 [File No. SR–DTC–95–18] (order approving proposed rule change).

[4] The coupons contained in a shell must all be for the same CUSIP number, series, and payable date.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(e)(2).

[8] DTC's rule filing originally was submitted for consideration pursuant to Section 19(b)(2) of the Act. 15 U.s.C. 78s(b)(2). However, DTC subsequently requested that the Commission consider the rule filing pursuant to Rule 19(b)(3)(A) of the Act. Letter from Larry Thompson, Senior Vice President and Deputy General Counsel, DTC (September 22, 1997).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–97–15 and should be submitted by October 20, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25692 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39110; File No. SR–NSCC–97–07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of a Proposed Rule Change Relating to Changes in Membership Standards

September 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 5, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend NSCC's membership standards to increase the minimum excess net capital requirements imposed on members and applicants for membership.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend NSCC's membership standards to increase the amount of net capital required over the Commission's minimum net capital requirements (''excess net capital'').[3] Currently, the excess net capital requirement for all members is $50,000. The proposed amendments: (i) Will increase the excess net capital requirement for full service members to $500,000 except for municipal securities brokers' brokers[4] for which the excess net capital requirement will be $100,000[5] and (ii) will increase the excess net capital requirement for members that clear for other broker-dealers to $1,000,000.

NSCC's current excess net capital requirements were implemented in 1976 when NSCC was formed. The environment in which NSCC members operate has changed significantly since that time. In terms of the change in the value of money alone, $50,000 in 1976 dollars is worth nearly $150,000 today. Trading volumes and the average value of securities traded have increased even more significantly. The Commission also has changed its minimum net capital requirements for most NSCC members during this time period from $25,000 (*i.e.*, one-half of NSCC's current excess net capital requirement) to $250,000 (*i.e.*, one-half of NSCC's proposed excess net capital requirement).[6]

As a result of the changing environment, it has been NSCC's recent experience that when a member with less than $500,000 in excess net capital has problems with even one transaction that would not be considered large by today's standards, concerns arise with respect to that member's ability to settle on a timely basis and to post additional required collateral with NSCC. Additionally, even though the size of the exposure due to the failure of any one of these small firms is relatively small, NSCC believes that the time and resources that it must spend addressing problems related to small firms is disproportionate to the magnitude of the potential loss and is unjustifiably disruptive of NSCC's daily surveillance process.

NSCC also believes that the owners or principals of an NSCC member should have a meaningful amount of their own assets at stake to absorb losses before a member's excess net capital falls below regulatory minimums and the member is required to cease doing business. NSCC believes that this provides a strong motivation for firms to implement appropriate risk management controls on their own. In today's environment, NSCC does not believe that $50,000 is a meaningful amount and believes that $500,000 is a more appropriate amount.[7]

In addition, NSCC has recognized that members that clear for other broker-dealers present special risks to the clearance and settlement process. These firms become legally responsible for the settlement of transactions of other firms and generally do not have complete control over those transactions. Many of these firms have surveillance procedures and other risk controls in place and can cease clearing for a correspondent broker-dealer if they perceive that a risk has developed. But the clearing arrangements of these firms and marketplace rules generally require that the clearing firm (*i.e.*, the NSCC member) take on settlement responsibility for most of the

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] The minimum net capital requirements are set forth in Rule 13c3–1(a) under the Act. 17 CFR 240.15c3–1(a).

[4] ''Municipal securities brokers' broker'' is defined in Rule 15c3–1(a)(8) under the Act. 17 CFR 240.15c3–1(a)(8).

[5] NSCC believes that this is consistent with the Commission's approach of maintaining separate capital rules for municipal securities brokers' brokers.

[6] *See* 17 CFR 240.15c3–1(a)(2)(i).

[7] Under the proposed rule change, NSCC will maintain its current right to impose higher capital requirements on members depending on the circumstances and type of business that the member is in.

correspondent broker-dealer's transactions before the clearing firm has had a chance to review such transactions. This increases the possibility that a clearing firm will be responsible for problematic or risky transactions. In light of the higher risk presented by these firms, NSCC believes that they should be subject to higher minimum capital standards.

Currently, twenty-nine NSCC members do not meet the proposed $500,000 standard for full service members. For this reason, NSCC proposes that the new standard become effective on the later of (a) one year from the date of publication in the **Federal Register** of the notice of the filing of this rule change or (b) the date of Commission approval of this rule change. NSCC believes that this effective date will give those firms sufficient time to obtain appropriate capital infusions or make other clearing arrangements.

In addition, two NSCC members that clear for other broker-dealers do not meet the $1,000,000 standard. Therefore, NSCC proposes that this new standard become effective on the later of (a) six months from the date of publication in the **Federal Register** of the notice of the filing of this rule change or (b) the date of Commission approval of this rule change. NSCC believes that this effective date will give those firms sufficient time to obtain appropriate capital infusions.

During the interim period, if any, between Commission approval of this rule change and its effective date, NSCC will not consider applicants that do not meet the new minimum capital standards other than those firms applying for membership in connection with the agreement between NSCC and the Stock Clearing Corporation of Philadelphia (''SCCP'') under which SCCP has agreed to cease operations as a clearing corporation.

In view of the facts that: (i) The costs of surveillance and of collateral collection procedures in both time and resources falls on NSCC and all of its members and that these costs are disproportionately high relative to the size of the potential loss for members with less than $500,000 in excess net capital, (ii) the default or insolvency of any settling member potentially imposes burdens and costs on NSCC and all of its members, and (iii) the changes proposed by this filing are meant to reduce these burdens and costs, NSCC believes that this filing is consistent with Section 17A of the Act[8] and the rules and regulations thereunder.

[8] 15 U.S.C. 78q–1.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impose a burden on competition. In fact, NSCC believes that the proposed rule change will rectify a burden on competition that has slowly developed due to changing circumstances by having the costs of risk management more equitably borne by all NSCC members and by requiring all firms to have a meaningful amount of capital at risk. NSCC believes the increased capital requirements better reflect current marketplace realities.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–97–07 and should be submitted by October 20, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25690 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39098; File No. SR–NYSE–97–14]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to the Shareholder Approval Policy

September 19, 1997.

I. Introduction

On May 16, 1997, the New York Stock Exchange, Inc., (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to amendments to its Shareholder Approval Policy.[3] The proposed rule change was published for comment in Securities Exchange Act Release No. 38716 (June 5, 1997), 62 FR 32135 (June 12, 1997). No comment letters were received, however, on August 8, 1997, the Exchange submitted a letter in support of its filing.[4]

II. Description of the Proposal

Currently, the Exchange's shareholder approval policy requires a listed company to obtain shareholder approval in four situations:

- Related-Party Transactions: when selling more than one percent of the company's stock, for either cash or other assets, to a ''related party,'' define to mean officers, directors and holders of five percent or more of the company's common stock (or stock with five

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The NYSE's Shareholder Approval Policy is contained in Paragraphs 312.03 through 312.05 of the Exchange's Listed Company Manual.

[4] Letter from Noreen M. Culhane, Senior Vice President, Listings and Client Service, NYSE, to Howard Kramer, Associate Director, Division of Market Regulation, Commission (August 7, 1997).

percent or more of the company's voting power);

- Private Sales: when selling 20 percent or more of the company's stock, other than in a public offering for cash;
- Stock Option Plans: when adopting stock option plans that are not ''broadly-based''; or
- Change of Control: with respect to any issuance of stock that results in the change of control of the company.

The Exchange is modifying the first two of these requirements to provide listed companies with flexibility in their financing plans. In addition, the rule change restructures the wording of the Policy in order to simplify the language. With the exception of the two changes to the shareholder approval policy described below, this restructuring does not substantially change the Exchange's shareholder approval policy.

Related-Party Transactions

Issuers sometimes seek cash financing from one or more of their ''substantial'' security holders (which the Exchange defines as a person holding either five percent of the company's stock or five percent of the company's voting power). The Exchange now requires shareholder approval if a sale to a substantial security holder results in a one percent dilution.

The Exchange is proposing that cash sales of stock to a substantial security holder be exempt from the Policy if the issuance is limited to five percent of the issuer's stock. Further, the exemption from the policy would apply only if the sale is at a price at least as high as each of the book and market value of the stock. Shareholder approval for issuances that result in a dilution of more than one percent of the issuer's stock would continue to be required under the policy for sales of stock to any related party (including substantial security holders) for assets other than cash and cash sales to officers and directors.

Private Sales

The Exchange requires approval of all issuances that result in a 20 percent dilution, except for public offerings for cash. The Exchange proposes to make a private cash sale of 20 percent or more of a company's stock exempt from the policy if (i) the sales is at a price at least as high as each of the book and market value of the stock and (ii) the sale is a ''bona fide financing.'' A bona fide financing is a cash sale either (i) in which a registered broker-dealer acts as an intermediary in the transaction or (ii) directly by an issuer to multiple purchases in which no one purchase, or group of related purchases, acquires more than five percent of the issuer's common stock or voting power. The five percent limit ensures that control persons do not disproportionately increase their ownership in a listed company through privately-negotiated sales, even if the sale price is at the market.[5]

The Exchange has consulted with several committees, including its Legal Advisory Committee, the Listed Company Advisory Committee, and the Individual Investor Advisory Committee, and represents that the committees have reviewed the proposal and encourage approval of the proposed change.

The Exchange believes the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[6] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

III. Discussion

The Commission believes NYSE's proposal is consistent with the requirements of Section 6(b)(5) of the Act.[7] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market system, and in general, to further investor protection and the public interest.

NYSE is proposing to amend its Shareholder Approval Policy to exempt cash sales of stock to a substantial security holder if the issuance is limited to five percent of the issuer's stock. The exemption would apply only if the sale is at a price at least as high as each of the book and market value of the stock. The Commission believes the proposed amendment is reasonable and consistent with the Act. Specifically, the Commission believes that cash sales do not create the same valuation concerns as do sales of stock for non-cash assets, and that such an exemption offers issuers flexibility when selling a limited percentage of stock for cash to a substantial security holder. Furthermore, the Commission notes that the Exchange will continue to require shareholder approval for certain issuances resulting in a dilution of more than one percent of the issuer's common stock, including sales of stock to any related party for assets other than cash, and cash sales to officers and directors.

The Exchange is also proposing to make a private cash sale of 20 percent or more of a company's stock exempt from the Shareholder Approval Policy if the sale is at a price at least as high as each of the book and market value of the stock, and the sale is a ''bona fide financing.'' The Exchange defines a ''bona fide financing'' as a sale through a broker-dealer acting as an intermediary or a sale to multiple parties in which no one person acquires more than five percent of the issuer's stock. In its letter of support the Exchange states that it has historically exempted public cash offerings from Section 312.03(c) of the Manual because there is a certain amount of disclosure and pricing discipline in public offerings to protect stock holders from potential abuse. The Exchange states that it believes market practices and changes to the Commission's rules have blurred the differences between public and private sales. The Exchange further notes that companies now engage in broad-based sales of securities convertible into listed common stock under Commission Rule 144A. In these transactions, the NYSE states that registered broker-dealers perform functions similar to that of underwriters by conducting due diligence, buying the securities from the issuer, and reselling them to qualified institutional buyers. Similarly, companies can raise capital by selling securities privately in direct transactions with multiple parties. The NYSE believes that in both cases the offerings have characteristics similar to public offerings, noting that such sales can more closely resemble public offerings for cash than sales of stock pursuant to a shelf registration which are currently exempt from the shareholder approval policy.

While the Commission recognizes that certain types of private offerings, such as those structured to facilitate resales exclusively between and among institutional investors pursuant to Commission Rule 144A, have certain characteristics that may make them resemble public offerings, there are certain elements that sharply distinguish private offerings from public

[5] The rule change also clarifies that shareholder approval is required if any one of the four requirements is triggered, notwithstanding the fact that the other requirements of the Policy have not been triggered. For example, a direct sale by a company of more than 20 percent of its stock is a bona fide financing still would require shareholder approval as a related-party transaction if the company sells more than one percent of the stock to an officer or director.

[6] 15 U.S.C. § 78f(b)(5).

[7] 15 U.S.C. § 78f(b)(5).

offerings such as the ''restricted'' status of the privately placed securities,[8] and the absence of both a prescribed public disclosure document and a Section 11 remedy.[9] Nevertheless, the Commission believes that the limitations on price and the requirement that the sales be bona fide financing appropriately limit the availability of the exemption and should provide reasonable protections for shareholders.

In particular, requiring that private cash sales be made to multiple, unrelated purchasers in which no one purchaser or group of related purchasers can acquire more than five percent of the issuer's common stock or voting power should help to prevent the exemption from being used by issuers to avoid a shareholder vote when placing large blocks of stock with a particular purchaser. Moreover, as the NYSE states, this requirement should also help to impose pricing discipline on the transaction, as well as to ensure that control persons do not disproportionately increase their ownership in a company through private sales. Further, as the NYSE indicates, the alternative requirement that a broker dealer act as an intermediary to qualify for the private cash offering exemption is meant to cover Rule 144A sales. We agree with the NYSE that market practices in this area have developed involving both due diligence and pricing that could serve to protect shareholders from abuse of unfair stock placements. The Commission also believes that the existing disclosure requirements for private equity offerings also act as an effective safeguard against potential abuse of private cash offerings.[10] In summary, the Commission believes that the limitation of the exemption to only a ''bona fide private financing'', as defined above, coupled with the requirement that the sale be at a price at least as high as each of the book and market value of the stock provides sufficient safeguards for shareholders to support the exemption to the Policy in these limited circumstances.

VI. Conclusion

The Commission believes the proposed change should provide listed companies with flexibility in their financing plans, while still substantially preserving the significant shareholder rights afforded under the Policy. Finally, the Commission believes the restructuring of the wording of the Policy should simplify and clarify the Policy.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NYSE, and in particular Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–NYSE–97–14) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25770 Filed 9–26–97; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Preliminary note six, and Preliminary notes three and four to Securities Act Rule 144A (Reg. § 230.144A).

[9] 15 U.S.C. § 77k.

[10] *See* Exchange Act Form 10–Q, Item 2(c); and Exchange Act Form 8–K, Item 9.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending September 19, 1997

The following Applications for Certificate of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases, a final order without further proceedings.

Docket Number: OST–97–2913.
Date Filed: September 17, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 15, 1997.
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41102 and 41108, and Subpart Q of the Regulations, applies for a Certificate of Public Convenience and Necessity authorizing Delta to engage in scheduled foreign air transportation of persons, property and mail between the following terminal points: (1) Atlanta, Georgia and Tokyo, Japan; (2) Portland, Oregon and Osaka, Japan; and (3) Portland, Oregon and Fukuoka, Japan.

Docket Number: OST–97–2914.
Date Filed: September 17, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 15, 1997.
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. Section 41108 and Subpart Q of the Regulations, applies for renewal of its certificate of public convenience and necessity for Route 370 (segment 1) (Dallas/Ft. Worth-London/Amsterdam/Brussels), as reissued by Order 96–5–9, May 12, 1996.

Docket Number: OST–97–2918.
Date Filed: September 17, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 15, 1997.
Description: Application of Pan American World Airways, Inc., pursuant to 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for issuance of a certificate of public convenience and necessity authorizing foreign air transportation. Specifically, Pan Am is seeking authority to engage in scheduled foreign air transportation of persons, property and mail between: (1) The co-terminal points Miami, Florida, and New York, New York, on the one hand, and Santo Domingo, Dominican Republic, on the other; and (2) the co-terminal points Fort Lauderdale, and Miami, Florida, and New York, New York on the one hand, and Nassau, Bahamas, on the other.

Docket Number: OST–97–2919.
Date Filed: September 19, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 17, 1997.
Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for renewal of its Route 383 certificate authority to provide scheduled foreign air transportation of persons, property and mail between Newark, New Jersey, and London, U.K., and to integrate its Route 383 authority with Continental authority at other points.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–25764 Filed 9–26–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

[Treasury Order Number 165–30]

Designation of Acting Commissioner of Customs; Authority Delegation

Dated: September 17, 1997.

Pursuant to the authority vested in the Secretary of the Treasury, including the

authority vested by 31 U.S.C. 321(b) and 19 U.S.C. 2072(b), and it is ordered that:

1. Samuel H. Banks, Deputy Commissioner, United States Customs Service, shall act as Commissioner of Customs until a new Commissioner of Customs who is appointed pursuant to 19 U.S.C. 2071 executes the oath of office. Mr. Banks is authorized to use the title of Acting Commissioner of Customs.

2. All duties and powers carried out by the Commissioner of Customs prior to the effective date of this Order shall be carried out by the Acting Commissioner of Customs.

3. *Effective Date.* The foregoing arrangements are effective as of September 1, 1997. To the extent that any action heretofore taken consistent with this Order may require ratification, it is hereby approved and ratified.

4. *Cancellation.* This temporary Order shall terminate without any further action when a new Commissioner of Customs who is appointed pursuant to 19 U.S.C. 2071 executes the oath of office.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 97–25737 Filed 9–26–97; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 97–101]

The Department of the Treasury's Odor Recognition Proficiency Standard for Explosives Detection Canines (97R–2543P)

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

ACTION: Notice of availability.

SUMMARY: The Department of the Treasury has established an odor recognition proficiency standard for explosives detection canines. This standard includes a minimum odor recognition proficiency test which may be used by agencies employing explosives detection canines. Further testing and validation of this standard will continue for a one year period beginning on October 1, 1997 and ending on September 30, 1998. A copy of this standard is available to all interested persons.

ADDRESSES: To receive a copy of the Department of the Treasury's Odor Recognition Proficiency Standard, send a written request, on official law enforcement or government letterhead, to: Chief, Canine Operations Unit, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, N.W., Room 6200, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT:

Rhonda Bokorney, Chief, Canine Operations Unit, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, N.W., Washington, DC 20226 (202–927–7930).

SUPPLEMENTARY INFORMATION:

Background

On September 30, 1998, the Omnibus Consolidated Appropriations Act of 1997, Pub. L. 104–208, authorized the Secretary of the Treasury to establish a standard for explosives detection canines. Section 653(a) of the Act provides the following: Sec. 653. (a) Authorization.—The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

The Secretary of the Treasury requested the Bureau of Alcohol, Tobacco and Firearms (ATF) to develop the standard. The standard establishes a minimum Odor Recognition Proficiency Test which may be used by law enforcement agencies employing explosives detection canines. ATF solicited recommendations from other Federal law enforcement agencies employing explosives detection canines. These recommendations were incorporated into the standard.

Additionally, ATF has agreed to test this standard for validation for a one year period. This standard is available for consideration and use by law enforcement agencies. A copy of this standard is available to all interested persons.

Authority and Issuance

Authority: Sec. 653, Pub. L. 104–208, 110 Stat. 3009.

Raymond W. Kelly,

Under Secretary.

[FR Doc. 97–25647 Filed 9–26–97; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—New]

Submission for OMB Emergency Review; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

Dated: September 22, 1997.

In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., Chapter 35), this notice announces that the Office of Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) utilizing emergency review procedures. OMB approval has been requested by September 30, 1997. A copy of this PRA submission, with applicable supporting documentation, may be obtained from Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981.

Comments must be submitted on or before September 29, 1997. Send comments and recommendations on the proposal for the collection of information to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650.

OMB is particularly interested in comments which: (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 automated collection techniques or the use of other forms of information technology.

Title and Form Numbers: Request for IRS 1099–MISC Tax Collection and Federal 1057 Socio-Economic Status, VA Form Letter 4–555.

OMB Control Number: 2900—New.

Type of Review: New Collection.

Abstract: Federal agencies are required to collect Internal Revenue Service (IRS) 1099 tax reporting and Federal 1057 socio-economic information on Federal I.M.P.A.C. (International Merchant Purchase

Authorization Card) credit card transactions. The Department of Veterans Affairs (VA), with the assistance of an outside entity, will send VA Form Letter 4–555 to collect the necessary information from merchants the Federal governments has done business with using the I.M.P.A.C. credit card so that they may provide adequate reporting for CY 1997. The form letter will support the validity and urgency for the collection of information and provide a standardized format for reporting. The General Services Administration (GSA) could not issue this type of collection of information at this time, due to the current re-procurement status for the purchase credit card.

It is essential to the VA's reporting requirements that this type of information be collected for our I.M.P.A.C. card transactions during CY 1997. By law, VA as well as all Federal agencies, must report 1099 status and also have requirements to report the socio-economic status of the merchants with whom we do business.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 62,500 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 750,000.

Dated: September 22, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–25771 Filed 9–26–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Persian Gulf Expert Scientific Committee; Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with P.L. 92–463, gives notice that a meeting of the VA Persian Gulf Expert Scientific Committee will be held on:

Monday, November 17, 1997, at :30 a.m.–5:00 p.m.

Tuesday, November 18, 1997, at 8:30 a.m.–1:30 p.m.

The location of the meeting will be 810 Vermont Avenue, N.W., Washington, D.C., Room 230.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 4:00 p.m. until 5:00 p.m. on November 17 and from 12:30 p.m. to 1:30 p.m. on November 18, 1997. During these executive sessions, discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of this portion of the meeting is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(6).

The agenda for November 17 will begin with presentations on Depleted Uranium and a Follow-up on ill Persian Gulf Veterans. The first days' agenda will also cover a presentation on Chemical/Biological Agents.

On November 18 the Committee will hear updates on the Chronic Fatigue Syndrome and Leishmania.

Additional information concerning these meetings may be obtained from the Executive Secretary, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: September 23, 1997.

By direction of the Secretary-Designate:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–25772 Filed 9–26–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Development at the VAMC, North Little Rock, AR

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Veterans Affairs Medical Center at North Little Rock, Arkansas, for an Enhanced-Use lease development. The Department intends to enter into a long-term lease of real property with the developer whose proposal will provide the most advantageous combination of services and revenue as consideration to the VA while retaining the therapeutic benefit of golf for patients at no cost to the Department.

FOR FURTHER INFORMATION CONTACT: Jacob Gallun, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC, 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. Sec 8161 *et seq.* specifically provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: September 22, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

[FR Doc. 97–25715 Filed 9–26–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 188

Monday, September 29, 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 COMMERCE

Patent and Trademark Office

Notice of Public Hearing and Request for Comments on Procedures for Recording Patent Prosecution File Histories

Correction

In notice document 97–25068 beginning on page 49471, in the issue of Monday, September 22, 1997, make the following corrections:

1. On page 49471, in the second column, in the fourth line, ''Mr.'' should read ''M.''.

2. On the same page, in the same column, under **Background**, in the second line, ''persecution'' should read ''prosecution''.

3. On the same page, in the same column, in the last line, ''consist'' should read ''consists''.

4. On page 49473, in the third column, in the 29th line, ''transactions'' should read ''transcriptions''.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-177-006]

Steuben Gas Storage Company; Notice of Compliance Filing

Correction

In notice document 97–25290 appearing on page, 49968 in the issue of Wednesday, September 24, 1997, make the following correction:

On page 49968, in the third column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB75

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Cumulative Voting

Correction

In rule document 97–25262 beginning on page 49907, in the issue of Wednesday, September 24, 1997, make the following correction:

On page 49907, in the second column, in the **DATES** section, in the second line, ''October 24, 1997'' should read ''30 days after publication in the **Federal Register**''.

BILLING CODE 1505-01-D

federal register

Monday
September 29, 1997

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1997–1998 Late Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AE14

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1997–98 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for Service recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of seasons and bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATE: This rule takes effect on October 1, 1997.

ADDRESSES: The public may inspect comments received during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The public should send communications regarding the documents to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service (703) 358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 11, 1997, **Federal Register** (62 FR 43042), the Service proposed special migratory bird hunting regulations for the 1997–98 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) on-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10 - September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the March 13, 1997, **Federal Register** (62 FR 2054), the Service requested that tribes desiring special hunting regulations in the 1997–98 hunting season submit a proposal including details on:

(1) requested season dates and other regulations to be observed;

(2) harvest anticipated under the requested regulations;

(3) methods that will be employed to measure or monitor harvest;

(4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and

(5) tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. The Service has successfully used the guidelines since the 1985–86 hunting season. The Service finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season hunting was addressed in the rulemaking published in the **Federal Register** on September 2, 1997 (62 FR 46420). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

This year, the Service's annual breeding duck survey estimated total ducks in the traditional survey area was 42.6 million, an increase of 13 percent from that in 1996 and 31 percent higher than the long-term average. The total duck fall flight forecast is approximately 92 million birds, compared to 90 million last year. This estimate is the highest recorded since calculations were initiated in 1970. As a result, the Service has responded by proposing Flyway frameworks that are slightly expanded from those of last season for the 1997–98 waterfowl hunting season (August 25, 1997, **Federal Register**, 62 FR 45078). The tribal seasons established below generally reflect the Flyway frameworks.

Tribal Proposals

For the 1997–98 migratory bird hunting season, the Service proposed regulations for 20 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early- and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 15 tribes made proposals with late seasons. Twelve tribes were represented in the early-season regulations. Comments and revised proposals received to date are addressed in the following section. The comment period for the proposed rule, published on August 11, 1997, closed on August 21, 1997.

Public Comments On Tribal Proposals

The Service received a letter from the Washington Department of Fish and Wildlife (WDFW), dated August 18, 1997, concerning the potential impacts of proposed tribal member seasons on brant populations. The WDFW was concerned that several tribes had proposed long brant seasons that could potentially impact populations. The WDFW encouraged a more conservative approach for all tribal brant hunting seasons in Puget Sound by limiting seasons to the existing Federal framework of 16 days.

In general, Flyway frameworks are liberally interpreted when application is made to tribal member regulations. This results from the special status of Native Americans and specific treaty rights. Seasons for non-tribal members are established within the general Flyway framework of 16 days with a daily bag

limit of 2 brant. While the Service shares the concern of the WDFW for Pacific brant populations, we believe that current populations of brant can support the tribes' limited harvest. Further, we note that most of the tribes have very limited hunting opportunity for brant. However, the Service will continue to monitor brant populations and encourages the tribes to closely monitor their harvest.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the Service. Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Considerations

As in the past, the Service designs hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations were conducted to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES.**

Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and are reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Congressional Review

In accordance with Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 8), this rule has been submitted to Congress and has been declared major. Because this rule establishes hunting seasons, this rule qualifies for an exemption under 5 U.S.C. 808(1); therefore, the Department determines that this rule shall take effect immediately.

Regulatory Flexibility Act

Overall, migratory bird hunting regulations have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). In the March 13, 1997, **Federal Register**, the Service reported measures it took to comply with requirements of the Act. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses in 1996. Copies of the Analysis are available upon request from the Office of Migratory Bird Management.

Paperwork Reduction Act

The Department examined these regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 et seq.), prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

The Service therefore finds that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Unfunded Mandates

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this final rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

AUTHORITY: 16 U.S.C. 703–712 and 16 U.S.C. 742 a—j.

(Editorial Note: The following annual hunting regulations provided for by § 20.110 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.)

2. Section 20.110 is amended by revising paragraphs (a), (c), (e), (f), (h), (k) and (l); and by adding paragraphs (m), (n), (o), (p), (q), (r), (s), and (t) to read as follows:

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 1997; then open November 16, close January 15, 1998.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

Ducks (including mergansers)

Season Dates: Begin October 4, 1997, close January 5, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 pintails, 2 redheads, 2 Mexican ducks, 2 hen mallards, and 1 canvasback. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 18, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 5 geese, including no more than 2 dark (Canada) geese and 3 white (snow, blue, Ross's) geese. The possession limit is 5.

General Conditions: All persons 12 years and older must possess a valid Colorado River Indian Reservation hunting permit before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

* * * * *

(c) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

Ducks

Michigan, 1836 Treaty Zone:

Season Dates: Open September 20, 1997, close January 20, 1998.

Daily Bag Limit: 10 ducks, which may include no more than 1 pintail, 1 canvasback, 1 black duck, 1 hooded merganser, 2 wood ducks, 2 redheads, and 5 mallards (only 2 hen mallards).

Canada Geese

Michigan, 1836 Treaty Zone:

Season Dates: Open September 1, close November 30, 1997, and open January 1, 1998, close February 8, 1998.

Daily Bag Limit: 5 geese.

Other Geese (Brant, Blue, Snow, and White-fronted)

Michigan, 1836 Treaty Zone:

Season Dates: Begin October 1, end November 30, 1997.

Daily Bag Limit: 5 geese.

Sora Rails

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1997.

Daily Bag Limit: 5 rails.

Common Snipe

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1997.

Daily Bag Limit: 5 snipe.

Woodcock

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1997.

Daily Bag Limit: 5 woodcock.

General Conditions: Persons twelve years and older must possess a valid Grand Traverse Band Tribal license before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

* * * * *

(e) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Non-tribal Hunters).

Tribal Members Only

Ducks

Season Dates: Open September 15, 1997, close January 31, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 3 pintails, 2 hen mallards, and 1 canvasback.

Geese

Season Dates: Open September 15, 1997, close January 31, 1998.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

Non-tribal Hunters

Ducks

Season Dates: Open October 4, 1997, close January 18, 1998. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the month of December. Nontribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: 7 ducks, including no more than 3 pintails, 2 hen mallards, and 1 canvasback.

Geese

Season Dates: Begin October 4, 1997, close January 11, 1998.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

General: Hunters must observe all State and Federal regulations, such as those contained in 50 CFR part 20 and including the possession of a validated Migratory Bird Hunting and Conservation Stamp.

(f) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters)

Band-tailed Pigeons

Season Dates: Open September 1, close September 30, 1997.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 1997.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (including mergansers)

Season Dates: Begin October 4, 1997, close January 18, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Dark Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 2 and 4 geese, respectively.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (duck stamp) signed in ink across the stamp face. Special regulations established by the Navajo Nation also apply on the reservation.

* * * * *

(h) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members and Non-tribal Hunters)

Tribal Members Only

Ducks

Season Dates: Open September 15, 1997, close January 15, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 1 female mallard, 2 pintails, 1 canvasback and 2 redheads. The season on wood ducks and harlequin ducks is closed. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 15, 1997, close January 15, 1998.

Daily Bag and Possession Limits: 4 geese, and may include no more than 3 light geese. The season on Aleutian and Cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 15, close January 15, 1997.

Daily Bag and Possession Limits: 2 and 4 brant, respectively.

Coots

Season Dates: Open September 15, 1997, close January 15, 1998.

Daily Bag Limits: 25 coots.

Non-tribal Members

Mourning Doves

Season Dates: Open September 1, close September 30, 1997.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 1, close December 16, 1997.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Ducks (including Mergansers)

Season Dates: Begin October 4, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The season is closed on wood ducks and harlequin ducks. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 4 geese, including not more than 3 light geese. The season is closed on Aleutian Canada geese and cackling Canada geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Begin January 3, end January 18, 1998.

Daily Bag and Possession Limits: 2 and 4 brant, respectively.

* * * * *

(k) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-tribal Hunters)

Tribal Members

Ducks/Coot

Season Dates: Open September 15, 1997, and close February 1, 1998.

Daily Bag and Possession Limits: 6 and 12 ducks, respectively; except that bag and possession limits are restricted for blue-winged teal, canvasback, harlequin, pintail, and wood duck to those established for the Pacific Flyway by final Federal frameworks, to be announced.

Geese

Season Dates: Open September 15, 1997, and close February 1, 1998.

Daily Bag and Possession Limits: 6 and 12 geese, respectively; except that the bag limits for brant and cackling and dusky Canada geese are those established for the Pacific Flyway in accordance with final Federal frameworks, to be announced. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

Snipe

Season Dates: Open September 15, 1997, and close February 1, 1998.

Daily Bag and Possession Limits: 6 and 12 snipe, respectively.

Non-tribal Hunters

Ducks

Season Dates: Begin October 4, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Begin October 11, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but no more than 3 light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Begin January 3, end January 18, 1998.

Daily Bag and Possession Limits: 2 and 4 brant, respectively.

Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 12 snipe, respectively.

General Conditions: All waterfowl hunters, members and non-members, must obtain and possess while hunting a valid hunting permit from the Tulalip tribes. Also, non-tribal members sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a validated Federal Migratory Bird Hunting and Conservation Stamp and a validated State of Washington Migratory Waterfowl Stamp. All Tulalip tribal members must possess while hunting, or accompanying another, their valid tribal identification card. All hunters are required to adhere to a number of other special regulations enforced by the tribes and available at the tribal office.

(l) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters)

Band-tailed Pigeons

Season Dates: Open September 1, close September 10, 1997.

Daily Bag and Possession Limits: 3 and 6 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 10, 1996.

Daily Bag and Possession Limits: 8 and 16 doves, respectively.

General Conditions: All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands must possess a valid White

Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must possess a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

Ducks (Including Mergansers)

Season Dates: Begin October 25, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 4 ducks, including no more than 3 mallards (including no more than 1 female mallard), 2 redheads or 1 canvasback and 1 redhead, and 1 pintail. The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots, moorhens, and gallinules, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Same as ducks.

Bag and Possession Limits: 2 and 4 geese, respectively.

General Conditions:

(1) The area open to hunting in the above seasons consists of: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. Tanks located below the Mongollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting. The remaining reservation waters are closed to waterfowl hunting during the 1997–98 hunting season.

(2) Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

(3) See other special regulations established by the White Mountain Apache Tribe that apply on the reservation, available from the reservation Game and Fish Department.

(m) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 4, 1997, end January 18, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese

Dark Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 4 and 8 geese, respectively.

Light Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 3 and 6 geese, respectively.

General Conditions: Nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(n) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Nontribal Hunters)

Ducks

Season Dates: Begin October 4, 1997, end January 8, 1998.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (including no more than 2 female mallards), 1 mottled duck, 1 canvasback, 2 redheads, 3 pintails, and 2 wood ducks. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 mergansers, including no more than 1 hooded merganser. The possession limit is twice the daily bag limit.

Dark Geese

Canada, Brant and White-fronted Geese

Season Dates: Begin October 4, 1997, end January 4, 1998.

Daily Bag and Possession Limits: 2 dark geese, including no more than 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 5, 1997, close January 5, 1998, then open February 25, close March 10, 1998.

Daily Bag and Possession Limits: 10 and 40 geese, respectively.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and nontribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Crow Creek Sioux Tribe also apply on the reservation.

(o) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 4, end November 30, 1997.

Daily Bag and Possession Limits: The daily bag limit is 7, including no more than 2 female mallards, 3 pintails, 2 redheads, and 1 canvasback. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but no more than 3 light geese. The possession limit is twice the daily bag limit. The 1997–98 Canada goose season is closed.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp

face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(p) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Begin October 1, 1997, end January 31, 1998.

Daily Bag and Possession Limits: 9 and 16 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides regulations enforcement authority in its game management officers, biologists and wildlife technicians, and has a court system with judges that hear cases and set fines.

(q) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters)

Ducks (including mergansers)

Season Dates: Begin October 4, 1997, end January 8, 1997.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (only 1 of which may be a hen), 2 pintails, 1 mottled duck, 2 redheads, 1 canvasback, 2 wood ducks, and 1 hooded merganser. The possession limit is twice the daily bag limit.

Geese

Dark Geese

Season Dates: Begin October 18, 1997, end January 11, 1997.

Daily Bag and Possession Limits: 3 geese, including no more than 1 white-fronted goose. The possession limit is twice the daily bag limit.

White Geese

Season Dates: Begin October 18, 1997, end January 11, 1998, open February 18, end March 10, 1998.

Daily Bag and Possession Limits: 10 and 20 geese, respectively.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Nontribal hunters must possess a validated Migratory Waterfowl Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the tribe.

(r) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Nontribal Hunters)

Ducks (including Mergansers)

Season Dates: Begin October 4, 1997, end January 17, 1998.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20 coots, respectively.

Geese

Season Dates: Begin October 4, 1997, end January 11, 1998.

Daily Bag and Possession Limits: 4 geese, including not more than 3 light geese and 2 white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: Nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(s) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

Ducks (including mergansers)

Season Dates: Begin October 4, 1997, end February 18, 1998.

Daily Bag and Possession Limits: 10 ducks, including no more than 2 female mallards, 3 pintails, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 28 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 7 geese, including 7 dark geese but no more than 6 light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

General Conditions: The Swinomish Tribal Community has established additional special regulations for on-reservation hunting. Tribal hunters should consult the tribal office for additional information.

(t) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Nontribal Hunters)

Ducks (including Mergansers)

Season Dates: Begin October 18, end December 30, 1997.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (no more 2 female mallards), 2 redheads, 3 pintails, 1 hooded merganser, 1 canvasback, and 2 wood ducks. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 15 and 30 coots, respectively.

Dark Geese

Season Dates: Begin November 1, 1997, end January 31, 1998.

Daily Bag and Possession Limits: 2 geese, including no more than 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

White Geese

Season Dates: Begin November 1, 1997, end January 25, 1998, then open February 18, close March 10, 1998.

Daily Bag and Possession Limits: 10 and 40 geese, respectively.

General Conditions: (1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the

Yankton Sioux Tribe also apply on the reservation.

Dated: September 22, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–25743 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–F

federal register

Monday
September 29, 1997

Part III

Department of Education

Privacy Act of 1974; Computer Matching Program; Notices

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program; Notice

AGENCY: Department of Education.

ACTION: Notice—Computer matching between the Department of Education and the Immigration and Naturalization Service (INS), Department of Justice.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Pub. L. 100–503, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the computer matching program between the Department of Education (ED) (the recipient agency), and the Immigration and Naturalization Service (INS), Department of Justice (the source agency).

Notice of the matching program was originally published in the **Federal Register** on March 23, 1995 (60 FR 15428); the program became effective on April 26, 1995. Duration was 18 months plus a one-year extension permitted by the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(o)(2)(D)). The one-year extension will expire on October 26, 1997. The following notice represents the approval of a new agreement by the Department of Justice and Department of Education Data Integrity Boards to continue the matching program (on the effective date as indicated below).

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Final Guidance on Interpreting the Provisions of Pub. L. 100–503, Computer Matching and Privacy Act of 1988 (54 FR 25818, June 19, 1989), and OMB Bulletin 89–22, the following information is provided:

1. Name of Participating Agencies

The Department of Education (ED) and the Department of Justice (DOJ).

2. Purpose of the Match

The matching program entitled ''Systematic Alien Verification for Entitlement (SAVE) INS/ED'' will permit ED to confirm the immigration status of alien applicants for, or recipients of, assistance as authorized by Title IV, section 484(a)(5), of the Higher Education Act of 1965, as amended (HEA). The Title IV programs include: the Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, Federal Perkins Loan, State Student Incentive Grant, Federal Family Education Loan, and William D. Ford Direct Loan Programs.

3. Authority for Conducting the Matching Program

The information contained in the INS data base is referred to as the Alien Status Verification Index (ASVI), and is authorized under the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99–603. ED seeks access to this data base under the Higher Education Act of 1965, as amended (section 484(g)). The INS is authorized to confirm immigration status under authority of section 103 of the Immigration and Nationality Act.

4. Categories of Records and Individuals Covered

The records to be used in the match and the roles of the matching participants are described as follows:

Through the use of user identification codes and passwords, authorized persons from ED will transmit electronically to INS data from its Privacy Act system of records entitled, ''Federal Student Aid Application File (18–40–0014).'' The data will include the alien registration number and date of birth of the alien applicant for, or recipient of, Title IV assistance. This action will initiate a search for corresponding data elements in an INS Privacy Act system of records entitled ''Alien Status Verification Index (JUSTICE/INS–009).'' Where there is a match of records, the system will provide to ED the immigration status code of the alien applicant or recipient. In accordance with 5 U.S.C. 552a(p), ED will verify any adverse finding (independently or through the alien applicant or recipient) and provide the alien applicant or recipient with 30 days notice and opportunity to contest such finding.

5. Effective Dates of the Matching Program

The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

6. Address for Receipt of Public Comments or Inquiries

Claude Denton, Program Specialist, Student Eligibility and Verification Section, Policy Development Division, U.S. Department of Education, 600 Independence Avenue, SW, (Room 3045, ROB–3), Washington, DC 20202, Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TTD) 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. Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498. Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Dated: September 19, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–25744 Filed 9–24–97; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 62, No. 188

Monday, September 29, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

E-mail **info@fedreg.nara.gov**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

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

PUBLIC LAWS ELECTRONIC NOTIFICATION SERVICE

Free electronic mail notification of newly enacted Public Law is now available. To subscribe, send E-mail to **PENS@GPO.GOV** with the message: *SUBSCRIBE PENS-L FIRSTNAME LASTNAME.*

FAX-ON-DEMAND

You may access our Fax-On-Demand service with a fax machine. There is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list is updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, NW., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

46175–46430 2
46431–46664 3
46665–46866 4
46867–47136 5
47137–47358 8
47359–47550 9
47551–47744 10
47745–47912 11
47913–48164 12
48165–48448 15
48449–48730 16
48731–48934 17
48935–49120 18
49121–49416 19
49417–49588 22
49589–49904 23
49905–50228 24
50229–50478 25
50479–50848 26
50849–50994 29

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7018 47911
7019 48929
7020 48931
7021 48933
7022 49121
7023 49123
7024 50469
7025 50471
7026 50473

Executive Orders:
5327 (Revoked in part by PLO 4522) 49024
12865 (See Notice September 24, 1997) 50477
13061 48345

Memorandums:
Presidential Determination No. 97–31 of August 16, 1997 47907
Presidential Determination No. 97–32 of September 12, 1997 48729

Notices:
Notice of September 24, 1997 50477

5 CFR

338 46553
550 49125
870 48731
871 48731
872 48731
873 48731
874 48731
890 49557
1200 49589
1201 .....48449, 48935
1605 48936
1639 49417
1650 49112
2423 46175
2429 46175
2634 48746
2635 48746

Proposed Rules:
532 46221
551 50435

7 CFR

201 48456
301 .....47551, 47553
319 .....50229, 50231, 50237
321 50237
330 50237
361 48456
441 47745
457 47745
500 46431
633 48471
636 49358
783 50849
800 48936
905 47913
916 50853
917 50853
920 49128
948 50479
981 50239
989 50481
993 49905
997 48749
998 48749
999 50241
1011 .....46665, 47923
1138 50484
1205 .....46412, 50244
1207 46175
1478 50849
1610 46867
1717 50486
1735 46867
1737 .....46867, 49557
1739 46867
1746 46867
1924 49907

Proposed Rules:
Ch. IV 48798
319 .....47770, 50260
400 47772
Ch. XIII 47156
1962 47384
1965 47384
1980 47384

8 CFR

214 .....48138, 50435
235 47749
274a 46553
316 49131

Proposed Rules:
3 48183
236 48183

9 CFR

1 50244
3 50244
50 49590
77 48165
78 .....48475, 48751
94 .....46179, 48751
96 46179

Proposed Rules:
319 46450

10 CFR

19 48165
50 47268
207 46181
218 46181
430 .....46181, 47536, 50122

490....46181
501....46181
601....46181
820....46181
1013....46181
1017....46181
1050....46181
Proposed Rules:
9....46922
32....49173
50....47268, 47588

11 CFR

Proposed Rules:
102....50708
104....50708
108....50708

12 CFR

25....47728
208....47728
210....48166
211....47728
229....48752
369....47728
615....49907, 50984
Ch. VII....50245
936....46872
950....50247
1402....49593
Proposed Rules:
303....47969
337....47969
362....47969, 48025
611....49623
615....49623
620....49623
627....49623
725....50262
900....49943
932....49943
933....49943

13 CFR

105....48477

14 CFR

11....46864
13....46864
15....46864
25....50494
39 ....46184, 46186, 46189, 47359, 47360, 47362, 47364, 47753, 47754, 47927, 47930, 47931, 47933, 48477, 48754, 49132, 49133, 49135, 49137, 49417, 49426, 49427, 49429, 49430, 49431, 49434, 50250, 50251, 50861, 50862
71 ....46873, 46874, 47366, 47756, 47757, 47758, 47759
97 ....49140, 49141, 49142
121....48135
125....48135
135....48135
185....46864
Proposed Rules:
21....49175
39 ....46221, 48187, 48189, 48499, 48502, 48506, 48510, 48513, 48517, 48520, 48524, 48528, 48531, 48535, 48538, 48542, 48546, 48549, 48553, 48556, 48560, 48563, 48567, 48570, 48574, 48577, 48581, 48799, 48961, 49177, 49179, 49457, 49458, 49634, 49945, 50263, 50264, 50527
71 ....47776, 47777, 47778, 47779, 47780, 47781, 48025, 49180, 49182
107....48190
108....48190
139....48190
255....47606
260....48584

15 CFR

30....49436
774....50865
902....49144
922....47137
Proposed Rules:
280....47240
295....48802
801....50529, 50531
911....47388
922....47611

16 CFR

1000....46666
1014 ....46666, 48756, 48756
1015....46192
1021....46666
1051....46666
1115....46666
1211....46666
1402....46666
1406....46666
1500....46666
1502....46666
1700....46666
1702....46666

17 CFR

200....47367
202....47934
230....47934
232....47934
239....47934
270....47934
274....47934
Proposed Rules:
1....47612
30....47612
33....47612
190....47612
240....50682
457....48956

19 CFR

7....46433, 49149
10 ....46433, 46553, 49149
12....49594
134....49597
148....46433, 49149
178....46433, 49149
Proposed Rules:
351....46451

20 CFR

222....47137
229....47137
404....49598
416....49437, 49598
Proposed Rules:
220....50056
404 ....46682, 48963, 49636, 50266, 50270
416 ....48963, 50266, 50270

21 CFR

Ch. I....49881
5....48756
10....47760
20....47760
25....47760
50....46198
56....46198
71....47760
101 ....47760, 49826, 49826, 49859, 49868, 49883
170....47760
171....47760
177....49908
190....49886
312 ....46198, 46875, 47760
314....46198, 47760
510....48939
511....47760
514....47760
520....46668
524....48940
558....46443
570....47760
571....47760
601....46198, 47760
610....48174
801....50497
812 ....46198, 47760, 48940
814....46198, 47760
Proposed Rules:
111....48968
200....49638
310....46223, 47532
312....49946
334....46223
600....49642
606....49642
884....46686

22 CFR

41....48149
171....48757
514....46876

24 CFR

Ch. V....47284
888....50724
971....49572
Proposed Rules:
968....47740
1000....47783
1003....47783
1005....47783

25 CFR

247....50866
Proposed Rules:
502....46227

26 CFR

1 ....46876, 46877, 49183, 50502, 50503
Proposed Rules:
1....49183
301....50533

28 CFR

523....50786
540....47894
541....50787
544....50791

29 CFR

1404....48948
1910....48175
1952....49908, 49910
4044....48176
Proposed Rules:
2560....47262
2580....49894

30 CFR

914....47138,
946....48758
Proposed Rules:
75....50541
206....49460, 50544
920....49183
946....48807
100 ....47330, 48765, 48766, 48767, 48768
773....47617
870....47617
917....46933
934....46695

31 CFR

103....47141
343....49912
344....46443
357....46860
Ch. V....48177
Proposed Rules:
103....47156
208....48714
212....46428

32 CFR

199....46877
311....46445
505....48480
706....47944
Proposed Rules:
178....50795

33 CFR

100 ....46553, 46669, 48769 48770, 50506,
117 ....46879, 46880, 50253, 50508
151....46446
155....48770
157....49603
165 ....46670, 46671, 50510, 50511
Proposed Rules:
100....50543
117....46697
175....50280
334....47166

34 CFR

300....48924
301....48924
303....48924
674....50846
675....50846
676....50846
Proposed Rules:
300....50435
301....50435
303....50435
682....50462
685....50462

35 CFR

104....48178

36 CFR

703....50253
Proposed Rules:
292....47167

38 CFR

1.....47532
3.....47532
9.....47532
Proposed Rules:
21.....48969

39 CFR

20.....47558, 49915
Proposed Rules:
20.....47394
111.....47178, 48191

40 CFR

9.....47114
32.....47149
52 .....46199, 46202, 46208, 46446, 46880, 47369, 47760, 47946, 48480, 48483, 49150, 49152, 49154, 49440, 49442, 49608, 49611, 49617, 50512, 50514, 50870, 50871
55.....46406
60.....48348
62.....48949
81.....46208, 49154
86.....47114
136.....48394
159.....49370
167.....49619
180 .....46882, 46885, 46888, 46894, 46900, 47560, 47561, 49158, 49918, 49925, 49931
185 .....47561, 49925, 49931
186 .....46900, 47561, 49931
271.....47947, 49163
272.....49163
281.....49620
300 .....46211, 48950, 48951, 49444, 49445, 49621, 50442, 50518, 50873
Proposed Rules:
9.....46937, 50152
51.....49184
52 .....46228, 46229, 46451, 46938, 47399, 47784, 48026, 48027, 48033, 48584, 48585, 48586, 48972, 49184, 49188, 49460, 49462, 49648, 49648, 49649, 50545, 50890, 50890
60.....46453
63.....46804, 49052
70.....46451
74.....50456
79.....47400
81 .....46229, 46234, 46238, 48972
86 .....46937, 49649, 50152
89.....50152
170.....47544
260.....47401
261.....47401, 47402
273.....47401
300 .....46938, 47619, 47784, 50450
799.....50546

41 CFR

Proposed Rules:
51–2.....50547
51–4.....50547
51–6.....50547
101–1.....47179
101–46.....47179

42 CFR

416.....47237
440.....47896, 49726
473.....49937
Proposed Rules:
Ch. IV.....49649
416.....46698
1000.....47182
1001.....47182, 47195
1002.....47182
1005.....47182

43 CFR

1810.....47568
3190.....49582

44 CFR

64.....49445, 49447
65.....47954
67.....47955
Proposed Rules:
67.....48193

45 CFR

650.....49938

46 CFR

28.....46672
90.....49308
98.....49308
125.....49308
126.....49308
127.....49308
128.....49308
129.....49308
130.....49308
131.....49308
132.....49308
134.....49308
174.....49308
175.....49308
298.....47149

47 CFR

0.....48951
1 .....47960, 48773, 48951
2.....47960
5.....48951
25.....48486
26.....47960
52.....48774
54.....47369
61.....48485
64 .....46447, 47152, 47237, 47369, 48787
68.....47371
69.....47369, 48485
73 .....47371, 47762, 47763, 49171, 49622, 50256, 50518, 50875, 50876
79.....48487
90.....46211
97 .....47960, 47961, 49557
101.....48787
Proposed Rules:
1.....46241, 48034
54.....47404, 48042
64.....47404
69.....48042
73 .....46707, 46708, 47406, 47786, 47787, 49189, 49190, 50549, 50891, 50891, 50891
76.....46453
80.....46243
90.....46468

48 CFR

9.....48921
19.....48921
204.....48181, 49303
212.....47153
216.....49304
225.....47153, 49304
231 .....47154, 49303, 49903
234.....49304
235.....49304
239.....49304
242.....49304
244.....47153, 49304
249.....49303
252 .....47153, 49304, 49304, 49305, 49903
253.....48181, 49303
704.....47532
715.....47532
726.....47532
750.....47532
752.....47532
1602.....47569, 50435
1603.....47569, 50435
1604.....47569, 50435
1615.....47569, 50435
1616.....47569, 50435
1629.....47569, 50435
1631.....47569, 50435
1643.....47569, 50435
1644.....47569, 50435
1645.....47569, 50435
1649.....47569, 50435
1652.....47569, 50435
1653.....47569, 50435
Proposed Rules:
15.....49900
31.....49900
46.....47882
52.....49900
204.....48200
212.....47407, 48200
215.....48205
225.....47407
252.....47407, 48200
833.....47411
852.....47411

49 CFR

171.....49171, 49560
172.....46214
173.....49560
174.....46214
175.....46214
176.....46214
177.....46214
193.....48496, 48952
365.....49939
366.....49939
372.....49939
375.....49939
387.....49939
390.....49939
571.....46907
575.....46447
594.....50876
580.....47763
Ch. X.....50522
1000.....48953
1001.....48953
1002.....46217, 48497
1108.....46217, 48497
1011 .....48953, 50257, 50882
1121.....47583
1022.....50885
1030.....50885
1150.....47583
1091.....50885
1118.....50882, 50882
1130.....50882
1131.....50885
1132.....50882
1143.....50885
1156.....50885
1170.....50885
1206.....46919
Proposed Rules:
171.....50222
172.....50222
173.....50222
175.....50222
177.....50222
178.....50222
180.....50222
216.....49728
223.....49728
229.....49728
231.....49728
232.....49728
238.....49728
387.....49654, 50892
571 .....47414, 49190, 49663
1111.....50550

50 CFR

20 .....46420, 50660, 50986
25.....47372
32.....47372
285.....48497, 50887
600.....47584
622 .....46677, 46679, 47765, 47766
630.....50257
648.....47767, 50525
660.....46920, 47587
679 .....46680, 46681, 47768, 48497, 48498, 50258, 50888, 50888
697.....49451
Proposed Rules:
17 .....46709, 46710, 48206, 49191, 49398, 49954, 50892, 50896
20.....46801
600.....49463
622.....50553
630.....47416
648 .....46470, 48047, 48207, 49193, 49195
679.....49198, 49464

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 29, 1997

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Raisins produced from grapes grown in California; published 9-26-97

Specialty crops; import regulations:
Peanuts; published 9-25-97

AGRICULTURE DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

COMMERCE DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Commercial communications satellites; list of items controlled revised; published 9-29-97

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

DEFENSE DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

EDUCATION DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

ENERGY DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
California; published 7-31-97
Tennessee; published 7-29-97
Clean Air Act:
State operating permits programs—
Interim approval extensions; published 8-29-97
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; published 9-29-97
Water pollution control:
Ocean dumping; site designations—
Mud Dump Site, NJ and NY; published 8-29-97

EXECUTIVE OFFICE OF THE PRESIDENT
National Drug Control Policy Office
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

FEDERAL COMMUNICATIONS COMMISSION
Common carrier services:
Telecommunications Act of 1996; implementation—
Local exchange carriers; local competition provisions; published 8-28-97
Radio services, special:
Private land mobile services—
800 MHz frequency band SMR systems; future development; published 7-31-97
800 MHz frequency band SMR systems; future development; published 7-31-97
Radio stations; table of assignments:
Florida; published 8-25-97
New Mexico; published 8-25-97
Wisconsin; published 8-21-97

FEDERAL EMERGENCY MANAGEMENT AGENCY
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

FEDERAL MEDIATION AND CONCILIATION SERVICE
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

GENERAL SERVICES ADMINISTRATION
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Block grants:
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

INTERIOR DEPARTMENT
Indian Affairs Bureau
Fish and wildlife:
Columbia River treaty fishing access sites; use; published 9-29-97

INTERIOR DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY
Agency for International Development
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

JUSTICE DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

LABOR DEPARTMENT
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

LEGAL SERVICES CORPORATION
Aliens; legal assistance restrictions; published 8-29-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

ARTS AND HUMANITIES, NATIONAL FOUNDATION
National Foundation on the Arts and the Humanities
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

NATIONAL SCIENCE FOUNDATION
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

RAILROAD RETIREMENT BOARD
Railroad Retirement Act:
Retirement annuities; finality of decisions; published 8-29-97

SMALL BUSINESS ADMINISTRATION
Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

STATE DEPARTMENT
Grants and cooperative agreements to State and

local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

TRANSPORTATION DEPARTMENT

Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 9-12-97

Dassault; published 9-12-97

Airworthiness standards:

Special conditions—

Empresa Brasileira Aeronautica S.A. model EMB-145 airplane; published 8-28-97

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Motor carrier safety standards:

Financial responsibility; self-insurance requirements and application processing fees, etc.; published 9-29-97

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Organization, functions, and authority delegations:

Employee boards; technical amendments; published 9-29-97

Practice and procedure rules:

CFR parts removed; published 9-29-97

TREASURY DEPARTMENT

Customs Service

Merchandise remaining at place of arrival or unlading beyond lay order period; general order; penalties for failure to notify Customs; published 7-31-97

UNITED STATES INFORMATION AGENCY

Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

VETERANS AFFAIRS DEPARTMENT

Grants and cooperative agreements to State and local governments, universities, hospitals, and other non-profit organizations; published 8-29-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Eggs and egg products:

Pasteurized shell eggs (in-shell eggs); comments due by 10-10-97; published 8-11-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Horses from Mexico; quarantine requirements; comments due by 10-7-97; published 8-8-97

Interstate transportaion of animals and animal products (quarantine):

General provisions; clarification; comments due by 10-7-97; published 8-8-97

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:

Facility payment guarantees; comments due by 10-7-97; published 8-8-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic swordfish; comments due by 10-6-97; published 9-9-97

Northeastern United States fisheries—

Northeast multispecies; comments due by 10-6-97; published 9-19-97

Ocean and coastal resource management:

Marine sanctuaries—

Gulf of the Farallones National Marine Sanctuary, CA; comments due by 10-6-97; published 8-21-97

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:

Chesapeake Bay, Point Lookout to Cedar Point, MD; comments due by 10-8-97; published 9-8-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Heavy-duty engines and light-duty vehicles and trucks—

Emission standard provisions for gaseous fueled vehicles and engines; test procedures; comments due by 10-6-97; published 9-5-97

Emission standard provisions for gaseous fueled vehicles and engines; test procedures; comments due by 10-6-97; published 9-5-97

Air pollution; standards of performance for new stationary sources:

Fossil-fuel fired steam generating units; comments due by 10-8-97; published 9-3-97

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 10-6-97; published 9-5-97

Hazardous waste:

Hazardous waste management system—

Mercury-containing lamps (light-bulbs); data availability; comments due by 10-9-97; published 9-9-97

Pesticide programs:

Worker protection standards—

Glove requirements; comments due by 10-9-97; published 9-9-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 10-6-97; published 9-5-97

National priorities list update; comments due by 10-10-97; published 9-10-97

FEDERAL COMMUNICATIONS COMMISSION

Practice and procedure:

Radiofrequency emissions; environmental effects; State and local regulations; procedures for reviewing requests for relief; comments due by 10-9-97; published 9-12-97

Radio stations; table of assignments:

New York; comments due by 10-6-97; published 8-21-97

New York et al.; comments due by 10-6-97; published 8-21-97

South Dakota; comments due by 10-6-97; published 8-21-97

West Virginia; comments due by 10-6-97; published 8-21-97

Wisconsin; comments due by 10-6-97; published 8-21-97

GENERAL SERVICES ADMINISTRATION

Federal property management:

Governnmentwide real property policy; comments due by 10-6-97; published 8-7-97

Utilization and disposal—

Personal property replacement; comments due by 10-8-97; published 9-8-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Codex Alimentarius standards; consideration; comments due by 10-6-97; published 7-7-97

Human drugs:

Labeling of drug products (OTC)—

Standardized format; comments due by 10-7-97; published 6-19-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Solvency standards for provider-sponsored organizations; negotiated rulemakingcommittee—

Intent to form and meeting; comments due by 10-8-97; published 9-23-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Harlequin duck; comments due by 10-6-97; published 8-7-97

Recovery plans—

Grizzly bear; comments due by 10-9-97; published 7-2-97

Importation, exportation, and transportation of wildlife:
Humane and healthful transport of wild mammals, birds, reptiles, and amphibians to U.S.; comments due by 10-6-97; published 8-5-97

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:
Lessees and payors; collection of information; payor recordkeeping designation; comments due by 10-6-97; published 8-5-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Kentucky; comments due by 10-6-97; published 9-5-97

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Commodity transactions:
Maximum prices and preshipment inspection requirements; comments due by 10-7-97; published 8-8-97

NORTHEAST DAIRY COMPACT COMMISSION

Over-order price regulations:
Compact over-order price regulations—
Class I fluid milk route distributions in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; comments due by 10-8-97; published 9-8-97

NUCLEAR REGULATORY COMMISSION

Freedom of Information Act; implementation; comments due by 10-6-97; published 9-5-97

Production and utilization facilities; domestic licensing:
Nuclear power reactors—
Safety-related structures, systems, and components; definition; comments due by 10-8-97; published 9-8-97
Safety-related structures, systems, and components; definition; comments due by 10-8-97; published 9-8-97

Radiation protection standards:
NRC-licensed facilities; radiological criteria for decommissioning (license termination)—
Uranium recovery facilities; comments due by 10-6-97; published 7-21-97

POSTAL SERVICE

Domestic Mail Manual:
Nonprofit standard mail matter; eligibility requirements; comments due by 10-8-97; published 9-8-97

International Mail Manual:
Global package link service; implementation; comments due by 10-10-97; published 9-10-97
International surface air lift service; postage rates adjustment and miscellaneous changes; comments due by 10-9-97; published 9-9-97

SOCIAL SECURITY ADMINISTRATION

Social security benefits:
Federal old age, survivors and disability insurance—
Information disclosure to consumer reporting agencies and overpayment recovery through administration offset against Federal payments; comments due by 10-6-97; published 8-7-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
British Aerospace; comments due by 10-6-97; published 8-25-97

Dassault; comments due by 10-10-97; published 9-15-97

Pratt & Whitney; comments due by 10-6-97; published 8-7-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Occupant crash protection—
Anthropomorphic test dummy modification; comments due by 10-6-97; published 8-7-97
School bus pedestrian safety devices; conspicuity requirements for stop signal arms; comments due by 10-6-97; published 8-6-97

TREASURY DEPARTMENT

Civil penalty assessment for misuse of Department of the Treasury Names, Symbols, etc.; comments due by 10-6-97; published 8-6-97

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A "●" precedes each entry that is now available on-line through the Government Printing Office's *GPO Access* **service at http:// www.access.gpo.gov/nara/cfr. For information about** *GPO Access* **call 1-888-293-6498 (toll free).**

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
●**1, 2 (2** Reserved)	(869–032–00001–8)	$5.00	Feb. 1, 1997
●**3** (1996 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
●**4**	(869–032–00003–4)	7.00	Jan. 1, 1997
5 Parts:			
●1–699	(869–032–0004–2)	34.00	Jan. 1, 1997
●700–1199	(869–032–00005–1)	26.00	Jan. 1, 1997
●1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
7 Parts:			
●0–26	(869–032–00007–7)	26.00	Jan. 1, 1997
●27–52	(869–032–00008–5)	30.00	Jan. 1, 1997
●53–209	(869–032–00009–3)	22.00	Jan. 1, 1997
●210–299	(869–032–00010–7)	44.00	Jan. 1, 1997
●300–399	(869–032–00011–5)	22.00	Jan. 1, 1997
●400–699	(869–032–00012–3)	28.00	Jan. 1, 1997
●700–899	(869–032–00013–1)	31.00	Jan. 1, 1997
●900–999	(869–032–00014–0)	40.00	Jan. 1, 1997
●1000–1199	(869–032–00015–8)	45.00	Jan. 1, 1997
●1200–1499	(869–032–00016–6)	33.00	Jan. 1, 1997
●1500–1899	(869–032–00017–4)	53.00	Jan. 1, 1997
●1900–1939	(869–032–00018–2)	19.00	Jan. 1, 1997
●1940–1949	(869–032–00019–1)	40.00	Jan. 1, 1997
●1950–1999	(869–032–00020–4)	42.00	Jan. 1, 1997
●2000–End	(869–032–00021–2)	20.00	Jan. 1, 1997
●**8**	(869–032–00022–1)	30.00	Jan. 1, 1997
9 Parts:			
●1–199	(869–032–00023–9)	39.00	Jan. 1, 1997
●200–End	(869–032–00024–7)	33.00	Jan. 1, 1997
10 Parts:			
●0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
●51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
●200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
●500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
●**11**	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
●1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
●200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
●220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
●300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
●500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
●600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
●**13**	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
●1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
●60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
●200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
●1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
●800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
●0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
●1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
●1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
●200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
●240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
●1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
●400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
●1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
●141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
●200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
●1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
●400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
●500–End	(869–032–00058–1)	42.00	Apr. 1, 1997
21 Parts:			
●1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
●100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
●170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
●200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
●300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
●500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
●600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
●800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
●1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
●300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
●**23**	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
●0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
●700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
●1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
●**25**	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
●§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
●§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
●§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
●§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
●§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
●§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
●§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
●§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
●§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
●§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
●§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
200–End	(869–032–00097–2)	17.00	Apr. 1, 1997
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
*43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
0–99	(869–032–00100–5)	27.00	July 1, 1997
100–499	(869–032–00101–4)	12.00	July 1, 1997
500–899	(869–032–00102–2)	41.00	July 1, 1997
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1900 to 1910.999)	(869–028–00112–2)	43.00	July 1, 1996
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
*200–699	(869–032–00110–3)	28.00	July 1, 1997
*700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–032–00116–2)	33.00	July 1, 1997
630–699	(869–032–00117–1)	22.00	July 1, 1997
700–799	(869–032–00118–9)	28.00	July 1, 1997
800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
*300–399	(869–032–00124–3)	27.00	July 1, 1997
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–032–00130–8)	27.00	July 1, 1997
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
*18–End	(869–032–00132–4)	38.00	July 1, 1997
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869–028–00144–1)	47.00	July 1, 1996
61–62	(869–032–00140–5)	19.00	July 1, 1997
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
*●136–149	(869–032–00146–4)	35.00	July 1, 1997
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
260–265	(869–032–00149–9)	29.00	July 1, 1997
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–032–00152–9)	33.00	[6] July 1, 1996
●425–699	(869–032–00153–7)	40.00	July 1, 1997
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–032–00158–8)	17.00	July 1, 1997
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[5] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996
CFR Index and Findings Aids	(869–032–00047–6)	45.00	Jan. 1, 1997

Title	Stock Number	Price	Revision Date
Complete 1997 CFR set		951.00	1997
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1997
Individual copies		1.00	1997
Complete set (one-time mailing)		264.00	1996
Complete set (one-time mailing)		264.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.