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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.

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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.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–115–1]

Change in Disease Status of Belgium Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Belgium to the list of countries where bovine spongiform encephalopathy (BSE) exists because the disease has been detected in a cow in that country. The effect of this action is to prohibit or restrict the importation of ruminants which have been in Belgium and certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants which have been in Belgium. This action is necessary to reduce the risk that BSE could be introduced into the United States.

DATES: Interim rule effective October 31, 1997. Consideration will be given only to comments received on or before January 20, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–115–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–115–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 92, 94, and 95 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, animal products, animal byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of bovine animals and other ruminants and is not known to exist in the United States.

It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants in countries in which BSE exists, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants from countries in which BSE exists are imported.

Sections 94.18 and 95.4 of the regulations prohibit and restrict the importation of certain meat, animal products, and animal byproducts from ruminants which have been in countries in which BSE exists. These countries are listed in § 94.18 of the regulations. Furthermore, § 92.404(a)(3) states that the Animal and Plant Health Inspection Service may deny the importation of ruminants from countries where a communicable disease such as BSE exists.

Belgium's Ministry of Agriculture has reported a case of BSE in Belgium. BSE was confirmed by histopathological examination according to standardized procedures for the diagnosis of BSE. Belgium's Ministry of Agriculture confirmed that BSE was in a cow born in Belgium. The exposure of this animal to the BSE agent could only have occurred in Belgium. In order to reduce the risk of introducing BSE into the United States, we are, therefore, adding Belgium to the list of countries where BSE is known to exist. Thus, we are prohibiting or restricting the importation into the United States of ruminants which have been in Belgium, and certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants which have been in Belgium.

We are making this action effective retroactively to October 31, 1997, as that was the day on which the case of BSE was reported by Belgium's Ministry of Agriculture. This effective date is necessary to ensure that the prohibitions and restrictions established by this rule apply to ruminants, as well as fresh, chilled, and frozen meat, and certain other animal products and animal byproducts from ruminants that have been shipped to the United States from Belgium on or after October 31, 1997.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of BSE into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective on October 31, 1997. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action adds Belgium to the list of countries where BSE exists. We are

taking this action based on reports we have received from Belgium's Ministry of Agriculture, which confirmed that a case of BSE has occurred in Belgium.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to October 31, 1997; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306, 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.18 [Amended]

2. In § 94.18, paragraph (a) is amended by adding the word ''Belgium,'' immediately before ''France,''.

Done in Washington, DC, this 12th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–30230 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–284–AD; Amendment 39–10208; AD 97–24–01]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This action requires repetitive inspections to detect migration or damage of the bushings of the main landing gear (MLG) trailing arm, and replacement of any damaged or displaced bushing. This amendment is prompted by reports indicating that damagedor displaced bushings have been found on several MLG trailing arms of Dornier Model 328–100 series airplanes. The actions specified in this AD are intended to prevent failure of the bushings of the MLG trailing arm, which could result in collapse of the MLG during landing.

DATES: Effective December 3, 1997.

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

Comments for inclusion in the Rules Docket must be received on or before December 18, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–284–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Dornier Deutsche Aerospace, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that fatigue damaged or displaced bushings have been found on several main landing gear (MLG) trailing arms. This condition, if not corrected, could result in collapse of the MLG during landing.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB–328–32–019, dated September 17, 1997, which describes procedures for repetitive visual inspections to detect damage or migration of the bushings of the MLG trailing arm, and replacement of any damaged or displaced bushing. The LBA advises that it considers this alert service bulletin to be mandatory, and that it is in the process of issuing a German airworthiness directive to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between This AD and the Related Service Bulletin

Operators should note that, unlike the procedures described in Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 1997, this AD does not permit further flight if damage or migration of the bushings is found. The FAA has determined that, because of the safety implications and consequences associated with such damage, any bushing that is found to be damaged or displaced must be replaced prior to further flight.

Interim Action

This AD is considered to be interim action until final action is identified, at which time the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–284–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

97–24–01 DORNIER: Amendment 39–10208. Docket 97–NM–284–AD.

Applicability: All Model 328–100 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 (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 failure of the bushings of the main landing gear (MLG) trailing arm, which could result in collapse of the MLG during landing, accomplish the following:

(a) For airplanes that have accumulated 3,000 total flight hours or more as of the effective date of this AD: Within 7 days after the effective date of this AD, conduct an external visual inspection to detect damage or migration of the bushings of each MLG trailing arm, in accordance with Section 2.B(1) of Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 1997.

(b) For airplanes that have accumulated less than 3,000 total flight hours as of the effective date of this AD: Prior to accumulation of 3,000 total flight hours, or within 300 flight hours after the effective date of this AD, whichever occurs later, conduct a detailed visual inspection to detect damage of the bushings of each MLG trailing arm, in accordance with Section 2.B(2) of Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 1997.

(c) If no damage or migration is detected during the inspection required by paragraph (a) or (b) of this AD within 300 flight hours after the inspection, and thereafter at intervals not to exceed 300 flight hours, conduct a detailed visual inspection to detect damage of the bushings of each MLG trailing arm, in accordance with Section 2.B(2) of Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 1997.

(d) If any damage or migration is detected during any inspection required by paragraph (a), (b), or (c) of this AD, prior to further flight, replace any affected bushing in accordance with Section 2.B(2) of Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 1997. Thereafter, except as provided by paragraph (e) of this AD, continue to inspect the bushings in accordance with paragraph (c) of this AD.

(e) For airplanes on which all bushings of both MLG trailing arms have been replaced in accordance with Dornier Alert Service Bulletin ASB–328–32–019, dated September

17, 1997: Within 3,000 flight hours after replacement of the bushings, and thereafter at intervals not to exceed 300 flight hours, inspect the new bushings in accordance with paragraph (c) of this AD.

(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, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(h) The inspection and replacement shall be done in accordance with Dornier Alert Service Bulletin ASB–328–32–019, dated September 17, 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 Dornier Deutsche Aerospace, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on December 3, 1997.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–30103 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–285–AD; Amendment 39–10209; AD 97–24–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11, –2A12, and –2B16 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–1A11, –2A12, and –2B16 series airplanes. This action requires repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to detect and correct cracking in the pressure bulkhead at frame station (FS) 409.00, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

DATES: Effective December 3, 1997.

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

Comments for inclusion in the Rules Docket must be received on or before December 18, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–285–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 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: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–1A11, –2A12, and –2B16 series airplanes. TCA advises that the structural configuration of these airplanes at frame station (FS) 409.00 is similar to that of Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes, which was shown to have a pressurization problem caused by fatigue cracking in the underfloor pressure bulkhead of the fuselage. TCA has received several reports of cracking at this same location on Bombardier Model CL–600–1A11, –2A12, and –2B16 series airplanes. This condition, if not corrected, could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

Other Relevant Rules

The FAA previously issued AD 97–14–11, amendment 39–10082 (62 FR 38206, July 17, 1997), which requires repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. That AD applies to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes.

Explanation of Relevant Service Information

The manufacturer has issued Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997 [for Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A/–3R) series airplanes]; Service Bulletin 604–53–007, dated September 30, 1997 [for Model CL–600–2B16 (CL–604) series airplanes]; and Service Bulletin 600–0679, dated September 12, 1997 [for Model CL–600–1A11 (CL–600) series airplanes]. These service bulletins describe procedures for repetitive detailed visual inspections to detect fatigue cracking of the underfloor pressure bulkhead at FS 409.00, and repair, if necessary. TCA classified these service bulletins as mandatory and issued Canadian airworthiness directive CF–97–16, dated September 25, 1997, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the inspections specified in the service bulletins described previously. In addition, this AD requires repair, if necessary, in accordance with a method approved by the FAA.

Operators should note that, while it is not the FAA's normal policy to allow flight with known cracks, this AD does permit further flight with cracking within certain limits. The results of a review, conducted by the manufacturer, revealed that cracking in the underfloor pressure bulkhead of the fuselage will not result in rapid decompression of the airplane. Therefore, according to the review, if the crack size limits are strictly observed and if repetitive inspections are performed at the required intervals, cracks that grow beyond the limits will be detected, and corrective action taken, before they can grow to a size that would create an unacceptable risk of structural failure. Transport Canada Aviation concurs with the findings of this review. In consideration of these findings and based on the FAA's criteria for flight with known cracking, the FAA has determined that further flight with cracking within certain limits in the center pressure bulkhead is permissible for an interim period.

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 15 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–285–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

97–24–02 Bombardier, Inc.: Amendment 39–10209. Docket 97–NM–285–AD.

Applicability: Model CL–600–1A11 (CL–600) series airplanes, serial numbers 1004 through 1085 inclusive; Model CL–600–2A12 (CL–601) series airplanes, serial numbers 3001 through 3066 inclusive; Model CL–600–2B16 (CL–601–3A/–3R) series airplanes, serial numbers 5001 through 5194 inclusive; Model CL–600–2B16 (CL–604) series airplanes, serial numbers 5301 through 5352 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the underfloor pressure bulkhead of the fuselage, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage, accomplish the following:

(a) For Model CL–600–1A11 (CL–600) airplanes: Prior to the accumulation of 1,900 total landings, or within 100 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks at frame station (FS) 409 of the bulkhead web [part number (P/N) 600–32014–71/–95/–105], in accordance with Canadair Challenger Service

Bulletin 600–0679, dated September 12, 1997.

(1) If no crack is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 600 landings.

(2) If any crack is detected and if all three of the conditions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD are met, within 600 landings or 12 months after the crack is detected, whichever occurs first, repair the cracking in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Until the repair is accomplished, repeat the detailed visual inspection at intervals not to exceed 100 landings.

(i) No more than one crack exists at each corner radius, as specified in the service bulletin; and

(ii) No crack extends under the angles having P/N 600–32014–13 and P/N 600–32014–15 on the aft side of the bulkhead web; and

(iii) No crack exists in angles having P/N 600–32014–13 and P/N 600–32014–15 on the aft side of the bulkhead web.

(3) If any cracking other than that identified in paragraph (a)(2) of this AD is detected, prior to further flight, repair it in accordance with a method approved by the Manager, New York ACO.

(b) For Model CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A/–3R), and CL–600–2B16 (CL–604) series airplanes: Prior to the accumulation of 1,100 total landings, or within 100 landings after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect cracks at FS 409 of the bulkhead web (P/N 600–32014–105/–137), in accordance with Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997 [for Model CL–600–2A12 (CL–601) and CL–600–2B16 (CL–601–3A/–3R) series airplanes); or Canadair Challenger Service Bulletin 604–53–007, dated September 30, 1997 [for Model CL–600–2B16 (CL–604) series airplanes]; as applicable.

(1) If no crack is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 600 landings.

(2) If any crack is detected and if all three of the conditions specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD are met, within 600 landings or 12 months after the crack is detected, whichever occurs first, repair the cracking in accordance with a method approved by the Manager, New York ACO. Until the repair is accomplished, repeat the detailed visual inspection at intervals not to exceed 100 landings.

(i) No more than one crack exists at each corner radius, as specified in the service bulletin; and

(ii) No crack extends under the angles having P/N 600–32014–113 and P/N 600–32014–115 on the aft side of the bulkhead web; and

(iii) No crack exists in angles having P/N 600–32014–113 and P/N 600–32014–115 on the aft side of the bulkhead web.

(3) If any cracking other than that identified in paragraph (b)(2) of this AD is detected, prior to further flight, repair it in accordance with a method approved by the Manager, New York ACO.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. 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.

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

(e) The inspections shall be done in accordance with Canadair Challenger Service Bulletin 600–0679, dated September 12, 1997; Canadair Challenger Service Bulletin 601–0501, dated September 12, 1997; or Canadair Challenger Service Bulletin 604–53–007, dated September 30, 1997; as applicable. 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., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 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.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–97–16, dated September 25, 1997.

(f) This amendment becomes effective on December 3, 1997.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–30104 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–40–AD; Amendment 39–10162; AD 97–21–09]

RIN 2120–AA64

Airworthiness Directives; Allison Engine Company Model 250–C47B Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes existing airworthiness directive (AD) 96–24–09, applicable to Allison Engine Company Model 250–C47B turboshaft engines, that currently requires replacing the engine main electrical harness assembly with an improved assembly, disabling the overspeed solenoid, inspecting the engine control unit (ECU) internal PW10 voltage to determine electrical noise characteristics, and replacing units not considered serviceable. In addition, the existing AD requires adding a placard to the helicopter instrument panel notifying the pilot that the overspeed protection system is disabled and removes a placard which was required by priority letter AD 96–21–12; revises the Bell Helicopter Textron, A Division of Textron Canada Ltd. (BHTC) Model 407 Rotorcraft Flight Manual (RFM); and requires maintenance actions to clear the ECU of faults prior to each flight. This amendment continues to require replacing the engine main electrical harness assembly with an improved assembly, but adds the requirements to install a new hydromechanical unit (HMU) and ECU, removing the placard notifying the pilot that the overspeed protection system is disabled, and revises the BHTC Model 407 RFM. This amendment is prompted by the development of overspeed protection system modifications to reactivate the overspeed solenoid in conjunction with raising the power turbine overspeed trip point and revising the overspeed system to default to a minimum fuel flow in the event of its activation. The actions specified by this AD are intended to prevent uncommanded inflight engine shutdowns, which can result in autorotation, forced landing, and possible loss of the helicopter.

DATES: Effective December 3, 1997.

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

Comments for inclusion in the Rules Docket must be received on or before January 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–40–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''.

Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Allison Engine Company, P.O. Box 420, Speed Code P–40A, Indianapolis, IN 46206–0420; telephone (317) 230–2720, fax (317) 230–3381. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–7134, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: On October 11, 1996, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive (AD) 96–21–12, applicable to Bell Helicopter Textron, A Division of Textron Canada Ltd. (BHTC) Model 407 helicopters, which prohibited further flight. That action was prompted by reports of uncommanded inflight engine shutdowns on Allison Engine Company Model 250–C47B turboshaft engines installed in those helicopters. In each case, the harness failed and caused the electronic control unit (ECU) to go into a fail fixed fuel flow condition. Subsequent pilot action (reduction in collective), caused the engine to reach the overspeed trip point, with resultant default to zero fuel flow and engine shutdown. That condition, if not corrected, could result in uncommanded inflight engine shutdowns, which can result in autorotation, forced landing, and possible loss of the helicopter.

Following issuance of priority letter AD 96–21–12, the investigation revealed that the cause of the uncommanded inflight engine shutdowns was an ECU fault to a fail fixed fuel flow condition, and subsequent main rotor and power turbine overspeed limit exceedances coincident with pilot collective input. These overspeed conditions activated the analog overspeed trip, which resulted in a command to zero fuel flow and engine flameout. The ECU fault resulted from a manufacturing defect in the engine main electrical harness assembly.

Additionally, in a related incident involving another Allison Engine Company engine model, an ECU fault to fail fixed fuel flow was attributed to the electrical noise characteristics of the ECU internal PW10 voltage, as affected by certain ECU power modulator subcomponents. This same power modulator Part Number (P/N) was in use on the Allison Engine Company Model 250–C47B engine application. The noted ECU power modulator problem could have also led to the overspeed condition and uncommanded engine shutdown described above, and was therefore addressed in the following AD action.

On November 15, 1996, the FAA issued AD 96–24–09, Amendment 39–9834 (61 FR 59828, November 25, 1996), applicable to Allison Engine Company Model 250-C47B turboshaft engines, to require replacing the engine main electrical harness assembly with an improved assembly, disabling the overspeed solenoid (thereby deactivating the engine overspeed protection system), inspecting the ECU internal PW10 voltage to determine electrical noise characteristics, and replacing units not considered serviceable due to excessive electrical noise. In addition, AD 96–24–09 requires adding a helicopter instrument panel placard notifying the pilot that the overspeed protection system is disabled; removes the placard required by AD 96–21–12 which prohibited further flight; and revises the BHTC Model 407 Rotorcraft Flight Manual (RFM) to clarify emergency flight procedures and to require maintenance actions to clear Full Authority Digital Engine Control (FADEC) fault annunciations prior to each flight. That action was prompted by investigation into the causes of the inflight engine shutdowns.

The original decision to disconnect the overspeed protection system was arrived at by comparing the safety of operating with the system enabled to the safety of operating with the system disabled. By operating with the system enabled, there was a likely consequence of other FADEC failures leading to an overspeed trip and resulting in an engine shutdown as had happened previously. Disabling the overspeed protection system eliminated the possibility of inadvertent activation and engine shutdown, but introduced new risks associated with engine power turbine shaft failure or rotorcraft drive train failure leading to uncontained blade shedding and hazards to the aircraft. Based on service data for comparable applications, and the estimated length of time for a final fix to be designed and tested, the FAA considered operations with the overspeed protection disabled acceptable. The redesign of the system has taken longer than estimated, which now puts in question the original analysis concerning operations with the overspeed protection disabled. The FAA has determined that immediate action is necessary to prevent possible turbine shaft failure, or rotorcraft drive train failure, from leading to an uncontained blade shedding due to the lack of overspeed protection. For these reasons, the FAA has determined that implementation of the redesigned overspeed system must proceed without further delay.

Since the issuance of AD 96–24–09, Allison Engine Company has developed certain modifications that raise the power turbine overspeed trip point, and revise the overspeed system to default to a minimum fuel flow in the event of its activation. With these changes incorporated, the overspeed solenoid can be reactivated. Additionally, a capacitor was added to the ECU PW10 circuit thereby eliminating the problematic electrical noise characteristic.

The FAA has reviewed and approved the technical contents of: Allison Engine Company Alert Commercial Engine Bulletin (CEB) A–73–6015, Revision 1, dated July 30, 1997, and Revision 2, dated October 31, 1997, that describe procedures for installing a new hydromechanical unit (HMU) and ECU; Allison Engine Company Alert CEB–A–73–6010, dated October 15, 1996, that describes replacing the engine main electrical harness assembly with an improved assembly; and BHTC RFM BHT–407-FM–1, Revision 5, dated June 24, 1997, that adds new instructions for the revised overspeed system.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes AD 96–24–09 to continue to require replacing the engine main electrical harness assembly with an improved assembly, and adds the requirements to install a new HMU and ECU, to remove the placard notifying the pilot that the overspeed protection system is disabled, and to revise the BHTC Model 407 RFM. Installation of the new HMU and ECU will reactivate the overspeed solenoid in conjunction with raising the power turbine overspeed trip point and revising the overspeed system to default to a minimum fuel flow in the event of its activation. These actions must be completed by January 31, 1998. This calendar end-date was determined based upon parts availability. The requirements of paragraph (c) of this AD have been coordinated with the Rotorcraft Directorate. The actions are required to be accomplished in accordance with the service information described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–ANE–40–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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 removing Amendment 39–9834, (61 FR 59828, November 25, 1996), and by adding a new airworthiness directive, Amendment 39–10162, to read as follows:

97–21–09 Allison Engine Company: Amendment 39–10162. Docket 97–ANE–40–AD. Supersedes AD 96–24–09, Amendment 39–9834.

Applicability: Allison Engine Company Model 250-C47B turboshaft engines, installed on but not limited to Bell Helicopter Textron, A Division of Textron Canada Ltd. (BHTC) Model 407 helicopters.

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 (d) 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 uncommanded inflight engine shutdowns, which can result in autorotation, forced landing, and possible loss of the helicopter, accomplish the following:

(a) Prior to further flight, replace the engine main electrical harness assembly, Part Number (P/N) 23062796, with an improved assembly, P/N 23065805, in accordance with Allison Engine Company Alert Commercial Engine Bulletin (CEB) CEB–A–73–6010, dated October 15, 1996.

(b) Prior to January 31, 1998, install a new hydromechanical unit (HMU) and engine control unit (ECU) in accordance with Allison Engine Company Alert CEB–A–73–6015, Revision 1, dated July 30, 1997, or Revision 2, dated October 31, 1997.

(c) After completing the requirements of paragraph (b) of this AD, and then prior to further flight:

(1) Remove the ''OVRSPD SYSTEM INOP'' placard required by paragraph (d) of AD 96–24–09, and

(2) Revise the FAA-approved Rotorcraft Flight Manual (RFM) by removing the pages added by paragraph (f) of AD 96–24–09, and incorporate BHTC Flight Manual BHT–407–FM–1, Revision 5, dated June 24, 1997.

(d) 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, Chicago Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft 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 Chicago Aircraft Certification Office.

(e) 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 requirements of this AD can be accomplished.

(f) The actions required by this AD shall be done in accordance with the following service documents:

Document No.	Pages	Revision	Date
Allison Engine Company Alert, CEB–A–73–6010 ..... Total Pages: 7	1–7	Original	Oct. 15, 1996.
Allison Engine Company Alert, CEB–A–73–6015	1–4	1	July 30, 1997.

Document No.	Pages	Revision	Date
Total Pages: 4			
Allison Engine Company Alert, CEB–A–73–6015	1–4	2	Oct. 31, 1997.
Total pages: 4			
BHTC Flight Manual BHT–407–FM–1	Cover	5	June 24, 1997.
	NP	3	July 30, 1996.
	A,B	5	June 24, 1997.
	C/D	5	June 24, 1997.
	1–3	5	June 24, 1997.
	1–4	4	Nov. 4, 1996.
	1–7, 1–8	5	June 24, 1997.
	1–13	4	Nov. 4, 1996.
	1–14	5	June 24, 1997.
	1–14A/14B	5	June 24, 1997.
	1–19/1–20	5	June 24, 1997.
	2–3	5	June 24, 1997.
	2–4	1	Mar. 8, 1996.
	2–7—2–10	5	June 24, 1997.
	2–13, 2–14	5	June 24, 1997.
	3–3—3–5	5	June 24, 1997.
	3–6	2	May 9, 1996.
	3–7, 3–8	5	June 24, 1997.
	3–15	5	June 24, 1997.
	3–16	2	May 9, 1996.
	3–17—3–22	5	June 24, 1997.
	4–5, 4–6	5	June 24, 1997.
	4–9	Original	Feb. 9, 1996.
	4–10—4–12	5	June 24, 1997.
Total pages: 40			

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 Allison Engine Company, P.O. Box 420, Speed Code P–40A, Indianapolis, IN 46206–0420; telephone (317) 230–2720, fax (317) 230–3381. 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.

(h) This amendment becomes effective on December 3, 1997.

Issued in Burlington, Massachusetts, on November 10, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–30201 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300559; FRL 5753–5]

RIN 2070–AB78

Fenarimol; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of fenarimol in or on filberts. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on filberts. This regulation establishes a maximum permissible level for residues of fenarimol in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on December 31, 1998.

DATES: This regulation is effective November 18, 1997. Objections and requests for hearings must be received by EPA on or before January 20, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300559], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300559], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300559]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Olga Odiott, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 268, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9363; e-mail: odiott.olga@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the fungicide fenarimol, in or on filberts at 0.02 part per million (ppm). This tolerance will expire and is revoked on December 31, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL 5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Fenarimol on Filberts and FFDCA Tolerances

The state of Oregon availed itself of the authority to declare a crisis exemption to use fenarimol for control of the Eastern filbert blight *Anisogramma anomala* in hazelnuts filberts. A. *Anomala* is a fungus with a long life cycle. A major infection center was discovered east of Portland, Oregon in 1986, and recent surveys have detected the disease scattered through the northern production areas of the Willamette Valley. Without controls the disease renders an orchard unproductive within 4 years of infection. Since Oregon produces 98% of the hazelnuts in the United States the entire U.S. production is at risk. EPA has authorized under FIFRA section 18 the use of fenarimol on filberts for control of the Eastern filbert blight in Oregon. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of fenarimol in or on filberts. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on filberts after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether fenarimol meets EPA's registration requirements for use on filberts or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of fenarimol by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Oregon to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for fenarimol, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an

uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup non-nursing infants < 1 year old was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of fenarimol and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of fenarimol on filberts at 0.02 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fenarimol are discussed below.

1. *Acute toxicity*. The Agency determined that the NOEL of 13 mg/kg/day, based on hydronephrosis at the lowest effect level (LEL) of 35 mg/kg/day, from a developmental study in rats should be used to assess acute dietary risks from residues of fenarimol. This risk assessment will evaluate risk to females 13+ years old, the population subgroup of concern.

2. *Short - and intermediate - term toxicity.* The Agency determined that the NOEL of 13 mg/kg/day from the rat developmental study should be used to assess risks from short- and intermediate-term exposures to residues of fenarimol. At the LEL of 35 mg/kg/day, there was hydronephrosis.

3. *Chronic toxicity*. EPA has established the RfD for fenarimol at 0.065 milligrams/kilogram/day (mg/kg/day). This RfD is based on a 2–year rat feeding study with a NOEL of 6.5 mg/kg/day and an uncertainty factor of 100 based on fatty change in the liver at the LEL of 13 mg/kg/day.

4. *Carcinogenicity*. The Agency's Carcinogenicity Peer Review Committee (CPRC) has classified fenarimol as a Group E (non-carcinogenic in humans) chemical.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.421) for the residues of fenarimol (alpha-(2 chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol), in or on a variety of raw agricultural commodities at levels ranging from 0.003 ppm in milk to 0.1 ppm in apples, pears and pecans. Tolerances have also been established for residues of fenarimol and its metabolites (alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-1,4-dihydro-5-pyrimidinemethanol, and 5-[2-chlorophenyl)-(4-chlorophenyl)methyl]-3,4-dihydro-4-pyrimidinol measured as the total of fenarimol and 5-[(2-chlorophenyl)-(4-chlorophenyl)methyl]-3,4-dihydro-4-pyrimidine (calculated as fenarimol)) ranging from 1.0 ppm for cherries to 0.02 ppm for grapes. For this Section 18 only, the Agency determined that the residue of concern in filberts is parent fenarimol. Risk assessments were conducted by EPA to assess dietary exposures and risks from fenarimol as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute dietary (food only) risk assessment used TMRC estimates. The resulting high-end exposure estimate of 0.01 mg/kg/day results in a dietary (food only) MOE of 1300 for females 13+ years. This MOE should be viewed as a conservative risk estimate. Refinement of the risk assessment using anticipated residue values and percent crop-treated data would result in a lower acute dietary risk estimate.

ii. *Chronic exposure and risk.* For the chronic dietary (food only) risk assessment, the Agency assumed that 100% of filberts and all other commodities having fenarimol tolerances will contain fenarimol residues and those residues would be at the tolerance level. These assumptions result in an over estimate of human dietary exposure. Thus, in making a safety determination for this tolerance, HED is taking into account this conservative exposure assessment. The existing fenarimol tolerances (published and pending, and including the necessary Section 18 tolerance) result in a TMRC that is equivalent to percentages of the RfD that range from 1% for the U.S. population to 3% for non-nursing infants < 1 year old.

2. *From drinking water.* Based on available data used in EPA's assessment of environmental risk, fenarimol is not expected to leach to groundwater. Information on its persistence is inconclusive. There is no information on the persistence/mobility of fenarimol metabolites/degradates. There are no established Maximum Contaminant Levels for residues of fenarimol in drinking water and no Health Advisory Levels for this active ingredient in drinking water have been issued.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause fenarimol to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with fenarimol in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Fenarimol is currently registered for use on the following residential non-food sites: ornamentals, turf and lawns. There are no indoor residential uses for fenarimol. Based on the nature of the outdoor residential uses, the EPA concludes that chronic residential exposure scenarios do not exist for fenarimol. Short and/or intermediate term exposure scenarios may exist. However, the Agency currently lacks sufficient residential-related exposure data to complete a comprehensive residential risk assessment for many pesticides, including fenarimol.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific

policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether fenarimol has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. For the purposes of this tolerance action, therefore, EPA has not assumed that fenarimol has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* For the population subgroup of concern, females 13+ years, the Agency estimated an MOE value of 1300 for the acute aggregate dietary (food only) risk from exposures to fenarimol residues. Despite the potential for exposure to fenarimol in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed the Agency's level of concern.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to fenarimol from food will utilize 1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants < 1 year old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fenarimol in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fenarimol residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Based on the registered uses of fenarimol short and/or intermediate term exposure scenarios may exist. However, the Agency currently lacks sufficient residential-related exposure data to complete a comprehensive residential risk assessment for many pesticides, including fenarimol.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fenarimol, EPA considered data from developmental toxicity studies in the rat and rabbit and a 3-generation reproduction study in the rat and reproduction studies in mice and guinea pigs. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard 100-fold safety factor and not the additional ten-fold safety factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard safety factor.

b. *Developmental toxicity studies—Rats.* The maternal (systemic) NOEL was 13 mg/kg/day, based on decreased weight gain at the LOEL of 35 mg/kg/day. The developmental (fetal) NOEL was 13 mg/kg/day based on hydronephrosis at the LOEL of 35 mg/kg/day. Rabbits: The maternal (systemic) NOEL was 35 mg/kg/day, the highest dose tested (HDT). The developmental (fetal) NOEL was 35 mg/kg/day (HDT).

c. *Reproductive toxicity study—Rats.* In a 3-generation rat reproduction study, the maternal (systemic) NOEL was 5.0 mg/kg/day, based on increased gestation time, and delayed onset of parturition at the LOEL of 17.5 mg/kg/day. The developmental (pup) NOEL was 5.0 mg/kg/day, based on decreased pup survival and hydronephrosis at the LOEL of 17.5 mg/kg/day. The reproductive NOEL was 2.5 mg/kg/day, based on anti-fertility effects in males, and dystocia in females at the LEL of 5.0 mg/kg/day.

d. *Pre- and post-natal sensitivity.* Based on the developmental toxicity studies discussed above, for fenarimol there does not appear to be a special sensitivity for pre-natal effects. However based on the developmental finding of hydronephrosis in the rat study, an acute dietary risk assessment was performed for females 13+ years of age.

Based on the reproductive toxicity studies discussed above and other reviewed data for fenarimol, there does not appear to be a special sensitivity for post-natal effects. The major reproductive findings in the rat (post-natal male infertility and dystocia and related effects in females) were concluded to be species-specific findings by the Agency. Reproduction studies in mice, rabbits, and guinea pigs did not demonstrate the reproductive concerns. Mechanistic data also substantiate the species-specific conclusion.

e. *Conclusion.* The EPA concludes that reliable data support use of the standard 100-fold margin of exposure/uncertainty factor and that an additional

margin/factor is not needed to protect infants and children.

2. *Acute risk.* The acute dietary MOE (food only) was calculated to be 1300 for females 13+ years (accounts for both maternal and fetal exposure). These MOE calculations were based on the developmental NOEL in rats of 13 mg/kg/day. This risk assessment assumed 100% crop-treatment with tolerance level residues on all treated crops consumed, resulting in an over-estimate of dietary exposure. The large acute dietary MOE calculated for females 13+ years provides assurance that there is a reasonable certainty of no harm for females 13+ years. Despite the potential for exposure to fenarimol in drinking water, the Agency does not expect the aggregate exposure (food plus water) to exceed the Agency's level of concern for acute dietary exposure.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to fenarimol from food will utilize a percentage of the RfD that ranges from 1% percent for children (1–6 yrs.), up to 3% percent for non-nursing infants <1 year old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fenarimol in drinking water EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from chronic aggregate exposure to fenarimol residues.

4. *Short- or intermediate-term risk.* Based on the registered uses of fenarimol short and/or intermediate term exposure scenarios may exist. However, the Agency currently lacks sufficient residential-related exposure data to complete a comprehensive residential risk assessment for many pesticides, including fenarimol.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue of fenarimol in filberts has not been directly determined. Metabolism studies with fenarimol in apples and cherries indicate that the parent compound is the only significant residue. For the purpose of this tolerance, EPA will translate these data to filberts. For this tolerance only, EPA concludes that the residue of concern in filberts is parent fenarimol. There are no livestock feedstuffs derived from filberts. Thus, the livestock metabolism and magnitude of residues in meat, milk, poultry and eggs are not a concern for this section 18.

B. Analytical Enforcement Methodology

Analytical methodology exists for the enforcement of currently established tolerances for fenarimol.

C. Magnitude of Residues

Residues of fenarimol are not expected to exceed 0.02 ppm in/on filberts as a result of this section 18 use.

D. International Residue Limits

There are no Codex, Mexican or Canadian Maximum Residue Limits (MRL) for fenarimol in/on filberts. Thus, harmonization with Mexico and Canada are not an issue for this section 18.

VI. Conclusion

Therefore, the tolerance is established for residues of fenarimol in filberts at 0.02 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by January 20, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300559] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper

record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408 (l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. 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, the Agency has 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 this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 30, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In §180.421, by alphabetically adding ''Filberts'' to the table in paragraph (b) to read as follows:

§180.421 Fenarimol; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.*

* * *

Commodity	Parts per million	Expiration/Revocation Date
Filberts	0.02	12/31/98
* * * * * * *		

* * * * *

[FR Doc. 97–30252 Filed 11–17–97; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 97

[ET Docket No. 93–62; FCC 97–303]

Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: On September 12, 1997 (62 FR 47960), the Commission published final rules in the *Second Memorandum Opinion and Order*, which deals with the transition period for implementing new guidelines for human exposure to radiofrequency (RF) electromagnetic fields; and the criteria for determining whether amateur radio stations must perform routine environmental evaluations for human exposure to RF fields. The Commission is correcting the amendatory language and table to ensure that the amendments are properly incorporated in the 1998 revision of the Code of Federal Regulations.

EFFECTIVE DATE: October 15, 1997.

FOR FURTHER INFORMATION CONTACT: Robert F. Cleveland, Office of Engineering and Technology, Federal Communications Commission, (202) 418–2464.

SUPPLEMENTARY INFORMATION:

Background

The Commission is correcting § 1.1307(b)(4) and § 97.13(c)(1) of the Commission's rules, 47 CFR 1.1307(b)(4) and 47 CFR 97.13(c)(1), as modified in *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, Second Memorandum Opinion and Order*, published in **Federal Register** 62 FR 47960, September 12, 1997, and 62 FR 49557, September 22, 1997. The first rule deals with the transition period for implementing new guidelines for human exposure to radiofrequency (RF) electromagnetic fields. This rule, as published, omits language that was needed to clarify the Commission's policy on implementation of the new guidelines. The second rule deals with criteria for determining whether amateur radio stations must perform routine environmental evaluations for human exposure to RF fields.

Need for Correction

The rule, as published, contained misleading language and an entry was missing from a table that is necessary for

defining the criteria under which certain stations are subject to evaluation.

List of Subjects in 47 CFR Parts 1 and 97

Radio, Reporting and recordkeeping requirements.

Accordingly, 47 CFR parts 1 and 97 are corrected by making the following correcting amendments:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303 and 309(j), unless otherwise noted, and Section 704 of the Telecommunications Act of 1996.

§ 1.1307 [Corrected]

2. Section 1.1307(b)(4) introductory text is corrected to read as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(4) *Transition Provisions.* Applications filed with the Commission prior to October 15, 1997 (or January 1, 1998, for the Amateur Radio Service only), for construction permits, licenses to transmit or renewals thereof, modifications in existing facilities or other authorizations or renewals thereof require the preparation of an Environmental Assessment if the particular facility, operation or transmitter would cause human exposure to levels of radiofrequency radiation that are in excess of the requirements contained in paragraphs (b)(4)(i) through (b)(4)(iii) of this section. In accordance with § 1.1312, if no new application or Commission action is required for a licensee to construct a new facility or physically modify an existing facility, *e.g.*, geographic area licensees, and construction begins on or after October 15, 1997, the licensee will be required to prepare an Environmental Assessment if construction or modification of the facility would not comply with the provisions of paragraph (b)(1) of this section. These transition provisions do not apply to applications for equipment authorization or use for mobile, portable and unlicensed devices as specified in paragraph (b)(2) of this section.

* * * * *

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. §§ 151–155, 301–609, unless otherwise noted.

§ 97.13 [Corrected]

2. Section 97.13(c)(1) and the table contained therein are corrected to read as follows:

§ 97.13 Restrictions on station location.

* * * * *

(c) * * *

(1) The licensee must perform the routine RF environmental evaluation prescribed by § 1.1307(b) of this chapter, if the power of the licensee's station exceeds the limits given in the following table:

Wavelength band	Evaluation required if power [1] (watts) exceeds
MF	
160 m	500
HF	
80 m	500
75 m	500
40 m	500
30 m	425
20 m	225
17 m	125
15 m	100
12 m	75
10 m	50
VHF (all bands)	50
UHF	
70 cm	70
33 cm	150
23 cm	200
13 cm	250
SHF (all bands)	250
EHF (all bands)	250
Repeater stations (all bands).	*non-building-mounted antennas:* height above ground level to lowest point of antenna <10 m *and* power >500 W ERP *building-mounted antennas:* power >500 W ERP

[1] Power = PEP input to antenna except, for repeater stations only, power exclusion is based on ERP (effective radiated power).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–30174 Filed 11–17–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 92–297; FCC 97–378]

Ka-Band Satellite Application and Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule with request for comments.

SUMMARY: With this *Report and Order,* the Commission adopts licensing qualification requirements and service rules for a new generation of fixed-satellite service (''FSS'') systems in the Ka-band.[1] These systems have the potential to provide a wide variety of broadband interactive digital services in the United States and around the world including: voice, data, and video; videoconferencing; facsimile; computer access and telemedicine. The systems can provide direct-to-home services, potentially allowing customers to participate in activities from distance learning to interactive home shopping. The rules established here provide guidelines for the new Ka-band satellite systems to commence operation.

DATES: The adopted rule changes will become effective January 20, 1998, except § 25.145(g), which will become effective upon OMB approval. The Commission will publish a document announcing the effective date of § 25.145(g) following approval of the information collection request by OMB. Comments are requested on the information collection concerning Section 25.145(g) and may be filed on or before January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Jennifer Gilsenan, International Bureau, Satellite Policy Branch, (202) 418–0757; Kathleen Campbell, International Bureau, Satellite Policy Branch (202) 418–0753. For additional information concerning the information collection contained in this Report and Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in CC Docket No. 92–297; FCC 97–378, adopted October 9, 1997, and released October 15, 1997. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the

[1] The term *Ka-band* generally refers to the space-to-earth (downlink) frequencies at 17.7–20.2 GHz and the corresponding earth-to-space (uplink) frequencies at 27.5–30.0 GHz, or the ''28 GHz band.'' This *Report and Order* pertains only to U.S. commercial satellite systems in the Ka-band.

FCC Reference Center (Room 239), 1919 M Street, N.W. Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Paperwork Reduction Act

Section 25.143(g) contains an information collection which requires OMB approval. In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.* (PRA)), the Commission is planning to submit an information collection request to the Office of Management and Budget for review and approval and is soliciting comments on the information collection. The PRA requires the Commission to seek comment on new or modified information collections for a sixty day period. Therefore, the Commission is soliciting comment on the information collection described below. Comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval No.: 3060–XXXX.

Title: Section 25.145(g)—*Reporting Requirements.*

Form No.: N/A.

Type of Review: New.

Respondents: Businesses or other for profit, including small businesses.

Number of Respondents: 20.

Estimated Time Per Response: The Commission estimates all respondents will hire an attorney or legal assistant to complete the form. The time to retain these services is 2 hours per respondent.

Total Annual Burden: 40 hours.

Estimated Costs Per Respondent: $300. This includes the charges for hiring an attorney, legal assistant, or engineer at $150 an hour to complete the submissions.

Needs and Uses: In accordance with the Communications Act, the information collected will be used by the Commission to insure that licensees are in compliance with the Commission's rules and policies and will assist the Commission in determining whether operations are in the public interest.

Summary of Report and Order

1. The Ka-band is allocated for fixed service, FSS, and mobile service.[2] In July 1995, the Commission adopted a *Third Notice of Proposed Rulemaking* proposing, among other things, a band segmentation plan that was designed to accommodate both terrestrial and satellite communication systems.[3] Specifically, we proposed discrete band segments for the operation of terrestrial Local Multipoint Distribution Service (''LMDS''), GSO FSS, NGSO FSS, and feeder links for certain ''Big LEO'' mobile-satellite service (''MSS'') satellite systems. We also proposed to apply the existing rules for GSO FSS systems in part 25 of the Commission's rules[4] to GSO FSS systems that will use the 28 GHz band. We requested comment, however, on whether specific rules, such as financial qualification requirements, should be altered for Ka-band satellite systems and whether any additional rules should be created for either GSO FSS systems or NGSO FSS systems operating at Ka-band.

2. In July 1996, the Commission issued a *First Report and Order and Fourth Notice of Proposed Rulemaking* adopting, among other things, a final band plan for the Ka-band.[5] This plan was the culmination of months of discussions with interested parties and filings in the proceeding since the release of the *Third NPRM.* The band plan adopted provides a framework that accommodates all commercial proposed services in discrete band segments and provides the opportunity to offer innovative communications services to the public. The plan designates 1000 MHz of primary and co-primary uplink spectrum and 1600 MHz of primary and co-primary downlink spectrum to GSO FSS systems; 500 MHz of primary uplink and 500 MHz of primary downlink spectrum to NGSO FSS systems; and 1000 MHz of primary and co-primary spectrum to LMDS. The *Fourth NPRM* proposing an additional 300 MHz for LMDS at 31.0–31.3 GHz was also adopted.[6]

3. The provisions set forth in part 25 of the Commission's rules, in general, govern the licensing of the fixed-satellite service systems. This includes commercial FSS systems in the Ka-band. The rules impose fairly rigorous financial and technical requirements on commercial FSS applicants. In this *Report and Order,* we modify these rules to incorporate technical operations at the Ka-band. Further, the part 25 FSS rules were developed in an environment where we regularly receive more applications than we can accommodate. Here the GSO FSS licensees have agreed to an orbital assignment arrangement that will support them all, and we were able to accommodate one NGSO FSS system with room for future entry. Accordingly, as discussed below, we believe it is in the public interest to waive the financial qualification rule sections in processing this round of Ka-band applications in order to allow for maximum entry.

Financial Qualifications

4. Historically, the Commission has fashioned financial requirements for satellite services on the basis of entry opportunities in the particular service being licensed. In cases where we can accommodate all pending applications and future entry is possible, we have not looked to current financial ability as a prerequisite to a license grant. This is because the grant of an authorization to one applicant will not prevent another qualified applicant from advancing with a proposal for the same service.[7] We ensure that licensees timely build their systems by requiring them to meet specified implementation milestones. In contrast, where applications for satellites exceed the number of satellites

[2] *See* 47 CFR 2.106. The 29.5–30.0 GHz band is also allocated on a primary basis to the Mobile-Satellite Service (MSS); however, in accordance with the International Telecommunication Union (ITU) Radio Regulation S5.529, use of the 29.5–30.0 GHz band by the MSS in Region 2 is limited to satellite networks which are both in the FSS and MSS.

[3] *See* Rulemaking to Amend parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *Third Notice of Proposed Rulemaking,* 11 FCC Rcd 53 (1995), 60 FR 43470 (August 23, 1995) (*Third NPRM*).

[4] *See* 47 CFR 25.114, 124.140, and 25.210.

[5] *See* In the Matter of Rulemaking to Amend parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *First Report and Order and Fourth Notice of Proposed Rulemaking,* 11 FCC Rcd 19005 (1996), 61 FR 39425 (July 29, 1996) (Fourth Notice), 61 FR 44177 (August 28, 1996) (Final Rule), (*28 GHz First Report and Order*). This decision is subject to petitions for reconsideration. The band plan is depicted graphically and discussed in more detail in ¶ ¶ 39–49, *infra.*

[6] *See 28 GHz First Report and Order* at ¶¶ 95–104.

[7] *See, e.g.,* Radiodetermination Satellite Service, 104 FCC 2d 650 (1986), 51 FR 18444 (May 20, 1986), as corrected, 51 FR 20975 (June 10, 1986) (Because all pending RDSS applicants could be accommodated and future entry was possible, the Commission required applicants to provide only a detailed business plan). *See generally* Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626/2483.5–2500 MHz Frequency Bands, *Report and Order,* at ¶ 26, 9 FCC Rcd 5936 (1994), 59 FR 53294 (October 21, 1994) (*Big LEO Report and Order*).

we can accommodate, we have adopted a standard that requires applicants to demonstrate evidence of internal assets or committed financing sufficient to cover construction, launch, and first year operating costs of its entire system.[8] This is based on our experience that under-financed applicants have significant difficulty in the capital markets in raising hundreds of millions of dollars needed to construct and launch a satellite system, even with a license in hand.[9] Requiring evidence of full financing therefore prevents a licensee from holding spectrum while it attempts to procure financing, to the detriment of qualified applicants that can immediately go forward with systems and provide service to the public. We require FSS operators to meet this strict standard because the number of applications we receive in the traditional C- and Ku-band FSS frequencies regularly exceeds the number we can authorize.[10]

5. When we proposed to apply the existing FSS financial requirement to 28 GHz FSS systems, the GSO applicants had not yet agreed to an orbital assignment arrangement that would accommodate them all. In light of their plan, we can grant all of the first round GSO FSS applications, with other ''clear'' orbit locations remaining available for additional GSO FSS satellites. Further, granting Teledesic's NGSO FSS system application does not preclude future Ka-band NGSO FSS systems. Thus, authorizing all proposed first-round systems does not preclude use of this band by other applicants for FSS systems. We therefore will waive the FSS financial requirement for first-round applicants, as reflected in their individual licenses. We intend to enforce system milestone schedules strictly to ensure that any licensees who are not able to proceed do not continue to hold valuable orbit and spectrum resources. Further, we emphasize that this waiver applies to this processing group only, and that the application of our financial requirements to any future Ka-band processing round will be addressed in the context of that processing round.

Technical Qualifications

6. Applicants for satellite systems must also meet certain technical qualification standards. The Ka-band offers several technical advantages that allow for the implementation of broadband, high capacity FSS applications that otherwise could not be provided in the C- or Ku-bands. For example, the shorter wavelengths in this higher frequency band support the use of transmit-receive earth station antennas significantly smaller than those now in use. They also support significantly smaller satellite spot beams that facilitate frequency reuse, and wider bandwidth and high data rate services.[11] However, operations at the Ka-band frequencies are also very susceptible to rain fade and other atmospheric attenuations.

7. Many commenters urge the Commission to confirm that the Commission's existing FSS technical requirements and policies apply to satellite systems in the Ka-band.[12] As indicated previously, we will, in general, apply existing FSS rules, including technical qualifications requirements, to commercial satellite systems in the Ka-band. In the following text, we discuss modifications or clarifications to several rules that we adopt to accommodate efficient and state-of-the art use of the Ka-band.

GSO Specific Requirements

8. The Commission's rules currently require that an applicant for a GSO FSS space station authorization demonstrate how the proposed space station complies with 2 degree orbital spacing requirements. 47 CFR 25.140. In the *Third NPRM*, we proposed to apply 2 degree spacing to the Ka-band and requested comment on this proposal. This proposal was supported by several commenters.[13] GE, in fact, suggested that the Commission explore the possibility of 1 degree spacing in the Ka-band.[14] NetSat28, in contrast, argued that the characteristics of this higher frequency band and the innovative technology proposed for this band support a different approach to orbital spacing, specifically, 8 degree spacing.[15] However, the orbit assignment plan submitted by the GSO applicants, including NetSat28, spaces their satellites at 2 degree intervals.

9. We believe it is in the public interest, as we establish the Ka-band satellite service, to continue our policy of maximizing the number of satellites that can be accommodated in orbit. If we were to move to GSO orbital arc spacing greater than 2 degrees at this time, we would not be able to accommodate all potential service providers in this first processing round. By submitting a plan using 2 degree spacing, the GSO satellite applicants suggest they can implement viable systems with these spacings. Further, there is nothing in the record to support a finding that one degree spacing, with its increased potential for interference, is feasible at this time. Consequently, we will apply the existing 2 degree spacing policy to U.S. licensed non-Government Ka-band orbital assignments.

10. To accommodate maximum entry while facilitating efficient use of in-orbit resources, we limit, in part 25, the number of orbit locations a qualified FSS applicant may be initially assigned.[16] Historically, this limitation pertained to the provision of domestic FSS in the United States, the objectives being to avoid prematurely assigning an excessive number of orbital locations to an existing licensee for expansion of its domestic system and to promote entry opportunity in the bands.[17] Many of the systems proposed in the Ka-band propose to serve geographic areas around the world. In addition, the applicants have also agreed to an arrangement that accommodates all proposed satellites. We also licensed thirteen different GSO FSS system providers in the band and expect that there will be a mix of competitors for services in the band. We believe it is in the public interest to allow these systems, especially those proposing to serve different geographic areas, to proceed as proposed at this point. Therefore, we will waive, for this processing round only, any rules that limit the number of orbit locations that may be assigned to any applicant.

11. We have long recognized the cost benefits in implementing several service bands on a single space platform. Consequently, as we do with C- and Ku-band satellites, we will permit Ka-band licensees to build hybrid satellites where they are assigned to corresponding C- and Ka-band, or Ku-band and Ka-band orbit locations,

[8] *See* 47 CFR 25.140(b)–(e).

[9] *See, e.g.*, National Exchange Satellite, Inc., 7 FCC Rcd 1990 (Com. Car. Bur. 1992); Rainbow Satellite, Inc., Mimeo No. 2584 (Com.Car. Bur., released Feb. 14, 1985); United States Satellite Systems, Inc., Mimeo No. 2583 (Com.Car. Bur., released Feb. 14, 1985) (domestic satellite licenses declared null and void for failure to begin implementation as required by license). In addition, Geostar Corporation, a start-up company licensed in the radiodetermination satellite service, declared bankruptcy nearly five years after its licenses were issued. It had not built any of its dedicated satellites.

[10] Licensing Space Stations in the Domestic Fixed-Satellite Service, FCC 85–395, CC Docket No. 85–135 (released August 29, 1985), 50 FR 36071 (September 5, 1985).

[11] *See, e.g.*, Comments of Hughes at 7.

[12] *See, e.g.*, Comments of GE at 20–21 and Hughes at 35–36.

[13] *See, e.g.*, Comments of Hughes at 35–36; GE Americom at 20.

[14] Comments of GE at 20.

[15] Reply Comments of NetSat28 at 2.

[16] *See* 47 CFR 25.140(f).

[17] *See* Licensing Space Stations in the Domestic Fixed-Satellite Service, 50 FR 36071 (September 5, 1985).

provided all other technical and service requirements for the particular band are met. Any licensee that wishes to consolidate co-located satellites into a hybrid satellite must file an application to modify its underlying licenses.

NGSO Specific Requirements

12. In the *Third NPRM*, we asked whether spectrum efficiency or service availability standards should be adopted for NGSO FSS systems in the Ka-band. Teledesic was the only party who filed timely comments regarding NGSO FSS service rule issues.

13. Teledesic suggests that the Commission consider adopting some minimum domestic and international geographic coverage requirements to ensure that NGSO FSS satellite systems, which are inherently global in nature, provide universal access throughout the U.S. and the world.[18] We agree that NGSO FSS systems are capable of fostering a seamless global communications network and we believe that it serves the public interest to adopt a coverage area requirement for these systems. Consequently, we are adopting the same coverage requirements for 28 GHz systems that we apply to ''Big LEO'' systems operating in the 1610–1626.5 / 2483.5–2500 MHz bands.[19] Specifically, we will require 28 GHz NGSO FSS systems to be capable of serving locations as far north as 70 degrees latitude and as far south as 55 degrees latitude for at least 75% of every 24-hour period. We will also require 28 GHz NGSO FSS systems to be capable of providing FSS on a continuous basis throughout the fifty states, Puerto Rico, and the U.S. Virgin Islands.

14. As always, we seek to foster a climate that maximizes competition and promotes multiple entry of systems. Resolution 118 (WRC–95) requests that the ITU–R study, among other things, the sharing between NGSO FSS networks in the Ka-band. ITU–R Working party-4A studies have identified, and the Commission recognizes, two sharing scenarios: (1) sharing between or among ''homogeneous'' NGSO FSS systems, and (2) sharing between or among ''non-homogeneous'' NGSO FSS systems. ''Homogeneous'' NGSO FSS systems are assumed to have orbits with approximately the same altitude and high inclination angle. Similar technical parameters are not assumed for ''non-homogeneous'' NGSO FSS systems. Under scenario (1), sharing between multiple ''homogeneous'' NGSO FSS systems is feasible by interleaving the orbital planes of different NGSO FSS constellations. It may also be possible to interleave satellites from different constellations within the same orbital plane. Because each constellation's satellites are separated spatially under scenario (1), there is no ''in-line'' interference between NGSO FSS systems, except near the polar regions. This particular sharing scenario requires minimum interaction between the different NGSO FSS systems. ITU–R studies assert that multiple ''homogeneous'' NGSO FSS systems can be accommodated using these methods. However, it is important to note that sharing between or among ''homogeneous'' systems imposes similar uniform design constraints on subsequent NGSO FSS systems implemented in the same frequency bands.[20]

15. A second sharing scenario exists between or among ''non-homogeneous'' NGSO FSS systems. Because of the inherently large number of orbital plane crossings, it is not possible to maintain spatial separation between satellites in multiple NGSO FSS constellations.[21] Consequently, other types of mitigation techniques (*e.g.*, exclusion zones, satellite diversity, or high gain antennas) would need to be employed by each NGSO FSS system. The Commission also recognizes that further division of the spectrum, which would result in a reduction of each system's capacity, is also a feasible alternative if sharing proves to be unacceptable to any particular NGSO FSS system.

16. We are not now in a position to determine exactly how many non-Government NGSO FSS systems, and in particular, how many ''non-homogeneous'' type systems, will be able to operate in the 18.8–19.3/28.6–29.1 GHz bands. Further, we note that many satellites undergo design changes during implementation that could facilitate sharing among systems. Additionally, second generation systems usually become more efficient, further facilitating the operation of multiple systems. Consequently, we will not now mandate any specific sharing principles or mitigation techniques to be used in coordination between or among non-Government NGSO FSS systems. However, we expect all non-Government NGSO FSS systems to be responsible for some portion of the burden-sharing. Specifically, we expect all NGSO FSS licensees to bear some portion of the technical and operational constraints necessary to accommodate multiple ''non-homogeneous'' NGSO FSS systems. In apportioning burden, it may be appropriate to consider factors such as whether a particular NGSO FSS satellite is already in-orbit and operational. If NGSO FSS non-Government systems are unable to share spectrum, another feasible alternative is to further divide the spectrum designated in the United States for non-Government NGSO FSS systems, between or among licensed operators. We will evaluate all applications for NGSO FSS systems on a case-by-case basis, revisiting the multiple entry issue, as necessary, as we gain more experience with NGSO FSS systems.

Implementing the Band Plan Domestically

17. The 28 GHz band plan designates domestic licensing priority for certain non-Government services or systems in specific band segments. We designated co-frequency sharing between services or systems only in band segments where the Commission and the parties concluded it is technically feasible. In the *28 GHz Band First Report and Order* we further designated domestic licensing priority for certain types of fixed-satellite services with respect to other types of fixed-satellite services in specific band segments. For example, in the 28.35–28.60 GHz band segments, GSO FSS systems have licensing priority over NGSO FSS systems, and in the 28.6–29.1 GHz segment, NGSO FSS systems have licensing priority over GSO FSS systems. This licensing priority between systems in the same service has a similar interpretation as a ''secondary'' service with respect to a ''primary'' service.[22] Accordingly, we will require any service provider proposing to operate in a band segment in which it does not have licensing priority, to operate on an unprotected non-interference basis to the priority service. To ensure non-interfering operations, we will require all secondary operators to submit to the

[18] Comments of Teledesic at 28.

[19] *See Big LEO Report and Order* at ¶ 24; 47 CFR 25.143(b)(2)(ii); (b)(2)(iii).

[20] Design constraints include limitations on the number of orbital planes, orbital plane inclination, orbit altitude, and earth station antenna patterns.

[21] ''In-line'' interference occurs when satellites from separate NGSO FSS systems operate in the region where each system's orbital planes cross.

[22] ''Secondary'' generally refers to a category of service with respect to other radio services. Stations of a secondary service shall not cause harmful interference to stations of primary or permitted services; cannot claim protection from harmful interference from stations of a primary or permitted service, but can claim protection from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date. *See* 47 CFR 2.104(d); 47 CFR 2.105(c)(3). As a general matter, the Commission does not coordinate secondary operations with respect to primary or permitted services.

Commission a technical demonstration that it can operate on a non-harmful interference basis to the type of satellite system with licensing priority. This technical demonstration will be subject to public comment before we authorize any secondary operations in the bands. In addition, we will require secondary users to immediately cease operations upon notification of harmful interference into any service or system that has superior status or licensing priority in a particular band segment.

18. Further, all licensees must coordinate with the U.S. Government systems authorized in the 17.80–20.20 GHz band, in accordance with U.S. footnote 334 in the Table of Frequency Allocations. U.S. footnote 334 reads as follows: ''In the band 17.80–20.20 GHz, Government space stations and associated earth stations in the fixed-satellite (space-to-Earth) service may be authorized on a primary basis. For a Government geo-stationary satellite network to operate on a primary basis, the space station shall be located outside the arc measured from East to West, 70° W to 120° W. Coordination between Government fixed-satellite systems and non-Government systems operating in accordance with the United States Table of Frequency Allocations is required.'' [23]

19. The 18.8–19.3 GHz band is designated for non-Government NGSO FSS use on a co-primary basis with the fixed service and with Government services. We require NGSO FSS systems to coordinate with any existing and future point-to-point fixed systems in the band.[24] We also designated NGSO FSS on a secondary priority basis in the 17.7–18.8 and 19.7–20.2 GHz band segments. As a secondary user, NGSO FSS operators shall not cause harmful interference to stations of a primary service, or higher priority FSS system, nor can they claim protection from harmful interference from stations of a primary service, or higher priority FSS system. NGSO FSS systems must also coordinate with the Government systems operating in the band 18.8–19.3 GHz in accordance with U.S. footnote 334.

Earth Station Licensing

20. We anticipate making changes to our existing part 25 requirements for earth stations in the C- and Ku-bands to take into account operations at Ka-band. In fact, four GSO satellite applicants have submitted a petition for rulemaking to the Commission.[25] The Petitioners request that the Commission institute a rulemaking proceeding to revise part 25 of the Commission's rules, 47 CFR § 25.101, in order to provide for the routine licensing of large numbers of small antenna earth stations operating in the 19.7–20.2/29.5–30.0 GHz bands for GSO FSS. Teledesic supports the Petition and further suggests the scope of the rulemaking be expanded to include the entire available Ka-band frequencies.[26]

Inter-Satellite Service

21. Many system proponents in the Ka-band propose to use inter-satellite service (ISS) frequencies to interconnect satellites within their respective networks.[27] These proposed bands include the 22.55–23.55 GHz/32.0–33.0 GHz/54.25–58.2 GHz and 59–64 GHz bands.

22. One licensee, Hughes, proposes to use the 22.55–23.55 GHz and 32.0–33.0 GHz bands for some of its inter-satellite links. These bands are shared on a co-equal basis with U.S. Government operations. In addition, one of the ''Big LEO'' systems is licensed to operate inter-satellite links in the 22.55–23.55 GHz band. Any 28 GHz systems licensed to operate inter-satellite links in these bands would be required to coordinate with U.S. Government systems through the Frequency Assignment Subcommittee (FAS) of the Inter-Governmental Radio Advisory Committee (IRAC) and with other non-Government licensees in the band. At this time, we defer action on any authorizations in the 22.55–23.55 and 32.0–33.0 GHz bands until we receive more information on the specific frequencies Hughes needs for its system and we have coordinated with the Government.

23. The Commission and the National Telecommunications and Information Administration (NTIA), which has primary jurisdiction over Government use of spectrum, have had discussions regarding the potential for interference that would be associated with non-Government GSO or NGSO FSS operations in the 54.25–58.2 GHz and 59–64 GHz bands. The 54.25–58.25 GHz band appears more promising for the inter-satellite service to support non-Government GSO FSS operations. We are also working with NTIA to develop a U.S. proposal to WRC–97 for an allocation in the 65–71 GHz band for inter-satellite service links for both GSO and NGSO FSS systems.[28] We are optimistic that we will obtain sufficient spectrum internationally to support Ka-band system inter-satellite link operations. Nevertheless, we did not delay issuing licenses pending the allocation of suitable spectrum for inter-satellite links. Once suitable spectrum is available, we will require licensees to apply for operating authority on specific operating frequencies. Further, because licensees will not be able to proceed beyond the initial phases of construction until the inter-satellite link issues are resolved, we did not impose any system implementation milestones until we grant authority to launch and operate individual systems using specific inter-satellite link spectrum. We will hold all licensees to the strict milestone schedule discussed above, once the respective inter-satellite frequencies are authorized. In the interim, all licensees are free to begin construction at their own risk. We recently waived the construction permit requirement for space stations. This decision, effective April 21, 1997, means that applicants no longer need Commission authorization in order to build their proposed satellites. Any construction prior to obtaining an operating license is, however, solely at the applicant's own risk and will not predispose the Commission to grant it launch and operating authority.[29]

Service Rules

24. In our *DISCO I Order,* we determined that all fixed-satellite operators in the C-band and Ku-band could elect to operate on a common carrier or non-common carrier basis.[30] We see no reason to treat satellite

[23] *See* 47 CFR 2.106 U.S. footnote 334.

[24] We note, however, that in a separate proceeding we have relocated a fixed service, the Digital Electronic Message Service (''DEMS'') from the 18.82–18.92 and 19.16–19.26 GHz bands to the 24.25–24.45 and 25.05–25.25 GHz bands. *See* Amendment of the Commission's Rules to Relocate the Digital Electronic Message Service From the 18 GHz band to the 24 GHz band and To Allocate Band For Fixed Service, 12 FCC Rcd 3471 (1997), 62 FR 24576 (May 6, 1997). This Order is subject to petitions for reconsideration.

[25] *See* Routine Licensing of Large Numbers of Small Antenna Earth Stations Operating in the Ka-Band, Petition for Rulemaking, RM–9005, submitted December 20, 1996, by: GE, Loral, Lockheed Martin and Hughes.

[26] *See* Comments of Teledesic at 3.

[27] *See* Applications of EchoStar, Ka-Star, Lockheed Martin, Hughes, Loral, Comm. Inc., and Teledesic.

[28] *See* ''United States Proposals No. 209 and No. 210 for the Work of the Conference'' (August 1997).

[29] *See* Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, *Report and Order,* 11 FCC Rcd 21581 (1996), 62 FR 5924 (February 14, 1997) (*Part 25 Streamlining*).

[30] *See* In the Matter of Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems and DBSC Petition for Declaratory Rulemaking Regarding the Use of Transponders to provide international DBS Service, 11 FCC Rcd 2429, 2436 (1996), 61 FR 9946 (March 12, 1996) (*DISCO I Order*).

operators in the Ka-band any differently. The Commission traditionally has evaluated requests to operate on a non-common carrier basis using the analysis set forth in *National Association of Regulatory Utility Commissioners* v. *FCC,*[31] (*NARUC I*). Under *NARUC I,* we may regulate an entity as a private carrier unless: (1) there is or should be any legal compulsion to serve the public indifferently; or (2) there are reasons implicit in the nature of the service to expect that the entity will in fact hold itself out indifferently to all eligible users.

25. Several of the Ka-band FSS applicants propose to operate all services on a non-common carrier basis.[32] Regarding the first prong of *NARUC I,* we do not see any legal compulsion to require any space station licensee in the Ka-band to operate on a non-common carrier basis. We have already determined there is sufficient competitive capacity available in the C- and Ku-bands to assure the U.S. public ample access to fixed-satellite services.[33] In addition, we have licensed thirteen GSO FSS systems and one NGSO FSS system in the Ka-band which propose to offer a wide variety of broadband voice, data and video services to the U.S. domestic consumer.

26. Regarding the second prong of *NARUC I,* we find there is little likelihood that such Ka-band licensees will hold themselves out indifferently to serve the public. New Ka-band offerings can be tailored to provide a broad array of specialized communications services ranging from videoconferencing to telemedicine; and these services may be styled to accommodate highly individualized methods of operation and demands of potential customers. We believe permitting Ka-band licensees to offer services on a non-common carrier basis is in the public interest.

Implementation Milestones

27. We will require each GSO FSS licensee to begin construction of its first satellite within one year of grant, to begin construction of the remainder within two years of grant, to launch at least one satellite into each of its assigned orbit locations within five years of grant, and to launch the remainder of its satellites by the date required by the International Telecommunication Union to assure international recognition and protection of these satellites.[34] For NGSO FSS systems, we adopt the same implementation schedule as we did for the Big LEOs.[35] Specifically, we will require NGSO FSS licensees to begin construction of its first two satellites within one year of the unconditional grant of its authorization, and complete construction of those first two satellites within four years of that grant. Construction for the remaining authorized operating satellites in the constellation must begin within three years of the initial authorization, and the entire authorized system must be operational within six years.

Reporting Requirements

28. We will also follow the new part 25 rules for reporting requirements for FSS systems.[36] Specifically, a licensee will be required to file an annual report with the Commission describing: the status of satellite construction and anticipated launch dates, including any major problems or delays encountered; a listing of any non-scheduled transponder (GSO FSS) or satellite (NGSO FSS) outages for more than 30 minutes; and the cause(s) of such outages; and a detailed description of the utilization made of each transponder (GSO FSS) or satellite (NGSO FSS) on each of the in-orbit satellites.[37]

International Operations

29. The United States is under a treaty obligation, in connection with its membership in the ITU, to coordinate all U.S. authorized services internationally. The ITU's coordination procedures are intended to ensure that the operations of one country's satellites do not cause or receive harmful interference to or from the operations of another country's satellites. The procedure for effecting coordination of a satellite system is a three-step process consisting of (1) advance publication, where a country makes known its plans to implement a satellite system at particular frequencies and orbital parameters (*e.g.,* location), (2) coordination, where technical agreements are negotiated and reached among countries to ensure interference-free operations of the planned satellites, and (3) notification, where the frequency assignment is recorded in the ITU's Master International Frequency Register. Once these processes have been completed, a satellite system is entitled to international recognition and is protected against interference from all existing and future satellites.

30. We have advance published GSO and NGSO FSS systems and have initiated coordination with the ITU. We have also submitted notification information for a NGSO FSS system.[38] To facilitate these processes, we will continue to require licensees to provide us with all of the information required to complete the coordination and notification process.

31. The NTIA may authorize Government GSO FSS and NGSO FSS operations on a primary basis in the band 17.8–20.2 GHz in accordance with US footnote 334. Where international coordination is required for these Government systems, the NTIA will separately coordinate the Government GSO and NGSO operations in accordance with the appropriate ITU regulations.

32. Because the 28 GHz band is allocated and used worldwide for a variety of technically incompatible terrestrial and satellite services, we expect that international coordination of our 28 GHz band non-Government systems will be complex. Specifically, the 27.5–30.0/17.7–20.2 GHz bands are allocated domestically and internationally to the fixed service, which includes LMDS, and to the FSS, which includes both GSO and NGSO operations. MSS system feeder link operations may also be provided under FSS allocations. As we discussed previously in paragraph 6, we have determined the only way to address these conflicting allocations and proposed usage was to adopt a band plan that, in essence, divides the 27.5–30.0/17.7–20.2 GHz band into several band segments, each of which is to be used primarily for LMDS, GSO FSS, NGSO FSS, or MSS feeder link operations.[39] As explained below, we believe it is in the public interest to use this plan as the basis for coordinating U.S. licensed 28 GHz band satellite systems internationally. We outline herein the procedures we intend to

[31] National Ass'n of Regulatory Utility Commissioners v. FCC, 525 F.2d 630 (D.C. Cir.), *cert. denied,* 425 U.S. 992 (1976); 47 U.S.C. § 153(44).

[32] *But see* EchoStar Satellite Corporation Application for Authority to Construct, Launch, and Operate a Ka-Band Satellite System in the Fixed-Satellite Service, *Order and Authorization,* DA 97–969, (released May 9, 1997). EchoStar proposes to operate its system on a common carrier basis.

[33] *See* DISCO I Order at ¶ 46.

[34] ITU Regulations require that all satellites must be brought into use no later than six years from the date on which the Appendix 4 information for that satellite was filed. However, a request for a three-year extension of time may be granted. The Appendix 4 information for 28 GHz GSO systems was filed in November 1995. Therefore, all satellites we have authorized to operate in the 28 GHz spectrum must be launched by November 2004.

[35] *See Big LEO Report and Order* at ¶ 189.

[36] *See Part 25 Streamlining, supra,* n. 29.

[37] *See* 47 CFR § 25.210(j)(1)(2)(3).

[38] Because coordination procedures were not in place for NGSO FSS satellite systems at the time the Appendix 3 information was filed, it was possible for certain NGSO FSS and NGSO MSS feeder link systems to move from the advance publication (step 1) process to the notification (step 3) process.

[39] *See Report and Order,* ¶¶ 39–49.

follow for coordinating U.S.-licensed non-Government satellite systems with each other in other parts of the world. In addition, we outline the procedures we will generally follow when coordinating U.S.-licensed non-Government 28 GHz satellite systems with both satellite and terrestrial systems licensed by other countries. At the same time, we recognize that other countries are able to implement their systems in accordance with their domestic requirements and the International Radio Regulations.

33. Because we have licensed multiple non-Government 28 GHz satellite systems and several of these systems are designed to operate on a global basis, we will likely be faced with the responsibility of coordinating the international operations of two or more non-Government satellite systems with each other.[40] The record in this proceeding does not support a finding that sharing between ubiquitous non-Government GSO and NGSO FSS systems is technically feasible at this time without mitigation.[41] This was the impetus for adopting a band sharing plan at 28 GHz that designated separate band segments for primary GSO FSS, NGSO FSS and feeder link operations. Due to the potential coordination difficulties that may lead to delay of services, we believe it is in the public interest to require U.S. non-Government licensees to operate in accordance with our 28 GHz band plan throughout the world, with certain exceptions as described below. Without such a requirement, we believe we would jeopardize the successful operation of these systems outside of the United States.

34. In the Big LEO proceeding, where we also adopted service rules for U.S. global satellite systems, we did not require non-Government licensees to operate in accordance with the domestic band plan outside the United States.[42] This approach resulted in significant delay in the implementation of their systems, however. Eventually, the Big LEO licensees determined that in order for each system to operate on a global basis without coordination conflicts amongst themselves, the best way was to conform their international operations to the domestic band plan set out in the *Big LEO Report and Order.* Our experience in the Big LEO proceeding leads us to believe that it is in the public interest to adopt a policy now for coordination of these U.S. licensed global non-Government systems in the 28 GHz band to ensure that coordination can proceed and services can be provided to the public in a timely manner.[43]

35. While we envision coordinating U.S. licensed non-Government systems in accordance with the 28 GHz band segmentation plan throughout the world, we recognize that there will be some exceptions. For example, due to the need to accommodate non-U.S. satellite systems that had entered into the ITU advance publication, coordination and notification processes before the U.S. systems, the United States has negotiated agreements with other administrations to permit operation of specific satellite systems in certain geographic areas in frequency bands that are not entirely in conformance with the U.S. 28 GHz band plan. Accordingly, we will adhere to any coordination or consultation agreements that were initiated before the 28 GHz band plan was adopted in July 1996. In addition, these non-conforming arrangements could potentially impact how we decide to coordinate U.S. non-Government satellite systems in other portions of the 28 GHz band. For example, we may seek to make up for some of the spectrum ''lost'' to these systems in the agreement in other portions of the band. We anticipate that these deviations from our band plan will be the rare exception for the implementation of the U.S. band plan by U.S. non-Government satellite system licensees worldwide.

36. Last, the U.S. band plan does not distinguish between GSO and NGSO FSS systems as secondary users to LMDS in the 27.5 to 28.35 GHz uplink band. Rather, generic FSS is designated as the secondary service in the U.S. We envision only limited FSS uplink operations, such as gateway operations, will be able to operate on a non-interference basis to LMDS in the United States. In those cases where other countries use the 27.5–28.35 GHz band segment for FSS, we intend to provide U.S. non-Government GSO FSS systems with coordination priority over U.S. non-Government NGSO FSS systems in this band. This is because the U.S. band plan designates the corresponding downlink frequency band at 17.7–18.8 GHz on a priority basis to the GSO FSS, with NGSO FSS operations on a non-interference basis only to any service or system that has superior status or licensing priority. If the uplink frequencies are not treated in a similar manner, the downlink designation would be meaningless. We do not believe this to be the intended result of the band plan. We will therefore give priority to U.S. GSO systems vis-a-vis U.S. NGSO systems at 27.5–28.35 GHz.

37. Therefore, as the coordinating administration for these systems, we will require any U.S. non-Government satellite system operating inconsistently with the U.S. 28 GHz band plan—and, by definition, its coordinated parameters—to cease operations if it causes harmful interference to any U.S. non-Government system operating in conformance with the U.S. band plan for non-Government systems, or to any U.S. Government system operating in accordance with US footnote 334. (The non-Government band plan is not applicable for GSO and NGSO Government operations which are authorized on a primary basis across the 17.8–20.2 GHz band.)

38. In coordinating U.S.-licensed non-Government systems with systems of other Administrations, we will, as always, follow the applicable coordination procedures set out in the ITU Radio Regulations for the particular band segment being coordinated. For example, satellite system coordination may implicate ITU Radio Regulation No. S22.2 (2613) for instances where NGSO FSS systems and GSO FSS systems are proposed. This regulation applies in certain segments of the 28 GHz band and requires, in those bands, that NGSO FSS systems cease or reduce to a negligible level their operations whenever there is unacceptable interference caused to a GSO FSS system. Consequently, in coordinating and consulting U.S. non-Government FSS systems with other countries' FSS systems in bands where this provision applies, we expect that consultations or coordinations between administrations will result in operational or technical considerations which will prevent unacceptable interference to GSO FSS systems. In bands where there is a primary allocation to the fixed service and FSS, we will coordinate U.S. satellite system operations on an equal basis to the fixed stations, consistent with established ITU Radio Regulations and Recommendations.

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[40] This does not include the coordination of earth stations accessing U.S.-licensed systems, since these earth stations belong to the administration where the earth station is located.

[41] However, satisfactory ways of co-frequency sharing by NGSO FSS and GSO FSS networks can be found where the burden is placed on either the GSO or NGSO network. Mitigation techniques to reduce interference can be evaluated through the coordination process.

[42] *See Big LEO Report and Order* at ¶ 231.

[43] *See ex parte* filing of Lockheed Martin filed (May 7, 1997) at 8, supporting this policy: ''Now that the 28 GHz band plan has been adopted in the United States, the Commission staff is considering applying the same frequency plan, including specific licensing priorities (*i.e.*, ''primary'' and ''secondary'' designation), to the operation of U.S. licensed satellites abroad. Lockheed Martin supports the adoption of such measures.''

39. The Commission can authorize operations of satellite systems in the United States only. Operation and use of these systems in geographic areas outside the United States requires appropriate authorizations from other countries in which the U.S. licensee wishes to operate earth stations. In order to ensure that Ka-band satellite service is truly global, we adopt limitations on Ka-band licensees' ability to enter into exclusive arrangements with other countries concerning communications to or from the United States similar to those in place for Big LEO systems.[44] An exclusive agreement may foreclose other FSS licensees from serving a foreign market, preventing that licensee from providing global service. Further, such an arrangement may be inconsistent with our band plan. We intend to construe the restrictions on exclusionary arrangements bearing in mind that spectrum coordination and availability in particular countries may limit the number of systems that can provide service to that country. Nevertheless, our intent will be to further the implementation and use of multiple satellite systems in other administrations.

Other Requirements

40. To discourage speculators and to prevent unjust enrichment of those who do not implement their proposed systems, we adopt a rule that prohibits any Ka-band licensee from selling a bare license for a profit. This provision is not intended to prevent the infusion of capital by either debt or equity financing. Nevertheless, any such transaction will be monitored to ensure that it does not constitute an evasion of the anti-trafficking provision.[45]

Final Regulatory Flexibility Analysis

41. As required by the Regulatory Flexibility Act, (RFA),[46] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third NPRM* in this proceeding. The Commission sought written public comment on the proposals in the *Third NPRM*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA), concerning the *Third Report and Order*, conforms to the RFA.[47]

I. Need for and Objectives of the Third Report and Order

42. In this decision, the Commission, adopts licensing qualification rules and service rules for fixed-satellite service systems in the Ka-band. The purpose of this action is to help launch a new broadband satellite service well-suited to compete in the domestic and global marketplace. In order to ensure the rapid and successful implementation of new FSS systems in the Ka-band, the Commission has used the existing FSS system rules as a foundation and has modified these rules to the extent necessary to reflect the nature of operations at Ka-band. The decision promotes efficiency in licensing and use of the electromagnetic spectrum. In addition we expect that the licensing framework we have set out for the Ka-band will aid in the development of competitive and innovative satellite systems.

II. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis

43. No comments were received specifically in response to the IRFA. However, in order to minimize any barriers for entry into this new satellite market for small entities, Commission staff spent months encouraging and working with all of the commercial GSO FSS applicants to reach agreement on an orbital assignment plan to accommodate all first-round applicants. As discussed in the *Third Report and Order*, the applicants did reach agreement regarding orbit locations. Therefore we are able to waive our financial qualification requirement and not look to current financial ability as a prerequisite to a license grant. By licensing all current commercial system applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

III. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

44. The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services ''Not Elsewhere Classified.'' This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[48] According to the Census Bureau data, there were a total of 848 communications services in operation in 1992 that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $9,999 million or less and qualify as small entities.[49] The census report does not provide more precise data.

45. Describing and estimating the number of small entities these rules will impact is made difficult by a number of factors. First of all, information from the Satellite Industry Association and financial analysts who specialize in this market indicate there are few firms that could be traditionally thought of as small businesses. They point to the fact that this is a capital intensive industry that requires ''significant partner funding and/or contract commitments prior to approaching commercial financing sources.'' [50] In addition, estimates of employment in the commercial satellite service industry, another measure of small business status, can vary widely.[51]

46. Space Stations (Geostationary). Commission records reveal that there are 37 space station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

47. Space Stations (Non-Geostationary). There are six Non-Geostationary Space Station licensees, of which only one system is operational. We do not request nor collect annual revenue information, and thus are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.

48. We have also recently authorized thirteen commercial GSO FSS satellite systems in the Ka-band and one

[44] *See* Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610–1626.5/2483.5–2500 MHz frequency band, *Memorandum Opinion and Order*, 11 FCC Rcd 12861 (1996) at ¶¶ 54–55, 61 FR 9944 (March 12, 1996); 47 CFR 25.143(h) (prohibiting Big LEO licensees from entering into exclusive arrangements to serve particular countries).

[45] *See Big Leo Report and Order* at ¶ 203; 47 CFR § 25.143(h) (prohibits Big LEO licensees from selling a bare license for profit).

[46] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[47] *See* 5 U.S.C. § 604.

[48] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[49] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[50] *See* ''Financing the Final Frontier: Funding Commercial Space Activities'' Bear Stearns, Global Space & Satellite Finance Report.

[51] For example, American Mobile Satellite Corp is reported to have 45 employees by the Satellite Industry Association; 317 employees by Satellite Industry Analyst ''BZW.''

commercial NGSO FSS system to construct, launch, and operate in the Ka-band, conditioned on compliance with the licensing and service rules we adopt in this *Third Report and Order.* Therefore there are no small businesses currently providing these types of broadband interactive services in the Ka-band.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

49. The Commission's existing rules in part 25 on FSS operations contain reporting requirements for FSS systems. In this *Third Report and Order,* we adopt no new reporting requirements for FSS operations in the Ka-band and state that we will follow the new part 25 rules for reporting requirements for FSS systems.[52] These requirements are specifically stated in paragraph 60 of the *Third Report and Order.* It is likely that the entities filing the reports will require no professional skills for the preparation of such requests.

V. Steps Taken To Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

50. As part of our licensing qualifications standard for the FSS, the Commission has in the past applied rigorous financial qualification standards when the authorization of one applicant will not prevent another qualified applicant from going forward with a proposal in the same service. In the *Third NPRM* we proposed to apply the existing FSS rules to the Ka-band, including this strict financial standard. Several of the experienced and well financed satellite service providers such as Hughes Communications, GE Americom and Loral supported this proposal as a way to get service to the public in an efficient manner.

51. In order to minimize any barriers for entry into this new satellite market for small entities, Commission staff spent months encouraging and working with all of the commercial GSO FSS applicants to reach agreement on an orbital assignment plan to accommodate all first-round applicants. As discussed in the *Third Report and Order,* the applicants did reach agreement regarding orbit locations. Therefore we are able to waive our financial qualification requirement and not look to current financial ability as a prerequisite to a license grant. By licensing all current commercial system applicants, we enable small entities and start-up companies the opportunity to compete in the capital intensive satellite industry.

VI. Report to Congress

52. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Third Report and Order,* in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the **Federal Register**.

Ordering Clauses

53. Accordingly, *It is ordered* that part 25 of the Commission's rules are amended as set forth below and will become effective January 20, 1998, with the exception of § 25.145(g), which will become effective upon OMB approval. This action is taken pursuant to Sections 4 and 303 (r) of the Communications Act of 1934, as amended 47 U.S.C. §§ 154, 303(r), and Section 201(c) of the Communications Satellite Act of 1962, 47 U.S.C. § 721(c).

List of Subjects in 47 CFR 25

Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

PART—25 SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Section 25.145 is added to read as follows:

§ 25.145 Licensing conditions for the Fixed-Satellite Service in the 20/30 GHz bands.

(a) Except as provided in § 25.210(b), in general all rules contained in this part apply to Fixed-Satellite Service in the 20/30 GHz bands.

(b) *System License.* Applicants authorized to construct and launch a system of technically identical non-geostationary satellite orbit satellites will be awarded a single ''blanket'' license covering a specified number of space stations to operate in a specified number of orbital planes.

(c) In addition to providing the information specified in § 25.114, each non-geostationary satellite orbit applicant shall demonstrate the following:

(1) That the proposed system be capable of providing fixed-satellite services to all locations as far north as 70 deg. latitude and as far south as 55 deg. latitude for at least 75% of every 24-hour period; and

(2) That the proposed system is capable of providing fixed-satellite services on a continuous basis throughout the fifty states, Puerto Rico and the U.S. Virgin Islands, U.S.

(d) *Considerations involving transfer or assignment applications.* (1) ''Trafficking'' in bare licenses issued pursuant to paragraph (b) of this section is prohibited, except with respect to licenses obtained through a competitive bidding procedure.

(2) The Commission will review a proposed transaction to determine if the circumstances indicate trafficking in licenses whenever applications (except those involving *pro forma* assignment or transfer of control) for consent to assignment of a license, or for transfer of control of a licensee, involve facilities licensed pursuant to paragraph (b) of this section. At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that no trafficking has occurred.

(3) If a proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests, any showing requested under paragraph (d)(2) of this section shall include an additional exhibit which:

(i) Discloses complete details as to the sale of facilities or merger of interests;

(ii) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interest; and

(iii) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.

(e) *Prohibition of certain agreements.* No license shall be granted to any applicant for a space station in the fixed-satellite service operating in the 20/30 GHz band if that applicant, or any persons or companies controlling or controlled by the applicant, shall acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possession, to construct or operate space segment or earth stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons or

[52] *See Part 25 Streamlining,* n. 29, *supra.*

companies controlling or controlled by the Licensee are parties.

(f) *Implementation milestone schedule.* Each GSO FSS licensee in the 20/30 GHz band will be required to begin construction of its first satellite within one year of grant, to begin construction of the remainder within two years of grant, to launch at least one satellite into each of its assigned orbit locations within five years of grant, and to launch the remainder of its satellites by the date required by the International Telecommunications Union to assure international recognition and protection of those satellites. Each NGSO FSS licensee in the 20/30 GHz band will be required to begin construction of its first two satellites within one year of the unconditional grant of its authorization, and complete construction of those first two satellites within four years of that grant. Construction of the remaining authorized operating satellites in the constellation must begin within three years of the initial authorization, and the entire authorized system must be operational within six years.

(g) *Reporting Requirements.* All licensees in the 20/30 GHz band shall, on June 30 of each year, file a report with the International Bureau and the Commission's Columbia Operations Center, 9200 Farm House Lane, Columbia, MD 21046 containing the following information:

(1) Status of space station construction and anticipated launch date, including any major problems or delay encountered;

(2) A listing of any non-scheduled space station outages for more than thirty minutes and the cause(s) of such outages; and

(3) Identification of any space station(s) not available for service or otherwise not performing to specifications, the cause(s) of these difficulties, and the date any space station was taken out of service or the malfunction identified.

3. Section 25.210 is amended by redesignating paragraphs (c) through (j) as paragraphs (e) through (l); redesignating paragraph (b) as paragraph (c); and adding new paragraphs (b) and (d) to read as follows:

§ 25.210 Technical requirements for space stations in the Fixed-Satellite Service.

* * * * *

(b) All space stations in the Fixed-Satellite Service in the 20/30 GHz band shall use either orthogonal linear or orthogonal circular polarization. Those space stations utilizing orthogonal linear polarization shall also comply with paragraph (a) of this section.

* * * * *

(d) All space stations in the Fixed Satellite Service in the 20/30 GHz band shall employ state-of-the-art full frequency reuse either through the use of orthogonal polarizations within the same beam and/or through the use of spatially independent beams.

* * * * *

4. Section 25.204(g) is added to read as follows:

§ 25.204 Power limits.

* * * * *

(g) All earth stations in the Fixed Satellite Service in the 20/30 GHz band shall employ uplink adaptive power control or other methods of fade compensation such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between networks.

[FR Doc. 97–30205 Filed 11–17–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 092297C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska Modification of a Closure; Correction

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

ACTION: Correction to a modification of a closure.

SUMMARY: This document contains a correction to a cross reference incorrectly stated in a closure notification (I.D. 092297C), which was published September 29, 1997.

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:

Background

On September 29, 1997, NMFS published a notification in the **Federal Register** that opened 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) effective on October 1, 1997, A.l.t. This action was necessary to fully utilize the total allowable catch (TAC) of Pacific cod in the GOA Central Regulatory Area.

Need for Correction

This action corrects an erroneous cross reference that gives the authority that establishes the inshore/offshore apportionments (applicable through December 31, 1998) of Pacific cod in all GOA regulatory areas.

Correction of Publication

Accordingly, the publication on September 29, 1997, of the modification of a closure (I.D. 092297C), which was the subject of FR Doc. 97–25777, is corrected as follows:

On page 50888, in the third column, the second paragraph, the first sentence, the cross reference ''679.20(d)(1)(iii)(A)'' is corrected to read ''679.20(a)(6)(iii).''

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

Dated: November 12, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–30256 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 222
Tuesday, November 18, 1997

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–16]

Proposed Modification to the Atlantic High Offshore Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify the Atlantic High Offshore Airspace Area. The southeast boundary of the Atlantic High Offshore Airspace Area would be extended to coincide with the boundary of the San Juan Enroute Domestic Airspace Area. This proposal would facilitate the use of domestic air traffic control (ATC) procedures within that airspace, and thereby expedite the flow of air traffic and enhance the utilization of that airspace.

DATES: Comments must be received on or before January 2, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 97–ASO–16, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Air traffic activity in the Bahamas and Caribbean airspace area continues to increase as the number of ground based navigational aids continues to decrease. Consequently, a project to implement a non-Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Area Navigation (RNAV) route system to supplement the current airway system is warranted. Extending the southeast boundary of the Atlantic High Offshore Airspace Area to coincide with the San Juan Enroute Domestic Airspace Area would support the development of a more efficient route system in the Bahamas and Caribbean area.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify the Atlantic High Offshore Airspace Area. The Atlantic High Offshore Airspace Area would be extended southeast to coincide with the boundary of the San Juan Enroute Domestic Airspace Area.

The Atlantic High Offshore Airspace Area is designated as Class A airspace, and the San Juan Enroute Domestic Airspace Area is designated as Class E airspace; domestic ATC standards apply in these areas. At present, a gap of approximately 80 Nautical Miles (NM) exists between the boundaries of the Atlantic High Offshore Airspace Area and the San Juan Enroute Domestic Airspace Area. The airspace within this gap is part of the San Juan Oceanic Control Area/Flight Information Region (CTA/FIR). International Civil Aviation Organization (ICAO) ATC standards apply within the San Juan Oceanic CTA/FIR. Consequently, air traffic controllers must apply two different sets of ATC standards to aircraft transitioning from the Atlantic High Offshore Airspace Area to the San Juan Enroute Domestic Airspace Area, or vice-versa, (i.e., flight operations on the routes between south Florida and Puerto Rico).

Modifying the Atlantic High Offshore Airspace Area as proposed would permit air traffic controllers to apply domestic ATC standards along the entire length of the affected routes, thereby enhancing the flow of air traffic, increasing capacity, and allowing for more efficient use of the airspace.

Offshore Airspace Area designations are published in paragraph 2003 of FAA

Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 2003 Offshore Airspace Areas

* * * * *

Atlantic High [Revised]

That airspace extending upward from 18,000 feet MSL to and including FL 600 within the area bounded on the east from north to south by the Moncton FIR, New York Oceanic CTA/FIR, and the San Juan Oceanic CTA/FIR; to the point where the San Juan Oceanic CTA/FIR boundary turns southwest at lat. 21°08′00″N., long. 67°45′00″ W., thence from that point southeast via a straight line to intersect a 100-mile radius of the Fernando Luis Ribas Dominicci Airport at lat. 19°47′28″ N., long. 67°09′37″ W., thence counter-clockwise via a 100-mile radius of the Fernando Luis Ribas Dominicci Airport to lat. 18°53′05″ N., long. 67°47′43″ W., thence from that point northwest via a straight line to intersect the point where the Santo Domingo FIR turns northwest at lat. 19°39′00″ N., long. 69°09′00″ W., thence from that point the area is bounded on the south from east to west by the Santo Domingo FIR, Port-Au-Prince CTA/FIR, and the Havana CTA/FIR; bounded on the west from south to north by the Houston Oceanic CTA/FIR, southern boundary of the Jacksonville Air Route Traffic Control Center and a line 12 miles offshore and parallel to the U.S. shoreline.

* * * * *

Issued in Washington, DC, on November 6, 1997.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–30215 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–007; Order No. 587–F]

Standards for Business Practices of Interstate Natural Gas Pipelines

November 12, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking (NOPR).

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines by incorporating by reference the most recent version of standards promulgated by the Gas Industry Standards Board (GISB). The Commission also is proposing to adopt regulations, not developed by GISB, governing intra-day nominations, operational balancing agreements (OBAs), netting and trading of imbalances, standardization of communications over the public Internet, and notices of operational flow orders. In addition, the Commission is providing policy guidance on other issues related to business practices of interstate natural gas pipelines to assist GISB in developing implementation standards that could be adopted by the Commission in future regulations. These business practices standards supplement standards adopted by the Commission in Order Nos. 587, 587–B, and 587–C.

DATES: Comments are due December 18, 1997.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0507

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 2A, 888 First Street, N.E., Washington D.C. 20426. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, also provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user. CIPS can be accessed over the Internet by pointing your browser to the URL address: http://www.ferc.fed.us. Select the link to CIPS. The full text of this document can be viewed, and saved, in ASCII format and an entire day's documents can be downloaded in WordPerfect 6.1 format by searching the miscellaneous file for the last seven days. CIPS also may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

Notice of Proposed Rulemaking and Statement of Policy; Order No. 587–F

November 12, 1997.

The Federal Energy Regulatory Commission (Commission) is proposing to amend § 284.10 of its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines by incorporating by reference the most recent version of standards promulgated by the Gas Industry Standards Board (GISB). The Commission also is proposing to adopt regulations, not developed by GISB, in new § 284.10(b)(2) of its regulations. These regulations would govern intra-day nominations, operational balancing agreements (OBAs), netting and trading of imbalances, standardization of communications over the public Internet, and notices of operational flow orders. In addition, the Commission is providing policy guidance on other issues to eliminate disputes within GISB over these issues and thereby assist GISB in developing implementation standards in these areas.

I. Background

A. Prior Commission Action

In Order Nos. 587, 587–B, and 587–C [1] the Commission began the process of standardizing the business practices and communication methodologies of interstate pipelines to create a more integrated and efficient pipeline grid. The Commission incorporated by reference consensus standards developed by GISB,[2] covering certain industry business practices—Nominations, Flowing Gas, Invoicing, and Capacity Release—as well as standards and electronic datasets that detailed the data requirements needed to conduct these business transactions electronically. The Commission also adopted standards providing that these business transactions would be conducted over the Internet as well as standards requiring the posting of additional information on Internet Web pages.

During the process of adopting these standards, there were areas that had been left unresolved which are relevant to the Commission's proposed actions in this Notice of Proposed Rulemaking (NOPR). First, in Order No. 587–C, the Commission declined to adopt standards in four areas—intra-day nominations, operational balancing agreements, netting of imbalances, and downloading documents from pipeline Internet Web sites—and requested that GISB and the industry propose clarifications or revisions to the standards by September 1, 1997. In addition, in Order No. 587–E, the Commission noted that GISB had committed itself to completing the standardization of all functions and information now provided on pipeline Electronic Bulletin Boards (EBBs) and requested a report, by September 1, 1997, on the extent of GISB's progress and the contemplated completion date. [3]

Second, in its November 13, 1996 NOPR, [4] the Commission identified several disputed standards where four industry segments supported the standards, but the pipeline segment prevented a consensus from being reached.[5] To review these issues, the Commission staff held a technical conference on December 12 and 13, 1996, and comments on the conference were filed on February 21, 1997.[6]

B. GISB's September 2, 1997 Filing

On September 2, 1997, GISB filed with the Commission revisions to its standards (Version 1.2), a report on the issues raised by the Commission in Order No. 587–C regarding intra-day nominations, the unclear OBA and imbalance standards, and the standard covering formats for file downloads, and a report on the progress of its title transfer tracking task force.

Version 1.2 replaces Versions 1.0 and 1.1. Version 1.2 contains several new and revised business practices standards, covering exchange of volume audit statements, statements of account, changes to Internet protocols, formats for posting information on pipeline web sites, and the confirmation and validation process for pre-arranged capacity release transactions.[7] The Version 1.2 standards also contain both

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997).

[2] GISB is a private, consensus standards developer composed of members from all segments of the natural gas industry.

[3] GISB Electronic Delivery Mechanism Related Standards 4.3.6 states that ''within a reasonable amount of time, all EBB information, functions and transactions should be achieved via one mode of communications.''

[4] *See* Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking and Staff Technical Conference, 61 FR 58790 (Nov. 19, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,521 (Nov. 13, 1996). The disputed issues involve pooling, title transfer tracking, ranking of gas packages, predetermined allocations, intra-day nominations, operational flow orders, fuel sales, and imbalance trading.

[5] For a standard to issue, it must be approved by 17 out of the 25 members of the GISB Executive Committee with at least two affirmative votes from each of the five segments.

[6] Appendix A lists those filing comment on the conference. Appendix B lists the disputed standards.

[7] Flowing Gas Related Standard 2.1.4, Invoicing Related Standard 3.3.21, Electronic Delivery Mechanism Standards 4.3.1 and 4.3.16, and Capacity Release Related Standard 5.3.30.

new and revised standards applicable to the datasets used for electronically conducting business transactions relating to nominations, flowing gas, invoices and capacity release data.[8] Finally, the Version 1.2 standards include GISB's interpretations of standards.[9]

GISB reports that it established a task force to evaluate the intra-day nomination process, but the task force has not yet completed standards to better synchronize this process across pipelines. GISB states that the completion of the intra-day nomination process was delayed because the members of the task force came to the realization that, in order to make the intra-day process work efficiently, a fundamental review of the entire confirmation process was necessary. GISB concludes that the task force remains cautiously optimistic that it will successfully report a recommendation out of the task force to the Executive Committee before the end of 1997.

GISB reports that it has not completed the clarification of the OBA and imbalance standards as requested by the Commission in Order No. 587-C. GISB states that the standards are pending before its Business Practices subcommittee, which intends to review them when its normal rotation deals with contract and flowing gas issues. GISB anticipates consideration of these issues before the end of 1997.

On electronic communication issues, GISB explained that it has approved Electronic Delivery Mechanism Standard 4.3.16 which provides that files can be downloaded from pipeline web sites in two formats: hyper-text mark-up language (HTML) or rich-text-format (RTF). However, GISB did not file a progress report on its efforts to complete the process of standardizing information currently provided on pipeline EBBs, as requested in Order No. 587–E.

GISB included a report by its title transfer tracking task force on its progress. The task force has not yet completed its work, and GISB comments that this is ''one of the most challenging and time consuming issues facing the industry.''

Comments on the topics addressed by GISB's report were filed by Natural Gas Clearinghouse (NGC), Koch Gateway Pipeline Company (Koch), and TransCapacity Limited Partnership (TransCapacity). NGC contends that GISB is stymied and that the time has come for the Commission to resolve the issues which the Commission set for consideration in Order No. 587–C. NGC further states that the title transfer tracking task force has not addressed the underlying issue of whether the pipeline should perform this service, and argues that this is an issue the Commission must resolve. TransCapacity suggests the GISB process be given more time, within defined limits, to resolve these issues.

Koch, on the other hand, contends the Commission should resist further standardization, because standardization will impede the pipelines' ability to provide creative or dynamic new services. Koch is particularly concerned that further standardization of intra-day nominations along the lines being considered by GISB's task force could result in depriving shippers on its pipeline of service options they value. Koch also is concerned about the possibility that the Commission will replace pipelines' proprietary EBBs with a requirement for standardized communication modalities.

II. Discussion

The Commission proposes to incorporate by reference the Version 1.2 standards passed by GISB to substitute for the Version 1.0 and 1.1 standards currently incorporated in the regulations. In the Commission's earlier orders, the Commission adopted standards only when all segments of the industry concurred that the standard was needed to improve efficiency. However, the Commission has recognized that policy disputes between the segments may prevent the development of standards that are necessary to the development of an integrated pipeline grid.[10]

After having reviewed the transcript of the December 12–13, 1996 technical conference, the February 21, 1997 comments submitted on the technical conference, and the GISB report, the Commission has concluded that it needs to resolve policy disputes so that GISB can focus its efforts on resolving the technical details of implementation. On some issues, the Commission is proposing new regulations when uniform standards appear necessary to increase the overall efficiency of the pipeline grid or when the standard reflects a fundamental service right to which similarly situated shippers should be entitled on all pipelines. On other issues, the Commission is providing policy guidance in this NOPR so that GISB and the industry can develop the most efficient standards to implement those policy choices.

Specifically, the Commission is proposing to incorporate the Version 1.2 standards in section 284.10(b)(1)(i) and is further proposing in section 284.10(b)(2) to adopt additional regulations that would: require pipelines to give firm intra-day nominations priority over already nominated and scheduled interruptible transportation; [11] require pipelines to enter into operational balancing agreements at all pipeline to pipeline interconnects; [12] require pipelines to permit shippers to offset imbalances accruing on their different contracts with a pipeline and trade imbalances when such imbalances have similar operational impact on the pipeline's systems; [13] require pipelines to post all information and conduct all business transactions using the public Internet and internet protocols by June 1, 1999; [14] require pipelines to adhere to specific standards in posting information on pipeline web sites and in maintaining electronic records; [15] and require pipelines to provide shippers with notice of operational flow orders by posting the notices on the pipelines' Internet web sites as well as by notifying shippers through Internet E-Mail or through notification to the shipper's Internet (URL) address. [16] The Commission is proposing that pipelines comply with these regulations within 60 days of the issuance of final rule, with the exception, as noted above, of section 284.10(b)(2)(iii)(A) (requiring pipelines to conduct business using the Internet), for which compliance would be expected by June 1, 1999.

The Commission is providing policy guidance in the following areas: the extent of notice interruptible shippers should be given of rescheduled capacity allocations, as well as the pipelines' responsibilities to support title transfer tracking, to permit gas package ranking across contracts, and to support the use of third-parties to provide reimbursement for compressor fuel.

[8] The new standards are Nominations Related Standard 1.4.6 and Flowing Gas Related Standard 2.4.6. The revised standards are Nominations Related Standards 1.4.1 through 1.4.5, Flowing Gas Related Standards 2.4.1 through 2.4.5, Invoicing Related Standards, 3.4.1 through 3.4.3, Capacity Release Related Standards 5.4.1. through 5.4.4, 5.4.6 through 5.4.13, and 5.4.15, through 5.4.17.

[9] Interpretations of Standards 7.3.1 through 7.3.18.

[10] Order No. 587, 61 FR at 39060, III FERC Stats. & Regs. Regulations Preambles, at 30,065; Order No. 587-C, 62 FR at 10686, III FERC Stats. & Regs. Regulations Preambles ¶ 31,050, at 30,583.

[11] Proposed regulation 284.10(b)(2)(i).

[12] Proposed regulation 284.10(b)(2)(ii)(A).

[13] Proposed regulation 284.10(b)(2)(ii)(B).

[14] Proposed regulation 284.10(b)(2)(iii)(A).

[15] Proposed regulation 284.10(b)(2)(iii) (B) through (D).

[16] Proposed regulation 284.10(b)(2)(iii)(E).

With respect to other issues in dispute, pipeline tracking of multi-tiered allocations, provision of paper pools, and penalty calculations, the Commission does not find that a sufficient case has been made to justify its intervention at this time.

With the Commission's resolution of the fundamental policy issues, GISB should be able to formulate the standards necessary for implementing the policies addressed in this NOPR. Although GISB had anticipated being able to complete standards in some areas by the end of calendar 1997, the Commission recognizes that it may need additional time to consider these standards in the light of the Commission's policy guidance given here. The Commission finds that a March 31, 1998 deadline should provide sufficient time, and the Commission, therefore, solicits the submission of final standards from GISB and others in the industry by that date.

In stepping-in to resolve the disputed issues, the Commission is in no way seeking to derogate GISB's role or its accomplishments. GISB's ability to develop a consensus on the large number of standards it has adopted is a signal achievement and testament to the industry's ability to work together to solve mutual problems. However, it would ignore reality to assume that all factions will be able to agree on every issue, particularly when those issues involve regulatory policy issues. By resolving these issues, the Commission is not seeking to replace GISB, but rather to work together with GISB and the industry to develop policies and standards necessary to increase the efficiency of the pipeline grid.[17] Indeed, the resolution of these policy questions may permit GISB to focus its resources on developing the necessary standards to implement these policies in the most efficient manner possible.

The Commission's proposed standards and its policy guidance in all these areas are discussed below.

A. Proposed Adoption of the Version 1.2 Standards

Version 1.2 of the standards principally revises the data elements used to conduct business transactions with the pipelines. The Commission recognizes the difficulty, on the first shot, of developing a comprehensive set of data elements that will accommodate business transactions across all pipelines. Inevitably, experience with the Version 1.1 standards would reveal areas where refinements and improvements were needed. Adoption of the Version 1.2 revisions, therefore, should improve the standards so that they better accommodate pipeline business practices. In addition to incorporating the standards by reference, the Commission also is proposing to incorporate the GISB interpretations. While the interpretations will not necessarily be determinative in the event of a dispute, they, like the GISB principles adopted previously, will help to provide reliable guides as to the industry's understanding of the standards should disputes or complaints arise.

The Commission appreciates that the Version 1.1 standards have been implemented unevenly across the pipeline grid. Some pipelines have received waivers which permit them to use non-standardized data elements, while they sought changes or revisions from GISB.[18] Other pipelines have implemented the Version 1.2 standards early.[19] When implementation is not uniform, burdens are created for shippers who have to have several different sets of data elements to match the differing requirements of the different pipelines. The Commission, therefore, requests comments on whether in the interests of providing certainty, it should decline to extend its waivers of the dataset compliance any further and require all pipelines to follow the Version 1.2 standards even if certain issues are still unresolved.

A related question is how quickly to issue revisions to the standards. There clearly is going to be a need to revise these standards. Indeed, in this NOPR, the Commission has requested the submission of additional data elements for certain transactions. On the other hand, if the standards are modified too frequently, shippers incur time and expense in having to reprogram their computers to meet the new changes. Thus, the Commission requests comment on whether it should grant a hiatus of a year or more before the Commission adopts any subsequent revision of the datasets so that shippers will be able to implement them without a risk that they subsequently will have to remap their computers. A possible alternative to be considered in the comments is whether additions to the datasets could be permitted, so long as these additions do not affect the ability of shippers to use the Version 1.2 standards. One of the advantages of EDI is that it does permit the addition of data elements without affecting the ability of shippers to use an earlier version. Under this approach, shippers that want to avail themselves of the new features could do so, while other shippers could still use the Version 1.2 datasets.

B. Proposed Regulations and Policy Guidance on Intra-day Nomination Issues

1. The Issues

Under the GISB standards,[20] the initial nomination for the next day of gas flow (which starts at 9 a.m.) must be transmitted to the pipeline by 11:45 a.m. central clock time (CCT).[21] This nomination is confirmed by 4:30 p.m. CCT. An intra-day nomination is any nomination sent after the initial nomination deadline.[22] An intra-day nomination may be made either on the day prior to gas flow (after 11:30 a.m.) or on the day of gas flow.[23] Intra-day nominations are for a daily quantity; changes in hourly gas flows are determined by the interconnecting parties.[24]

The current standards require a pipeline to permit one intra-day nomination four hours prior to gas flow.[25] In Order No. 587–C, the Commission pointed out that pipelines chose to implement this standard in divergent ways. Some pipelines process intra-day nominations using a ''rolling'' system permitting the shipper to choose the time at which it submits the intra-day nomination, while others chose a ''batch process'' in which the pipeline sets a specified time for processing intra-day nominations and all intra-day nominations submitted before that time are accumulated and processed together. The batch process also differs from pipeline to pipeline, with pipelines choosing different batch times. In addition, on some pipelines intra-day nominations for firm service ''bump'' or interrupt scheduled or flowing interruptible gas, while on others they

[17] *See* Michael E. Porter & Class van der Linde, Green and Competitive: Ending the Stalemate, Harvard Business Review 120, 124, 127 (Sept/Oct 1995); Malcolm Gladwell, Just Ask For It, The New Yorker, 45 (April 7, 1997) (governmental regulation is sometimes needed to motivate industries to adopt policies that enhance competition and foster greater efficiency, but government needs to focus on outcomes and should work with industry in setting relevant standards).

[18] *See* Texas Eastern Transmission Corporation, 79 FERC ¶ 61,223 (1997).

[19] Tennessee Gas Pipeline Company, 80 FERC ¶ 61,311 (1997).

[20] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.1 and 1.3.2.

[21] Central clock time is central time taking into account changes for daylight savings time.

[22] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.4.

[23] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.7.

[24] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.9.

[25] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.10.

do not. The Commission commented that this plethora of approaches prevented shippers from coordinating their intra-day nominations across multiple pipelines, and requested that GISB provide recommendations by September 1, 1997 on standards to provide the necessary coordination.

According to GISB's September 2, 1997 filing, the task force it assembled to consider this issue has not completed its work, because its members came to the realization that, in order to make the intra-day nomination process work efficiently, a fundamental review of the entire confirmation process was necessary. GISB included with its filing the current test model its task force has developed to deal with this issue.

Under this model, pipelines would establish three times during which shippers could synchronize their intra-day nominations across multiple pipelines. The synchronization times are 6 p.m. (to take effect on the next gas day) and 10 a.m. and 5 p.m. to take effect on the same gas day.

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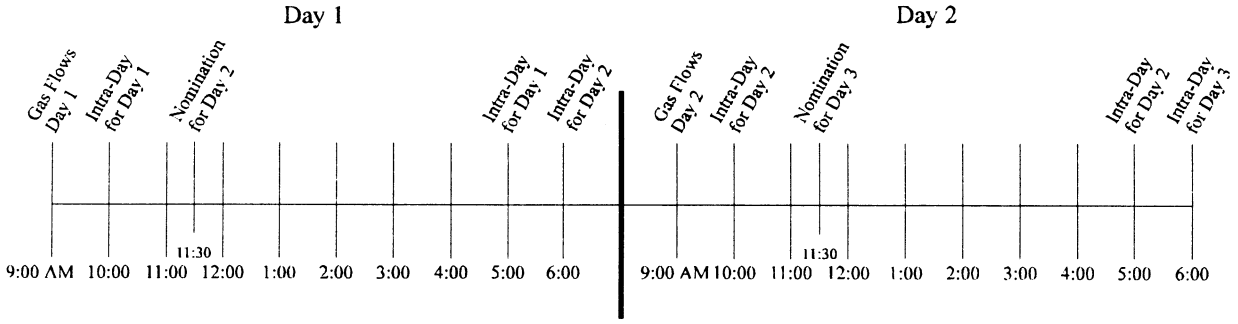
The GISB Task Force's Model Intra-day Nomination Timeline



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In the report, the task force summarizes the outstanding policy disputes that it has been unable to resolve. First, the task force did not address the ''bumping'' issue—whether firm intra-day nominations can interrupt or displace scheduled interruptible service. The timeline proposed by the task force attempts to accommodate both bumping and non-bumping pipelines.

Second, the task force is unclear as to the amount of notice and opportunity to reschedule which Commission policy accords to interruptible shippers. For instance, under the test model, an intra-day nomination submitted at 6 p.m. on the day before gas flow will not take effect until 5 p.m. on the day of gas flow if it bumps an interruptible shipper. If the intra-day nomination does not bump, it will take effect at 9 a.m., rather than 5 p.m. The time line also provides that the last intra-day opportunity of the day, at 5 p.m., does not bump.

The report states that some on the task force contend that bumping an interruptible shipper's scheduled gas is unfair unless the shipper has the opportunity to reschedule. Firm shippers, on the other hand, contend that since they pay reservation charges, they are entitled to scheduling priority and, therefore, their intra-day nomination should take effect at 9 a.m. even if the firm intra-day nomination bumps scheduled interruptible service.

Third, the task force states that some believe that the synchronized time line can coexist with those pipelines that use a rolling intra-day process, because shippers can choose whether to submit their nominations at the synchronized times. Others, however, are concerned that if a bump occurs, the coexistence of the two methods seems to unravel.[26] They maintain that, if the Commission requires that firm intra-day nominations bump scheduled interruptible service, pipelines may have to switch from the rolling to the batching process, which would be a degradation of service to shippers.

In addition, there was one disputed standard (Standard No. 77A) dealing with intra-day nominations. This standard would have required pipelines to permit intra-day nominations at all nominatable receipt and delivery points.[27]

2. Commission Resolution of the Issues

The Commission agrees that having three synchronization times, as proposed by the task force, would be a significant improvement on the current system. As GISB itself has recognized, however, the adoption of these nomination timelines is only an interim step, with the ultimate goal being the development of a continuous and contiguous scheduling system.[28]

The Commission will resolve the policy disputes highlighted by the GISB task force to enable GISB to focus on the implementation details of the standards, such as ensuring that the intra-day confirmation procedures are in place so that nominations will be accepted when capacity is available. GISB and others in the industry should submit an intra-day timeline and scheduling standards in accordance with these policies by March 31, 1998.

a. Priorities of Firm and Interruptible Intra-day Nominations

(1) Commission's Policy on Service Priority

The Commission's policy since Order No. 636 has been that firm shippers, who pay reservation charges, are entitled to service superior to that of interruptible shippers. Interruptible shippers, by definition, take the risk that their service will be interrupted if firm shippers choose to use their capacity.

In Order No. 636, the Commission did not require pipelines to provide intra-day nomination opportunities, but some pipelines did so, and the Commission permitted those pipelines to include provisions in their tariffs under which scheduled interruptible nominations would not be bumped by firm intra-day

[26] In its September 2, 1997 comments, Koch, which states it uses a rolling process without bumping, contends that if an interconnected pipeline supports bumping and uses the batch process, a bump on that pipeline can wreak havoc on Koch's system since a bump will ripple down and disrupt flow.

[27] *See* Appendix B.

[28] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.1.2.

nominations. However, as intra-day nominations became more prevalent, the Commission's policy was to apply its general scheduling priorities to intra-day nominations. Thus, the Commission found that firm intra-day nominations should be entitled to bump scheduled interruptible service.[29] The Commission, however, concluded that interruptible shippers should receive notice of their rescheduled quantities and an opportunity to renominate.[30] The Commission also determined that bumped interruptible shippers should not be subject to penalties directly related to the bump on the day on which the bump takes place.[31]

When Order No. 587 required all pipelines to implement intra-day nominations, the Commission determined that those pipelines filing to institute intra-day nominations on their systems had to follow the general policy and permit firm intra-day nominations to bump scheduled interruptible service upon reasonable notice.[32] On those pipelines with no-bump provisions that existed prior to Order No. 587, the Commission permitted the no-bump provisions to stand, because the pipeline filings were strictly compliance filings, and the Order No. 587 standards did not address the priority issue for intra-day nominations.[33]

(2) Proposed Regulation Giving Firm Intra-Day Nominations Priority Over Scheduled Interruptible Service

The Commission is proposing to require that the remaining no-bump pipelines follow its general policy that firm intra-day nominations should have scheduling priority over scheduled interruptible service. This regulation would ensure that all firm shippers will receive the same rights on all pipelines.

INGAA and Koch[34] contend that the Commission should not seek to standardize this element of intra-day service. They maintain that the diversity in approach is the product of individual pipeline settlements and customer preferences which should not be upset.

Not only would a continuation of a bifurcated intra-day nomination system deprive firm shippers on some pipelines with the legitimate priority rights to which they are entitled, a bifurcated system also appears to be at odds with the goal of creating an integrated pipeline grid. A firm shipper nominating gas across multiple pipelines needs to be able to coordinate its intra-day nominations. Under the present system, if even one pipeline in its nomination chain has a no-bump rule, the shipper may be unable to have its entire chain of intra-day nominations confirmed. Thus, a single approach to bumping appears necessary to integrate the pipeline grid.

The Commission, however, does agree with the GISB task force that, if a firm shipper has had a reasonable opportunity to reschedule its gas, a pipeline may provide a final intra-day nomination opportunity where scheduled interruptible service will be protected from bumping. Under the GISB task force's model, firm intra-day nominations submitted at the third intra-day opportunity at 5 p.m. on the day of gas flow would not bump previously scheduled interruptible service. Eliminating bumping at this stage would provide a final opportunity for all shippers to renominate supply and provide stability.

The Commission, therefore, is proposing to require pipelines to give nominations by firm shippers scheduling priority over nominated and scheduled volumes for interruptible service. The pipelines also would have to provide interruptible shippers with notice that their volumes will be reduced.[35] Pipelines would be required to file to implement this provision within 60 days from the date of a final rule in this proceeding. Pipelines would be expected to implement this regulation based on their current intra-day schedule until such time as GISB completes, and/or the Commission adopts, a revised intra-day schedule. In accordance with the previous discussion, those pipelines that permit at least three intra-day nomination opportunities each gas day may file a request to permit scheduled interruptible service to have a scheduling priority higher than a firm intra-day nomination submitted at the final intra-day nomination opportunity of the gas day. Pipelines filing to comply with this provision also need to consider whether bumped interruptible shippers should be exempt from certain penalties.

(3) Policy Regarding Notice to Interruptible Shippers

The next question raised by the GISB task force report is over the extent of notice, and the opportunity to renominate, to which an interruptible shipper should be entitled if a firm intra-day nomination bumps interruptible service. For instance, under the task force's model, a firm intra-day nomination may be submitted at 6 p.m. on the day before gas flow. If that nomination does not bump interruptible service, it would become effective at 9 a.m. on the day of gas flow. If it bumped interruptible service, one segment of the task force wants the nomination to become effective at 5 p.m. on the day of gas flow in order to permit the interruptible shipper to attempt to reschedule gas at the 10 a.m. intra-day nomination. Under this approach, the firm shipper would have 16 hours of gas flow (5 p.m. until 9 a.m. the next day) while the interruptible shipper would have 8 hours of flow (9 a.m. until 5 p.m.) under the initial nomination before the bump occurs. Another segment contends that firm shippers, paying reservation charges, should have the right to commence gas flow at 9 a.m. regardless of whether it would bump interruptible shippers.

As described above, the Commission's policy is that firm shippers have scheduling priority over interruptible shippers. Thus, in the situation posited by the GISB task force, firm shippers should have the right to submit an intra-day nomination on the day prior to gas flow and have that nomination become effective at the start of the gas day, rather than eight hours later. While interruptible shippers are entitled to notice that their scheduled volumes will be reduced, they are not necessarily entitled to an opportunity to reschedule prior to their volumes being reduced if such a renomination would interfere with the ability of a firm shipper to have

[29] *See* Tennessee Gas Pipeline Company, 73 FERC ¶ 61,158, at 61,456 (1995).

[30] *Id*.

[31] *Id*. (daily variance charge waived, but only for the day on which the bump takes place).

[32] *See* El Paso Natural Gas Company, 77 FERC ¶ 61,176 (1996); Alabama-Tennessee Natural Gas Company, 79 FERC ¶ 61,117 (1997); Algonquin Gas Transmission Company, 78 FERC ¶ 61,281 (1997); ANR Pipeline Company, 78 FERC ¶ 61,142 (1997); Arkansas-Western Pipeline Company, 78 FERC ¶ 61,250 (1997); Canyon Creek Compression Company, 78 FERC ¶ 61,003 (1997); CNG Transmission Corporation, 78FERC ¶ 61,131 (1997); Great Lakes Gas Transmission Limited Partnership, 79 FERC ¶ 61,194 (1997); Iroquois Gas Transmission System, L.P., 79 FERC ¶ 61,196 (1997); K N Interstate Gas Transmission Company, 79 FERC ¶ 61,208 (1997); Mojave Pipeline Company, 78 FERC ¶ 61,153 (1997); National Fuel Gas Supply Corporation, 78 FERC ¶ 61,332 (1997); NorAm Gas Transmission Company, 79 FERC ¶ 61,069 (1997); Overthrust Pipeline Company, 78 FERC ¶ 61,285 (1997); Questar Pipeline Company, 78 FERC ¶ 61,305 (1997); Southern Natural Gas Company, 78 FERC ¶ 61,125 (1997); Texas Gas Transmission Corporation, 79 FERC ¶ 61,175 (1997); Trailblazer Pipeline Company, 77 FERC— ¶ 61,328 (1996); Viking Gas Transmission Company, 78 FERC ¶ 61,243 (1997); Young Gas Storage Company, Ltd., 79 FERC ¶ 61,030 (1997).

[33] *See* Transwestern Pipeline Company, 78 FERC ¶ 61,146 (1997); Florida Gas Transmission Company, 78 FERC ¶ 61,177 (1996).

[34] Comments of the Interstate Natural Gas Association of America, at 33 (February 21, 1997); Koch Gateway Pipeline Company, at 11 (February 21, 1997). *See also* Comments of Enron Interstate Pipelines, at 12 (February 21, 1997) (setting intra-day schedules is not appropriate for a standard-setting forum).

[35] Proposed regulation 284.10(b)(2)(i).

its nomination become effective at the earliest possible time after confirmation.

In the situation posed by the GISB task force, the interruptible shippers are provided with at least 11 hours notice prior to the start of gas flow for the next day.[36] Thus, even if bumped, they would not be required to reduce flowing volumes. Second, the interruptible shippers would still have the opportunity at 10 a.m. to reschedule its entire quantity of gas for the day, subject to available capacity.

Moreover, interruptible shippers that wish to avoid the risk of being bumped can enter into short-term capacity release transactions to obtain firm service. Once scheduled, firm nominations to secondary points have the same priority as service to primary points so that a shipper obtaining released capacity could not be bumped even by a firm intra-day nomination to a primary point.[37]

The Commission has considered whether, in the situation posited, pipelines should be required to provide bumped interruptible shippers with a further opportunity to reschedule their gas prior to the 9 a.m. start of the gas day. However, given the 11 hour advance notice, and the interruptible shippers' ability to reschedule gas at 10 a.m., the Commission does not think that pipelines need to provide interruptible shippers with an overnight opportunity to reschedule their gas prior to the start of the gas day. Pipelines wishing to provide more certainty for interruptible shippers, however, may provide such a later right if they choose.

According to the task force report, some parties contend that allowing a firm intra-day nomination, which bumps scheduled interruptible service, to take effect at 9 a.m. does not provide an adequate incentive for firm shippers to submit timely and reasonably reliable nominations at 11:30 a.m. These parties contend that firm shippers may delay their nomination, because they can always rely upon their intra-day right to make a nomination change effective at the start of gas flow. The Commission does not find this hypothetical concern sufficient to deny firm shippers the right to renominate their supplies to take into account changes in weather or other circumstances. First, firm shippers do not appear to have an obvious incentive to purposefully delay their initial nominations or to submit nominations not based on their best assessment of their needs, at the time, for the next day.[38] Second, firm shippers still run a risk if they delay their nominations, because a firm shipper's nomination to a primary point will not bump already scheduled secondary firm service to that point. Thus, a firm shipper that delays its nomination risks losing its ability to acquire gas at its primary point.

b. Guidance Regarding the Effect of an Intra-Day Schedule on Pipelines Using Rolling or Continuous Processing of Intra-Day Nominations

Some members of the GISB task force and some of the comments have raised the question of whether the move to batch processing of intra-day nominations at certain specific times may result in a degradation of service on pipelines that currently process intra-day nominations on a rolling or continuous basis. Koch, for instance, maintains that, if bumping is permitted according to the GISB task force's model, it would be forced to reconsider whether to move to a batch process.[39]

As the GISB task force points out, the identification of synchronization times is not necessarily inconsistent with a rolling or continuous process. Shippers that want to avail themselves of synchronization can time their nominations identically on all pipelines. However, if a pipeline and its customers find that the synchronization times along with the requirement that firm intra-day nominations can bump scheduled interruptible service creates too much disruption on a rolling or continuous system, the pipeline may move to conform to the standardized schedule. The efficiency gained by the entire industry in being able to coordinate nominations across the pipeline grid outweighs any potential diminution of service on the pipeline using a continuous intra-day nomination process. Indeed, it is not clear how valuable the continuous process is on a single pipeline, since even if a shipper on that pipeline is permitted an intra-day change, the shipper will not know whether similar coordinating changes will be permitted on interconnecting pipelines.

c. Submission of Intra-Day Nominations at All Nomination Points

Disputed Standard No. 77A would require pipelines to allow intra-day nominations at all nominatable receipt and delivery points. The Commission's policy is that those intra-day nominations required by the Commission must be made available to all regular open access services, apply to each contract between the shipper and the pipeline, and permit the shipper to request changes at all receipt and delivery points.[40] Pipelines, however, may impose restrictions on intra-day nomination opportunities that go beyond those required by the Commission.[41] Thus, the Commission will clarify that the three intra-day opportunities under the GISB task force's model would be available at all points where nominations are permitted.

C. Proposed Regulations Concerning Operational Balancing Agreements and netting and Trading of Imbalances

1. Background

In Order No. 587-C, the Commission did not adopt two GISB flowing gas standards relating to operational balancing agreements (OBAs) (Standard 2.3.29) and netting of imbalances across contracts (Standard 2.3.30), because the pipelines' obligations under the standards were not clearly defined. GISB Standard 2.3.29 states:

> At a minimum, transportation service providers should enter into Operational Balancing Agreements at all pipeline-to-pipeline (interstate and intrastate) interconnects, where economically and operationally feasible.

GISB Standard 2.3.30 states:

> All transportation service providers should allow service requesters (in this instance, service requester excludes agents) to net similarly situated imbalances on and across contracts with the service requester. In this context, ''similarly situated imbalances'' includes contracts with the substantially similar financial and operational implications to the transportation service provider.

The Commission found that standards requiring OBAs and netting of

[36] Under the test model, scheduled quantities for the 6 p.m. intra-day nomination would be no later than 10 p.m., for gas that does not begin to flow until 9 a.m. the next morning. *Compare* Tennessee Gas Pipeline Company, 73 FERC ¶ 61,158, at 61,456 (1995) (four hours notice).

[37] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636–B, 57 FR 57,911 (December 8, 1992), 61 FERC ¶ 61,272, at 62,013.

[38] Indeed, under the current standards firm shippers have an incentive to overnominate at the 11:30 deadline, because they can always reduce their nomination through the intra-day nomination process, but may not be able to increase it.

[39] Comments of Koch Gateway Pipeline Company, at 3–4 (Sept. 2, 1997).

[40] *See* Tennessee Gas Pipeline Company, 78 FERC ¶ 61,007, at 61,019–20 (1997); Canyon Creek Compression Company, 78 FERC ¶ 61,003 (1997) (cannot restrict intra-day nominations to telemetered points); Trailblazer Pipeline Company, 77 FERC ¶ 61,328 (1996) (cannot restrict intra-day nominations to telemetered points). Standard 1.3.11 states that intra-day nominations can be used to request changes to receipt points or delivery points. 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.11.

[41] *See* Tennessee, note 40, *supra* (permitting intra-day nominations beyond the minimum required under certain rate schedules).

imbalances were important, but that the use of the terms ''economically and operationally feasible'' and ''similarly situated financial and operational implications'' did not define precisely enough the pipelines obligations under the standards. Rather than attempting to deal with the meaning of these terms in individual pipeline compliance filings, the Commission gave GISB until September 1, 1997 to clarify the standards.

According to the GISB report, it initially sent the standards to the interpretations subcommittee which determined that interpretation would not be sufficient and that new standards would have to be developed. The standards were then referred to the business practices subcommittee that, according to GISB, will not review these issues until its normal rotation deals with contract and flowing gas issues, perhaps by the end of 1997.

2. Proposed Regulations

The Commission has reviewed these standards in light of Commission priorities and policies and has determined that the Commission needs to propose its own standards in these areas. In certain respects, the Commission's proposals go beyond the standards being considered by GISB.

a. OBAs

An OBA is a contract between two parties that specifies the procedures that will be used to manage operating variances at an interconnect.[42] The OBA specifies how imbalances [43] or differences in hourly flow rates will be handled by the two parties. An OBA increases the efficiency of the grid, because a shipper, which has properly nominated and had its gas confirmed, will not be held responsible for imbalances, resulting from the transfer of gas between the pipelines. Accordingly, the Commission is proposing to require interstate pipelines to enter into OBAs at all interconnecting points with other interstate and intrastate pipelines.[44] These agreements must be maintained by the pipelines and provided upon request to the Commission and any other requesting party. If two interstate pipelines are unable to negotiate an acceptable agreement, they can file a request for the Commission to resolve the disputed terms. If a pipeline finds itself unable to enter into an OBA with an entity not regulated by the Commission, it can file for a waiver of this requirement setting out any operational or other issues that have prevented an agreement from being consummated.

b. Netting and Trading Imbalances

Netting of imbalances refers to the ability of shippers to offset a positive imbalance on one contract with a negative imbalance on another contract. While GISB standard 2.3.30 would permit some netting of imbalances by shippers across contracts, it would not permit shippers' agents to net imbalances. As discussed above, the standard also was unclear as to which contacts could be offset against each other. In addition to this standard, one of the disputed standards before the Commission is whether to permit shippers to trade imbalances amongst themselves.[45]

The Commission is proposing to require pipelines to permit shippers and their agents to both offset imbalances accruing on different contracts held by the shippers and to trade imbalances with other shippers when the imbalances have similar operational impact on the pipeline.[46] Permitting shippers to offset and trade imbalances in the same operational area allows shippers to avoid imbalance charges without jeopardizing system reliability. If one shipper, for instance, incurs an overrun and another shipper an underrun of the same amount, the pipeline is physically in balance between those shippers. Moreover, permitting shippers to trade imbalances with each other may improve system reliability because a shipper may be willing, for a fee, to put gas on a system or take gas off in order to offset imbalances incurred by other shippers.[47] Since all shippers would be permitted to trade imbalances under this proposal, there would be no reason why shippers' agents should not be able to trade imbalances among the contracts they manage.

The regulation permits offsets and imbalance trades when the imbalances have similar operational impact on the pipeline operations. The GISB standard (2.3.30) also included similar financial implications to the pipelines. The Commission cannot discern how pipelines' legitimate financial interests are implicated, since the offsets and trades involve only physical imbalances and the penalties associated with those imbalances, not charges for transportation service.

Under this requirement, the pipelines would be required to provide shippers with timely notice of their imbalances and sufficient time to permit shippers to execute trades. To facilitate trading, pipelines should post a shipper's imbalances if the shipper requests. The pipelines would then have to accept and process trades provided to them by the shippers or shippers' agents, including third-party firms that would conduct imbalance trading for shippers. Pipelines further would be expected to designate in their compliance filings the largest possible areas on their systems in which imbalances have similar operational effects and explain, in detail, why imbalances crossing these areas are not sufficiently similar in operational effect.

Pipelines would not be required to establish a computerized system on which trading would take place. Pipelines, however, are free to establish such a system and to assess a separate fee for using that system. If a pipeline does establish its own trading system, it must provide equal and non-discriminatory access for shippers trading their own imbalances or those using third-party services.

D. Proposed Regulations for Electronic Communication

1. Background

For many years, pipelines have communicated with their customers using direct dial up connections to pipeline Electronic Bulletin Boards (EBBs). Each pipeline EBB is a proprietary system, with unique software, log-on, and other procedures. The uniqueness of each pipeline's EBB raises costs to shippers across multiple pipelines, since redundant computers and communication software may have to be maintained and staff must be trained in the idiosyncracies of each pipeline's system. Beginning in 1993, the Commission has sought to create greater standardization in communication so that shippers could reap the efficiencies of using one standardized method to transact business with all pipelines.

The standards developed by GISB so far, however, do not standardize all the information pipelines are currently providing electronically. Pipelines are continuing to post information and conduct many transactions on their proprietary EBBs. For instance, GISB has not developed standards for communicating offers to release capacity and bids for capacity over the

[42] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.2.1.

[43] An imbalance is a discrepancy between the quantity of gas a shipper tenders to the pipeline at a receipt point and the amount of gas the shipper takes at a delivery point.

[44] Proposed regulation 284.10(b)(2)(ii)(A).

[45] Appendix B, Disputed Standard No. 85A.

[46] Proposed regulation 284.10(b)(2)(ii)(B).

[47] The fee most likely would not exceed the imbalance penalty or other costs that the out-of-balance shipper would incur if the imbalance was not offset.

Internet and has not provided standards to enable shippers to download the Index of Customers in the format specified by the Commission.

2. Proposed Regulations

a. Proposed Requirement That Pipelines Provide all Information on the Internet Using Internet Tools

The Commission remains committed to standardizing all communications with the pipelines. For shippers to be able to use the interstate natural gas grid efficiently, they need to be able to transact business across multiple pipelines without having to incur the added costs and delay attendant to having to train personnel to use the pipelines' proprietary EBBs. While the current standards cover some of the more important transactions with the pipelines, they still do not remove the necessity for shippers to deal with pipeline EBBs.

In Standard 4.3.6, GISB had stated that ''all EBB information, functions and transactions should be achieved via one mode of communications.'' [48] In Order No. 587–E, the Commission requested a report from GISB by September 1, 1997 on its progress in completing the standardization of communications, but GISB did not file the requested report. In its comments, Koch contends the Commission should not mandate the exclusive use of Internet technologies, because shippers on single pipelines may prefer to use the existing EBBs and it may be difficult or costly for them to convert to using the Internet technologies. Koch points out that third-party service providers can assist those shippers wanting to conduct business with the pipelines in a standardized manner.[49]

To prevent such disputes from slowing the standardization of communications further, the Commission is proposing to require pipelines to provide all electronic information and conduct all electronic transactions with their customers over the public Internet using only internet protocols and procedures. Pipelines will be expected to comply with this regulation by June 1, 1999.[50]

GISB has considered the security issues affecting the use of the public Internet and concluded that security concerns can be adequately addressed through commercially available software and techniques.[51] However, pipelines also would be required to provide third party, private communication networks with equal, but not preferential, access to the same information and transactions for a reasonable connection fee.[52] Shippers with concerns about the Internet could pay to use these private networks.[53]

This timetable should give the pipelines sufficient time to develop the needed infrastructure and also gives GISB and the rest of the industry the opportunity to further standardize the provision of this information. With the policy question resolved by the Commission, GISB can focus exclusively on developing the needed standards without debate over the extent of the pipelines' responsibilities. By March 31, 1998, the Commission requests a report from GISB and the industry on their progress in developing needed standards and whether the Commission needs to establish procedures to assist in standards development. Regardless of whether standards are developed, however, pipelines should begin preparing to make the transition to the public Internet. Even without standards, the ability to conduct transactions using one communication method without the need for different log-on and access procedures and different software for each pipeline will increase efficiency. Standards can still be developed after implementation of the system.

The Commission disagrees with Koch that there is no harm to the retention of dual systems. Maintenance of dual systems not only drains resources and talent from developing an efficient standardized system, it creates an understandable competitive incentive for pipelines to favor their proprietary systems over the standardized system. Overall efficiency will be enhanced if rather than working independently to develop their own systems, the pipelines work together with the industry to develop an efficient, user-friendly, standardized system that all shippers can use. Indeed, as Koch points out, shippers that do not want to invest in developing their own internal communication system can turn to the competitive market for third-party services to obtain whatever services they require.

b. Proposed Regulations Regarding Presentation of Information on Pipeline Web Sites

In Order No. 587–C, the Commission adopted GISB standard 4.3.6 requiring pipelines to post information for viewing in HTML format on pipeline Internet web sites. The Commission, however, did not adopt GISB standard 4.3.5, stating that in addition to posting the information for viewing on a web site, the information should be downloadable in a GISB specified electronic structure, because GISB had not developed the electronic structure. In Version 1.2 of its standards, GISB has included standard 4.3.16 which gives the pipelines the choice of providing downloadable files either in hyper-text mark-up language (HTML) or rich-text-format (RTF). The Commission is proposing to adopt the previously rejected standard 4.3.5 and new standard 4.3.16.

The Commission, however, is concerned that merely specifying the document format for downloading does not go far enough. There are no standards regarding the use of passwords for obtaining access to the public information on the web site or the methods by which information will be posted and downloaded from the web site. For instance, the standards do not require that the information be searchable on line. A pipeline, therefore, conceivably could post each tariff page as an individual HTML document without giving users the opportunity to search the entire tariff online for individual words or phrases. Therefore, the Commission is proposing a regulation that would require pipelines to adhere to standards regarding accessibility to public information, searching and copying of documentation, and downloading capability.[54] The Commission also requests comments on other possible standards to improve users' ability to access and use this information.

There is a further issue regarding the comparability of information between various sources. Pipelines currently provide the names of shippers in the capacity release information posted on their EBBs. However, in the current datasets for downloading capacity release information, shippers are identified only by their assigned Dun & Bradstreet numbers and there is no

[48] 18 CFR 284.10(b)(1)(iv), Electronic Delivery Mechanism Related Standards 4.3.6.

[49] *See* comments of Koch Gateway Pipeline Company, at 4–7 (September 2, 1997) (arguing EBBs should not be eliminated).

[50] Proposed regulation 284.10(b)(2)(iii)(A).

[51] *See* Order No. 587, 61 FR at 39065, III FERC Stats. & Regs. Regulations Preambles at 30,074 (report of GISB's Future Technology Task Force); 18 CFR 284.10(b)(1)(iv), Electronic Delivery Mechanism Related Standards 4.3.15.

[52] Altra Energy Technologies, L.L.C. refers to these private networks using internet protocols as extranets.

[53] The Commission has adopted similar requirements for the electronic OASIS system in the electric industry. Open Access Same-Time Information System (formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 31,035, at 31,618–19 (Apr. 24, 1996).

[54] Proposed regulation 284.10(b)(2)(iii)(B).

available cross-reference table. The use of a numeric designation for shipper name is valuable only if it is accompanied by a means for users of the information to translate the numeric designation into the company name, so the user can determine who is receiving capacity.[55] The easiest solution for this problem would be for the pipelines to provide a cross-reference table between the Dun & Bradstreet numbers and the names of releasing and replacement shippers consummating capacity release transactions on their systems. If, for any reason, pipelines are unable to provide a cross-reference table using DUNS numbers, the industry should either develop their own numeric designations for shippers or include shipper names in the capacity release datasets.

In addition, pipelines need to ensure that the content of any information that is provided on multiple formats (on EBBs, pipeline web sites, or through EDI formatted files) must be the same regardless of the format. For instance, the operationally available capacity information available from EBBs, pipeline web sites, and EDI downloads should have the same content. Moreover, when the Commission has specified a download format for EBB information, the same format should be used for downloads from pipeline web sites. For example, the Commission has specified a download format for the Index of Customers and that format should also be available from the pipelines' web site.[56]

The Commission, therefore, is proposing a regulation requiring that the content of all information provided electronically must be the same regardless of the electronic form used to display the data. It also is proposing that, if a pipeline uses numerical designations to represent information, such as shipper names, a cross-reference between the numeric designation and the represented information must be available to users, at a cost no higher than what is necessary to cover reasonable shipping and handling.[57]

The generic standards proposed here should not be the end of the process. GISB's future technology task force recognizes that as additional categories of information are posted on web sites, separate standards may need to be developed for each category of information. GISB also reports that, at the instance of its Board of Directors, it has established a ''Look and Feel'' team to develop a consistent and uniform presentation of information on the Internet. The Commission urges GISB to continue to work on these standards, and looks forward to seeing the resulting proposals.

As an additional matter, the Commission is proposing to modify the data retention requirements related to transactions and information provided over the Internet. GISB Standard 4.3.4 provides that transactional data should be maintained for at least 24 months for audit purposes, but states further that this requirement should not otherwise modify statutory, regulatory, or contractual record retention requirements. GISB did not pass a standard for retention of information displayed on Internet web pages. The Commission regulations currently require pipelines to maintain electronic data on EBBs for three years and make that information available to users in electronic form at a reasonable fee.[58] However, the Commission is concerned that three years may not be a sufficient retention period for the Commission to adequately monitor industry practices. Accordingly, the Commission is proposing to replace Standard 4.3.4, with a requirement that pipelines maintain electronic information displayed or transmitted using the Internet for five years and make that information available in electronic form for a reasonable fee.[59] This regulation would require public disclosure only of archived information originally displayed publicly. Access to archived confidential business information would be provided only to the customer involved in the transaction, the Commission, or as part of discovery procedures.[60]

c. Proposed Requirement for Notification of OFOs and Critical Notices Using Internet Posting Along With E-Mail or Notice to URL Addresses

A standard that has been in dispute concerns the method by which pipelines communicate operational flow orders (OFOs) and other critical notices to shippers.[61] OFOs are orders by a pipeline requiring shippers to take certain actions to alleviate emergency operational conditions on the pipeline's system. The four segments, other than the pipelines, supported a standard to require pipelines to notify affected parties of OFOs and critical notices according to the medium chosen by the shipper, 24 hour phone, fax, or pager. The pipelines, on the other hand, support only electronic notification using a general posting on their EBB or Internet web sites.

The pipelines contend requiring individual notice, particularly for system-wide OFOs or critical notices is far too burdensome and may be unfair.[62] Given the pipelines' limited resources to provide individual notice, some shippers will receive notice far earlier than others. Moreover, the pipelines maintain that if a shipper fails to receive a telephone or fax transmission, the pipelines have no electronic record that it was sent. The shippers maintain that purely electronic posting on an EBB is insufficient actual notice, particularly for notices issued after normal business hours. In addition, at the conference and in comments,[63] some parties suggested that posting on the pipeline's web site be supplemented by the use of Internet E-mail or notification to a shipper's Internet web address as alternatives for providing telephonic or fax notice to shippers.

The Commission concludes this last approach has the most merit. Internet E-mail and notification to a shipper's Internet address provides the shipper with direct notice without the need to monitor the pipeline's Internet site. Such notice can be automated by the pipeline so sending the message should not create the burdens of individual telephonic or fax notification. Automated notice also permits simultaneous notice to all shippers, thereby eliminating any potential for discrimination as to when a shipper receives notification. Moreover, if a

[55] The user would have to accumulate its own database of numbers and then attempt to obtain the names from Dun & Bradstreet, at a cost.

[56] The Commission recognizes, however, that while the pipeline web sites must contain the same information as that posted on an EBB or in the EDI datasets, the downloads from the web site should not be in EDI format.

[57] Proposed regulation 284.10(b)(2)(iii)(C). This is the same principle that applies to the acquisition of the cross-reference table between the common transaction point codes and the pipelines' individual nomenclature for referring to those points. Standards For Electronic Bulletin Boards Required Under Part 284 Of The Commission's Regulations, Order No. 563–A, 59 FR 23624 (May 9, 1994), III FERC Stats. & Regs. Regulations Preambles ¶ 30,994, at 31,044–45 (May 2, 1994).

[58] 18 CFR 284.10(a)(2); Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), III FERC Stats. & Regs. Regulations Preambles ¶ 30,950, at 30,549 (Aug. 3, 1992).

[59] Proposed regulation 284.10(b)(2)(iii)(D).

[60] 18 CFR Part 385, Subpart D.

[61] Appendix B, Disputed Standard No. 23.

[62] For example, one pipeline representative stated that even calling in all available personnel, about 24 people, it took them six hours to contact all affected parties. Transcript of December 13, 1996 technical conference at 37.

[63] Comments of American Gas Association, at 11 (February 21, 1997); Brooklyn Union Gas Company, at 1 (February 21, 1997).

shipper receives notice through Internet E-Mail or to a web address, the shipper can, if it wants, obtain telephonic or pager notice by purchasing commercially available software packages and services that permit Internet notification to trigger a phone or a pager.[64] Thus, the Commission is proposing to require pipelines to post OFOs and critical notices on their Internet web sites and to provide individual notice to shippers, at the shipper's option, either through Internet E-mail or by a direct notice to a shipper's Internet address.[65]

At the conference, there also was discussion about the difference between requiring telephone or fax notice for system-wide or large-scale OFO situations and attempting to reach a small number of shippers by whatever means is necessary in localized and critical situations.[66] The Commission continues to expect that for extremely critical OFOs limited to only a few shippers, the pipelines will continue to make every effort to ensure that the affected shippers are informed.

E. Policies Regarding Title Transfer Tracking

1. Background

Title transfer tracking refers to the accounting for transfers of title to gas at a nomination point when no transportation is involved. Under the Commission's policy, shippers must have title to gas in order to transport the gas on a pipeline. Pipelines, therefore, have always had to perform some title transfer tracking to ensure that shippers have title to gas. For example, if shipper A on an upstream pipeline transports gas to an interconnect with a downstream pipeline and transfers the gas to shipper B on the downstream pipeline, the pipelines would have to match those transactions as part of the process of confirming the nominations.

However, with unbundling and the development of a more fluid gas market, transactions at nomination points are increasing to a much greater extent. Thus, at an interconnect point, there may be multiple transfers of title before the gas is nominated on the downstream pipeline.[67] In order for pipelines to confirm the gas nominated on the upstream and downstream pipelines, there is a need to convey information about which shipper(s) are delivering the gas to the shipper on the downstream pipeline.

GISB established a title transfer tracking task force to evaluate these issues and attempt to develop standards for how title transfer tracking would be conducted, with a report due by September of 1997. In its September 2, 1997 filing, GISB included an interim report by its title transfer tracking task force summarizing its progress. According to the report, the task force has distilled 13 initially proposed methods for handling title transfers to five, which it is still considering. It also has identified 13 remaining issues relating to title transfer tracking, such as how title transfers are related to invoicing, pre-determined allocations (PDAs), and multi-tiered allocations, whether title transfers can have imbalances, and how title transfers fit in with intra-day scheduling.

NGC in its September 2, 1997 comments states that while the title transfer tracking task force is evaluating and defining the process, the task force is not addressing the underlying issue of whether the pipelines should be required to perform the service. NGC claims the extent of the pipelines' responsibility to perform title transfer tracking is an intractable policy dispute that only the Commission can resolve.

In reviewing the comments filed on this issue, it is evident that there is a split between the segments on whether the pipelines should be responsible for performing title transfer tracking service. The pipelines contend that tracking title exchanges, when no physical transportation is occurring, is unrelated to transportation service.[68] They maintain that they should not be responsible for performing an accounting service for marketers and others that are seeking to arbitrage in the volatile gas market. If the Commission were to require them to perform title transfer tracking, the pipelines maintain that they should be able to collect a separate charge for the service, rather than having it included in their general transportation rates. LDCs similarly contend that shippers using title transfer services should be required to pay a separate charge.[69] Charging a separate fee, they maintain, is consistent with the GISB principle that the users of title transfer services should bear the cost of the service.[70]

Marketers and others[71] contend that title transfer tracking is related to the confirmation process and that pipelines are in the best position to perform this service because they already process nominations and confirmations electronically. The marketers further contend that if the pipelines do not perform title transfer tracking, the pipelines may seek to require shippers to disclose the string (''daisy chain'') of title transfers, so that interconnecting pipelines can confirm the nomination. Disclosure of the daisy chain, marketers assert, is anticompetitive because marketers would have to disclose to the ultimate purchaser the marketer's raison d'etre—the source of the marketer's reasonably priced gas.[72] They allege that the purchaser could appropriate this information for its own benefit in succeeding months by eliminating the marketer and buying gas directly from the source.

2. Pipeline Obligations With Respect to Title Transfer Tracking

To assist GISB, the Commission will resolve this policy dispute regarding the pipelines' responsibilities to perform title transfer tracking. Pipelines must continue to ensure that shippers on their systems have title to the gas they intend to ship. To perform this function, the Commission sees no reason to require pipelines to establish a computerized title transfer tracking service to account for the purchase and sale of gas between shippers independent of transportation. It is the shipper's responsibility to furnish the transporter with the information needed to establish title to gas and its right to nominate that gas on the pipeline. GISB should continue its efforts to develop standards defining the minimum information needed for nominations and confirmations.

While the Commission is not proposing that the pipelines be required to perform title transfer tracking, the Commission recognizes that some shippers have a need for this service. Pipelines, therefore, may perform title transfer tracking service and may assess a reasonable, independent fee for the service.[73] Charging a separate fee for

[64] *See* National Fuel Gas Supply Corporation, 80 FERC ¶ 61,403 (1997) (finding Internet notification sufficient and noting customers' ability to use such notifications to trigger pagers).

[65] Proposed regulation 284.10(b)(2)(iii)(E).

[66] Transcript of December 13, 1996 technical conference, at 17, 34–36.

[67] Enron Interstate Pipelines refers to these transactions as ''title transfer only'' transactions to differentiate them from transactions involving title exchange and transportation.

[68] *See* Comments of NorAm Gas Transmission Company and Mississippi River Transmission Company, at 4 (February 21, 1997).

[69] Comments of American Gas Association, at 16 (February 21, 1997).

[70] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.1.11.

[71] Comments of Natural Gas Clearinghouse, at 14 (February 24, 1997); Energy Managers Association, at 9 (February 21, 1997).

[72] Transcript of December 12, 1997 technical conference, at 104.

[73] *See* Trunkline Gas Company, 75 FERC ¶ 61,003 (1996) (approving a separate flat charge for tracking

Continued

such service will help to ensure that shippers will use the service only to the point at which the shippers value the service more than the price charged.

Further, shippers should have the opportunity to develop their own competitive systems for tracking title and have the pipeline recognize those title transfers in determining whether a shipper has title to the gas it seeks to transport. Title transfer services already are beginning to be offered both by pipelines and by storage and hub operators and, if the demand exists, such services should increase.[74] Enron Interstate Pipelines contend that third-parties in the competitive market can provide title transfer tracking services, although Enron recognizes that pipelines may need to perform a coordinating role by accepting confirmations from these third-parties.[75]

The Commission agrees with Enron that pipelines must accept title transfer confirmations from point operators and third-party service providers, acting as agents for shippers, on a non-discriminatory basis.[76] Requiring pipelines to accept such confirmations from third-parties is consistent with the Commission's policy in Order No. 636 that pipelines need not create market centers, but must not take actions which will inhibit the development of such centers.[77] The development of third-party title transfer tracking services also will place competitive pressure on pipelines that choose to offer a title transfer tracking service and thus help to ensure the pipelines' rates are reasonable.

With the clarification of the pipelines' role in title transfer tracking, the Commission expects that GISB should be able to develop the business practices and electronic communication standards relating to the confirmation process for title transfers. The Commission will provide GISB until March 31, 1998 to submit such standards. Other members of the industry also may propose standards at that time as well.

service) *But cf.*, Williams Natural Gas Company, 79 FERC ¶ 61096 (1997) (rejecting a volumetric, per Dth, fee for title transfer service).

[74] *See* Moss Bluff Hub Partners, L.P., 80 FERC ¶ 61,181, at 61,475 (1997); Trunkline Gas Company, 75 FERC ¶ 61,003 (1996).

[75] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997).

[76] Title transfer tracking is part of the confirmation process, because it involves the confirmation that gas nominated by a shipper will be injected into the pipeline's system. It is no different than a confirmation provided by a producer or point operator, who, in fact, may be offering a title transfer tracking service of its own.

[77] 18 CFR 284.8(b)(4), 284.9(b)(4) (1997).

F. Commission Policies Regarding the Disputed Issues Remaining From the December 12–13, 1996 Technical Conference

During the standardization process, disputes developed in a number of areas in which the GISB membership was unable to reach consensus. A number of standards were supported by four segments of the industry, but were not passed by GISB due principally to the opposition of the pipeline segment.[78] The pipelines contended that these standards are not warranted or that they represented an attempt by the other members of the industry to shift costs onto the pipelines, as the only regulated entities.[79] In the November 13, 1996 NOPR,[80] the Commission announced that in order to exercise its oversight role, Commission staff would hold a technical conference on December 12–13, 1996 to consider these issues. The technical conference was to provide further information on those disputed standards so that the Commission could determine whether these standards were of sufficient importance to the maintenance of an integrated pipeline grid that the pipelines should be required to abide by them. Comments on the technical conference were filed on February 21, 1997.

Three of the disputed standards were discussed earlier;[81] the remainder will be discussed below.

1. Ranking Across Contracts (Disputed Standard No. 28B)

Disputed Standard No. 28B states that pipelines should permit rankings across contracts for the same service requester and location, when not in conflict with tariff-based rules. Gas package ranking refers to the ability of shippers to designate the amount of gas that will be allocated to particular markets or customers in the event the shipper's full nomination is not accepted. The standards adopted by the Commission already require pipelines to honor shipper ''rankings when making reductions during the scheduling process when this does not conflict with tariff-based rules.'' [82] For example, if a shipper nominates 1,000 MMBtus under one contract, it can specify how that 1,000 will be divided if the full 1,000 MMBtus is not confirmed. The disputed standard would specifically extend the pipelines' obligation to support ranking across contracts.

Shippers contend this standard is needed to give them the flexibility to manage their own gas supplies.[83] They point out that shippers may be shipping under a variety of contracts, including their own firm and interruptible contracts as well as capacity release contracts which have their own specific terms and conditions. They further note that a capacity release contract may contain a take-or-pay clause in which a shipper is required to pay a certain rate whether it moves gas or not. To maximize their use of transportation, shippers contend they should be able to determine how their transportation is allocated among their contracts.

The pipelines are not unified in their position on this standard. Columbia Gas/Columbia Gulf support allowing shippers to use rankings across contracts.[84] Enron Interstate Pipelines, however, is concerned about how such a provision would impact pipelines' tariff provisions establishing scheduling priority.[85] They ask, for instance, whether a shipper would be able to rank an interruptible contract as having a higher priority than a firm contract.

The Commission's general policy is to allow shippers to manage their gas supplies and contracts in ways that are the most favorable to them as long as such management does not affect the operational integrity of the pipeline. The pipelines, therefore, should provide shippers with the ability to rank gas supplies across their contracts so long as the ranking does not adversely affect the operational integrity of the system. There are two potential scenarios identified by the comments: problems with the shipper's gas supply resulting in a reduction in a shipper's nomination; and transportation constraints resulting in the reduction.

If the reduction is related to a loss of supply, the Commission sees no reason why shippers should not be able to specify the contract under which the gas should flow. Such a determination is

[78] *See* Appendix B.

[79] *See* comments of Interstate Natural Gas Association of America, at 13–18 (February 21, 1997).

[80] *See* Standards For Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 58790 (Nov. 19, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,521 (Nov. 13, 1996).

[81] Disputed Standard No. 77A relating to intra-day nominations, Disputed Standard 85A relating to imbalance trading, and Disputed Standard No. 23 relating to notice of OFO's. *See* text accompanying notes 40, 46, and 61, *supra.*

[82] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.23.

[83] Comments of Natural Gas Clearinghouse, at 23 (February 24, 1997); Energy Managers Association, at 15 (February 21, 1997).

[84] Comments of Columbia Gas Transmission Corporation and Columbia Gulf Gas Transmission Corporation, at 4 (February 21, 1997).

[85] Comments of Enron Interstate Pipelines, at 19 (February 21, 1997).

unrelated to any transportation issues on the pipeline, since there have been no cuts in transportation.

Even when the reduction is a result of transportation problems, allowing the shipper to rank its contracts does not appear to interfere with pipeline scheduling priorities. Suppose a shipper has nominated 100 MMBtus each on three contracts, firm primary, capacity release secondary, and interruptible, from the same receipt to the same delivery point, but the pipeline can schedule only the firm primary contract. Under normal priority rules, the shipper could receive only the 100 MMBtus of transportation represented by the firm primary contract. However, permitting the shipper to choose how to assign those 100 MMBtus among its contracts does not upset the transportation priority rules. The shipper still would receive only the 100 MMBtus represented by its firm primary contract even if it allocated gas to its secondary capacity release contract. If the shipper had nominated no primary firm transportation in this example, it would receive no transportation.

Since the business practices standards already require the pipelines to honor shipper rankings, no new standards are necessary. GISB and the industry should work on dataset changes, if necessary, to permit cross-contract ranking. Such standards should be filed by March 31, 1998 along with the title transfer tracking standards.

2. Multi-Tiered Allocations (Disputed Standard No. 29)

Disputed Standard No. 28 would require pipelines to permit all owners of gas to submit a pre-determined allocation. A pre-determined allocation is a set of instructions by owners of gas as to how gas should be allocated among amongst them when the actual volumes do not match with the scheduled volumes. A pre-determined allocation is not necessary if the pipeline has an OBA in effect at a transfer point.[86] The standards currently require pipelines to accept one tier of allocations from the upstream or downstream custody transfer party.[87] The standard data elements accommodate multi-tiered allocations, but pipelines are not required to accept or support such allocations.[88] The dispute is whether pipelines should be required to support multi-tiered allocations from all owners of gas, including the wellhead operator and each producer owner.

Those supporting multi-tiered allocations contend that they fit well with title transfers occurring at the wellhead.[89] The pipelines generally maintain that multi-tiered allocations are merely another aspect of title transfer tracking and contend that they should not be required to perform such accounting for transactions not occurring on their systems.[90]

The current regulations give those parties connecting with a pipeline the right to determine how gas is to be allocated at the interconnection with the pipeline system. The Commission fails to see why this right needs to be extended so that pipelines become responsible for maintaining the accounting records for allocations occurring at the well-head or at interconnections not affecting the pipeline. The request for pipelines to accept multi-tiered allocations appears to be just another aspect of the request for the pipelines to track all title transfers, and, as discussed above, the Commission does not view title transfer tracking as the responsibility of the pipelines. The GISB task force has recognized that accounting for multi-tiered allocations is another aspect of title transfer tracking,[91] and GISB should continue to work on standards that will allow such allocations to be performed by third-parties.

3. *Paper Pooling (Disputed Standard Nos. 38A, 38B, 40B)*

The disputed standards would require pipelines to establish so-called ''paper pools'' in zones, segments, or rate areas where shippers can deliver gas without an additional transportation charge. The disputed standards also would require allocation of imbalances to the pooler or the pooling agreement.

Pooling refers to the aggregation of gas from multiple physical or logical points to a single physical or logical point.[92] The current standards require that shippers be able to both deliver gas from receipt points into at least one pool and receive quantities at a delivery point from at least one pool.[93]

Those supporting paper pooling contend that aggregation of gas supplies is necessary for the gas market to work efficiently, although they do not explain why paper pooling is absolutely necessary to achieve this efficiency.[94] The further contend that pooling is necessary to permit pool to pool transfers. The pipelines maintain that the requests for additional pooling standards are another aspect of the request that pipelines provide title transfer tracking services.[95]

The existing standards recognize the benefits of pooling and the pipelines are required to provide at least one pool for both receipt and deliveries of gas. Those advocating paper pooling standards have not provided a sufficient rationale for these standards at this time. Some pipelines currently offer paper pools, while others offer physical pooling in which shippers may have to pay a transportation charge to move gas into the pool. When a pool exists in a rate zone, the charge for shipment in that zone must be incurred either for shipment to the pool or shipment out of the pool. The marketers and producers advocating paper pooling do not provide sufficient justification for imposing the transportation charge on the outbound transportation in all situations. Moreover, to some extent, the argument for paper pooling is connected to title transfer tracking, because those proposing the use of paper pools want to use pool to pool transfers as a way of transferring title. But, as discussed above, the Commission is not requiring pipelines to offer title transfer tracking service, so there is little reason to require all pipelines to permit paper pooling at this time.

4. *Fuel Reimbursement Standards (Disputed Standard Nos. 44, 49A, 50A, 51A, 54B, 55, 56B, 57B, 58, 59B, 60–65, 66B, 67, 95A*)

The current standards have simplified and made more uniform the process of providing in-kind fuel reimbursement for compressor fuel.[96] These standards provide, in part, that pipelines must adhere to a standard method for calculating fuel, provide fuel reimbursement percentages at the beginning of the month, not reject nominations for fuel due to differences of less than 5 Dth, and provide a fuel

[86] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.2.3.

[87] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.3.19.

[88] 18 CFR 284.10(b)(1)(ii), Flowing Gas Related Standards 2.3.25.

[89] Comments of Natural Gas Clearinghouse, Docket No. RM96–1–000, filed October 1, 1996, at 14.

[90] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997); Interstate Natural Gas Association of America, at 33 (February 21, 1997).

[91] GISB September 2, 1997 filing at Appendix A, part 4.

[92] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.2.3.

[93] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.17 and 1.3.18.

[94] *See* comments of Natural Gas Clearinghouse, at 11 (February 24, 1997); Energy Managers Association, at 10–13 (February 21, 1997).

[95] Comments of Enron Interstate Pipelines, at 18 (February 21, 1997); Interstate Natural Gas Association of America, at 33 (February 21, 1997).

[96] In-kind fuel reimbursement refers to a requirement that a customer nominate and put into the system extra gas to compensate the pipeline for the gas used by its compressors.

matrix for receipt and delivery point combinations.[97]

The disputed standards would further standardize in-kind fuel reimbursement by requiring that pipelines make fuel rate changes prospectively only, that pipelines can change fuel rates only on six month intervals, and that pipelines will have to true-up fuel rates to actuals periodically and on a prospective basis. The disputed standards also cover a number of alternatives to in-kind fuel reimbursement, such as fuel cash-out, negotiated sales, and cost of service. At the December 12–13, 1996 technical conference, it was not clear whether shippers wanted to mandate that pipelines provide an alternative to in-kind fuel reimbursement or whether they simply wanted standards for these alternatives so that if pipelines choose to offer an alternative, the shippers would not be faced with different implementation methods.[98] Some marketers, such as NGC, also want to ensure that they are able to compete with pipelines in providing fuel service.

Pipelines oppose additional standardization of fuel reimbursement.[99] The pipelines maintain that they should not be required to reenter the merchant function to buy gas in order to provide an alternative to in-kind fuel reimbursement. Such a requirement, they assert, reverses the unbundling mandate of Order No. 636. They further contend that alternatives to in-kind fuel reimbursement are not yet in widespread use and that standardization of a new service will prevent innovation and creativity in the early stages of development.

In the Commission's view, the case for including these additional fuel reimbursement standards has not been made at this time. With respect to in-kind fuel reimbursement, there appears to be no need to limit pipelines to two fuel reimbursement changes per year, as the disputed standard would provide. Pipelines may have a need to file for further changes, and can file to implement such changes when necessary under section 4 of the Natural Gas Act. The current standard requiring pipelines to provide fuel reimbursement percentages at the beginning of the month provides sufficient notice for shippers to obtain the correct fuel percentages and update their computers for all pipelines on a set schedule.

The Commission also agrees with the pipelines that standardizing alternatives to in-kind fuel reimbursement is premature at this point, since such alternatives are not in widespread use. Nor is it clear why creating standards for cash out mechanisms is more important for fuel reimbursement than for the other areas, such as penalties, in which cash outs also are employed. It may be worthwhile for the Commission to reexamine standardization of cashout mechanisms as part of a more comprehensive examination of penalty structures, but that is beyond the scope of this proceeding.

The Commission, however, finds that pipelines, whether or not they provide fuel service, should permit shippers that do not want to calculate fuel to contract with third-party agents to provide the required fuel at the necessary points. The pipelines must accept fuel nominations from these third-party providers. For those pipelines that do provide fuel service, they must allow third-parties to provide fuel on a non-discriminatory basis.

5. *Penalty Determination (Disputed Standard No. 88A*)

Disputed Standard No. 88A would provide that imbalance penalties would be based on the lesser of operationally provided data or actual data. There is some dispute over the meaning of the standard. While the standard seems to contemplate that imbalance penalties would be calculated based on the lower of the two figures, Natural Gas Clearinghouse contended at the technical conference that the standard only applied to the determination of the penalty category, not to the volumes against which the penalty would be applied.[100] For instance, under Natural Gas Clearinghouse's reading of the standard, if the reported imbalance put the shipper in the 10% penalty category, the shipper would pay the penalty associated with that category on the actual imbalance amount, even if the actual imbalance would have placed the shipper in a higher penalty category.

Pipelines contend cash-outs for imbalances need to be dealt with on a case specific basis. Enron Interstate Pipelines, for instance, argues that the standard is too broad and fails to recognize that in many cases, the shipper or point operator, and not the pipeline, is the party with better access to the data. It maintains, for instance, that pipelines and shippers may agree in settlements to forgo the expense of installing electronic flow measurement devices, which would limit the accuracy of the pipeline's operational measurements.

As a general principle, the Commission's policy is to determine the penalty category by the data provided to the shipper, particularly when the pipeline is doing the measurement.[101] A shipper should be responsible only for penalty category it reasonably could have anticipated based on the information provided by the pipeline. The cash out price, however, should be based on the actual imbalance incurred.[102]

The Commission does not find that a generic standard is necessary on this issue. There appears no compelling reason to insist on uniformity across all pipelines on this issue. As the pipelines point, there may be some circumstances in which the policy is not reasonable and those issues are best handled on a case-by-case basis.

III. Information Collection Statement

The following collections of information contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The following burden estimates include the costs of complying with GISB's Version 1.2 standards and the Commission's proposed regulations regarding intra-day nominations, the use of OBAs at pipeline interconnects, the trading of imbalances, and communications using the Internet. The proposed requirements regarding communication over the Internet build upon the computer infrastructure pipelines have already created to comply with Order No. 587. The burden estimates are primarily related to start-up and will not be on-going costs except for the recordkeeping requirement.

[97] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.16, 13.3.28 through 1.3.30.

[98] *See* transcript of December 13, 1996 technical conference at 58.

[99] *See* Comments of Columbia Gas/Columbia Gulf, at 7 (February 21, 1997); INGAA, at 27 (February 21, 1997); Enron Interstate Pipelines, at 25 (February 21, 1997); Koch, at 17 (February 21, 1997); Viking, at 4 (February 21, 1997); Williston Basin, at 5 (February 21, 1997).

[100] Transcript of December 12, 1996 technical conference at 243.

[101] *See* Algonquin Gas Transmission Company, 63 FERC ¶ 61,188, at 62,374 (1993); Texas Eastern Transmission Corporation, 63 FERC ¶ 61,100, at 61,486 (1993); Transcontinental Gas Pipe Line Corporation, 55 FERC ¶ 61,446, at 62,369 (1991).

[102] *See* Texas Eastern, *supra* note 101, *supra.*

ESTIMATED ANNUAL BURDEN

Data collection	No. of respondents	No. of responses per respondent	Hours per response	Total annual hours
FERC–545	93	1	58	5,394
FERC–549C	93	1	4,483	416,919

Total Annual Hours for Collection (Reporting + Recordkeeping, (if appropriate)) = 422,313.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost for the total of 93 respondents to be the following:

	FERC–545	FERC–549C	Totals
Annualized Capital/Startup Costs	$284,303	$21,641,327	$21,192,630
Annualized Costs (Operations & Maintenance)	0	333,321	333,321
Total Annualized Costs	284,303	21,974,648	22,258,951

The Office of Management and Budget's (OMB) regulations [103] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal); FERC–549C, Standards for Business Practices of Interstate Natural Gas Pipelines.

Action: Proposed collections.

OMB Control No: 1902–0154, 1902–0174.

Respondents: Business or other for profit, (Interstate natural gas pipelines; (Not applicable to small business)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

Necessity of the information: This rule, if implemented, proposes to revise the requirements contained in 18 CFR 284.10. These requirements would further the process of standardizing business practices and electronic communications with interstate pipelines begun by the Commission in Order No. 587. Through the adoption of the regulations proposed in this NOPR, the Commission is seeking to continue to the process of establishing a more efficient and integrated interstate pipeline grid. By requiring adherence to these regulations on an industry-wide basis, the Commission seeks to reduce variations in pipeline business practices and communication protocols, permitting pipelines and their customers to more efficiently obtain information from and transact business across multiple pipelines.

The information collection requirements of this proposed rule will be reported directly to the industry users. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act to monitor activities of the natural gas industry to ensure its competitiveness and to assure the improved efficiency of industry's operations. The Commission's Office of Pipeline Regulation will use the data in rate proceedings to review rate and tariff changes by natural gas companies for the transportation of gas, for general industry oversight, and to supplement the documentation used during the Commission's audit process.

Internal Review: The Commission has reviewed the requirements pertaining to business practices and electronic communication with natural gas interstate pipelines and made a determination that the proposed revisions are necessary to establish a more efficient and integrated pipeline grid. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 88 First Street, N.E., Washington, D.C. 20426, (Attention: Michael Miller, Division of Information Services, Phone: (202) 208–1415, fax: (202) 273–0873, email:mmiller@ferc.fed.us)

Comments concerning the collection of information(s) and the associated burden estimate(s), should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285]

IV. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[104] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[105] The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[106] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA) [107] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The proposed regulations would impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to reduce the difficulty

[103] 5 CFR 1320.11.

[104] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶30,783 (1987).

[105] 18 CFR 380.4.

[106] *See* 18 CFR 180.4(a)(2)(ii), 380.4(a)(5), 3804.(a)(27).

[107] 5 U.S.C. 601–612.

of dealing with pipelines by all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. An original and 14 copies of comments must be filed with the Commission no later than [insert date 30 days after publication in the **Federal Register**]. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM96–1–007. All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours.

Additionally, comments should be submitted electronically. Commenters are encouraged to file comments using Internet E-Mail. Comments should be submitted through the Internet by E-Mail to comment.rm@ferc.fed.us in the following format: on the subject line, specify Docket No. RM96–1–007; in the body of the E-Mail message, specify the name of the filing entity and the name, telephone number and E-Mail address of a contact person; and attach the comment in WordPerfect'' 6.1 or lower format or in ASCII format as an attachment to the E-Mail message. The Commission will send a reply to the E-Mail to acknowledge receipt. Questions or comments on electronic filing using Internet E-Mail should be directed to Marvin Rosenberg at 202-208–1283, E-Mail address marvin.rosenberg@ferc.fed.us.

Commenters also can submit comments on computer diskette in WordPerfect® 6.1 or lower format or in ASCII format, with the name of the filer and Docket No. RM96–1–007 on the outside of the diskette.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements; Incorporation by reference.

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C 7101–7532; 43 U.S.C 1331–1356.

2. In section 284.10, paragraph (a)(6) is added and paragraph (b) is revised to read as follows:

§ 284.10 Standards for Pipeline Business Operations and Communications.

(a) * * *

(6) A pipeline's obligation to provide information pursuant to this paragraph will terminate when all relevant information is provided pursuant to paragraph (b)(2)(iii)(A) of this section.

(b) *Business Practices and Electronic Communication Standards.* (1)(i) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following business practice and electronic communication standards promulgated by the Gas Industry Standards Board, which are incorporated herein by reference:

(A) Nominations Related Standards (Version 1.2, July 31, 1997), with the exception of Standard 1.3.32;

(B) Flowing Gas Related Standards (Version 1.2, July 31, 1997), with the exception of Standards 2.3.29 and 2.3.30;

(C) Invoicing Related Standards (Version 1.2, July 31, 1997);

(D) Electronic Delivery Mechanism Related Standards (Version 1.2, July 31, 1997), with the exception of Standard 4.3.4; and

(E) Capacity Release Related Standards (Version 1.2, July 31, 1997).

(ii) 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 of these standards may be obtained from the Gas Industry Standards Board, 1100 Louisiana, Suite 4925, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street NE., Washington, DC 20426 and at the Office of the Federal Register, 800 North Capitol St. NW., Suite 700, Washington, DC.

(2) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements.

(i) Nominations. A pipeline must accord an intra-day nomination submitted by a firm shipper scheduling priority over nominated and scheduled volumes for interruptible shippers. An interruptible shipper must be provided with notice that its scheduled volumes are to be reduced.

(ii) Flowing Gas. (A) Operational Balancing Agreements. A pipeline must enter into Operational Balancing Agreements at all points of interconnection between its system and the system of another interstate or intrastate pipeline.

(B) Netting and Trading of Imbalances. A pipeline must establish provisions permitting shippers and their agents to offset imbalances accruing on different contracts held by the shipper with the pipeline and to trade imbalances with other shippers where such imbalances have similar operational impact on the pipeline's system.

(iii) Communication Protocols. (A)(*1*) All electronic information provided and electronic transactions conducted by a pipeline must be provided on the public Internet. A pipeline must provide, upon request, private network connections using internet tools, internet directory services, and internet communication protocols and must provide these networks with non-discriminatory access to all electronic information. A pipeline may charge a reasonable fee to recover the costs of providing such an interconnection.

(*2*) A pipeline must implement this requirement no later than June 1, 1999.

(B) A pipeline must comply with the following requirements for documents constituting public information posted on the pipeline web site:

(*1*) The documents must be accessible to the public over the public Internet using commercially available web browsers, without imposition of a password or other access requirement;

(*2*) Users must be able to search an entire document online for selected words and users must be able to copy selected portions of the documents; and

(*3*) Documents on the web site should be directly downloadable without the need for users to first view the documents on the web site.

(C) A pipeline must provide the same content for all information regardless of the electronic format in which it is provided. If a pipeline uses a numeric or other designation to represent

information, an electronic cross-reference table between the numeric or other designation and the information represented must be available to users, at a cost not to exceed reasonable shipping and handling.

(D) A pipeline must maintain for a period of five years electronic records of the information displayed and transactions conducted electronically under this section. The pipeline must make this archived information available in electronic form for a reasonable fee.

(E) A pipeline must post operational flow orders, critical periods, and critical notices on their Internet web site and must notify affected parties of such notices in either of the following ways to be chosen by the affected party: Internet E-Mail or direct notification to the parties' Internet URL address.

Note—The following appendices will not appear in the Code of Federal Regulations.

APPENDIX A.—COMMENTS ON DECEMBER 12–13, 1996, TECHNICAL CONFERENCE

Commenter	Abbreviation
Altra Energy Technologies, L.L.C.	Altra.
American Gas Association	AGA.
ANR Pipeline Company and Colorado Interstate Gas Company	ANR/CIG.
Arizona Public Service Company and Salt River Project Agricultural Improvement and Power District	APS/SRP.
The Brooklyn Union Gas Company	Brooklyn Union.
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Corporation	Columbia Gas/Columbia Gulf.
El Paso Natural Gas Company	El Paso.
Energy Managers Association	EMA.
Enron Capital & Trade Resources Corporation	Enron Capital and Trade.
Enron Interstate Pipelines (Northern Natural Gas Company, Transwestern Pipeline Company, Florida Gas Transmission Company, and Black Marlin Pipeline Company).	Enron Interstate Pipelines.
Florida Power & Light Company	FPL.
Interstate Natural Gas Association of America	INGAA.
Koch Gateway Pipeline Company	Koch.
National Fuel Gas Distribution Corporation	National Fuel Distribution.
Natural Gas Clearinghouse	NGC.
Natural Gas Pipeline Company of America	NGPL.
Natural Gas Supply Association	NGSA.
NorAm Gas Transmission Company and Mississippi River Transmission Corporation	NGT/MRT.
Northwest Industrial Gas Users	NWIGU.
NrG Information Services Inc.	NrG.
Pacific Gas and Electric Company	PG&E.
The Peoples Gas Light and Coke Company and North Shore Gas Company	Peoples/North Shore.
Producers Energy Marketing, LLC and Independent Petroleum Association of America	ProEnergy/IPAA.
TransCapacity Limited Partnership	TransCapacity.
Viking Gas Transmission Company	Viking.
Williston Basin Interstate Pipeline Company	Williston.

Appendix B.—Proposed GISB Standards Defeated By One Industry Segment

Operational Flow Orders

Proposed Standard No. 23 Declaration of operational flow orders, critical periods, and/or critical notices should be transmitted to the affected trading parties. Trading parties should keep the transportation service providers apprised of the specific locations for this transmittal. These locations are 24 hour phone, fax, and/or pager. The communication should contain, by reference, specific tariff provision(s) that is (are) applicable to each situation being declared.

Gas Package Rankings

Proposed Standard No. 28B Applicable rankings should be permitted across contracts for the same service requester and location, when not in conflict with tariff-based rules.

Multi-Tiered Allocations

Proposed Standard No. 29 All owners of gas submitting nominations or confirmations should be able to submit a predetermined allocation (PDA). Gas should be allocated based on the PDA submitted by the owner. If a PDA is not submitted, the service provider's default should be used.

Pooling

Proposed Standard No. 38A To the extent operationally compatible with Transportation Service Provider operations and not to their economic detriment, paper pool(s) should be created on each pipeline. Pools should be created so that gas which is already in the zone, segment or rate area (as applicable) where the pool is located can be placed in the pool without transportation.

Proposed Standard No. 38B To the extent operationally compatible with Transportation Service Provider operations and not to their economic detriment, logical pool(s) should be created on each pipeline.

Proposed Standard No. 40B Any differences between a Aggregator's (pooler's) scheduled quantities and allocated quantities at locations for its pool should be allocated to the pooler, or the pooling agreement. Aggregators (poolers) should be responsible for managing the imbalances created by variances with their scheduled quantities.

Fuel Reimbursement

Proposed Standard No. 44 Defining standards for administering the following fuel reimbursement options: in-kind, fuel cash-out, negotiated sales and cost of service does not preclude service providers from offering other options. The choice of fuel reimbursement method(s) is subject to regulatory procedures, where applicable.

Proposed Standard No. 49A For in-kind fuel reimbursement methods, fuel rates can change on six month intervals, on April 1 and October 1.

Proposed Standard No. 50A For in-kind fuel reimbursement and except where pre-September 30, 1996 settlements provide otherwise, fuel rates will have a true-up to actual fuel periodically on a prospective basis.

Proposed Standard No. 51A For in-kind fuel reimbursement methods, fuel rates changes should be made prospectively.

Proposed Standard No. 54B Other than situations where regulatory agencies require cost of service to be the only option provided, the rate for cost of service provided fuel should be stated separately.

Proposed Standard No. 55 For cost of service as the fuel reimbursement method, the rate for cost of service provided fuel should be collected as a variable charge.

Proposed Standard No. 56B No party should be advantaged or disadvantaged in the offering or use of a service by virtue of any costs to provide that service being administered via regulatory proceedings for unassociated services.

Proposed Standard No. 57B Fuel encompasses, but is not limited to, the energy consumed in providing the transportation service (i.e. natural gas, fuel oil, propane, electricity) and lost and unaccounted for gas.

Proposed Standard No. 58 For cash-out as the fuel reimbursement method, Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 59B Where cash-out, as a fuel reimbursement method, is offered as an option by a Service Provider, the Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 60 Fuel Cash-out options should be exercised for a minimum of one calendar month.

Proposed Standard No. 61 Fuel Cash-out quantities should be determined by multiplying allocated receipts by fuel percentages as stated in the tariff or applicable contract(s).

Proposed Standard No. 62 Fuel Cash-out price should be an established commodity market price (i.e. index or competitive bid) in rate area, zone or segment of the activity, or be based on the same fuel cash-out index used for imbalances.

Proposed Standard No. 63 The fuel cash-out value (fuel quantities times fuel cash-out price) should be separately stated on the invoice for the related activity.

Proposed Standard No. 64 If fuel cash-out price is index-based, the determination of the applicable indices should based on the approved tariff provisions or applicable contract(s).

Proposed Standard No. 65 If fuel cash-out price is other than index-based, the Service Provider should post that price three days prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 66B There should be no cross-subsidization by Service Providers of fuel provision service(s) by transportation service(s) when both fuel provision services and transportation services are provided by the service provider.

Proposed Standard No. 67 Negotiated fuel gas sales are sales of gas by the service provider for the use of the service requester as fuel for its transportation transaction. The price and terms and conditions applicable to the sales transaction should be negotiated between the transportation service provider and the service requester.

Proposed Standard No. 95A If negotiated fuel gas sales are offered, all transportation terms, conditions applicable to fuel sales service should be specified in the transportation service providers tariff, if applicable.

Intraday Nominations

Proposed Standard No. 77A Intraday nominations should be allowed at all nominatable receipt and delivery points and at pooling points.

OBAs and Imbalances

Proposed Standard No. 85A All transportation service providers who have sufficient system storage should allow service requesters (in this instance, service requester excludes agents) to net similarly situated imbalances on and across contracts with the transportation service provider among themselves. In this context, ''similarly situated imbalances'' includes contracts with the substantially similar financial and operational implications to the transportation service provider.

Proposed Standard No. 88A Imbalance penalties should be based on the lesser of the imbalance penalties based on operationally provided measurement/allocated data and actual measurement/allocated data.

[FR Doc. 97–30233 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0240]

Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the nutrition labeling regulations to change the reference amount customarily consumed per eating occasion for the food category ''baking powder, baking soda, pectin'' from 1 gram (g) to 0.6 g to more accurately reflect the amount of these products that is customarily consumed. The agency is also proposing to include 1/8 teaspoon (tsp) as an additional allowable household measure because it is a common household measure available to consumers. The agency is proposing this action in response to a petition filed by Arm & Hammer.

DATES: Submit written comments by February 2, 1998. See section IV of this document for the proposed effective date of a final rule based on this document. Submit written comments on the collection of information requirements by December 18, 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.

Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, ATTN: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Ellen M. Anderson, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5662.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 19, 1990 (55 FR 29517), FDA proposed standard serving sizes for 159 food product categories based on the amount of food commonly consumed per eating occasion by infants, toddlers (children under 4 years of age), and the general population (persons 4 years of age or older). FDA did not suggest any specific serving size for baking soda, baking powder, or pectin at that time.

On November 8, 1990, before FDA issued a final rule on serving sizes, Congress passed the Nutrition Labeling and Education Act of 1990 (hereinafter referred to as ''the 1990 amendments''). Section 2a of the 1990 amendments added section 403(q)(1)(A)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(q)(1)(A)(i)) to require that virtually all foods under FDA's jurisdiction bear nutrition information that is based on a serving size which reflects the amount of food that is customarily consumed and which is expressed in a common household measure that is appropriate to the food. Section 2(b)(1)(B) of the 1990 amendments also directed FDA to adopt regulations that establish standards for defining serving sizes.

In response to the 1990 amendments, among other actions, FDA issued a reproposal on serving sizes (56 FR 60394, November 27, 1991) and asked for comments on all proposed reference amounts. In response to a notice of public meeting, the agency received suggestions recommending a serving size of ''1 tablespoon'' for baking powder, ''1 teaspoon'' for pectin, and no recommendation for baking soda. No consumption data were provided for any of the three products (Ref. 1)[1]. In the

[1] In this document, the agency is citing relevant material to baking powder, soda, and pectin that originally appeared in Ref. 2 to the reproposal on serving sizes that appeared in the **Federal Register** of November 27, 1991 (56 FR 60394), and Ref. 66 to the final rule on serving sizes that appeared in the **Federal Register** of January 6, 1993 (58 FR 2229 at 2296). (See Docket No. 90N–0165.) For the convenience of the reader the materials are contained in ''Ref. 1'' of this document.

reproposal, FDA proposed a reference amount customarily consumed per eating occasion (hereinafter referred to as ''reference amount'') of 1 g for ''Baking powder, baking soda, pectin'' (56 FR 60394 at 60419), stating that, although no appropriate food consumption data were available, the agency tentatively concluded that 1 g was reasonable for the product category (Ref. 1).

The agency received no comments on the proposed reference amount for baking powder, baking soda, and pectin. In the absence of data supporting a different reference amount, FDA concluded, in its final rule on serving sizes, that 1 g was the appropriate reference amount for all products within this category (58 FR 2229 at 2296, January 6, 1993).

II. The Petition

FDA received a petition dated June 23, 1994, from Church Dwight Co., Inc., on behalf of Arm & Hammer (94P–0240), requesting that the agency amend § 101.12, in Table 2, in paragraph (b), under ''Miscellaneous Category: Baking powder, baking soda, pectin'' to: (1) Create a separate subcategory for baking soda; (2) establish a reference amount of ''500 mg'' for baking soda; and (3) permit a corresponding serving size of ''1/8 tsp (500 mg).''

The company provided an estimate of the average consumption of baking soda based upon the amount of baking soda used in nine recipes. Two of the recipes contained baking soda. For these two recipes, the company calculated the amount of baking soda based on the reference amount of the finished product. For the seven other recipes that involved the use of baking powder, the company noted that approximately 30 percent of baking powder is baking soda and calculated the amount of baking soda as 1/3 of the amount of baking powder, based on the reference amount of the finished product. The company reported that the average amount of baking soda consumed per reference amount was 261 milligrams (mg), with a range of 54 to 484 mg.

The company also provided documentation to support that 1/8 tsp measuring spoons are common household measures that are available to consumers.

Based on information provided in the petition and on FDA calculations for products containing baking soda, baking powder, and pectin, FDA is proposing to: (1) Include 1/8 tsp as an allowable household measure; and (2) amend the reference amount for baking powder, baking soda, and pectin from ''1 gram'' to ''0.6 grams.'' A discussion of the basis for the agency's action on the petition and for the proposed changes follows:

III. Basis for the Proposed Action

A. Consideration of an Additional Household Measure

Based on information provided in the petition and on an informal survey of the marketplace (Ref. 1), FDA agrees with the petitioner that 1/8-tsp measuring spoons are now available to consumers. FDA located a set of measuring spoons that included a 1/8-tsp measure and an adjustable measuring spoon that could be varied to measure volumes from 1/8 to 1 tsp (Ref. 1). Therefore, for products that can be measured in fractions of a teaspoon, the agency is proposing to amend § 101.9(b)(5)(i) (21 CFR 101.9(b)(5)(i)) to include 1/8 tsp as an additional allowable household measure. FDA is also proposing to reorganize this section to simplify the options for teaspoon and tablespoon measures and to improve clarity.

B. Consideration of Revised Reference Amounts

1. Evaluation of the Appropriateness of the Data Supplied for Baking Soda

FDA has two concerns with the approach to determining a reference amount for baking soda taken in the petition. First, for the recipes containing baking powder, the petitioner calculated the amount of baking soda as a fraction of the amount of baking powder in the recipe. However, baking soda and baking powder are distinct products. The reference amount for baking soda must be based on the major intended use of baking soda (§ 101.12(a)(7) (21 CFR 101.12(a)(7))), not a fraction of the reference amount of baking powder.

The major consumer use of baking soda is as an ingredient in baked goods, as evidenced by the number of recipes that provide for the use of baking soda as an ingredient that are included in both the petition (e.g., cookies, muffins) and in the 1987 to 1988 U.S. Department of Agriculture (USDA) Recipe File (e.g., cornbread, quick breads, cakes, cookies) (Ref. 1), when baking powder is unavailable, baking soda mixed with cream of tartar may be substituted for baking powder (Ref. 1). However, consumers do not commonly use baking soda to make baking powder because: (1) Baking powder is a commonly available ingredient, (2) substitution may not work in all cases (Ref. 1), and (3) some recipes include both baking soda and baking powder as ingredients, e.g., cake and cookie recipes, included in the petition, and quick bread, cake, and cookie recipes, included in the 1987 to 1988 USDA Recipe File (Ref. 1). Therefore, the consumption of baking soda cannot be based upon the amount of baking soda contained in baking powder.

Second, the reference amounts provided for baked goods (e.g., biscuits, cornbread, muffins, quick breads, cakes, and cookies) are for the finished product (i.e., ''baked'') (§ 101.12(b), footnote 2 in Tables 1 and 2) and thus take into account changes in weight during baking. To determine the amount of baking soda contained in one reference amount of finished product, it is necessary to consider the weight of the ingredient (i.e., baking soda) as a proportion of the weight of the finished product (e.g., cake) rather than as a proportion of the weight of the raw ingredients (e.g., cake batter) because the reference amounts of baked goods are for the finished products (e.g., on a ready-to-serve or almost ready-to-serve basis) (§ 101.12(b), footnote 2 in Table 2). To account for losses during cooking (e.g., moisture), the finished product weight is determined by applying a yield factor to the sum of the weights of the raw ingredients. Yield factors were provided by USDA as part of the Recipe File (Ref. 1) and represent the final weight of the cooked recipe expressed as a percentage of the uncooked weight (Ref. 1). The calculations used in the petition were based on the weights of the ingredients before baking, not on the weight of the finished product. Therefore, although the difference in weight before and after baking would be expected to be small, it is not appropriate to rely on the calculations provided by the petitioner.

The petitioner only supplied information on the amounts of baking soda contained in two recipes (0.142 g baking soda in one reference amount of chocolate chip cookies, 0.326 g baking soda in one reference amount of buttermilk muffins). As described previously, these values contain minor calculation errors because they were based on the sum of the weights of the ingredients rather than on the finished, cooked weights of the cookies and muffins. FDA cannot calculate the correct amounts of baking soda contained in these two products because the finished weights were not provided. The correct values would be expected to vary only slightly from those provided, however. Therefore, the limited data provided suggest that the customary consumption of baking soda is less than the reference amount of ''1 gram.''

2. Calculation of an Estimated Amount of Baking Powder and Baking Soda Customarily Consumed Per Eating Occasion

Although the information provided by the petition is suggestive, two recipes are insufficient to support a change in the reference amount for baking soda. To determine whether a change in the reference amount for baking soda is warranted, FDA independently evaluated data for additional products containing baking soda. The agency also evaluated data for baking powder, which currently has the same reference amount as baking soda.

There are no direct consumption data available on baking soda and baking powder because these products are consumed as part of baked goods. Therefore, to estimate an appropriate reference amount, the agency used a procedure similar to the one it used to develop a reference amount for flour, and which it described in the reproposed rule on serving sizes (Ref. 1). Because the major use of flour is to make bread, FDA based the reference amount for flour on the amount contained in one reference amount of white bread. The agency rounded the calculated value down based on estimates of the amount of flour required to make one reference amount of other common products containing flour (e.g., cakes and cookies), which are somewhat lower than the amount used to make bread.

For baking soda and baking powder, FDA reviewed recipes included in the 1987 to 1988 USDA Recipe File (Ref. 1) and determined that there is no one major use of baking soda or baking powder. Therefore, the agency selected 20 baked products that are representative of the variety of products containing baking powder, baking soda, or both (e.g., muffins, cakes, cookies) (Ref. 1). Baking soda is an ingredient in 11 of the recipes, and baking powder is an ingredient in 15 of the recipes.

FDA adjusted for moisture losses during baking and calculated the amounts of baking powder and baking soda contained in a reference amount of the various finished, cooked products (Ref. 1). FDA considers that these calculated amounts indirectly reflect the amounts of baking soda and baking powder customarily consumed when a reference amount of one of these finished products is consumed. For example, the reference amount for banana cake without icing is 125 g. This amount represents the amount of banana cake customarily consumed per eating occasion. FDA determined that 0.41 g of baking soda is contained in 125 g of banana cake. Thus, 0.41 g of baking soda is customarily consumed as part of the 125 g of banana cake.

The amounts of baking powder per reference amount in the 15 products that contain baking powder ranged from 0.13 g to 1.28 g (Ref. 1). For the 11 products containing baking soda, the amount of baking soda contained ranged from 0.08 g to 1.05 g (Ref. 1). There is considerable overlap in the amounts of baking soda and baking powder customarily consumed as part of these baked good products.

The petitioner requested a subcategory for baking soda, separate from baking powder and pectin. To support the creation of a separate subcategory for baking soda, the data must demonstrate that the new subcategory of food will be consumed in amounts that differ enough from the reference amount for the parent category to warrant a separate reference amount (§ 101.12(h)(11)(i)). The previous recipes demonstrate that baking soda is not consumed in amounts that differ enough from the amounts in which baking powder is consumed to warrant a separate subcategory. Therefore, the agency is denying this aspect of the petition.

Because the serving size is expressed in common household measures (§ 101.9(b)(7)), FDA calculated the weights of baking soda and baking powder that correspond to 1/4 tsp, the smallest household measure currently permitted (§ 101.9(b)(5)(i)), and to 1/8 tsp, the household measure suggested by the petitioner. The agency used a standard value of 4.6 g/tsp reported by USDA for the density of baking soda and baking powder (Ref. 1).

To determine whether the current reference amount of 1 g accurately reflects the amounts of baking soda and baking powder customarily consumed, FDA reviewed the calculated amounts of baking soda and baking powder in the 20 representative baked good products. FDA found that, among the 11 recipes that contained baking soda, the great majority (10) of the values for baking soda clustered around 0.6 g (the weight of 1/8 tsp), and that for only 1 product was the value for baking soda closer to 1.2 g (the weight of 1/4 tsp) than to 0.6 g (Ref. 1). Of the 15 recipes containing baking powder, the agency again found that the great majority of values (12) clustered around 0.6 g (the weight of 1/8 tsp), and that only 3 values for baking powder were closer to 1.2 g (the weight of 1/4 tsp) than to 0.6 g (Ref. 1).

These data provide significant evidence that the current 1 g reference amount, which approximates the weight of 1/4 tsp, is too large for both baking soda and baking powder. They support that a ''0.6 g'' reference amount, which would result in a serving size declaration of ''1/8 tsp,'' would more accurately reflect the amount of baking soda and of baking powder contained in a reference amount of the prepared products that contain these foods.

3. Consideration of a Different Reference Amount for Pectin

In the final rule on serving sizes (58 FR 2229 at 2296), FDA included pectin in the same product category as baking soda and baking powder. Because the agency is considering a different reference amount for baking soda and baking powder (discussed in sections III.B.1 and B.2 of this document), FDA also reevaluated the appropriateness of the 1 g reference amount for pectin.

Pectin is an ingredient that is used as a thickener in the preparation of jams and jellies. The agency located one jam recipe (Ref. 1) that gives the yield in a volume measure (cups), making it possible to calculate the amount of pectin per reference amount of prepared jam (1 tbsp) (Ref. 1). The agency's calculation reveals that 1 tbsp of jam contains 0.52 g of pectin (Ref. 1). The 1987 to 1988 USDA Recipe File (Ref. 1) does not contain any recipes for jams or jellies, and FDA does not have any other information on pectin. Though limited, this one recipe supports a reference amount for pectin closer to 0.6 g than to the current ''1 gram'' reference amount. FDA requests that interested persons submit information on the appropriateness of this reference amount for pectin.

C. Proposed Action

After reviewing the data on baking soda and baking powder use as ingredients in various baked goods, and after considering the amount of pectin in a reference amount of jam, the agency is proposing to change the reference amount in § 101.12(b), Table 2 for the ''Miscellaneous Category: Baking powder, baking soda, pectin'' from ''1 g'' to ''0.6 g'' to better reflect the amounts customarily consumed for these products.

IV. Effective Date

The agency periodically establishes by final rule in the **Federal Register** uniform effective dates for compliance with food labeling requirements (see, e.g., the **Federal Register** of December 27, 1996 (61 FR 68145)). FDA proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements, which is established by

final rule in the **Federal Register** and which is no sooner than 1 year following publication of any final rule based upon this proposal.

The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce on or after its effective date. However, FDA notes that it generally encourages industry to comply with new labeling regulations as quickly as feasible. Thus, when industry members voluntarily change their labels, it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time. On the other hand, if any industry members can foresee that the proposed effective date will create particular problems, they should bring these problems to the agency's attention in comments on this proposal.

V. Environmental Impact

The agency has determined under 25.32(p) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Executive Order 12866 Analysis

FDA has examined the economic implications of the proposed rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select the regulatory approach which maximizes net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. FDA finds that this proposed rule is not a significant rule as defined by Executive Order 12866.

This proposed rule will cause the labels of baking powder, baking soda, and pectin to be revised. FDA estimates that there are 29 firms producing baking powder, baking soda, or pectin. There are 23 baking powder labels, 18 baking soda labels, and 25 fruit pectin labels for a total of 66 labels affected by this rule. On average, the administrative, redesign, and inventory disposal costs for a labeling change of this type, with a 1-year compliance period are $600 per product, or a total of $39,600.

The benefit of this proposed regulation is that because manufacturers will provide information on a serving size that is more appropriate for baking soda, baking powder, and pectin, product labels will provide more accurate information to consumers.

VII. Regulatory Flexibility Analysis

FDA has examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). If a rule has a significant impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze options that would minimize the economic impact of that rule on small entities. Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the agency certifies that this proposed rule will have a significant impact on a substantial number of small entities.

A. Estimate and Description of the Small Entities

According to the Regulatory Flexibility Act, the definition of a small entity is a business independently owned and operated and not dominant in its field. The Small Business Administration has set size standards for most business categories through use of four-digit Standard Industrial Classification codes. For baking powder, baking soda, and pectin, a business is considered small if it has fewer than 500 employees.

FDA estimates that four of the firms producing baking powder, baking soda, or pectin are small. FDA also estimates that each small firm produces two products which might be relabeled as a result of this rule.

B. Description of the Impacts

The cost of this rule per small firm will be $1,200 ($600 x two products). The 95th percentile firm has annual sales of $275,000 and one employee. The costs of the rule as a percentage of annual sales is 0.4 percent. Return on sales for this industry is 8.3 percent for the upper quartile, 2.9 percent for the median, and 0.9 percent for the lower quartile. FDA is uncertain to which quartile this firm belongs because the number of employees and annual sales do not imply anything about the profitability of a firm. The costs of this rule will be 4.8 percent of profits if this firm falls into the upper quartile for the industry, 13.8 percent of profits if this is a median firm, and 44.4 percent of profits if this firm falls into the lower quartile. Therefore, the smallest 5 percent of affected firms will be adversely affected by this rule. Under the Regulatory Flexibility Act (5 U.S.C. 605), the agency concludes that this proposed rule will have a significant impact on a substantial number of small entities.

C. Compliance Requirements and Necessary Skills

The Regulatory Flexibility Act also requires agencies to describe the projected reporting, recordkeeping, and other compliance requirements of the rule and the type of professional skills necessary for preparation of the report or record. Manufacturers of baking soda, baking powder, and pectin will be required to amend their labels to reflect the new serving sizes. Manufacturers must recalculate the reported levels of nutrients in the foods based on the new serving sizes. No further analyses are required, only that the reported amounts are based on the correct serving size.

D. Alternatives

FDA has examined the following alternatives to the rule that may minimize the significant economic impact on small entities consistent with stated objectives.

1. Exempt Small Entities

The agency has adopted an exemption from mandatory nutrition labeling for low-volume food products of small businesses in § 101.9(j)(18) (59 FR 11872, March 14, 1994). As of May 1997, proposed § 101.9(j)(18) applies to manufacturers, packers, distributors, or retailers of low volume products, defined as fewer than 100,000 units, produced by firms with fewer than 100 employees. To the extent that baking powder, baking soda, or pectin products are eligible for this exemption, they might not require relabeling as a result of this rule. However, if the products are currently nutritionally labelled either because the label contains nutrient content claims or because the manufacturer has voluntarily labeled the product, then the nutrition facts panel must be correct and the label must be changed. FDA is uncertain how many firms, if any, can or will take advantage of this option.

2. Lengthen the Compliance Period

FDA also considered the option of providing small entities with a longer compliance period. If finalized, labels must be changed by the appropriate Uniform Compliance Date. Depending on when the final rule publishes, firms will have as little as 1 year or as much as 2 years to complete labeling changes. Longer compliance periods typically result in lower costs because firms can

combine mandated label changes with planned changes and because firms have more opportunity to use up existing labels. A 2-year compliance period would reduce costs to $200 per firm.

VIII. The Paperwork Reduction Act of 1995

This proposed rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection requirements are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques or other forms of information technology.

Title: Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin.

Description: Section 403(q)(1)(A) and (q)(1)(B) of the act requires that the label or labeling of a food bear information that provides the serving size that is appropriate to the food and the number of servings per container. FDA has issued regulations in § 101.9(d)(3) that require the nutrition facts panel on the label of a food product disclose information on serving size and on servings per container. FDA has also issued regulations in § 101.9(b) that provide that the serving size declared on a product label shall be determined from the ''Reference Amounts Customarily Consumed Per Eating Occasion'' that appear in § 101.12(b).

The regulations set forth in this proposed rule would revise the reference amount that is used for determining the serving sizes for packages of baking powder, baking soda, and pectin. As a result, manufacturers and other producers of these products would be required to change the serving sizes and the number of servings per container that they disclose in the nutrition facts panel for their products. The proposed regulations would also provide for the use of 1/8 tsp as an additional household measure for the disclosure of serving sizes for food products.

Description of Respondents: Persons and businesses, including small businesses.

TABLE 1.—ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Respondents	Total No. of Responses	Hours per Response	Total Hours	Operating Costs
101.12(b)	29	66	1	66	$39,600

[1] There are no capital or maintenance costs associated with this collection.

FDA believes that the burden associated with the disclosure on the label of serving size and number of servings that would be required by this proposed rule will be a one-time burden created by the need for firms to have to change the statement of serving size and number of servings on the labels for their products. As noted previously, FDA estimates that there are 29 firms producing baking powder (23 labels), baking soda (18 labels), and pectin (25 labels). FDA estimates that these firms will require an average of 1 hour per product to comply with the requirements of a final rule based on this proposal. Further, as noted previously, the proposed rule would result in a one-time operating cost of $39,600.

In compliance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection requirements of the proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by December 18, 1997, to the Office of Information and Regulatory Affairs, OMB (address above), ATTN: Desk Officer for FDA.

IX. Comments

Interested persons may, on or before February 2, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

X. References

The following reference has been placed on public display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. LeGault, Lori A., Susan K. Brecher, and Ellen M. Anderson, memorandum to file, August 20, 1997.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

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

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

2. Section 101.9 is amended by revising paragraph (b)(5)(i) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(b) * * *

(5) * * *

(i) Cups, tablespoons, or teaspoons shall be used wherever possible and appropriate except for beverages. For beverages, a manufacturer may use fluid ounces. Cups shall be expressed in 1/4- or 1/3-cup increments. Tablespoons shall be expressed as 1, 1 1/3, 1 1/2, 1 2/3, 2, or 3 tablespoons. Teaspoons shall be expressed as 1/8, 1/4, 1/2, 3/4, 1, or 2 teaspoons.

* * * * *

3. Section 101.12 is amended in paragraph (b), in Table 2, under the

''Product category'' column, under the ''Miscellaneous Category'' by revising the entry for ''Baking powder, baking soda, pectin'' to read as follows:

§ 101.12 Reference amounts customarily consumed per eating occasion.

* * * * *

(b) * * *

TABLE 2.—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1, 2, 3, 4]

Product category	Reference amount	Label statement[5]
* * *	* *	* *
Miscellaneous Category:		
Baking powder, baking soda, pectin	0.6 g	____ tsp (____g).
* * *	* *	* *

[1] These values represent the amount (edible portion) of food customarily consumed per eating occasion and were primarily derived from the 1977–1978 and the 1987–1988 Nationwide Food Consumption Surveys conducted by the U.S. Department of Agriculture.

[2] Unless otherwise noted in the Reference Amount column, the reference amounts are for the ready-to-serve or almost ready-to-serve form of the product (i.e, heat and serve, brown and serve). If not listed separately, the reference amount for the unprepared form (e.g., dry mixes; concentrates; dough; batter; fresh and frozen pasta) is the amount required to make the reference amount of the prepared form. Prepared means prepared for consumption (e.g., cooked).

[3] Manufacturers are required to convert the reference amount to the label serving size in a household measure most appropriate to their specific product using the procedures in 21 CFR 101.9(b).

[4] Copies of the list of products for each product category are available from the Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

[5] The label statements are meant to provide guidance to manufacturers on the presentation of serving size information on the label, but they are not required. The term ''piece'' is used as a generic description of a discrete unit. Manufacturers should use the description of a unit that is most appropriate for the specific product (e.g., sandwich for sandwiches, cookie for cookies, and bar for ice cream bars). The guidance provided is for the label statement of products in ready-to-serve or almost ready-to-serve form. The guidance does not apply to the products which require further preparation for consumption (e.g., dry mixes, concentrates) unless specifically stated in the product category, reference amount, or label statement column that it is for these forms of the product. For products that require further preparation, manufacturers must determine the label statement following the rules in § 101.9(b) using the reference amount determined according to § 101.12(c).

* * * * *

Dated: October 29, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–30272 Filed 11–17–97; 8:45 am]

BILLING CODE 4160–01–F

POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Service Property

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend United States Postal Service property regulations to: prohibit smoking in postal buildings; prohibit soliciting of signatures on petitions, polls, or surveys on postal property except as otherwise authorized by Postal Service regulations; prohibit impeding ingress to or egress from post offices; add regulations for voter registration activities on postal property to reflect current postal policy; prohibit leafleting, picketing, demonstrating, public assembly, and public address in lobbies and other interior areas of postal buildings open to the pubic; prohibit placement of tables, chairs, freestanding signs or posters, structures, or furniture of any type on postal property except as part of postal activities or as otherwise permitted by these regulations; permit, in addition to seeing eye dogs, other animals used to assist persons with disabilities on postal property; prohibit the storage of weapons and explosives on postal property except for official purposes; clarify the meaning of terms; change references to other postal directives; and provide that persons designated by the Chief Postal Inspector may also enforce Postal Service property regulations.

DATES: Comments must be received on or before December 18, 1997.

ADDRESSES: Written comments should be mailed or delivered to the Independent Counsel, Postal Inspection Service, 475 L'Enfant Plaza SW, Room 3411, Washington, DC 20260–2181.

FOR FURTHER INFORMATION CONTACT: Henry J. Bauman, Independent Counsel, Postal Inspection Service, (202) 268–4415.

SUPPLEMENTARY INFORMATION: Postal Service regulations on the conduct of persons on postal property are published in title 39 of the Code of Federal Regulations (CFR) as part 232. These regulations describe the actions that are either permitted or proscribed, the enforcement of these regulations, and the penalties for violations. The purpose of this proposed rule is to amend these regulations to add new prohibitions, to add regulations for voter registration activities on postal property, to permit animals used to assist persons with disabilities to be brought onto postal property, and to clarify certain terms and references in the regulations.

A new prohibition on smoking in postal lobbies and offices is proposed to address the health concerns of postal customers and employees. The reasons for this prohibition are that the Surgeon General has reported on the dangers to human health from smoking and second-hand smoke, the sale of tobacco products is prohibited in other federal buildings, the Postal Service has already banned smoking in postal buildings by postal employees, and many post offices have banned smoking in lobbies and other interior areas open to the public.

A new prohibition on the soliciting of signatures on petitions, polls, or surveys on postal property, except as otherwise authorized by Postal Service regulations, is proposed. The purpose of this restriction is to minimize the disruption of postal business and to provide unimpeded ingress and egress of customers and employees to and from post offices. Portions of the existing Postal Service conduct regulations have been upheld by the Supreme Court in *United States* v. *Kokinda*, 497 U.S. 720 (1990). The United States Postal Service was created in order to ensure prompt, reliable, and efficient postal services to the public in a businesslike manner. It is the Postal Service's experience that the activities described above are generally disruptive to postal business. Thus, the Postal Service is prohibiting

activities that create significant interference with its statutory mandate.

A new prohibition on leafleting, picketing, demonstrating, public assembly, and public address in lobbies and other interior areas of postal buildings open to the public is proposed. Such activities are not prohibited outside postal buildings, as long as they do not otherwise violate these regulations. It is the Postal Service's experience, however, that such activities conducted inside postal buildings are generally disruptive to postal operations and impede customers and employees from conducting postal transactions.

A new prohibition on the placement of tables, chairs, freestanding signs or posters, structures, or furniture of any type anywhere on postal premises, except as part of postal activities or as otherwise permitted under these regulations, is proposed. It is the Postal Service's experience that such activities are generally disruptive to postal business and impede customers from conducting postal transactions.

List of Subjects in 39 CFR Part 232

Federal buildings and facilities, Penalties, Postal Service.

Accordingly, 39 CFR Part 232 is proposed to be amended as set forth below.

PART 232—CONDUCT ON POSTAL PROPERTY

1. The authority citation for part 232 is revised to read as follows:

Authority: 18 U.S.C. 13, 3061; 21 U.S.C. 802, 844; 39 U.S.C. 401, 403(b)(3), 404(a)(7); 40 U.S.C. 318, 318a, 318b, 318c; Pub. L. 104–208, 110 Stat. 1060.

2. Section 232.1(b) is amended by revising the phrase ''section 115 of the Domestic Mail Manual'' to read ''section 274 of the Administrative Support Manual''.

3. Section 232.1 is amended by revising the heading of paragraph (g) and designating its existing text as (g)(1), revising the first sentence of (g)(1) and adding paragraph (g)(2) to read as follows:

§ 232.1 Conduct on postal property.

* * * * *

(g) *Alcoholic beverages, drugs, and smoking.*

(1) A person under the influence of an alcoholic beverage or any drug that has been defined as a ''controlled substance'' may not enter postal property or operate a motor vehicle on postal property. * * *

(2) Smoking (defined as having a lighted cigar, cigarette, pipe, or other smoking material) is prohibited in all postal buildings and office space, including service lobbies.

* * * * *

Section 232.1(h)(1) introductory text is revised to read as follows:

(h) * * *

(1) Soliciting alms and contributions, campaigning for election to any public office, collecting private debts, soliciting and vending for commercial purposes (including, but not limited to, the vending of newspapers and other publications), displaying or distributing commercial advertising, soliciting signatures on petitions, polls, or surveys (except as otherwise authorized by Postal Service regulations), and impeding ingress to or egress from post offices are prohibited. These prohibitions do not apply to:

* * * * *

5. Section 232.1(h)(1)(i) is amended by adding the phrase ''or nonprofit'' after the word ''Commercial''.

6. Section 232.1(h) (3), (4) and (5) are added to read as follows:

(h) * * *

(3) Leafleting and distributing literature, picketing, demonstrating, public assembly, and public address, which are not otherwise prohibited by Postal Service regulations, are prohibited in lobbies and other interior areas of postal buildings open to the public.

(4) *Voter registration.* Voter registration may be conducted on postal premises only with the approval of the postmaster or installation head provided that all of the following conditions are met:

(i) The registration must be conducted by government agencies or nonprofit civic league or organizations that operate for the promotion of social welfare but do not participate or intervene in any political campaign on behalf of any candidate or political party for any public office.

(ii) Absolutely no partisan or political literature may be available, displayed, or distributed. This includes photographs, cartoons, and other likenesses of elected officials and candidates for public office.

(iii) The registration is permitted only in those areas of the postal premises regularly open to the public.

(iv) The registration must not interfere with the conduct of postal business, postal customers, or postal operations.

(v) The organization conducting the voter registration must provide and be responsible for any equipment and supplies.

(vi) Contributions may not be solicited.

(vii) Access to the workroom floor is prohibited.

(viii) The registration activities are limited to an appropriate period before an election.

(5) Except as part of postal activities or activities associated with those permitted under paragraph (h)(4) of this section, no tables, chairs, freestanding signs or posters, structures, or furniture of any type may be placed in postal lobbies or on postal walkways, steps, plazas, lawns or landscaped areas, driveways, parking lots, or other exterior spaces.

* * * * *

7. Section 232.1(j) is revised to read as follows:

(j) *Dogs and other animals.* Dogs and other animals, except those used to assist persons with disabilities, must not be brought upon postal property for other than official purposes.

* * * * *

8. Section 232.1(1) is revised to read as follows:

(1) *Weapons and explosives.* No person while on postal property may carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, or store the same on postal property, except for official purposes.

* * * * *

9. Section 232.1(q)(3) is revised to read as follows:

(q) * * *

(3) Postal Inspectors and others designated by the Chief Postal Inspector may likewise enforce regulations in this section.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–30009 Filed 11–17–97; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 86, and 89

[AMS–FRL–5923–3]

RIN 2060–AF76

Control of Emissions of Air Pollution From Nonroad Diesel Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency is extending the comment period on the Notice of Proposed Rulemaking (NPRM) which proposes new emission standards for

nonroad diesel engines. The NPRM appeared in the **Federal Register** on September 24, 1997 (62 FR 50152). The public comment period was to end on November 24, 1997. The purpose of this notice is to extend the comment period an additional 4 weeks, to end on December 22, 1997. This extension of the comment period is provided to allow commenters additional time to respond to the NPRM.

DATES: EPA will accept public comments on the Notice of Proposed Rulemaking until December 22, 1997.

ADDRESSES: Materials relevant to this proposal, including the Draft Regulatory Impact Analysis, are contained in Public Docket A–96–40, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket materials.

Comments on this proposal should be sent to Public Docket A–96–40 at the above address. EPA requests that a copy of comments also be sent to Alan Stout, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: Alan Stout, U.S. EPA, Engine Programs and Compliance Division, (313) 741–7805; (313) 741–7816 (fax); stout.alan@epamail.epa.gov.

Dated: November 10, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–30244 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5922–8]

Acid Rain Program; Notice of Public Workshop on an Emissions Trading Program for Oxides of Nitrogen (NO_X)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshops on a NO_X emissions trading program. The second workshop will be held on December 11, from 9 a.m. to 5 p.m., at the Washington National Airport Hilton Hotel.

SUMMARY: EPA recently issued a Notice of Proposed Rulemaking to reduce regional transport of ozone. As part of this rulemaking, EPA is developing a multi-state cap and trade program for large stationary sources. As a way to increase flexibility and maximize cost savings, EPA is offering to administer such a program. States are encouraged to participate in the trading program as a simple and cost-effective strategy for meeting their state-wide emission budget requirements. It is anticipated that a model trading rule will be included in a supplemental document of proposed rulemaking for the transport rule in early 1998 and will be finalized along with the transport rule in September 1998.

In order to provide a forum for input on the framework of a model NO_X cap and trade program, EPA decided to hold two public workshops. The first workshop was held in early November; a variety of comments from States and interested participants were received on the trading program framework. The second workshop will be held on December 11, from 9 a.m. to 5 p.m., at the Washington National Airport Hilton Hotel located at 2399 Jefferson Davis Highway, Arlington Virginia. EPA will use input from these workshops in developing the model trading rule.

FOR FURTHER INFORMATION CONTACT: Stephanie Benkovic in EPA's Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 at (202) 233–9142.

Dated: November 10, 1997.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30245 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL–5923–7]

RIN 2060–AG21

Amendments for Testing and Monitoring Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: This action reopens the public comment period for the action entitled ''Amendments for Testing and Monitoring Provisions'' that was proposed in the **Federal Register** on August 27, 1997 (62 FR 45369). The 60-day comment period in the proposal ends October 27, 1997. The comment period is being reopened until January 5, 1998. A public commenter requested that the comment period be reopened because of the volume of material that was proposed. The intended effect of this action is to allow the affected public sufficient time to review and comment on the proposed action.

DATES: *Comments.* The comment period is reopened to January 5, 1998. Comments must be received on or before January 5, 1998.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–97–12 (see docket section below), room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The Agency requests that a separate copy also be sent to the person listed in the **FOR FURTHER INFORMATION CONTACT SECTION BELOW.**

Docket. Docket No. A–97–12, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the EPA's Air and Radiation Docket and Information Center, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; telephone (202) 260–7548. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Foston Curtis, Emission Measurement Center (MD–19), Emissions, Monitoring, and Analysis Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–1063 or at fax number (919) 541–1039.

List of Subjects

40 CFR Part 60

Environmental protection, New sources, Test methods and procedures, Performance specifications, Continuous emission monitors.

40 CFR Part 61

Environmental protection, Test methods and procedures.

40 CFR Part 63

Environmental protection, Hazardous air pollutants, Test methods and procedures.

Dated: November 10, 1997.

Richard D. Wilson,

Acting Assistant Administrator.

[FR Doc. 97–30241 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 62, No. 222

Tuesday, November 18, 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

Rural Housing Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS) and Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agencies' intention to request an extension for a currently approved information collection in support of the Form RD 1940–59, ''Settlement Statement.''

DATES: Comments on this notice must be received by January 20, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Betsy Fletcher, Loan Specialist, Single Family Housing Processing Division, RHS, U.S. Department of Agriculture, STOP 0783, 1400 Independence Ave. SW., Washington, DC 20250, telephone (202) 720–1486.

SUPPLEMENTARY INFORMATION:

Title: Form RD 1940–59, ''Settlement Statement.''

OMB Number: 0575–0088.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of currently approved information collection.

Abstract: The Agencies are requesting an extension of the OMB clearance for Form RD 1940–59, ''Settlement Statement.'' The Real Estate Settlement Procedures Act (RESPA), as amended, requires the disclosure of real estate settlement costs to home buyers and sellers. The Secretary of the Department of Housing and Urban Development (HUD) was instructed by the RESPA to develop a standard form for the statement of settlement costs to be used for all federally related transactions. Form RD 1940–59 is similar to the HUD–1 Settlement Statement used by HUD, the Veterans Administration, and the private mortgage industry, with some minor adaptations acceptable under RESPA.

Form RD 1940–59 is completed by Settlement Agents, closing attorneys, and title insurance companies performing the closing of RHS loans and credit sales used to purchase or refinance Section 502 Housing, Rural Rental Housing and Farm Labor Housing. It is also completed by the same parties performing the closing FSA Farm Ownership loans and credit sales. The information is collected to provide the buyer and seller with a statement detailing the actual costs of the settlement services involved in certain Agency financed real estate transactions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Settlement Agents, Closing Attorneys, and Title Insurance Companies performing the closing of Agency loans and credit sales.

Estimated Number of Respondents: 17,000.

Estimated Number of Responses per Respondent: 2.41.

Estimated Total Annual Burden on Respondents: 20,500 hours.

Copies of this information collection can be obtained from Tracy Gillin, egulations and Paperwork Management Branch, at (202) 690–1065.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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 may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, Ag Box 0743, Washington, DC 20250. 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.

Dated: November 12, 1997.

Jan Shadburn,

Administrator, Rural Housing Service.

Dated: November 19, 1997.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 97–30232 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after November 15, 1997. The list of newspapers will remain in effect until another notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Kristine M. Lee; Regional Appeals and Litigation Coordinator, Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone: (406) 329–3647.

The newspapers to be used are as follows:

Northern Regional Office

Regional Forester decisions in Montana: The Missoulian, Great Falls Tribune, and The Billings Gazette.
Regional Forester decisions in Northern Idaho and Eastern Washington: The Spokesman Review.
Regional Forester decisions in North Dakota: Bismarck Tribune.
Regional Forester decisions in South Dakota: Rapid City Journal.
Beaverhead/Deerlodge—Montana Standard.
Bitterroot—Ravalli Republic.
Clearwater—Lewiston Morning Tribune.
Custer—Billings Gazette (Montana), Bismarck Tribune (North Dakota), Rapid City Journal (South Dakota).
Flathead—Daily Interlake.
Gallatin—Bozeman Chronicle.
Helena—Independent Record.
Idaho Panhandle—Spokesman Review.
Kootenai—Daily Interlake.
Lewis & Clark—Great Falls Tribune.
Lolo—Missoulian.
Nez Perce—Lewiston Morning Tribune.

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: November 7, 1997.

Kathleen A. McAllister,

Deputy Regional Forester.

[FR Doc. 97–30199 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions Under 36 CFR Part 217 and Corrections Under 36 CFR Part 215 for the Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, and Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice and correction.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR part 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As provided in 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those known to be interested in or affected by a specific decision. The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published on April 29, 1997, of principal newspapers to be utilized for publishing notices of proposed actions and of decisions subject to appeal under 36 CFR part 215. The list of newspapers to be used for part 215 notice and decision is corrected.

DATES: Use of these newspapers for purposes of publishing legal notices of decisions subject to appeal under 36 CFR part 217 and the use of the corrected newspaper listed under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW, Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service Administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper. The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in more than one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.

Atlanta Journal, published daily in Atlanta, GA.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in only one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the principal newspaper elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Ranger Decisions

Bankhead Ranger District: *Northwest Alabamian,* published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: *The Andalusia Star,* published daily (Tuesday through Saturday) in Andalusia, AL
Oakmulgee Ranger District, *The Tuscaloosa News,* published daily in Tuscaloosa, AL
Shoal Creek Ranger District: *The Anniston Star,* published daily in Anniston, AL
Talladega Ranger District: *The Daily Home,* published daily in Talladega, AL
Tuskegee Ranger District: *Tuskegee News,* published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in English in San Juan, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: *Walker Country Messenger,* published bi-weekly (Wednesday & Friday) in Lafayette, GA
Toccoa Ranger District: *The News Observer* published weekly (Wednesday) in Bule Ridge, GA
Brasstown Ranger District: *North Georgia News,* published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: *Clayton Tribune,* published weekly (Thursday) in Clayton, GA
Chattooga Ranger District: *Northeast Georgian,* published weekly (Tuesday) in Cornelia, GA

Chieftain & Toccoa Record, published weekly (Thursday) in Toccoa, GA
White County News & Telegraph, published weekly (Thursday) in Cleveland, GA
Cohutta Ranger District: *Chatsworth Times,* published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: *Monticello News,* published weekly (Thursday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties)

District Ranger Decisions

Ocoee Ranger District: *Polk County News,* published weekly (Wednesday) in Benton, TN
Hiwassee Ranger District: *Daily Post-Athenian,* published daily (Monday–Friday) in Athens, TN
Tellico Ranger District: *Monroe County Advocate,* published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: *Greensville Sun,* published daily (Monday–Saturday) in Greeneville, TN
Unaka Ranger District: *Johnson City Press,* published daily in Johnson City, TN
Watauga Ranger District: *Elizabethton Star,* published daily (Sunday–Friday) in Elizabethton, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Ranger Decisions

Morehead Ranger District: *Morehead News,* published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: *The Clay City Times,* published weekly (Thursday) in Stanton, KY
Berea Ranger District: *Jackson County Sun,* published weekly (Thursday) in McKee, KY
London Ranger District: *The Sentinel-Echo,* published tri-weekly (Monday, Wednesday, and Friday) in London, KY
Somerset Ranger District: *Commonwealth-Journal,* published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: *McCreary County Record,* published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: *Manchester Enterprise,* published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions

The Tallahassee Democrat, published daily in Tallahassee, FL

District Ranger Decisions

Apalachicola Ranger District: *The Liberty Journal,* published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: *The Ocala Star Banner,* published daily in Ocala, FL
Osceola Ranger District: *The Lake City Reporter,* published daily (Monday–Saturday) in Lake City, FL
Seminole Ranger District: *The Daily Commercial,* published daily in Leesburg, FL
Wakulla Ranger District: *The Tallahassee Democrat,* published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions

The State, published daily in Columbia, SC

District Ranger Decisions

Enoree Ranger District: *Newberry Observer,* published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC
Andrew Pickens Ranger District: *Seneca Journal and Tribune,* published bi-weekly (Wednesday and Friday) in Seneca, SC
Long Cane Ranger District: *The Augusta Chronicle,* published daily in Augusta, GA
Wambaw Ranger District: *News and Courier,* published daily in Charleston, SC
Witherbee Ranger District: *News and Courier,* published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia

Forest Supervisor Decisions

Roanoke Times, published daily in Roanoke, VA

District Ranger Decisions

Lee Ranger District: *Shenandoah Valley Herald,* published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder,* published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: *News-Gazette,* published weekly (Wednesday) in Lexington, VA
James River Ranger District: *Virginian Review,* published daily (except Sunday) in Covington, VA
Deerfield Ranger District: *Daily New Leader,* published daily in Staunton, VA
Dry River Ranger District: *Daily News Record,* published daily (except Sunday) in Harrisonburg, VA
Blacksburg Ranger District: *Roanoke Times,* published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman.)*
Glenwood Ranger District: *Roanoke Times,* published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times,* published in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman.)*
Mount Rogers National Recreation Area: *Bristol Herald Courier,* published daily in Bristol, VA
Clinch Ranger District: *Kingsport-Times News,* published daily in Kingsport, TN
Wythe Ranger District: *Southwest Virginia Enterprise,* published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

Alexandria Daily Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger District: *Minden Press Herald,* published daily in Minden, LA
Homer Guardian Journal, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *Alexandria Daily Town Talk,* published daily in Alexandria, LA
Colfax Chronicle, published weekly (Wednesday) in Colfax, LA
Evangeline Ranger District: *Alexandria Daily Town Talk,* published daily in Alexandria, LA
Kisatchie Ranger District: *Natchitoches Times,* published daily (Tuesday–Friday and on Sunday) in Natchitoches, LA
Vernon Ranger District: *Alexandria Daily Town Talk,* published daily in Alexandria, LA
Winn Ranger District: *Winn Parish Enterprise,* published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions

Clarion-Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Chicasawhay Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
De Soto Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Tombigbee Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Ashe-Erambert Project: *Clarion-Ledger,* published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions

Appalachian Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC
Cheoah Ranger District: *Graham Star,* published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal,* published weekly (Sunday through Friday) in New Bern, NC
Grandfather Ranger District: *McDowell News,* published daily in Marion, NC
Highlands Ranger District: *The Highlander,* published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Highlands, NC
The Crossroads Chronicle, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Cashiers, NC
The Sylva Herald, published weekly on Thursday in Sylva, NC
Pisgah Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC
Tusquitee Ranger District: *Cherokee Scout,* published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger District: *Montgomery Herald,* published weekly (Wednesday) in Troy, NC
Wayah Ranger District: *The Franklin Press,* published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Cold Springs Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Fourche Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Jessieville Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Mena Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Oden Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Poteau Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Winona Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Womble Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Choctaw Ranger District: *Tulsa World,* published daily in Tulsa, OK
Kiamichi Ranger District: *Tulsa World,* published daily in Tulsa, OK
Tiak Ranger District: *Tulsa World,* published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions

The Courier, published daily (Sunday through Friday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: *Stone County Leader,* published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: *Harrison Daily Times,* published daily in Harrison, AR
Bayou Ranger District: *The Courrier,* published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: *Johnson County Graphic,* published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: *Southwest Times Record,* published daily in Fort Smith, AR
Magazine Ranger District: *Southwest Times Record,* published daily in Fort Smith, AR
St. Francis Ranger District: *The Daily World,* published daily (Sunday through Friday) in Helena, AR

Natonal Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions

The Lufkin Daily News, published daily in Lufkin, TX

District Ranger Decisions

Angelina National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX
Davy Crockett National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX
Sabine National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX
Sam Houston National Forest: *The Courier,* published daily in Conroe, TX
Caddo & LBJ National Grasslands: *Denton Record-Chronicle,* published daily in Denton, TX

The Responsible Official under 36 CFR part 215 gave annual notice in the **Federal Register** published in April 29, 1997, of principal newspapers to be utilized for publishing notices of proposed actions and of decisions subject to appeal under 36 CFR 215. The list of newspapers to be used for 215 notice and decision is corrected as follows:

Kisatchie National Forest, Louisiana

District Ranger Decisions

Newspaper Changed
Vernon Ranger District: *Alexandria Daily Town Talk,* published daily in Alexandria, LA

Ozark-St. Francis National Forest: Arkansas

District Ranger Decisions

Newspaper Changed
Buffalo Ranger District: *Harrison Daily Times,* published daily in Harrison, AR

Dated: November 7, 1997.

Bruce L. Jewell,

Acting Deputy Regional Forester for Natural Resources.

[FR Doc. 97–30197 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

XCS–56 Plowed Terrace Demonstration Project, Cameron and Calcasieu Parishes, LA

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Plowed Terrace Demonstration Project, Cameron and Calcasieu Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of the federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This is a demonstration project and will evaluate potential impacts attributed to plowed terraces and vegetative plantings to be installed in shallow open water areas. The project area includes approximately 3,250 acres of open water and fragmented marsh. Project features include the construction of approximately 54,000 linear feet of earthen terraces followed by the planting of vegetation on the side slopes of the terraces.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Donald W. Gohmert.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 97–30166 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for 7 CFR part 1944, subpart L, ''Tenant Grievance and Appeals Procedure.''

DATES: Comments on this notice must be received by January 20, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Ernest W. Harris, Senior Loan Specialist, USDA, Rural Housing Service, STOP 0782, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0782, Telephone: (202) 720–1613.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1944, Subpart L, ''Tenant Grievance and Appeals Procedure.''

OMB Number: 0575–0046.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of the currently approved information collection.

Abstract: The regulation promulgates the procedure by which tenants, cooperative members, and applicants for occupancy may appeal adverse actions by owner/managers of multi-family housing projects financed by RHS. Such adverse actions include cases whereby which tenants, cooperative members, or applicants have received written notice that assistance provided by RHS is being denied, substantially reduced or terminated.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .41 hours per response.

Respondents: Individuals or households, state or local governments, small businesses or other for-profit.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 83 hours.

Copies of this information collection can be obtained from Barbara Williams, Regulations and Paperwork Management Branch, at (202) 720–9734.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Housing Service, including whether the information will have practical utility; (b) the accuracy of the Rural Housing Service's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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 may be sent to Barbara Williams, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0743, 1400 Independence Avenue, S.W., Washington, DC 20250. 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.

Dated: November 6, 1997.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 97–30176 Filed 11–17–97; 8:45 am]

BILLING CODE 3410–XV–U

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This collection has been submitted under the emergency Paperwork Reduction Act procedures.

Agency: Minority Business Development Agency.

Title: Competitive Application Packages for Funding to Operate Technical Assistance Projects (SF–424 and the Evaluation Criteria).

Agency Form Number: None.

OMB Approval Number: 0640–0006.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired—Emergency Review.

Burden: 12,000 hours annually.

Number of Respondents: 180.

Avg. Hours per Response: Ranges between 40 and 80 hours.

Needs and Uses: This collection of information is required as it is the vehicle through which the Agency presents detailed application requirements for financial assistance awards to operate its Business Development Centers. These centers provide business development services, such as financial planning and marketing advice, to minority entrepreneurs. The collection of this information is essential to the mission of the Agency, as defined in Executive Order 11625, to provide management and technical assistance to minority businesses.

Affective Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: Victoria Baecher-Wassmer or Pat Boyd (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Clearance Officer, (202) 482–3272, U.S. Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer or Pat Boyd, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503. An emergency approval has been requested by November 19, 1997.

Dated: November 12, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–30223 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

[Docket No. 970411089–7089–01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce.

ACTION: Notice of Amendment of Privacy Act System of Records; COMMERCE/DEPT System 2.

SUMMARY: The Department of Commerce gives notice of an amendment to the system of records under Commerce Department System 2. The amendments adds a routine use for disclosure of information in this system to other agencies as needed for the purpose of effecting administrative offsets in cases where debts are owed by individuals or organizations to the U.S. Government. This action has been taken to comply with the Debt Collection Improvement Act of 1996.

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register**, on December 18, 1997, unless modified by a subsequent notice to incorporate comments received from the public. Any interested party may submit written comments about the revision to the system of records to the contact person listed below on or before December 18, 1997.

ADDRESSES: Department of Commerce, Office of Financial Management, 14th Street & Constitution Avenue, NW, Room 6827, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Charles Yaple at 202–482–1207.

SUPPLEMENTARY INFORMATION: The Department of Commerce is amending Commerce Department System 2: Accounts Receivable to add that records may be disclosed to any other federal agency.

—Added under ''Routine use:''

Disclosure of information in this system of records to any other Federal agency as necessary for the purpose of effecting administrative offset against the debtor to recoup a delinquent debt owed to the U.S. Government by the debtor.

This change is being made to implement the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, sec. 31001, *et seq.*). This statutes requires Federal agencies to minimize the costs of collection of debt owed to the agencies by consolidating debt collection functions and activities and utilizing interagency teams, and to reduce losses arising from debt management by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information with and among agencies. The Department of Commerce intends to participate in an initiative sponsored by the U.S. Department of Treasury whereby the latter agency will serve as a central collection point for information from several Federal agencies concerning individuals who owe debts to the Government. This routine use permits disclosure of information from this system of records to the Department of Treasury, or any other agency that may conduct this activity.

Other editorial changes have also been incorporated to change an outdated reference to the National Bureau of Standards (NBS) to the National Institute of Standards and Technology (NIST), to add a reference to records of the Technology Administration, and the Bureau of Export Administration (BXA), and to delete references to the United States Travel and Tourism Administration (USTTA), which has been abolished.

The system of records is hereby republished as follows:

COMMERCE/DEPT–2

SYSTEM NAME:

Accounts Receivable—COMMERCE/DEPT–2.

SYSTEM LOCATION:

a. For Departmental offices, BEA, ITA, and MBDA: Office of Financial Operations and Travel Management, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

b. For NIST (including the Technology Administration) and NTIA: National Institute of Standards and Technology, Office of the Comptroller, Administration Building, Gaithersburg, Maryland 20899.

c. For NOAA and BXA: Office of Budget and Finance, National Oceanic and Atmospheric Administration, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

d. For PTO: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For CENSUS: Finance Division, Bureau of the Census Federal Building 3, Washington, DC 20233.

f. For NTIS: Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

g. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Debtors owing money to organizational components identified in a through g above, including employees, former employees, business firms, the general public, and institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address; amount owed; service to which the amount is owed; overpayment or other accounting therefor; and invoice number, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–09; 31 U.S.C. 951–953, 4 CFR 102.4, FPMR 101–7; Treasury Fiscal Requirements Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

—Billing debtors, reporting delinquent debts to credit bureaus.
—Reporting to Office of Personnel Management for liquidating debts from retirement and other benefits.
—Disclosure of information from this system of records may also be made to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts as authorized by the Debt Collection Act (31 U.S.C. 3718).
—Disclosure of information in this system of records to any other Federal agency as necessary for the purpose of effecting administrative offset against the debtor to recoup a delinquent debt owed to the U.S. Government by the debtor.
—Disclosures to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).
—Also, see routine uses 1–5 and 8–13 of the Prefatory Statement, found at 46 FR 63502, December 31, 1981.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both manual and machine-readable records.

RETRIEVABILITY:

By name, and invoice number as appropriate.

SAFEGUARDS:

Physical security, handling by authorized personnel only.

RETENTION AND DISPOSAL:

Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a: Director, Office of Financial Operations and Travel Management, U.S. Department of Commerce, Washington, DC 20230.

For records at location b: Comptroller, Office of the Comptroller, National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

For records at location c: Director, Office of Budget and Finance, NOAA, Room 6811, Herbert C. Building, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

For records at location d: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, DC 20231.

For records at location e: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, DC 20233.

For records at location f: Chief, Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

For records at location g: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

NOTIFICATION PROCEDURE:

For ITA records at location a, information may be obtained from Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, DC 20230.

For all others at location a, information may be obtained from: Chief, Information Management Division, Office of Information Resources Management, U.S. Department of Commerce, Washington, DC 20230.

For records at location b, information may be obtained from: Deputy Director of Administration, National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

For records at location c, information may be obtained from: Director, Administrative and Technical Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

For PTO records at location d, information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, DC 20231.

For records at location e, information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, DC 20233.

For NTIS records at location f, information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161.

For records at location g, information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, DC 20230.

Requester should provide name and address, and invoice number as appropriate, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Same address as stated in the Notification procedure section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR part 4b. Same address as stated in the Notification procedure section above.

RECORD SOURCE CATEGORIES:

Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

Dated: November 12, 1997.

Brenda S. Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. 97–30221 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–FA–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Economic Impact Assessment of NIST Ncar-Field Scanning Measurements of Antennas Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce both paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 20, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mr. Andrew Repjar, National Institute of Standards and Technology, Electrical and Electronics Engineering Laboratory, Mailcode

813.08, 325 Broadway, Boulder, Colorado 20899. He can be reached by phone at (303) 497–5703 or by e-mail at repjar@boulder.nist.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST seeks to assess economic impacts of its program for near-field measurements of antennas. The respondents will be U.S. suppliers and users of microwave antennas used in satellites, earth terminals, radar and communications systems. The results will be applied by NIST for program evaluation purposes.

NIST conducts economic impact studies to (1) provide management with information on the nature and magnitude of NIST research projects, (2) to convey to the policy and budget processes the rates of return to society for expenditures by NIST, and (3) to provide data necessary to comply with the Government Performance and Results Act requirements. The resulting information is used both for evaluation of completed and ongoing research and related projects and for strategic planning.

The range of technology infrastructure developed in NIST laboratories and through cooperative projects with industry leverage the productivity of all stages of U.S. domestic economic activity (R&D, production, and marketing) and thereby increase economic growth and economic well being.

II. Method of Collection

Personnel of organizations in the U.S. microwave industry may respond to questionnaires by mail, fax, E-mail, or telephone.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission for a new requirement.

Affected Public: Personnel of organizations in the U.S. microwave industry and their customers.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 25 hours.

Estimated Total Annual Cost: $2,500 (25 hours × $100 per hour for a senior level technical manager to respond). No equipment or maintenance costs are associated with this data collection.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 10, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–30222 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Tuesday, December 9, Wednesday, December 10, and Thursday, December 11, 1997 from 9 a.m. to 5 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on December 9, 10, and 11, 1997, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, Maryland in the Administration Building, in Lecture room A on December 9 and 10 and in Lecture Room D on December 11.

Agenda

- Welcome and Overview
- Issues Update and Briefings
- Federal Security Impact—Pending Legislation Updates
- NIST Program Updates
- CIO Federal Briefings
- Discussion
- Pending Business
- Public Participation
- Agenda Development for January Meeting
- Work Plan for 1998
- Wrap-Up

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Information Technology Laboratory, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001. It would be appreciated if fifteen copies of written material were submitted for distribution to the Board by December 2, 1997. Approximately 20 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Roback, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, MD 20899–0001, telephone (301) 975–3696.

Dated: November 12, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–30263 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111297B]

Magnuson-Stevens Act Provisions; Essential Fish Habitat; Public meeting

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

ACTION: Notice of meeting.

SUMMARY: NMFS is convening a meeting of the west coast salmon essential fish habitat (EFH) technical team to review

EFH descriptions for salmon and adverse affects on salmon EFH. The meeting is open to the public.

DATES: The technical team meeting is on November 18, 1997, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be at the Lloyd Center Doubletree Hotel, 1000 NE Multnomah, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, NMFS, 206/526–6143.

SUPPLEMENTARY INFORMATION: NMFS is in the process of developing recommendations on EFH for west coast salmon in accordance with recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act. EFH recommendations to be presented to the Pacific Fishery Management Council for an amendment to the salmon fishery management plan include a description of EFH for coho salmon, chinook salmon, pink salmon and sockeye salmon; a description of adverse effects to EFH, including fishing and nonfishing threats; and a description of measures to ensure the conservation and enhancement of EFH.

NMFS has formed a technical team consisting of fishing industry, state, tribal, university, and Federal individuals to provide technical input and advice on the development of the NMFS recommendations. The technical team will meet 2 to 3 times between November and March to review draft EFH documents as they are prepared. The first meeting of the technical team is scheduled for November 18, 1997. The meetings will be open to the public, and the public will have an opportunity to comment. EFH documents will be available at the meeting. EFH background material can also be found on the Pacific States Marine Fisheries Commission website at www.psmfc.org/efh.html.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be requested at least 5 working days prior to the meeting date.

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

Dated: November 12, 1997.

Bruce Morehead,

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

[FR Doc. 97–30158 Filed 11–12–97; 3:13 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111097B]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet in Anchorage, AK.

DATES: The meetings will be held during the week of December 7, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: All meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK. All meetings are open to the public with the exception of a Council executive session tentatively scheduled for noon on Wednesday, December 10, to discuss personnel, international issues, or litigation, as necessary.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: Ecosystems Committee will meet Sunday, December 7, beginning at 8:00 a.m. and ending at 4:00 p.m.

The Scientific and Statistical Committee (SSC) will meet beginning at 8:00 a.m. on Sunday, December 7, continuing through Tuesday, December 9.

The Advisory Panel (AP) will begin meeting at 8:00 a.m. on Monday, December 8, and continue through Thursday, December 11.

The Council's regular plenary session will begin at 8:00 a.m. on Tuesday, December 9, and continue through Sunday, December 14.

Other workgroup or committee meetings may be held during the week. Notices of these meetings will be posted at the hotel.

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports from NMFS and Alaska Department of Fish and Game on the current status of the fisheries off Alaska, and NMFS and U.S. Coast Guard reports on enforcement;

2. Initial review of a draft analysis for a third-party arrangement (joint project agreement) for observer procurement services;

3. Receive report on the 1997 Halibut and Sablefish individual fishing quota (IFQ) fisheries;

4. Review proposals received for changes to the Halibut and Sablefish IFQ fisheries and give direction to staff for analyses;

5. Initial review of research priorities;

6. Review and consider releasing to public review draft environmental assessment/regulatory impact review for the Bering Sea/Aleutian Islands (BSAI) pollock Community Development Quota program for 1999 and beyond;

7. Appointments to the SSC and AP for 1998, and to the Pacific Northwest Crab Industry Advisory Committee through 1999;

8. Review and give final approval to Amendment 3 to the Scallop Fishery Management Plan. Amendment 3 would delegate authority to the State of Alaska to manage the scallop fishery off Alaska;

9. The Council will receive and approve the final 1998 Stock Assessment and Fishery Evaluation reports for Gulf of Alaska and BSAI groundfish and approve final 1998 harvest allocations, including vessel incentive program rate standards, bycatch allowances, and halibut discard mortality rates; and

10. Other groundfish issues to be addressed include:

a. Initial review of an amendment for stand-down and/or preregistration requirements in the Western and Central Gulf of Alaska. Direction to staff to release for public review and/or revise;.

b. Initial review of options to streamline the setting of total allowable catches; directions to staff to release for public review and/or revise;

c. Initial review of an amendment to allocate shortraker/rougheye quota to fixed gear; directions to staff to release for public review and/or revise;

d. Discussion of limited processing for catcher vessels; direction to staff;

e. Discussion of overfishing amendments; direction to staff;

f. Discussion of catch reporting accuracy;

g. Discussion of gear storage and preemption issues in the BSAI; direction to staff;

h. Discussion of salmon retention revisions for the BSAI; direction to staff; and

i. Discussion of pollock ''B'' Season adjustments in the BSAI; direction to staff.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance

with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: November 12, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–30254 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111297C]

Marine Mammals (File No. 758–1431)

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

ACTION: Issuance of scientific research permit no. 758–1431.

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, is hereby authorized to conduct research on two captive, adult Northern fur seals (*Callinorinus ursinus*).

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);

Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE., BIN C15700, Building 1, Seattle, WA 98115–0070 (206/526–6150);

Regional Administrator, Alaska Region, NMFS, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

SUPPLEMENTARY INFORMATION: On September 29, 1997, notice was published in the **Federal Register** (62 FR 50907) that the above-named applicant had submitted a request for a scientific research permit to blood sample and vaccinate two captive, adult Northern fur seals with a benign antigen, Fort Dodge tetanus toxoid, for the purpose of scientific research at a U.S. facility that is holding captive Northern fur seals. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR Part 216).

Dated: November 12, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–30255 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102497A]

Marine Mammals, Endangered or Threatened Species, Scientific Research Permit (File No. 473–1433); Correction

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

ACTION: Receipt of application; correction.

SUMMARY: The National Marine Fisheries Service published a document in the **Federal Register** of October 31, 1997, concerning an application to take several species of cetaceans for purposes of scientific research. The document inadvertently omitted that the proposed takes are to be conducted on an annual basis.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13824, Silver Spring, MD 20910 (301/713–2289).

Correction

In the **Federal Register** issue of October 31, 1997, in FR Doc. 97–28833, on page 58943, in the first column, correct the second paragraph under the **SUPPLEMENTARY INFORMATION** caption by inserting the word ''annually'' before the word ''from'' in line four and the word ''annually'' between the words ''*physalus*'' and ''may'' in line 17.

Dated: November 12, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–30159 Filed 11–17–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of extension of cancer treatment clinical trails demonstration project.

SUMMARY: This notice is to advise interested parties of a one-year extension of a demonstration project in which the DoD provides CHAMPUS reimbursement for eligible beneficiaries who receive cancer treatment under approved National Institutes of Health, National Cancer Institute (NCI) clinical trails. Participation in these clinical trails will improve access to promising cancer therapies for CHAMPUS eligible beneficiaries when their conditions meet protocol eligibility criteria. DoD financing of these procedures will assist in meeting clinical trail goals and arrival at conclusions regarding the safety and efficacy of emerging therapies in the treatment of cancer. At this time, there is insufficient demonstration data for a full evaluation of costs associated with enrollment in clinical trails. Extending the demonstration for an additional year will show sufficient time for patient accrual to clinical trials and collection of data which allows for comprehensive economic analysis. This demonstration also affects TRICARE, the managed health care program that includes CHAMPUS. This demonstration project is under the authority of 10 U.S.C., section 1092.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Speight, Office of the Assistant Secretary of Defense (Health Affairs), (703) 697–8975.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1996, the Department provided notice in the **Federal Register** (61 FR 1899) of an extension of an existing demonstration for breast cancer treatment clinical trials to include all cancer treatment clinical trials under approved National Cancer Institute (NCI) clinical trials. The demonstration purpose is to improve beneficiary access

to promising new therapies, assist in meeting the National Cancer Institute's clinical trial goals, and arrival at conclusions regarding the safety and efficacy of emerging therapies in the treatment of cancer. The January 24, 1996, notice anticipated the possibility of extending the demonstration.

The NCI trials program is the principal means by which the oncology community has developed clinical evidence for the efficacy of various treatment approaches in cancer therapy. Participating institutions include NCI's network of comprehensive and clinical cancer centers, university and community hospitals and practices, and military treatment facilities. Despite this extensive network and includes the nation's premier medical centers, cure rates for most types of cancer remain disappointing, highlighting the significant effort still required for improvement. The principal means by which advances in therapy will be realized is through application of research to victims of cancer. In support of NCI's efforts to further the science of cancer treatment, the Department expanded its breast cancer demonstration to include all NCI-sponsored phase II and phase III clinical trials. This expanded demonstration will enhance current NCI efforts to determine safety and efficacy of promising cancer therapies by expanding the patient population available for entry into clinical trials and stabilizing the referral base for these clinical activities. While this demonstration provides an exception to current CHAMPUS benefit limitations, the Department hypothesizes that this increased access to innovative cancer therapies will occur at a cost comparable to that which the Department has experienced in paying for conventional therapies under the standard CHAMPUS program. Results of this demonstration will provide a framework for determining the scope of DoD's continued participation in the NCI's research efforts.

Dated: November 10, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–30173 Filed 11–17–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

List of Institutions of Higher Education Ineligible for Federal Funds

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This document is published to identify institutions of higher education that are ineligible for contracts and grants by reason of a determination by the Secretary of Defense that the institution prevents military recruiter access to the campus or students or maintains a policy against ROTC. It also implements the requirements set forth in the Omnibus Consolidated Appropriations Act of 1997 and 32 CFR part 216. The institutions of higher education so identified are:

Washington College of Law of American University, Washington, DC

William Mitchell College of Law, St. Paul, Minnesota

Recently, the following institution of higher education reported modifications to school policies sufficient to merit removal from the list of ineligible schools.

Asnuntuck Community-Technical College, Enfield, Connecticut

Capital Community-Technical College, Hartford, Connecticut

Central Connecticut State University, New Britain, Connecticut

Charter Oak State College, Newington, Connecticut

Connecticut Community-Technical College, Winsted, Connecticut

Eastern Connecticut State University, Willimantic, Connecticut

Gateway Community-Technical College, North Haven, Connecticut

Housatonic Community-Technical College, Bridgeport, Connecticut

Manchester Community-Technical College, Manchester, Connecticut

Middlesex Community-Technical College, Middletown, Connecticut

Naugatuck Community-Technical College, Waterbury, Connecticut

Norwalk Community-Technical College, Norwalk, Connecticut

Quinebaug Valley Community-Technical College, Danielson, Connecticut

Southern Connecticut State University, New Haven, Connecticut

Three Rivers Community-Technical College, Norwich, Connecticut

Tunxis Community-Technical College, Farmington, Connecticut

Western Connecticut State University, Danbury, Connecticut

ADDRESSES: Director for Accession Policy, Office of the Assistant Secretary of Defense for Force Management Policy, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: William J. Carr, (703) 697-8444.

SUPPLEMENTARY INFORMATION: On April 8, 1997 (62 FR 16694), the Department of Defense published 32 CFR part 216 as an interim rule. This rule and the Omnibus Consolidated Appropriations Act of 1997 require the Department of Defense semi-annually to publish a list of the institutions of higher education ineligible for Federal funds due to a policy or practice that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy. On October 6, 1997 (62 FR 52091), the Department of Defense published a list of the institutions of higher education ineligible for Federal Funding; this listing updates and supersedes that listing.

Dated: November 10, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–30172 Filed 11–17–97; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of an altered record system.

SUMMARY: The Department of the Air Force 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 on December 18, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Rollins at (703) 697–8674 or DSN 227–8674.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems 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 proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on November 3, 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, (61 FR 6427, February 20, 1996).

Dated: November 10, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F044 AF SG K

SYSTEM NAME:

Medical Professional Staffing Records *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph 'Records concerning civilian consultants or contractors who engage in direct patient care may be released to civilian organizations employing said civilian consultants or contractors providing direct patient care to eligible beneficiaries if such records are necessary to evaluate the civilian consultant or contractor in accordance with 10 U.S.C. 1102(c)(E).'

* * * * *

F044 AF SG K

SYSTEM NAME:

Medical Professional Staffing Records.

SYSTEM LOCATION:

At Air Force medical centers, hospitals, and clinics; all health facilities where graduate health education programs are conducted; reserve NAFs/Surgeon's Office; reserve tactical hospitals/clinics, reserve MSES, and reserve AAG medical elements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Practitioners, who are, or have been, members of the USAF Medical Service, Civil Service Employees (including civilian consultants who engage in direct patient care), or contractors who are assigned to, employed by, or practice in the Air Force medical facility for the purpose of providing health services for eligible beneficiaries; United States Air Force Medical Service personnel pursuing graduate health education programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Credential review files: Contains curriculum vitae, list of approved privileges, copies of diplomas and certificates, records of continuing health education training, letters of evaluation, summaries of special activities or other information, including malpractice claims reports, furnished or solicited in order to fully evaluate the professional qualifications of individuals, and the records of any actions taken on the individual's credentials.

(2) Health education records: Applications for training, training reports, Faculty Board reports, photograph or negative, and personnel documents related to training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 55, Medical and Dental Care; medical specialists, as implemented by Air Force Instruction 44–119, Quality Assurance in the Air Force Medical Service.

PURPOSE(S):

The information contained in credential review files is used to award, limit, suspend, restrict or revoke the inpatient and ambulatory clinical privileges to all categories of health practitioners.

Health education records are used to permit evaluations of individuals in training, by program directors, in managing the individual in training; by the record maintenance personnel, to document changes to the individual's personnel record maintained by the servicing Consolidated Base Personnel Office (CBPO).

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:

The information may also be released to a governmental board or agency or health care professional society or organization if such record of document is needed to perform licensing or professional standards monitoring related to health care practitioners who are or were formerly members, employees of the Armed Forces, or contractors, and to medical institutions or organizations wherein such member, employee or contractor has applied for or been granted authority or employment to provide health care services if such record or document is needed to assess the professional qualifications of such member or employee.

Records concerning civilian consultants or contractors who engage in direct patient care may be released to civilian organizations employing said civilian consultants or contractors providing direct patient care to eligible beneficiaries if such records are necessary to evaluate the civilian consultant or contractor in accordance with 10 U.S.C. 1102(c)(E).

The 'Blanket Routine Uses' published at the beginning of the Air Force'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:

Maintained in file folders and visible file binders/cabinets.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties; by commanders of USAF medical centers hospitals and clinics (credential review files); by program directors, trainees and personnel managers with the need-to-know (health education records).

RETENTION AND DISPOSAL:

(1) Credential review files are retained in the office files of the medical facility where the practitioner is assigned, employed, or practicing. Following separation, resignation, or retirement, the files are retained at the location of the last duty assignment for a period of 3 years and then are destroyed.

(2) Health education files are retained by the director of health education until training is completed, files are then kept by the health facility for 30 years and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; if facility is deactivated, the records are retired to the Washington National Records Center, Washington, DC 20409 to be retained until the 30–year period has expired at which time they will be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters, United States Air Force; Commanders of medical centers, hospitals, clinics. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

For health education records, individuals should give full name, military status, Social Security Number, when they entered training and completed training, and what corps within the medical service they are a member. Individuals may visit either the health facility maintaining the records or the Office of the Surgeon, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX to learn if the record system contains their records. When visiting either of these locations, the individual must provide a valid drivers license or equivalent identification containing a photograph to establish identity.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the system manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the system manager. For health education records, individual may obtain assistance by writing or presenting themselves in person to the health facility where the records are maintained. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Credential review files: Basic information submitted by the practitioner. Additional information may be solicited from other sources in order to permit the credentials committee to best judge the capabilities of the practitioner. Health education records: Previous employer, educational institutions, master personnel record, information provided by the individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–30171 Filed 11–17–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF ENERGY

Privacy Act of 1974; Deletion of Privacy Act Systems of Records

AGENCY: Department of Energy.

ACTION: Notification of deletion of Department of Energy Privacy Act systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of Energy is deleting from the agency's inventory of systems of records, record systems that are either duplicative of government-wide or departmental records systems; obsolete and the information is no longer maintained; or not retrieved by name or personal identifier, and therefore not Privacy Act record systems.

EFFECTIVE DATE: November 18, 1997.

FOR FURTHER INFORMATION CONTACT: GayLa D. Sessoms, Director, Freedom of Information Act and Privacy Act Division, HR–73, Independence Avenue, SW, Washington, DC 20585, (202) 586–5955.

SUPPLEMENTARY INFORMATION: After reviewing the Department's Privacy Act Systems of Records, 14 record systems were identified for deletion. Six record systems are obsolete, seven record systems duplicate other governmental or departmental record systems, and one is not a Privacy Act system of records.

These are listed as follows:

I. Obsolete

- DOE–6
  System name: Report of Consultants to DOE Contractors.
- DOE–7
  System name: Applications and Reference Checks for Overseas Employment with the International Atomic Energy Agency (IAEA).
- DOE–17
  System name: Certificates of Eligibility for FHA Insured Loans.
- DOE–29
  System name: Technology Training Program—Skill Training at Technician Level.
- DOE–64
  System name: Low-Income Weatherization Program Home Report Records.
- DOE–68
  System name: Minority Energy Technical Assistance Program (METAP) Records.

II. Duplicate Other Systems of Records

The following systems of records supplement other record systems and no longer need to be maintained.

- DOE–3
  System name: DOE Personnel: Appraisal and Development Records (Duplicates Office of Personnel Management OPM/GOVT–2).
- DOE–4
  System name: Applications for DOE employment (Duplicates Office of Personnel Management OPM/GOVT–5).
- DOE–16
  System name: Reports of Financial Interest (Duplicates Office of Government Ethics OGE/GOVT–1 and OGE/GOVT–2).
- DOE–36
  System name: Statistical Analysis Using Personnel Security Questionnaire (Health and Mortality Study) (Duplicates DOE–88, ''Epidemiologic and Other Health Studies, Surveys and Surveillances'').
- DOE–37
  System name: Equal Employment Opportunity Complaint Files (Duplicates Equal Employment Opportunity Commission EEOC/GOVT–1).
- DOE–69
  System name: Residential Solar Water Heating Workshops Pilot Program Records (Duplicates DOE–74, ''Bonneville Power Administration Conservation Program'').
- DOE–70
  System name: Electricity Use and Conservation Analysis Records (Duplicates DOE–74, ''Bonneville Power Administration Conservation Program'').

III. Not Retrieved by Name or Personal Identifier

- DOE–20
  System name: Imprest Fund Cashiers.

Issued in Washington, DC on November 3, 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 97–30218 Filed 11–17–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1417; 1835]

Central Nebraska Public Power and Irrigation District; Nebraska Public Power District; Notice of Informal Settlement Conference

November 12, 1997.

An informal settlement conference will be convened on Monday, November

24, 1997, at 8:30 a.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The purpose of this off-the-record meeting is to explore the possible settlement of any contested issue. If necessary, the conference will continue to Tuesday, November 25, 1997. Any person appearing at the conference in a representative capacity must be authorized to negotiate and, to the extent authorized by law, settle matters addressed at the conference.

Any party, as defined by 18 CFR 385.102(c), is invited to send a representative to the conference. Any party wishing to make a presentation or needing additional information should contact Merrill F. Hathaway at (202) 208–0825, or John A. Schnagl at (202) 219–2661.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30184 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–167–009]

Columbia Gas Transmission Corporation; Notice of Compliance Filing

November 12, 1997.

Take notice that on November 6, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet with a proposed effective date of November 1, 1997:

Substitute Fourth Revised Sheet No. 456

Columbia states that the revised tariff sheet is being filed to comply with the Federal Energy Regulatory Commission's Letter Order issued October 27, 1997, in Docket No. RP97–167–008. The Order directed Columbia to file a revised tariff Sheet No. 456 to (1) incorporate by reference GISB standards 1.3.24, 1.3.25, 1.3.27, 1.3.31 and 2.3.31, and (2) to reflect Version 1.1 as the effective version for all GISB standards, with the exception of the Electronic Delivery Mechanism Standards (4.x.x) effective November 1, 1997 pursuant to Order 587–C. Columbia states that Substitute Fourth Revised Sheet No. 456 also reflects the inclusion of GISB standard 2.3.9 that was included on the pro forma tariff sheet filed April 30, 1997, but was inadvertently omitted from Columbia's September 29, 1997 filing.

Columbia states that copies of its filings have been mailed to all of its customers, affected State Regulatory Commissions, and all parties to this proceeding.

Any person desiring to protest this filing, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be made as provided in Section 154.210 of the Commission's Regulations. Protests will be consider by the Commission in determining the appropriate action to be taken, but such protests will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–30189 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–166–009]

Columbia Gulf Transmission Company; Notice of Compliance Filing

November 12, 1997.

Take notice that on November 6, 1997, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with the proposed effective date of November 1, 1997:

Fourth Revised Sheet No. 130
Substitute Sixth Revised Sheet No. 154
Substitute First Revised Sheet No. 286

Columbia Gulf states that the revised tariff sheets are being filed to comply with the Commission's Letter Order (Order) issued October 27, 1997, in Docket No. RP97–166–008. The Order directed Columbia Gulf to file revised Sheet Nos. 154 and 286, from its September 29, 1997, filing to include certain omitted items and to more fully comply with Order 587–C. Columbia Gulf states that Substitute Sixth Revised Sheet No. 154 reflects the pro forma language for tariff sections 6.2 (a) and (b) as approved in the June 11, 1997, order in these proceedings. Columbia Gulf further states that Substitute First Revised Sheet No. 286 incorporates GISB standards 2.3.31, and to reflect Version 1.1 as the November 1, 1997, effective version for all GISB standards, with the exception of the Electronic Delivery Mechanism Standards (4.x.x). Fourth Revised Sheet No. 130 has been revised to reflect the proper continued number sequencing from Fifth Revised Sheet No. 129.

Columbia Gulf states that copies of its filings have been mailed to all of its customers, affected State Regulatory commissions, and all parties to this proceeding.

Any person desiring to protest this filing, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be made as provided in Section 154.210 of the Commission's Regulations. Protests will be consider by the Commission in determining the appropriate action to be taken, but such protests will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30188 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–162–005]

Cove Point LNG Limited Partnership; Notice of Tariff Filing

November 12, 1997.

Take notice that on November 6, 1997, Cove Point LNG Limited Partnership (Cove Point) tendered for filing to become a part of Cove Point's FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to be effective November 1, 1997:

Substitute Second Revised Sheet No. 99
Substitute Second Revised Sheet No. 136

Cove Point states that these tariff sheets are being filed to comply with the Commission's Office of Pipeline Regulation's letter order of October 27, 1997, requiring: (1) GISB standards being incorporated by reference to reflect Version 1.1 of GISB's standards; and (2) Cove Point to incorporate GISB Standard 1.3.28 by reference or through verbatim incorporation of this standard into Cove Point's tariff, but not by both means.

Cove Point states that copies of the filing were served upon Cove Point's customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30185 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–000]

Equitrans, L.P.; Notice of Informal Settlement Conference

November 12, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on November 20, 1997 at 9:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Irene E. Szopo at (202) 208–1602 or Donald Williams at (202) 208–0743.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30191 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–178–007]

Kern River Gas Transmission Company; Notice of Compliance Filing

November 12, 1997.

Take notice that on November 6, 1997, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective as indicated:

Tariff Sheets To Be Effective June 1, 1997

Fourth Revised Sheet No. 127
Original Sheet No. 127B
2nd Substitute Original Sheet No. 136

Tariff Sheets To Be Effective August 1, 1997

First Revised Sheet No. 127B
Substitute First Revised Sheet No. 128
Substitute First Revised Sheet No. 139

Tariff Sheets To Be Effective November 1, 1997

Substitute Second Revised Sheet No. 128
Substitute Second Revised Sheet No. 130
Substitute Second Revised Sheet No. 139

Kern River states that the purpose of this filing is to comply with the Commission's GISB-related orders issued October 1, 1997 in Docket No. RP97–178–004 and October 22, 1997 in Docket No. RP97–178–006.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30190 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–49–000]

K N Wattenberg Transmission LLC; Notice of Site Visit

November 12, 1997.

On November 19, 1997, the Office of Pipeline Regulation (OPR) staff will conduct an inspection of the route proposed by K N Wattenberg Transmission Limited Liability Company (KNW) for its Front Runner Pipeline. The proposed route, crossing portions of Weld and Adams Counties, Colorado, will be inspected from a helicopter and/or an automobile. The aerial inspection will begin at Centennial Airport in south Denver, at 8:00 a.m. If weather conditions preclude an aerial inspection, a ground inspection will be conducted using an automobile originating at a location to be determined. Representatives of KNW will accompany the OPR staff.

All interested parties may attend, although those planning to attend must provide their own transportation.

For further information, please contact Paul McKee of the Commission's Office of External Affairs at 202–208–1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97–30234 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–67–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

November 12, 1997.

Take notice that on November 4, 1997, Koch Gateway Pipeline Company (Koch Gateway), 600 Travis Street, Houston, Texas 77251, filed in Docket No. CP98–67–000, a request, pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.216), for authorization to abandon by removal an inactive 1-inch delivery tap, under its blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Koch Gateway proposes to abandon by removal a 1-inch tap that formerly served the David Monteleone Duck Hunting Club on behalf of Louisiana Gas Services (LGS), a local distribution company, in St. Charles Parish, Louisiana. Koch Gateway states that the duck club has converted to electricity and no longer requires natural gas service. Koch Gateway describes the tap as a farm tap, originally certificated in FPC Docket No. G–232, and located on Koch Gateway's transmission pipeline designated as Index 276. Koch Gateway has included in the filing a copy of a facsimile communication from LGS indicating that it has no objection to the proposed abandonment. Koch Gateway indicates that the Louisiana Public Service Commission has been notified of this filing.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30182 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–72–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

November 12, 1997.

Take notice that on November 5, 1997, NorAm Gas Transmission Company (NGT), 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP98–72–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.211) for authorization to construct and operate delivery taps and regulators, located in Arkansas County, Arkansas, under NGT's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to operate under Subpart G of Part 284 of the Commission's Regulations a 1-inch tap and first-cut regulator, previously constructed under Section 311 of the Natural Gas Policy Act and Subpart B, Part 284 of the Commission's Regulations. NGT declares these facilities, previously constructed in August, 1997, will provide gas to ARKLA, a division of NorAm Energy Corporation (ARKLA), on NGT's Line TM–10, located in Arkansas County, Arkansas. NGT states the tap was constructed at a cost of approximately $2,556 and ARKLA will reimburse NGT $1,750 of this cost. NGT submits the estimated volumes to be delivered through these facilities are 1,000 Dth annually and 100 Dth on a peak day.

In addition, NGT proposes to construct, own, and operate up to sixteen 1-inch delivery taps and first-cut regulators currently being negotiated, all to serve ARKLA, on NGT's Line TM–10, located in Arkansas County, Arkansas, at a cost of $2,556, with ARKLA reimbursing NGT $1,750 of this cost.

NGT states that for each of these proposed taps ARKLA will construct, at its own cost, and donate to NGT, either a 1-inch or 2-inch meter station, and NGT will construct and install the 1-inch tap and first-cut regulator. NGT asserts they will own and operate all of the facilities. NGT declares the estimated annual and peak day volumes for each tap ranges from 1,000 to 6,000 Dth and 50 to 200 Dth, respectively.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30183 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–164–005]

Texas-Ohio Pipeline, Inc.; Notice of Compliance Filing

November 12, 1997.

Take notice that November 6, 1997, Texas-Ohio Pipeline, Inc. (TOP), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 78, with a proposed effective date of November 1, 1997.

TOP states that this tariff sheet is being filed to comply with the Letter Order issued on October 27, 1997, by the Director of the Office of Pipeline Regulation (Director) in Docket No. RP97–164–004. In that Letter Order, the Director accepted tariffs sheets filed by TOP on October 2, 1997 in compliance with the Commission's June 30, 1997 Letter Order, subject to TOP refiling sheet No. 78 to reflect certain minor modifications. TOP states that the proposed substitute tariff sheet incorporates the modifications as directed in the October 27, 1997 Letter Order.

TOP further states that copies of this filing have been served on TOP's jurisdictional customers.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file wit the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–30186 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–163–007]

Westgas Interstate, Inc.; Notice of Compliance Filing

November 12, 1997.

Take notice that November 6, 1997, WestGas InterState, Inc. (WGI), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Tariff Sheet No. 29A and Substitute First Revised Sheet No. 92, with a proposed effective date of November 1, 1997.

WGI states that these tariff sheets are being filed to comply with the Letter Order issued on October 22, 1997, by the Director, Office of Pipeline Regulation, in Docket No. RP97–163–005. In that Letter Order, the Director accepted WGI's tariff sheets filed October 2, 1997, to comply with the Commission's September 22, 1997 ''Order on Compliance Filing,'' subject to WGI refiling tariff sheets to reflect certain minor modifcations. WGI states that the above tariff sheets incorporate the modifications as directed in the October 22, 1997 Letter Order.

WGI further states that copies of this filing have been served on WGI's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–30187 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5924–1]

Acid Rain Program: Draft Permit Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft permit modifications.

SUMMARY: The Environmental Protection Agency (EPA) is issuing for comment draft Phase I Acid Rain permit modifications including nitrogen oxides (NO_X) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the permit modifications are also being issued as a direct final action in the notice of permit modifications published elsewhere in today's **Federal Register**.

DATES: Comments on the draft permit modifications must be received by December 18, 1997, or the date of publication of a similar notice in a local newspaper.

ADDRESSES: Administrative Records. The administrative record for the permits, except information protected as confidential, may be viewed during normal operating hours at the following locations: for plants in Maryland, Pennsylvania, or West Virginia, EPA Region 3, 841 Chestnut Building, Philadelphia, PA, 19107; for plants in Florida, Georgia, Kentucky, and Mississippi, EPA Region 4, 100 Alabama Street, SW, Atlanta, GA, 30303.

Comments. Send comments, requests for public hearings, and requests to receive notices of future actions to: for plants in Maryland, Pennsylvania, or West Viriginia, EPA Region 3, Air, Radiation, and Toxics Division, Attn: Linda Miller (address above); for plants in Florida, Georgia, Kentucky, and Mississippi, EPA Region 4, Air, Pesticides and Toxics Management Division, Attn: Scott Davis (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the permit modification.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting a NO_X compliance plan.

FOR FURTHER INFORMATION CONTACT: For plants in Maryland, Pennsylvania, or West Viriginia, call Linda Miller, (215) 566–2068; for plants in Florida, Georgia, Kentucky, and Mississippi, call Scott Davis, (404) 562–9127.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft permit modifications and the permit modifications issued as a direct final action in the notice of permit modifications published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any permit modification, that permit modification in the notice of permit modifications will be withdrawn and public comment received on that permit modification based on this notice of draft permit modifications will be addressed in a subsequent notice of permit modification. Because the Agency will not institute a second comment period on this notice of draft permit modifications, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the permit modifications, see the information provided in the notice of permit modifications elsewhere in today's **Federal Register**.

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30238 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5923–9]

Acid Rain Program: Permit Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permit modifications.

SUMMARY: The Environmental Protection Agency (EPA) is issuing, as a direct final action, Phase I Acid Rain permit modifications including nitrogen oxides (NO_X) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: The permit modifications issued in this direct final action will be final on December 29, 1997 or 40 days after publication of a similar notice in a local publication, whichever is later, unless significant, adverse comments are

received by December 18, 1997 or 30 days after publication of a similar notice in a local publication, whichever is later. If significant, adverse comments are timely received on any permit modification in this direct final action, that permit modification will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: Administrative Records. The administrative record for the permits, except information protected as confidential, may be viewed during normal operating hours at the following locations: for plants in Maryland, Pennsylvania, or West Virginia, EPA Region 3, 841 Chestnut Building, Philadelphia, PA, 19107; for plants in Florida, Georgia, Kentucky, or Mississippi, EPA Region 4, 100 Alabama Street, SW, Atlanta, GA, 30303.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions to: for plants in Maryland, Pennsylvania, or West Virginia, EPA Region 3, Air, Radiation, and Toxics Division, Attn: Linda Miller (address above); for plants in Florida, Georgia, Kentucky, or Mississippi, EPA Region 4, Air, Pesticides and Toxics Management Division, Attn: Scott Davis (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the permit or the permit modification.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting a NO_X compliance plan.

FOR FURTHER INFORMATION CONTACT: For plants in Maryland, Pennsylvania, or West Virginia, call Linda Miller, (215) 566–2068; for plants in Florida, Georgia, Kentucky, or Mississippi, call Scott Davis, (404) 562–9127.

SUPPLEMENTARY INFORMATION: Title IV of the Clean Air Act directs EPA to establish a program to reduce the adverse effects of acidic deposition by promulgating rules and issuing permits to emission sources subject to the program. In today's action, EPA is approving permit modifications that include approval of emissions averaging plans for NO_X. Under each year in each plan, the actual Btu-weighted annual average emission rate for the units in the plan shall be less than or equal to the Btu-weighted annual average rate for the same units had they each been operated, during the same period of time, in compliance with the applicable emission limitation in 40 CFR 76.5. For each unit in the plan, each plan also includes emission limits and/or annual heat input limits, with which the units must comply if the requirement concerning the Btu-weighted average emission rate for the units as a group is not met. The following plans are being approved:

R P Smith units 9 and 11 in Maryland, Armstrong units 1 and 2, and Mitchell unit 33 in Pennsylvania, and Albright units 1, 2, and 3, Fort Martin unit 1, Harrison units 1, 2, and 3, and Pleasants units 1 and 2 in West Virginia will each comply with three identical NO_X averaging plans, one for each year, 1997–1999. The designated representative is Donald R. Feenstra.

Bowen units 1BLR, 2BLR, 3BLR, and 4BLR, Hammond units 1, 2, 3, and 4, Jack McDonough units MB1 and MB2, Wansley units 1 and 2, Yates units Y1BR, Y2BR, Y3BR, Y4BR, Y5BR, Y6BR, and Y7BR, Arkwright units 1, 2, 3, and 4, Harllee Branch unit 2, Mitchell unit 3, Scherer unit 3, Kraft units 1, 2, and 3, and McIntosh unit 1 in Georgia will each comply with a NO_X averaging plan for 1997–1999. The designated representative is R. H. Haubein, Jr.

Crist units 4, 5, 6, and 7, and Scholz units 1 and 2 in Florida, and Jack Watson units 4 and 5 and Victor J. Daniel units 1 and 2 in Mississippi will each comply with a NO_X averaging plan for 1997–1999. The designated representative is Robert G. Moore.

E W Brown units 1, 2, and 3, Ghent unit 1, and Green River unit 5 in Kentucky will each comply with three identical NO_X averaging plans, one for each year, 1997–1999. The designated representative is Wayne T. Lucas.

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division. Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30239 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5922–9]

Acid Rain Program: Notice of Draft Phase II Acid Rain Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft Phase II acid rain permits.

SUMMARY: The U.S. Environmental Protection Agency is issuing draft Phase II acid rain permits to 3 affected sources in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the draft permits are also being issued as a direct final action in the notice of final acid rain permits published elsewhere in today's **Federal Register**.

DATES: Comments on the draft permits proposed by this action must be received on or before December 18, 1997 or 30 days after publication of a similar notice in a local newspaper.

ADDRESSES: *Administrative Records.* The administrative record for each draft permit, except information protected as confidential, may be viewed during normal operating hours at the following locations:

For Deseret Bonanza in Utah: U.S. EPA Region 8, Air Program, 999 18th St., Suite 500, Denver, CO 80202–2466;

For Navajo in Arizona and Four Corners in New Mexico: U.S. EPA Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions concerning a draft permit to:

For Deseret Bonanza in Utah: Richard Long, Air Program Director, Office of Pollution Prevention, State and Tribal Assistance, (8P2–A) (address above);

For Navajo in Arizona and Four Corners in New Mexico: David Howekamp, Director, Air and Toxics Division, (A–5–2) (address above).

Submit all comments in duplicate and identify the draft permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units covered by the draft permit. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 and issues not relevant to the draft permit.

Hearings. To request a public hearing on a draft permit, submit a written request stating the issues proposed to be raised in the hearing and explaining how a hearing will contribute to the decision-making process. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting the draft permit.

FOR FURTHER INFORMATION CONTACT: For Deseret Bonanza in Utah: Mike Owens,

U.S. EPA Region 8, (303) 312–6440; for Navajo in Arizona and Four Corners in New Mexico: Robert Baker, U.S. EPA Region 9, (415) 744–1258.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft permits and the permits issued as a direct final action in the notice of final acid rain permits published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any draft permit, that permit in the notice of final acid rain permits will be withdrawn. Because the Agency will not institute a second comment period on this notice of draft acid rain permits, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the permits, see the information provided in the notice of final acid rain permits elsewhere in today's **Federal Register**.

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30246 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5923–1]

Acid Rain Program: Notice of Direct Final Phase II Acid Rain Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final acid rain permits.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, Phase II acid rain permits to 3 affected sources in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the permits are being issued as a direct final action.

DATES: Each of the permits issued in this direct final action will be final on December 29, 1997 or 40 days after publication of a similar notice in a local newspaper, whichever is later, unless significant, adverse comments are received by December 18, 1997 or 30 days after publication of a similar document in a local newspaper, whichever is later. If significant, adverse comments are timely received on any permit in this direct final action, that permit will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Records.* The administrative record for each draft permit, except information protected as confidential, may be viewed during normal operating hours at the following locations:

For Deseret Bonanza in Utah: U.S. EPA Region 8, Air Program, 999 18th St., Suite 500, Denver, CO 80202–2466;

For Navajo in Arizona and Four Corners in New Mexico: U.S. EPA Region 9, 75 Hawthorne St., San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: For Deseret Bonanza in Utah: Mike Owens, U.S. EPA Region 8, (303) 312–6440; for Navajo in Arizona and Four Corners in New Mexico: Robert Baker, U.S. EPA Region 9, (415) 744–1258.

SUPPLEMENTARY INFORMATION: Public comments received on any permit in this direct final action on which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of an acid rain permit based on the relevant draft permit in the notice of draft acid rain permits that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

U.S. EPA is issuing, under 40 CFR 72.74, Phase II acid rain permits that specify the following annual sulfur dioxide emission allowances and compliance plans for the following affected sources:

Region 8

Bonanza in Utah: 10,709 allowances for unit 1–1. The designated representative is F. Elgin Ward.

Region 9

Navajo in Arizona: 26,009 allowances for unit 1, 24,062 allowances for unit 2, and 24,840 allowances for unit 3. The designated representative is Nils I. Larson.

Four Corners in New Mexico: 3,565 allowances for unit 1, 3,561 allowances for unit 2, 4,443 allowances for unit 3, 12,406 allowances for unit 4, and 13,170 allowances for unit 5. The designated representative is John R. Denman.

The number of allowances allocated to these units by U.S. EPA may change in a 1998 revision to 40 CFR part 73 Tables 2, 3, and 4. Such a change will not necessitate a revision to the unit SO_2 allowance allocations identified in the permits for these affected sources (*See* 40 CFR 72.84).

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30247 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5923–4]

Acid Rain Program: Notice of a Direct Final Opt-in Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a direct final opt-in permit.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, an opt-in permit to Dairyland Power Cooperative's Alma facility in Wisconsin in accordance with the Acid Rain Permits and Opt-in regulations (40 CFR parts 72 and 74, respectively). Because the Agency does not anticipate receiving adverse comments, the permit is being issued as a direct final action.

DATES: The permit issued in this direct final action will be final on December 29, 1997 or 40 days after publication of a similar notice in a local newspaper, whichever is later, unless significant, adverse comments are received by December 18, 1997 or 30 days after publication of a similar document in a local newspaper, whichever is later. If significant, adverse comments are timely received on the permit in this direct final action, the permit will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Record.* The administrative record for the draft permit, except information protected as confidential, may be viewed during normal operating hours at the following location: U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, U.S. EPA Region 5, (312) 886–2703.

SUPPLEMENTARY INFORMATION: Public comments received on the permit in this direct final action in which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of an opt-in permit based on the draft opt-in permit in the notice of a draft opt-in permit that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

The Opt-in Program, as part of the Acid Rain Program, is designed to allow

certain non-utility units that are otherwise not obligated to participate in the Acid Rain Program (''unaffected'' units) to voluntarily elect to become affected and subject to the requirements of the Acid Rain Program. As such, opt-in units must hold allowances to account for sulfur dioxide emissions, monitor emissions in the same way that other affected sources do, and apply for and obtain an opt-in permit. The U.S. Environmental Protection Agency is issuing an opt-in permit for the Alma facility in accordance with the Acid Rain Permits and Opt-in regulations (40 CFR parts 72 and 74, respectively). The opt-in permit for Alma specifies the following allowances to be allocated annually by EPA to each boiler (unit) at Alma: 537 for each year 1998 through 2002 to unit B1; 518 for each year 1998 through 2002 to unit B2; 455 for each year 1998 through 2002 to unit B3.

This opt-in permit does not affect the responsibility of units at Alma to meet all other existing local, state, and federal requirements related to sulfur dioxide. The designated representative is John P. Leifer.

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30249 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5923–5]

Acid Rain Program: Notice of a Draft Opt-in Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a draft opt-in permit.

SUMMARY: The U.S. Environmental Protection Agency is issuing a draft opt-in permit to Dairyland Power Cooperative's Alma facility in Wisconsin in accordance with the Acid Rain Permits and Opt-in regulations (40 CFR parts 72 and 74, respectively). Because the Agency does not anticipate receiving adverse comments, the draft permit is also being issued as a direct final action in the notice of a final opt-in permit published elsewhere in today's **Federal Register**.

DATES: Comments on the draft permit proposed by this action must be received on or before December 18, 1997 or 30 days after publication of a similar document in a local newspaper.

ADDRESSES: *Administrative Record.* The administrative record for the draft permit, except information protected as confidential, may be viewed during normal operating hours at the following location: U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions concerning a draft permit to: David Kee, Director, Air and Radiation Division (AT18J) (address above).

Submit all comments in duplicate and identify the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units covered by the draft permit. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 and issues not relevant to the draft permit.

Hearings. To request a public hearing on the draft permit, submit a written request stating the issues proposed to be raised in the hearing and explaining how a hearing will contribute to the decision-making process. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting the draft permit.

FOR FURTHER INFORMATION CONTACT: Beth Valenziano, U.S. EPA Region 5, (312) 886–2703.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to the draft permit and the permit issued as a direct final action in the notice of a final opt-in permit published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on the draft permit, that permit in the notice of a final opt-in permit will be withdrawn. Because the Agency will not institute a second comment period on this notice of a draft opt-in permit, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the permit, see the information provided in the notice of a final opt-in permit elsewhere in today's **Federal Register**.

Dated: November 12, 1997.

Janice K. Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–30250 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5922–6]

Smith's Farm Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99–499, 42 U.S.C. 9601 *et. seq.*, the Environmental Protection Agency (EPA) has agreed to settle claims for response costs as the Smith's Farm Site, Sheperdsville, Bullitt County, Kentucky, with the following twenty (20) parties:

(1.) AC&S, (2.), American Air Filter Company, Inc., (3.), Beazer East , Inc., (4.) Chevron U.S.A., Inc., (5.) Conco, Inc., (6.) Double Envelope Corporation, (7.) Dover Resources, Inc. (C. Lee Cook Division), (8.) Dow Chemical Company, (9.), E.I. du Pont de Nemours & Company, (10.) Elf Atochem North America, Inc. (M & T Chemicals, Inc., and Pennwalt, Inc.), (11.) Flexible Materials, (12.) Grow Group, Inc., (13.) Louisville Gas and Electric Company, (14.) Louisville/Jefferson County Metropolitan Sewer District, (15.), Monsanto Company, (16.) Morton International, Inc., (17.) Philip Morris, (18.) Specialty Systems of Ohio Construction, Inc., (19.) Tuscarora, Inc. (formerly Tuscarora Plastics, Inc.), (20.) Whayne Supply Company.

EPA will consider public comments on the proposed settlements for thirty (30) days. EPA may withdraw from or modify the proposed settlements should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. *Copies of the settlements are available from:* Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, Program Services Branch, Cost Recovery Section, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104, 404–562–8887.

Written comments must be submitted to Mr. Ray Strickland at the above address within thirty (30) days from the date of publication.

Dated: October 30, 1997.

Jewell A. Harper,

Acting Director, Waste Management Division.

[FR Doc. 97–30248 Filed 11–17–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 12, 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, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 20, 1998. 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 Control No.: 3060–0444.

Title: Station Construction/ Operational Status Inquiry.

Form No.: FCC 800–A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; businesses or other for profit; small businesses or organizations.

Number of Respondents: 11,500.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 11,500 hours.

Needs and Uses: The Commission requests this collection of information as a method for licensees to provide information to verify a station has been placed into operation and to notify the Commission of the actual number of mobile units placed in operation after license grant. From this data, the Commission is able to determine full capacity channel loading, making frequencies available for assignment and modifying or cancelling licenses. The data collected ensures licensees are not authorized for more mobiles than they are actually using. The revision is being submitted to clarify the types of uses of the form and frequency of use. We believe that this use is already cleared through OMB but in response to recent public comment, we are submitting this clarification. Except under limited circumstances, certain Part 90 licenses may not be transferred or assigned unless the underlying facility is constructed. This form will also be used to determine compliance with the Commission's construction rules when this information is not available from either a previous submission, manual records, or currently in the licensing database.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–30193 Filed 11–17–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1190–DR]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–1190–DR), dated November 1, 1997, and related determinations.

EFFECTIVE DATE: November 1, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 1, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Nebraska, resulting from severe snow storms, rain, and strong winds on October 24–26, 1997, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren M. Pugh, Jr. of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nebraska to have been affected adversely by this declared major disaster:

Reimbursement for debris removal and emergency protective measures under the Public Assistance program will be provided for the counties of Adams, Banner, Buffalo, Butler, Cass, Cheyenne, Clay, Custer, Dawson, Douglas, Fillmore, Franklin, Furnas, Frontier, Gosper, Hall, Hamilton, Hitchcock, Harlan, Hayes, Kearney, Kimball, Lancaster, Lincoln, Nuckolls, Otoe, Phelps, Polk, Red Willow, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Thayer, Washington, Webster, and York.

All counties within the State of Nebraska are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 97–30236 Filed 11–17–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Meetings; Radiological Emergency Preparedness (REP) Program Strategic Review

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of public meetings.

SUMMARY: FEMA announces the following public meetings:

Name: REP Program Strategic Review At-Large Stakeholder Meetings.

Dates: The public meetings will be held in San Francisco, California, on December 2, 1997; St. Louis, Missouri, on December 4, 1997; and Washington, DC on December 5, 1997. Any individuals or organizations interested in attending one of the public meetings or making oral presentations must so indicate by 5:00 PM, November 26, 1997.

Time of Meetings: 9:00 am–4:00 pm.

Locations: Post Theatre, Building 99, Presidio of San Francisco, California 94129; St. Louis University, Bush Memorial Center, St. Louis Room, 210 N. Grand, St. Louis, Missouri 63101; and the University of the District of Columbia, Main University Auditorium, 4200 Connecticut Avenue, NW, Washington , DC.

Proposed Agenda: The public meetings will begin at 9:00 am with a presentation by the Strategic Review Steering Committee (SRSC) on the background of the REP Program Strategic Review, including concept papers developed during the review. The meeting will then turn to attendees who have indicated that they want to make oral presentations, and the SRSC will respond to any questions that may be asked. The meeting will adjourn after the attendees have completed their presentations and any interaction on the subject matter, but in any event, no later than 4 pm.

SUPPLEMENTARY INFORMATION: The REP Program Strategic Review was announced in the Federal Register on July 8, 1996. Comments from 60 entities were received and reviewed by the SRSC. Concept papers developed by the SRSC were reviewed by Government Stakeholders in September and will be reviewed by Federal Stakeholders in November. These documents are available in the U.S. Nuclear Regulatory Commission's Public Docket Rooms and the commercial nuclear power plants utilities' Public Docket Rooms and on FEMA's website (www.fema.gov). All three meetings will be open to the public.

Individuals or representatives of organizations who plan to attend the meeting or make oral presentations should call 1–800–814–0338 on or before 5:00 PM, November 26, 1997. Please leave your name and telephone number, which meeting you wish to attend, and whether you will make a presentation. We ask that you limit your presentations to five minutes.

Written comments are also invited and may be sent to Nancy H. Goldstein, Federal Emergency Management Agency, 500 C Street, SW; room 514, Washington, DC 20472.

Dated: November 12, 1997.

Kay C. Goss,

Associate Director for Preparedness, Training and Exercises.

[FR Doc. 97–30235 Filed 11–17–97; 8:45 am]

BILLING CODE 6718–06–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

Federal Register *Citation of Previous Announcement:* 62 FR 60510, November 10, 1997.

Previously Announced Time and Date of the Meeting: 10:00 a.m. Wednesday, November 12, 1997.

Change in the Meeting: The following topic was added to the open portion of the meeting:

- Discussion of Federal Home Loan Banks Salary Caps for 1998

The Board determined that agency business required its consideration of this matter on less than seven days notice to the public and that no earlier notice of this change in the subject matter of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–30385 Filed 11–14–97; 1:24 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-29641) published on pages 60511 and 60512 of the issue for Monday, November 10, 1997.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Angeline R. Mixner, Worthington, Minnesota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Angeline R. Mixner, Worthington, Minnesota; to acquire additional voting shares of Madison Agency, Inc., Sioux Falls, South Dakota, and thereby indirectly acquire First Security Bank - Sanborn, Sanborn, New Mexico.

Comments on this application must be received by November 26, 1997.

Board of Governors of the Federal Reserve System, November 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–30156 Filed 11–17–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 10, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Morgantown Bancshares, Inc., Morgantown, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank of Morgantown, Morgantown, West Virginia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Rockhold BanCorp., Kirksville, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Kirksville, Kirksville, Missouri.

2. Unity Bancshares, L.L.C., St. Louis, Missouri; to become a bank holding company by acquiring 54.3 percent of the voting shares of St. Johns Bancshares, Inc., St. Louis, Missouri, and thereby indirectly acquire St. Johns Bank and Trust Company, St. Louis, Missouri.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Texas Financial Bancorporation, Inc., Minneapolis, Minnesota; to acquire 86.49 percent of the voting shares of Community Bank of Arizona, Wickenburg, Arizona.

2. Texas Financial Bancorporation, Inc., Minneapolis, Minnesota; to acquire 100 percent of Conrad Company, Minneapolis, Minnesota, which owns 98.84 percent of the voting shares of The Bank of Santa Fe, Santa Fe, New Mexico, and 100 percent of the voting shares of Farmers State Bank of Montana, Conrad, Montana, and 36.60 percent of the voting shares of National Mercantile Bancorp, Los Angeles, California, which owns 100 percent of the voting shares of Mercantile National Bank, Los Angeles, California.

D. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Urban Bank, Makati City, Philippines; to become a bank holding company by acquiring 100 percent of the voting shares of Redwood Bancorp, San Francisco, California, and thereby indirectly acquire Redwood Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, November 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–30157 Filed 11–17–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 2, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Citizens Bancshares Corporation, Atlanta, Georgia; to acquire FSB Mortgage Services, Inc., Decatur, Georgia, and thereby engage in providing residential mortgage lending and mortgage brokering services, pursuant to §§ 225.28(b)(1) & (2) of the Board's Regulation Y. This activity will be conducted throughout the state of Georgia.

Board of Governors of the Federal Reserve System, November 12, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–30155 Filed 11–17–97; 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: 11:00 a.m., Monday, November 24, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding the schematic design and costs of a Federal Reserve Bank's new building project.
2. Federal Reserve Bank and Branch director appointments.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: November 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–30429 Filed 11–14–97; 3:40 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade

Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10–13–97 AND 10–24–97

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Edward P. Fitts, Jr., Temple-Inland, Inc., Temple-Inland Food Service Corporation	97–3532	10/14/97
The Estee Lauder Companies, Inc., Sassaby, Inc., Sassaby, Inc	97–3678	10/14/97
Philip Services Corporation, Southern Foundry Supply, Inc., Southern Foundry Supply, Inc	97–3469	10/15/97
Philip Services Corporation, Noah Liff, Steiner-Liff Iron & Metal Company; McKinley Iron, Inc	97–3475	10/15/97
Philip Services Corporation, Robert H. Wilson, Shredders, Inc	97–3476	10/15/97
Philip Services Corporation (a Canadian company), Albert A. Baisley, Southern Alloys and Metals Corporation	97–3477	10/15/97
PhyCor, West Florida Medical Center Clinic, P.A., West Florida Medical Center Clinic, P.A	97–3595	10/15/97
Laidlaw, Inc., Spectrum Healthcare Services, Inc., Spectrum Emergency Care, Inc	97–3598	10/15/97
Mr. Sumner M. Redstone, Raymond B. Bottom, Jr., Centennial Communications, Inc	97–3613	10/15/97
ALZA Corporation, Hoechst AG (a German company), Hoechst Marion Russel, Inc	97–3621	10/15/97
Pioneer Companies, Inc., Imperial Chemical Industries PLC, a British company, ICI Americas, Inc., ICI Canada, Inc	97–3657	10/15/97
AAR Corp., William R. Higgins, ATR International, Inc	97–3667	10/15/97
Samuel H. Howard, Baptist Hospital, Inc., Health Net TNCARE HMO, Inc. & Health Net Management	97–3671	10/15/97
Illinois Tool Works Inc., Jack E. and Margaret C. Caveney, Panduit Corp	97–3674	10/15/97
Paul G. Desmarais, Partners Limited, London Insurance Group Inc	97–3677	10/15/97
Philips Electronics N.V., Mr. T. Russell Shields, Shields Enterprises, Inc	97–3679	10/15/97
Mr. T. Russell Shields, Philips Electronics N.V., Navigation Technologies Corporation	97–3680	10/15/97
Bandag, Inc., James R. Pickel, Jr., Universal Tire, Inc	97–3683	10/15/97
Great Lakes Chemical Corporation, Great Lakes Chemical Corporation, Octel Associates (an English Partnership)	97–3687	10/15/97
Viad Corp, Game Financial Corporation, Game Financial Corporation	97–3703	10/15/97
General Electric Company, Dale Larson, LTC, Inc	98–0011	10/15/97
Jeffrey J. Prosser, Atlantic Tele-Network, Inc., Emerging Communications, Inc	98–0013	10/15/97
Booth Creek Partners Limited II, LLP, Loon Mountain Recreation Corporation, Loon Mountain Recreation Corporation	98–0018	10/15/97
AMF Bowling, Inc., C. Dwight Mitchum, Jr., Mitchum Interest & Holdings, Inc	98–0023	10/15/97
Anderson News Corporation, ARAMARK Corporation, ARAMARK Magazine & Book Services, Inc	98–0028	10/15/97
General Electric Company, The Greenbrier Companies, Greenbrier Capital Corporation	98–0033	10/15/97
BASF AG, Olin Corporation, Olin Corporation	98–0037	10/15/97
Triarc Companies, Inc., Cable Car Beverage Corporation, Cable Car Beverage Corporation	98–0044	10/15/97
Western Resources Inc., Centennial Security Holdings, Inc., Centennial Security Holdings, Inc	98–0054	10/15/97
Fremont Partners, LP, Kinetic Concepts, Inc., Kinetic Concepts, Inc	98–0056	10/15/97
The Carpenters Pension Trust for Southern California, Kinetic Concepts, Inc., Kinetic Concepts, Inc	98–0057	10/15/97
Siebe plc, Eaton Corporation, Eaton Corporation	97–3659	10/16/97
TA Advent VII, LP, Eight In One Pet Products, Inc., Eight In One Pet Products, Inc	98–0053	10/16/97
Discovery Communications, Inc., Lowell W. Paxson, Paxson Communications Corporation	97–3686	10/17/97
The Seagram Company Ltd (a Canadian company), Sumner M. Redstone, USA Networks; Sci-Fi Channel Europe, LLC	97–3699	10/17/97
Standard Management Corporation, Savers Life Insurance Company, Savers Life Insurance Company	97–3536	10/18/97
Rochling Industrie Verwaltung GmbH, Kolbenschmidt AG, Kolbenschmidt AG	97–3516	10/20/97
Travelers Group, Inc., Morgan Stanley, Dean Witter, Discover & Co., Van Kampen American Capital, Inc	97–3554	10/20/97
Credit Suisse Group, Winterthur Swiss Insurance Group, Winterthur Swiss Insurance Group	97–3658	10/20/97
United Payors & United Providers, Inc., Principal Mutual Life Insurance Company, UP & UP, Inc. (f/k/a America's Health Plan)	97–3673	10/20/97
General Electric Company, Cameron Truesdell, LTC, Inc	98–0016	10/20/97
Promus Hotel Corporation, Doubletree Corporation, Doubletree Corporation	98–0039	10/20/97
Doubletree Corporation, Promus Hotel Corporation, Promus Hotel Corporation	98–0040	10/20/97
Suiza Foods Corporation, The Spencer Companies Incorporated, The Midsouth Ince Company	98–0045	10/20/97
William M. Lewis, Staffing Resources, Inc., Staffing Resources, Inc	98–0046	10/20/97
Staffing Resources, Inc., William M. Lewis, Career Personnel Services, Inc.; Career Blazers Learnin	98–0047	10/20/97
Halter Marine Group, Inc., Wallace K. Fisk, Jr., AmClyde Engineered Products, Inc	98–0067	10/20/97
Jupiter Partners LP, George W. Perry, West Ark Garment Manufacturing Inc., West Ark Garment	98–0070	10/20/97
I.G. Gesign, Inc., William E. Ott, Brookhurst, Inc	98–0077	10/20/97
Saratoga Partners III, L.P., Koppers Industries, Inc., Koppers Industries, Inc	98–0080	10/20/97
I.G. Design, Inc., I.G. Design, Inc., I.C. Isaacs & Company, L.P	98–0082	10/20/97
Carlisle Companies Incorporated, Tilden Corporation, Tilden Corporation	98–0091	10/20/97
Robert M. McClory, Trustee for R.M. McClory Jr. Trust, U.S. Office Products Company, U.S. Office Products Company	98–0092	10/20/97
U.S. Office Products Company, Robert M. McClory, Trustee for R.M. McClory, Jr. Trust, Compel Corp	98–0093	10/20/97
U.S. Office Products Company, Daniel Lee Davis Trustee for the Daniel Lee Davis Trus, Compel Corp	98–0094	10/20/97
Triumph Group, Inc., Stolper-Fabralloy Company, LLC, Stolper-Fabralloy Company, LLC	98–0096	10/20/97
Building Materials Holding Corporation, Lone Star Plywood & Door Corp., Lone Star Plywood & Door Corp	98–0097	10/20/97
Thiokol Corporation, Carlyle-Blade Acquisition Partners, LP, Howmet International Inc	98–0105	10/20/97
The B.F. Goodrich Company, Rohr, Inc., Rohr, Inc	98–0106	10/20/97
Superfos a/s (a Danish company), J.B. Coxwell Contracting, Inc., J.B. Coxwell Contracting, Inc	98–0108	10/20/97
MicroAge, Inc., Microretailing, Inc., Microretailing, Inc	98–0114	10/20/97
Insignia Financial Group, Inc., Apollo Real Estate Investment Fund II, L.P., First Winthrop Corporation	98–0117	10/20/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10–13–97 AND 10–24–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
U.S. Products Company, Jack and Frances Meehan, Aztec International Inc	98–0130	10/20/97
Jack and Frances Meehan, U.S. Office Products Company, U.S. Office Products Company	98–0131	10/20/97
Sinclair Broadcast Group, Inc., Edmund J. Muniz, Phase II Broadcasting, Inc	97–3228	10/21/97
LCI International, Inc., USLD Communications Corp., USLD Communications Corp	98–0066	10/21/97
UPM-Kymmene Oy, Fletcher Challenge Limited, Blandin Paper Company	98–0068	10/21/97
Evergreen Media Corporation, Katz Media Group, Inc., Katz Media Group, Inc	97–2910	10/22/97
Tyler Capital Fund, L.P., American Pad & Paper Company, American Pad & Paper Company	98–0024	10/22/97
REMEC, Inc., Q-bit Corporation, Q-bit Corporation	98–0076	10/22/97
Cincinnati Bell Inc., Maritz Inc., Maritz Inc	98–0111	10/22/97
American Oncology Resources, Inc., Florida Community Cancer Centers, Florida Community Cancer Centers	98–0126	10/22/97
Jonathan O. Lee, Fesil ASA, Fesil ASA	98–0127	10/22/97
United States Filter Corporation, Memtec Limited, Memtec Limited	97–3589	10/23/97
Big Flower Press Holdings, Inc., Columbine BIAS, Ltd., Columbine JDS Systems, Inc	97–3640	10/24/97
Morrison Knudsen Corporation, Dennis R. Washington, Montana Resources, Inc	97–3689	10/24/97
Mark Torrance, Getty Investments L.L.C., Getty Images	97–3691	10/24/97
Getty Investments L.L.C., Mark Torrance, PhotoDisc, Inc	97–3692	10/24/97
SmithKline Beecham PLC, Aradigm Corporation, Aradigm Corporation	98–0010	10/24/97
Republic Industries, Inc., Wm. Fletcher Belcher, Jim Quinlan Chevrolet, Inc	98–0020	10/24/97
Republic Industries, Inc., James G. Quinlan, Quinlan Motors, Inc	98–0021	10/24/97
Glenayre Technologies, Inc., Wireless Access, Inc., Wireless Access, Inc	98–0048	10/24/97
American Financial Group, Inc., General Accident p.l.c. (a Scottish corporation), General Accident Life Assurance of Puerto Rico	98–0052	10/24/97
International Paper Company, Taussig's Graphic Supply, Inc., Taussig's Graphic Supply, Inc	98–0059	10/24/97
PP&L Resources, Inc., Marilyn Ware Lewis, Penn Fuel Gas, Inc	98–0071	10/24/97
TA/Advent VIII, LP, Frank Deverse, International Microcircuits, Inc	98–0088	10/24/97
Jewish Hospital Healthcare, Inc., Humana Inc., Lexington Hospital and Eagle Creek Medical Plaza	98–0089	10/24/97
Apollo Investment Fund III, L.P., Apollo LCA Acquisition Corporation, Apollo LCA Acquisition Corporation	98–0103	10/24/97
CMT Associates, L.P., Patricia E. Rodeheaver, Custom Design Telephone Systems, Inc	98–0112	10/24/97
FS Equity Partners III, L.P., New York Times Company (The), New York Times Company (The)	98–0113	10/24/97
Indiana Farm Bureau, Inc., United Homes Life Ins. Co., United Homes Life Ins. Co	98–0116	10/24/97
BW Provisions, Inc., Vowles, Inc., Vowles, Inc	98–0118	10/24/97
General Motors Corporation, General Electric Company, GE Capital Asset Management Corporation and/or Newco	98–0121	10/24/97
Hilton Hotels Corporation, Hilton Hotels Corporation, Bally's Olympia Limited Partnership	98–0138	10/24/97
AMF Bowling, Inc., Family Gold Centers, Inc., Lake Grove Family Grove Centers, Inc	98–0144	10/24/97
M. Francois Pinault, Taylor Electric Supply, Inc., Taylor Electric Supply, Inc	98–0146	10/24/97
Thomas H. Lee Equity Fund III, LP, The South African Breweries Limited (a S. Africa Co.), Vistar, Inc	98–0153	10/24/97
The South African Breweries Limited (a S. Africa Co.), Thomas H. Lee Equity Fund, III, LP, Safelite Glass Corp	98–0154	10/24/97
Bandag, Incorporated, Kim Lorenz, Sound Tire, Inc	98–0155	10/24/97
Reed International P.L.C., Anasazi, Inc., Anasazi, Inc	98–0156	10/24/97
Elsevier, NV, Anasazi, Inc., Anasazi, Inc	98–0157	10/24/97
The Chase Manhattan Corporation, Apollo LCA Acquisition Corporation, Apollo LCA Acquisition Corporation	98–0159	10/24/97
Bandag, Incorporated, John Winkes, Sound Tire, Inc	98–0163	10/24/97
Eastern Environmental Services, Inc., Ambrose Hamm, Hamms's Sanitation, Inc.; H.S.S	98–0175	10/24/97
Eos Partners, L.P., Allen E. Steiner, Interstate Consolidation, Inc./Interstate Consolidation	98–0180	10/24/97
Eos Partners, L.P., Gary I. Goldfein, Interstate Consolidation, Inc./Interstate Consolidation	98–0181	10/24/97
Warburg, Pincus Capital, L.P., Transkaryotic Therapies, Inc., Transkaryotic Therapies, Inc	98–0185	10/24/97
Richard B. Cohen, Merrill Lynch Capital Appreciation Partnership No. IX, Pathmark Stores, Inc. and Plainbridge, Inc	98–0188	10/24/97
DRAKA Holding, Mr. William H. Combs, III, Tamaqua Cable Products Corp	98–0189	10/24/97
CGW Southeast Partners III, L.P., J. Russell Flowers, Central States Diversified, Inc	98–0195	10/24/97
Saratoga Partners III, L.P., KSCO Management, L.P., KSCO Acquisition Corporation	98–0198	10/24/97
Hancock Fabrics, Inc., Silas Creek Retail, Inc., (Debtor-in-Possession), Silas Creek Retail, Inc	98–0206	10/24/97
Jordan Industries, Inc., E.D. and C. Company, Inc., E.D. and C. Company, Inc	98–0213	10/24/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–30257 Filed 11–17–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers

or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10–01–97 AND 10–10–97

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
The Times Mirror Company, Stanley Henry, This Week Publications, Inc	97–3387	10/01/97
Ontario Teachers' Pension Board, Beneficial Corporation, Beneficial Corporation	97–3492	10/01/97
Parity, plc, Jonathan Gross, Telecommunications Technology Corporation/Personnel	97–3565	10/01/97
Zurich Insurance Company, Scudder, Steven & Clark, Inc., Scudder, Steven & Clark, Inc	97–3582	10/01/97
Wausau Paper Mills Company, Mosinee Paper Corporation, Mosinee Paper Corporation	97–3453	10/02/97
Fairview Hospital and Healthcare Services, Board of Social Ministry, Board of Social Ministry	97–3481	10/02/97
McLaren Health Care Corporation, Michigan Affiliated Healthcare System, Inc., Michigan Affiliated Healthcare System, Inc	97–3501	10/02/97
Mariner Health Group, Inc., Prism Health Group, Inc., Prism Health Group, Inc	97–3509	10/02/97
American International Group, Inc., Eli Lilly and Company, PCS Holding Corporation	97–3566	10/02/97
Leslie B. Otten, Kamori Kanko Co., Ltd., Steamboat Ski & Resort Corporation, Steamboat	97–3505	10/03/97
Masaycshi Son, GlobalCenter, Inc., GlobalCenter, Inc	97–3561	10/03/97
Lincolnshire Equity Fund, L.P., CGF Industries, Inc., CGF Industries, Inc	97–3572	10/03/97
Timothy J. Buchanan, Alternative Living Services, Inc., Alternative Living Services, Inc	97–3584	10/03/97
D. Ray Cook, Alternative Living Services, Inc., Alternative Living Services, Inc	97–3585	10/03/97
Steven L. and Susan C. Vick, Alternative Living Services, Inc., Alternative Living Services, Inc	97–3586	10/03/97
Pacificorp, GTE Corporation, GTE North Incorporated	97–3587	10/03/97
The Walt Disney Company, Cinergi Pictures Entertainment, Inc. Cinergi Pictures Entertainment, Inc	97–3596	10/03/97
Texas Utilities Company, Lufkin-Conroe Communications Co., Lufkin-Conroe Communications Co	97–3597	10/03/97
Walter Industries, Inc., Charles P. Gallagher, Applied Industrial Materials Corporation	97–3600	10/03/97
Transamerica Corporation, Whirlpool Corporation, Whirlpool Financial Corporation	97–3602	10/03/97
Champion International Corporation, Fort James Corporation, Diamond Occidental Forest Inc	97–3609	10/03/97
Adventist Health System/West, South Coast Medical Center, South Coast Medical Center	97–3612	10/03/97
Allied Waste Industries, Inc., N.R. Hamm Quarry, Inc., N.R. Hamm Quarry, Inc	97–3616	10/03/97
Allied Waste Industries, Inc., N.R. Hamm Contractor, Inc., N.R. Hamm Contractor, Inc	97–3617	10/03/97
Mr. Jean-Charles Naouri, Casino Guichard-Perrachon, Casino Guichard-Perrachon	97–3618	10/03/97
Ameritech Corporation, Republic Industries, Inc., Republic Security Companies Holding Co	97–3620	10/03/97
Big Flower Press Holdings, Inc., Reinhard Mohn, (Mr.), Gruner + Jahr Printing & Publishing Co	97–3622	10/03/97
Serge Godin, Teleglobe Inc., ISI Systems, Inc	97–3623	10/03/97
MoneyGram Payment Systems, Inc., Mid-America Bancorp, Mid-America Money Order Company	97–3625	10/03/97
Ameritech Corporation, Rollins, Inc., Rollins, Inc. (Rollins Protective Services Division)	97–3626	10/03/97
Allergan, Inc. Ligand Pharmaceuticals Incorporated, Ligand Pharmaceuticals Incorporated	97–3629	10/03/97
James Q. Crowe, Peter Kiewit Sons', Inc., Peter Kiewit Sons', Inc	97–3631	10/03/97
Komatsu Ltd., Robert G. Thomson, Furnival Machinery Company	97–3633	10/03/97
GCIH, Inc., Auburn Hoisery Mills, Inc., Auburn Hoisery Mills, Inc	97–3634	10/03/97
Grey Wolf, Inc., Justiss Oil Company, Inc., Justiss Oil Company, Inc	97–3635	10/03/97
Bandag, Inc., Joe W. Esco, Joe Esco Tire Co	97–3636	10/03/97
Hadi B. Lashkajani, Richard E. Becker, Indian River Foods, Inc	97–3638	10/03/97
A.M. Todd Group, Inc., Richard E. Becker, Indian River Foods, Inc	97–3639	10/03/97
EIS, Inc., Com-Kyl, Inc., Com-Kyl, Inc	97–3645	10/03/97
Blackstone Capital Partners II Merchant Banking Fund LP, Park Corporation, American Axle & Manufacturing of Michigan, Inc	97–3647	10/03/97
Metal Management, Inc., Betty Albert, Superior Forge, Inc	97–3648	10/03/97
Blackstone Offshore Capital Partners, II, L.P., Park Corporation, American Axle & Manufacturing of Michigan, Inc	97–3649	10/03/97
Adecco, S.A., Estate of David J. McGrath, Jr., TAD Companies, TAD Technical, L.P. & TAD Temporaries	97–3650	10/03/97
Bandag, Incorporated, J.W. Brewer Tire Co., Inc., J.W. Brewer Tire Co., Inc	97–3655	10/03/97
Becton Dickinson and Company, SoloPak Pharmaceuticals, Inc., SoloPak Pharmaceuticals, Inc	97–3656	10/03/97
New Rio, L.L.C. The Warnaco Group, Inc., The Warnaco Group, Inc	97–3662	10/03/97
The Warnaco Group, Inc., New Rio, L.L.C., Designer Holdings	97–3663	10/03/97
Einar Wilhelm Sissener, Cultor Corporation, Cultor Food Science, Inc	97–3685	10/03/97
Paradigm Geophysical Ltd., Tech-Sym Corporation, CogniSeis Development, Inc	97–3507	10/06/97
ALZA Corporation, IVAX Corporation, Baker Norton Pharmaceuticals, Inc	97–3570	10/06/97
D.S.I. Distributing, Inc., C. Michael Schroeder, Consumer Satellite Systems, Inc	97–3653	10/06/97
Misys plc, Medic Computer Systems, Inc., Medic Computer Systems, Inc	97–3462	10/07/97
Watson Pharmaceuticals, Inc., Monsanto Company, G.D. Searle & Co	97–3503	10/07/97
Airgas, Inc., James P. Lyons, JWS Technologies, Inc. & Ridgewood Avenue Company, L.P.	97–3547	10/07/97
SmarTalk TeleServices, Inc., ConQuest Telecommunications Services Corporation, ConQuest Telecommunications Services Corporation	97–3610	10/07/97
Metropolitan Life Insurance Company, Partners Limited, Security First Group, Inc	97–3646	10/07/97
Extendicare Inc., Arbor Health Care Company, Arbor Health Care Company	97–3697	10/07/97
Weyerhaeuser Company, Union Camp Corporation, Union Camp Corporation	97–3527	10/08/97
Union Bank of Switzerland, Xpedite Systems, Inc. Xpedite Systems, Inc	97–3641	10/08/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10–01–97 AND 10–10–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Fenway Partners Capital Fund, L.P., Xpedite Systems, Inc., Xpedite Systems, Inc.,	97–3642	10/08/97
The Virginia Insurance Reciprocal, Compensation Hospital Association Trust, Compensation Hospital Association Trust	97–3665	10/08/97
The Virginia Insurance Reciprocal, Kentucky Hospital Association Trust, Kentucky Hospital Association Trust	97–3668	10/08/97
Royal & Sun Alliance Insurance Group plc, Michael H. Polaski, Specialty Underwriters, Inc	97–3669	10/08/97
N.V. Verenigd Bezit VNU, Cordiant plc, The National Research Group, Inc	97–3676	10/08/97
Craig Sloan, David Manufacturing Co., David Manufacturing Co	97–3681	10/08/97
Fedeal Express Corporation, AMR Corporation, American Airlines, Inc	97–3682	10/08/97
Insight Communications Company, L.P., Cablevision Systems Corporation, A–R Cable Services, Inc	97–3643	10/09/97
Jonathan A. Nicholson, JP Foodservice, Inc., JP Foodservice, Inc	97–3456	10/10/97
Jacor Communications, Inc., John M. Shanahan, MultiVerse Networks, LLC; Syergy Broadcast Investment	97–3619	10/10/97
Siebe plc, Dow Chemical Company (The), Dow Chemical Company (The)	97–3624	10/10/97
Catholic Health Initiatives, Quorum Health Group, Inc., Midlands Medical Associates, L.P	97–3666	10/10/97
Craig O. McCaw, Caroline Hunt Trust Estate, Start Technologies Corporation	97–3670	10/10/97
Bandag, Incorporated, Ernest R. Duff, Southern Tire Mart, Inc	97–3672	10/10/97
TCW Special Placements Fund III, Kert Rabe, GHP Holdings, Inc	97–3684	10/10/97
Jefferson Health System, Magee Rehabilitation Hospital, Magee Rehabilitation Hospital	97–3690	10/10/97
Creative Computers, Inc., Elek-Tek, Inc. (Debtor-in-Possession), Elek-Tek, Inc. (Debtor-in-Possession)	97–3695	10/10/97
Ripplewood Partners, L.P., Don M. Wheeler, ACM Equipment Sales & Rentals and ICM Sales & Rentals	97–3701	10/10/97
Bridgestone Corporation, Rene Charvillat, Thompson Aerospace Corp. and Thompson Aerospace, Inc	97–3702	10/10/97
Premier Parks Inc., Kentucky Kingdom, Inc., Kentucky Kingdom, Inc	98–0001	10/10/97
IMCO Recycling, Inc., William and Louise Warshauer (Husband and Wife), Alchem Aluminum, Inc	98–0004	10/10/97
William and Louise Warshauer (Husband and Wife), IMCO Recycling Inc., IMCO Recycling Inc	98–0005	10/10/97
Bentley Pharmaceuticals, Inc., Schwarz Pharma AG (a German Entity), Schwarz Pharma, Inc	98–0006	10/10/97
Tabacalera, S.A. (a Spanish company), Havatampa, Inc., Havatampa, Inc	98–0007	10/10/97
Suez-Lyonnaise des Eaux, Kamilche Company, Simpson Paper Company	98–0009	10/10/97
Tyco International Ltd., Jason International, Inc., Jason International, Inc	98–0017	10/10/97
Richard L. Duchossois, Richard Greenthal, Sentex Systems, Inc	98–0025	10/10/97
Richard L. Duchossois, William Davis, Sentex Systems, Inc	98–0026	10/10/97
WinStar Communications, Inc., US One Communications, Corp. (Debtor In Possession), US One Communications Services Corp. & US One Communica	98–0027	10/10/97
Air Products and Chemical, Inc., Industrial Gas & Supply Co., Industrial Gas & Supply Co	98–0032	10/10/97
Richard Roizen (a French national), Code, Hennessy & Simmons II, L.P., Disguise Holding Corporation	98–0034	10/10/97
Aviation Sales Company, Thomas J. Bach, Kratz-Wilde Machine Company	98–0041	10/10/97
Aviation Sales Company, Jerome G. Bach, Kratz-Wilde Machine Company	98–0042	10/10/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–30258 Filed 11–17–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Docket No. 9260]

Jenny Craig, Inc.; Jenny Craig International, Inc.

AGENCY: Federal Trade Commission.

ACTION: Reopening of public comment period for proposed consent agreement.

SUMMARY: This document provides interested members of the public an additional fifteen days to submit written comments regarding the proposed consent agreement with Jenny Craig, Inc., and Jenny Craig International, Inc.

DATES: Comments must be received on or before December 3, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey Klurfeld or Matthew D. Gold, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: On June 5, 1997, the Federal Trade Commission (''Commission'') published a proposed consent agreement (62 FR 30857) and solicited comments from interested members of the public. The 60-day public comment period expired on August 4, 1997.

In light of the recent acceptance for public comment of a proposed consent agreement with Weight Watchers International, Inc. (62 FR 52340), the Commission has now decided to reopen the public comment period for fifteen days. The Commission will, after the close of the new public comment period, give consideration to all comments already received during or after the original comment period as well as all comments received during the new public comment period. Accordingly, there is no need to re-submit copies of any comments previously submitted to the Commission on this matter.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–30259 Filed 11–17–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

General Reorganization; Statement of Organization, Functions, and Delegations of Authority

Part E, Chapter E (Agency for Health Care Policy and Research), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (61 FR 15955, April 10, 1996) is amended to reflect organizational

changes within the Agency for Health Care Policy and Research (AHCPR). Specifically, AHCPR is aligning functions so that the Agency can more efficiently and effectively meet the needs of other organizations for scientific information on which they can base clinical guidelines, performance measures, technology assessments, and other quality improvement tools. The Agency is establishing a new Center for Practice and Technology Assessment, in which will be located the Office of the Forum for Quality and Effectiveness in Health Care as well as the functions of the previous Center for Health Care Technology.

Under *Section E–10, Organization,* following *E. Office of Scientific Affairs, delete F. through N.* and insert the following:

F. Center for Cost and Financing Studies.

G. Center for Health Information Dissemination.

H. Center for Information Technology.

I. Center for Organization and Delivery Studies.

J. Center for Outcomes and Effectiveness Research.

K. Center for Primary Care Research.

L. Center for Quality Measurement and Improvement.

M. Center for Practice and Technology Assessment.

Under heading *Section E–20, Functions,* delete the titles and statements for the *Office of the Forum for Quality and Effectiveness in Health Care (EB)* and the *Center for Health Care Technology (EE),* and following the statement for the *Center for Quality Measurement and Improvement (EL),* insert the following title and statement:

Center for Practice and Technology Assessment (EM). Conducts and supports systematic assessments of clinical practices and health care technologies as well as methodologic and implementation research. Specifically: (1) Conducts and supports the development of evidence reports and technology assessments on health care treatments, conditions, procedures, and technologies, including alternative and complementary therapies; (2) conducts and supports research focusing on methodologies used in systematic reviews and implementation of evidence-based recommendations, materials, and technologies assessments into the health care system; (3) facilitates the development and operations of a National Guideline Clearinghouse; (4) facilitates the work of the U.S. Preventive Services Task Force; (5) represents the Agency in meetings with experts and organizations in the areas of evidence-based assessments of practice and technologies, and convenes conferences on these topics; and (6) is the focus of the Office of the Forum for Quality and Effectiveness in Health Care.

All delegations and redelegations of authority to officers and employees of the Agency for Health Care Policy and Research which were in effect immediately prior to the effective date of this reorganization shall continue in effect pending further redelegation, provided they are consistent with this reorganization.

These changes are effective upon date of signature.

Dated: October 31, 1997.

John M. Eisenberg,

Administrator.

[FR Doc. 97–30209 Filed 11–17–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission For OMB Review; Comment Request

Title: Order/Notice to Withhold Income for Child Support.

OMB No.: 0970–0154.

Description: The child support enforcement agency needs the information to process court/tribunal administered direct income withholding orders to collect support. The form will provide employers with the required amounts to deduct child support payment from an employee's/obligor's income.

Respondents: State, Local or Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Order/Notice	54	1,620	.1666	14,579

Estimated Total Burden Hours: 14,579.

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, S.W., Washington, D.C. 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, N.W., Washington, D.C. 20503, Attn: Desk Officer for ACF.

Dated: November 12, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–30219 Filed 11–17–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission For OMB Review; Comment Request

Title: Required Data Elements for Paternity Establishment Affidavits.

OMB No.: New Collection.

Description: Public Law 104–193 requires the Secretary of the Department of Health and Human Services to specify the minimum data requirements of an affidavit to be used for the voluntary acknowledgment of paternity. Public Law 104–193 also requires States to enact laws requiring the development and use of an affidavit which met the

minimum requirements specified by the Secretary and to give full faith and credit to such an affidavit signed in any other State according to its procedures. The Department established a task group composed of Federal and State staff to recommend minimum data elements for all State paternity acknowledgment affidavits. The minimum data elements were crafted to balance the need for a tool for collecting information necessary to the establishment of a child support order and the need for a user-friendly form that addresses only the data necessary to establish legal paternity. *The minimum data elements are:* The current full name, social security number and date of birth of mother, father, and child; address of mother and father, birthplace of child; an explanation of the legal consequences of signing the affidavit; a statement indicating both parents understand their rights, responsibilities, alternatives and the consequences of signing the affidavit; the place the affidavit was completed; and signature lines for mother, father and witnesses or notaries.

Respondents: Individuals and Households; Not-for-Profit Institutions; and State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Affidavits	2,000,000	.2243	.166	74,468

Estimated Total Annual Burden Hours: 74,468.

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, S.W., Washington, D.C. 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, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: November 12, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–30220 Filed 11–17–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0444]

International Conference on Harmonisation; Draft Guidance on the Duration of Chronic Toxicity Testing in Animals (Rodent and Nonrodent Toxicity Testing); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guidance entitled ''S4A Duration of Chronic Toxicity Testing in Animals (Rodent and Nonrodent Toxicity Testing).'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance is intended to provide guidance on the duration of chronic toxicity testing in rodents and nonrodents as part of the safety evaluation of a drug product.

DATES: Written comments by January 20, 1998.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Joseph J. DeGeorge, Center for Drug Evaluation and Research (HFD–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6758.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In July 1997, the ICH Steering Committee agreed that a draft guidance entitled ''S4A Duration of Chronic

Toxicity Testing in Animals (Rodent and Nonrodent Toxicity Testing)'' should be made available for public comment. The draft guidance is the product of the Safety Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Safety Expert Working Group.

In accordance with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997), this document has been designated a guidance, rather than a guideline.

The draft document provides guidance on the duration of chronic toxicity testing in rodents and nonrodents as part of the safety evaluation of a drug product. The draft guidance is intended to help eliminate or reduce the need for pharmaceutical companies to duplicate testing during the development of new drug products.

FDA has proposed draft guidance before on chronic toxicity testing. In the **Federal Register** of April 15, 1992 (57 FR 13105), FDA announced the availability of a proposed approach to toxicity testing, including long-term toxicity studies. The new ICH draft guidance published here reflects a change in recommended testing in nonrodents based on an evaluation of findings from chronic toxicity studies. The evaluation report is available in Docket No. 97D–0444. The agency requests comments on the draft guidance and on specific classes of pharmaceuticals for which either shorter or longer durations of testing in nonrodents should be considered as general exceptions to the duration recommended in the draft guidance. It would be helpful if the scientific basis for comments addressing ''general exceptions'' were also provided. Once this guidance is finalized, it will supersede the 1992 proposed guidance (57 FR 13105).

Other portions of the proposed approach to toxicity testing announced in the **Federal Register** of April 15, 1992, have been superseded by draft and finalized FDA and ICH guidances as follows:

TABLE 1.—1992 DRAFT PROPOSED GUIDANCE

Topic	Superseded by
Single Dose (Acute) Toxicity Studies	Guidance for Industry on Single Dose Acute Toxicity Testing for Pharmaceuticals, PT 1, (61 FR 43934, August 26, 1996)
Reproductive and Developmental Studies	Detection of Toxicity to Reproduction for Medicinal Products, ICH S5A, (59 FR 48746, September 22, 1994)
	Detection of Toxicity to Reproduction for Medicinal Products: Addendum on Toxicity to Male Fertility, ICH S5B (61 FR 15360, April 5, 1996)
Carcinogenicity Studies (Dose Selection)	Dose Selection for Carcinogenicity Studies of Pharmaceuticals, ICH S1C, (60 FR 11278, March 1, 1995)
	Dose Selection for Carcinogenicity Studies of Pharmaceuticals—Addition of the Limit Dose and Related Notes, Draft ICH S1C(R) (62 FR 15715, April 2, 1997)
Timing and Duration	Nonclinical Studies for the Conduct of Human Clinical Trials for Pharmaceuticals, Draft ICH M3 (62 FR 24320, May 2, 1997)

This draft guidance represents the agency's current thinking on the duration of chronic toxicity testing in animals (rodent and nonrodent toxicity testing). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before January 20, 1998, submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet using the World Wide Web (WWW) ''http://www.fda.gov/cder/guidance.htm''.

The text of the draft guidance follows:

S4A Duration of Chronic Toxicity Testing in Animals (Rodent and Nonrodent Toxicity Testing)

Objective:

The objective of this guidance is to set out the considerations that apply to chronic toxicity testing in rodents and nonrodents as part of the safety evaluation of a medicinal product. Since guidance is not legally binding, an applicant may submit justification for an alternative approach.

Scope:

This guidance has been prepared for the development of medicinal products with the exception of those already covered by ''Safety Studies for Biotechnological Products,'' e.g., monoclonal antibodies, recombinant DNA proteins.

Background:

During the first International Conference on Harmonisation in 1991, the practices for the testing of chronic toxicity in the three regions (the European Union, Japan, and the United States) were reviewed. Arising from this, it emerged that there was a scientific consensus on the approach for chronic testing in rodents, supporting the harmonized duration of testing of 6 months. However, for chronic toxicity testing in nonrodents, there were different approaches to the duration of testing.

The lack of harmonized duration led to the need for pharmaceutical companies to perform partially duplicative studies for both 6 and 12 months duration when developing new medicinal products. As the objective of ICH is to reduce or eliminate the need to duplicate testing during development of medicinal products and to ensure a more economical use of material, animal, and human resources, while at the same time maintaining safeguards to protect public health, further scientific evaluation was undertaken.

Each of the regulatory authorities in the European Union, Japan, and the United States undertook a review to determine whether a single duration for chronic toxicity testing in nonrodents could be identified. From this analysis, it emerged that in 16 cases, a more detailed evaluation of 6 versus 12 months data should be undertaken.

This evaluation was conducted as a joint exercise by the competent authorities in the three regions.

In some of the cases analyzed at the tripartite meetings, there were no additional findings at 12 months. For some other cases, there was not complete agreement among the regulators with respect to the comparability in study design and conduct to allow assessment of whether there were differences in the findings at 6 and 12 months due to duration of treatment alone.

In a number of cases there were findings observed by 12 months, but not by 6 months. It was concluded that these would, or could, have been detected in a study of 9 months duration. Varying degrees of concern for the differences in findings detected between the studies of different durations were expressed. An agreement on the clinical relevance of these findings could not be reached.

Studies of 12 months duration are usually not necessary and studies of shorter than 9 months duration may be sufficient.

In the European Union, studies of 6 months duration in nonrodents are acceptable according to Council Directive 75/318/EEC, as amended. To avoid duplication, where studies with a longer duration have been conducted, it would not be necessary to conduct a study of 6 months.

Guidance on duration of chronic toxicity testing for tripartite development plan:

Arising from the extensive analysis and review of the above mentioned data in nonrodents and based upon the achievements of ICH 1 for testing in rodents, and so as to avoid duplication and to follow a single development plan for chronic toxicity testing of new medicinal products, the following studies are considered acceptable for submission in the three regions:

(1) *Rodents*: a study of 6 months duration;

(2) *Nonrodents*: a study of 9 months duration.

Dated: November 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–30273 Filed 11–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0113]

International Conference on Harmonisation; Guidance on Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a guidance entitled ''S6 Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance is intended to provide general principles for designing scientifically acceptable preclinical safety evaluation programs for biopharmaceuticals.

DATES: Effective November 18, 1997. Submit written comments at any time.

ADDRESSES: Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the guidance are available from the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573. Single copies of the draft guidance may be obtained by mail from the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), or by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800. Copies may be obtained from CBER's Fax Information System at 1–888–CBER–FAX or 301–827–3844.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Joy A. Cavagnaro, Center for Biologics Evaluation and Research (HFM–5), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0379.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

In the **Federal Register** of April 4, 1997 (62 FR 16438), FDA published a draft tripartite guideline entitled ''Preclinical Testing of Biotechnology-Derived Pharmaceuticals'' (S6). The notice gave interested persons an opportunity to submit comments by June 3, 1997.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies on July 16, 1997.

In accordance with FDA's Good Guidance Practices (62 FR 8961, February 27, 1997), this document has been designated a guidance, rather than a guideline.

The guidance recommends a basic framework for the preclinical safety evaluation of biotechnology-derived pharmaceuticals. Adherence to the principles presented in the guidance will allow for improvement in the quality and consistency of preclinical safety data supporting the development of biopharmaceuticals.

This guidance represents the agency's current thinking on preclinical safety evaluation of biotechnology-derived pharmaceuticals. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this guidance is available on the Internet at ''http://www.fda.gov/cder/guidance.htm'' or at CBER's World Wide Web site at ''http://www.fda.gov/cber/publications.htm''.

The text of the guidance follows:

S6 Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals [1]

1. Introduction

1.1. Background

Biotechnology-derived pharmaceuticals (biopharmaceuticals) were initially developed in the early 1980's. The first marketing authorizations were granted later in the decade. Several guidelines and points-to-consider documents have been issued by various regulatory agencies regarding safety assessment of these products. Review of such documents, which are available from regulatory authorities, may provide useful background in developing new biopharmaceuticals.

Considerable experience has now been gathered with submission of applications for biopharmaceuticals. Critical review of this experience has been the basis for development of this guidance, which is intended to provide general principles for designing scientifically acceptable preclinical safety evaluation programs.

1.2 Objectives

Regulatory standards for biotechnology-derived pharmaceuticals have generally been comparable among the European Union, Japan, and the United States. All three regions have adopted a flexible, case-by-case, science-based approach to preclinical safety evaluation needed to support clinical development and marketing authorization. In this rapidly evolving scientific area, there is a need for common understanding and continuing dialogue among the regions.

The primary goals of preclinical safety evaluation are: (1) To identify an initial safe dose and subsequent dose escalation schemes in humans; (2) to identify potential target organs for toxicity and for the study of whether such toxicity is reversible; and (3) to identify safety parameters for clinical monitoring. Adherence to the principles presented in this document should improve the quality and consistency of the preclinical safety data supporting the development of biopharmaceuticals.

1.3 Scope

This guidance is intended primarily to recommend a basic framework for the preclinical safety evaluation of biotechnology-derived pharmaceuticals. It applies to products derived from characterized cells through the use of a variety of expression systems including bacteria, yeast, insect, plant, and mammalian cells. The intended indications may include in vivo diagnostic, therapeutic, or prophylactic uses. The active substances include proteins and peptides, their derivatives, and products of which they are components; they could be derived from cell cultures or produced using recombinant deoxyrebonucleic acid (DNA) technology, including production by transgenic plants and animals. Examples include but are not limited to: Cytokines, plasminogen activators, recombinant plasma factors, growth factors, fusion proteins, enzymes, receptors, hormones, and monoclonal antibodies.

The principles outlined in this guidance may also be applicable to recombinant DNA protein vaccines, chemically synthesized peptides, plasma derived products, endogenous proteins extracted from human tissue, and oligonucleotide drugs.

This document does not cover antibiotics, allergenic extracts, heparin, vitamins, cellular blood components, conventional bacterial or viral vaccines, DNA vaccines, or cellular and gene therapies.

2. Specification of the Test Material

Safety concerns may arise from the presence of impurities or contaminants. It is preferable to rely on purification processes to remove impurities and contaminants rather than to establish a preclinical testing program for their qualification. In all cases, the product should be sufficiently characterized to allow an appropriate design of preclinical safety studies.

There are potential risks associated with host cell contaminants derived from bacteria, yeast, insect, plants, and mammalian cells. The presence of cellular host contaminants can result in allergic reactions and other immunopathological effects. The adverse effects associated with nucleic acid contaminants are theoretical but include potential integration into the host genome. For products derived from insect, plant, and mammalian cells, or transgenic plants and animals, there may be an additional risk of viral infections.

In general, the product that is used in the definitive pharmacology and toxicology studies should be comparable to the product proposed for the initial clinical studies. However, it is appreciated that during the course of development programs, changes normally occur in the manufacturing process in order to improve product quality and yields. The potential impact of such changes for extrapolation of the animal findings to humans should be considered.

The comparability of the test material during a development program should be demonstrated when a new or modified manufacturing process is developed or other significant changes in the product or formulation are made in an ongoing development program. Comparability can be evaluated on the basis of biochemical and biological characterization (i.e., identity, purity, stability, and potency). In some cases, additional studies may be needed (i.e., pharmacokinetics, pharmacodynamics and/or safety). The scientific rationale for the approach taken should be provided.

3. Preclinical Safety Testing

3.1 General Principles

The objectives of the preclinical safety studies are to define pharmacological and toxicological effects not only prior to initiation of human studies but throughout clinical development. Both in vitro and in vivo studies can contribute to this characterization. Biopharmaceuticals that are structurally and pharmacologically comparable to a product for which there is wide experience in clinical practice may need less extensive toxicity testing.

Preclinical safety testing should consider: (1) Selection of the relevant animal species; (2) age; (3) physiological state; (4) the manner of delivery, including dose, route of administration, and treatment regimen; and (5) stability of the test material under the conditions of use.

Toxicity studies are expected to be performed in compliance with Good Laboratory Practice (GLP); however, it is recognized that some studies employing specialized test systems, which are often needed for biopharmaceuticals, may not be able to comply fully with GLP. Areas of noncompliance should be identified and their significance evaluated relative to the overall safety assessment. In some cases, lack of full GLP compliance does not necessarily mean that the data from these studies cannot be used to support clinical trials and marketing authorizations.

Conventional approaches to toxicity testing of pharmaceuticals may not be appropriate for biopharmaceuticals due to the unique and diverse structural and biological properties of the latter that may include species specificity, immunogenicity, and unpredicted pleiotropic activities.

3.2 Biological Activity/Pharmacodynamics

Biological activity may be evaluated using in vitro assays to determine which effects of the product may be related to clinical activity. The use of cell lines and/or primary cell cultures can be useful to examine the direct effects on cellular phenotype and proliferation. Due to the species specificity of many biotechnology-derived pharmaceuticals, it is important to select relevant animal species for toxicity testing. In vitro cell lines derived from mammalian cells can be used to predict specific aspects of in vivo activity and to assess quantitatively the relative sensitivity of various species (including human) to the biopharmaceutical. Such studies may be designed to determine, for example, receptor occupancy, receptor affinity, and/or pharmacological effects, and to assist in the selection of an appropriate animal species for further in vivo

[1] This guidance represents the agency's current thinking on preclinical safety evaluation of biotechnology-derived pharmaceuticals. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used of such approach satisfies the requirements of the applicable statute, regulations, or both.

pharmacology and toxicology studies. The combined results from in vitro and in vivo studies assist in the extrapolation of the findings to humans. In vivo studies to assess pharmacological activity, including defining mechanism(s) of action, are often used to support the rationale of the proposed use of the product in clinical studies.

For monoclonal antibodies, the immunological properties of the antibody should be described in detail, including its antigenic specificity, complement binding, and any unintentional reactivity and/or cytotoxicity towards human tissues distinct from the intended target. Such cross-reactivity studies should be carried out by appropriate immunohistochemical procedures using a range of human tissues.

3.3 Animal Species/Model Selection

The biological activity together with species and/or tissue specificity of many biotechnology-derived pharmaceuticals often preclude standard toxicity testing designs in commonly used species (e.g., rats and dogs). Safety evaluation programs should include the use of relevant species. A relevant species is one in which the test material is pharmacologically active due to the expression of the receptor or an epitope (in the case of monoclonal antibodies). A variety of techniques (e.g., immunochemical or functional tests) can be used to identify a relevant species. Knowledge of receptor/epitope distribution can provide greater understanding of potential in vivo toxicity.

Relevant animal species for testing of monoclonal antibodies are those that express the desired epitope and demonstrate a similar tissue cross-reactivity profile as for human tissues. This would optimize the ability to evaluate toxicity arising from the binding to the epitope and any unintentional tissue cross-reactivity. An animal species that does not express the desired epitope may still be of some relevance for assessing toxicity if comparable unintentional tissue cross-reactivity to humans is demonstrated.

Safety evaluation programs should normally include two relevant species. However, in certain justified cases one relevant species may suffice (e.g., when only one relevant species can be identified or where the biological activity of the biopharmaceutical is well understood). In addition, even where two species may be necessary to characterize toxicity in short term studies, it may be possible to justify the use of only one species for subsequent long-term toxicity studies (e.g., if the toxicity profile in the two species is comparable in the short term).

Toxicity studies in nonrelevant species may be misleading and are discouraged. When no relevant species exists, the use of relevant transgenic animals expressing the human receptor or the use of homologous proteins should be considered. The information gained from use of a transgenic animal model expressing the human receptor is optimized when the interaction of the product and the humanized receptor has similar physiological consequences to those expected in humans. While useful information may also be gained from the use of homologous proteins, it should be noted that the production process, range of impurities/contaminants, pharmacokinetics, and exact pharmacological mechanism(s) may differ between the homologous form and the product intended for clinical use. Where it is not possible to use transgenic animal models or homologous proteins, it may still be prudent to assess some aspects of potential toxicity in a limited toxicity evaluation in a single species, e.g., a repeated dose toxicity study of < 14 days duration that includes an evaluation of important functional endpoints (e.g., cardiovascular and respiratory).

In recent years, there has been much progress in the development of animal models that are thought to be similar to the human disease. These animal models include induced and spontaneous models of disease, gene knockout(s), and transgenic animals. These models may provide further insight, not only in determining the pharmacological action of the product, pharmacokinetics, and dosimetry, but may also be useful in the determination of safety (e.g., evaluation of undesirable promotion of disease progression). In certain cases, studies performed in animal models of disease may be used as an acceptable alternative to toxicity studies in normal animals (Note 1). The scientific justification for the use of these animal models of disease to support safety should be provided.

3.4 Number/Gender of Animals

The number of animals used per dose has a direct bearing on the ability to detect toxicity. A small sample size may lead to failure to observe toxic events due to observed frequency alone regardless of severity. The limitations that are imposed by sample size, as often is the case for nonhuman primate studies, may be in part compensated by increasing the frequency and duration of monitoring. Both genders should generally be used or justification given for specific omissions.

3.5 Administration/Dose Selection

The route and frequency of administration should be as close as possible to that proposed for clinical use. Consideration should be given to pharmacokinetics and bioavailability of the product in the species being used and to the volume which can be safely and humanely administered to the test animals. For example, the frequency of administration in laboratory animals may be increased compared to the proposed schedule for the human clinical studies in order to compensate for faster clearance rates or low solubility of the active ingredient. In these cases, the level of exposure of the test animal relative to the clinical exposure should be defined. Consideration should also be given to the effects of volume, concentration, formulation, and site of administration. The use of routes of administration other than those used clinically may be acceptable if the route must be modified due to limited bioavailability, limitations due to the route of administration, or to size/physiology of the animal species.

Dosage levels should be selected to provide information on a dose-response relationship, including a toxic dose and a no observed adverse effect level (NOAEL). For some classes of products with little to no toxicity, it may not be possible to define a specific maximum dose. In these cases, a scientific justification of the rationale for the dose selection and projected multiples of human exposure should be provided. To justify high dose selection, consideration should be given to the expected pharmacological/physiological effects, availability of suitable test material, and the intended clinical use. Where a product has a lower affinity to or potency in the cells of the selected species than in human cells, testing of higher doses may be important. The multiples of the human dose that are needed to determine adequate safety margins may vary with each class of biotechnology-derived pharmaceutical and its clinical indication(s).

3.6 Immunogenicity

Many biotechnology-derived pharmaceuticals intended for humans are immunogenic in animals. Therefore, measurement of antibodies associated with administration of these types of products should be performed when conducting repeated dose toxicity studies in order to aid in the interpretation of these studies. Antibody responses should be characterized (e.g., titer, number of responding animals, neutralizing or non-neutralizing) and their appearance should be correlated with any pharmacological and/or toxicological changes. Specifically, the effects of antibody formation on pharmacokinetic/pharmacodynamic parameters, incidence and/or severity of adverse effects, complement activation, or the emergence of new toxic effects should be considered when interpreting the data. Attention should also be paid to the evaluation of possible pathological changes related to immune complex formation and deposition.

The detection of antibodies should not be the sole criterion for the early termination of a preclinical safety study or modification in the duration of the study design unless the immune response neutralizes the pharmacological and/or toxicological effects of the biopharmaceutical in a large proportion of the animals. In most cases, the immune response to biopharmaceuticals is variable, like that observed in humans. If the interpretation of the data from the safety study is not compromised by these issues, then no special significance should be ascribed to the antibody response.

The induction of antibody formation in animals is not predictive of a potential for antibody formation in humans. Humans may develop serum antibodies against humanized proteins, and frequently the therapeutic response persists in their presence. The occurrence of severe anaphylactic responses to recombinant proteins is rare in humans. In this regard, the results of guinea pig anaphylaxis tests, which are generally positive for protein products, are not predictive for reactions in humans; therefore, such studies are considered of little value for the routine evaluation of these types of products.

4. Specific Considerations

4.1 Safety Pharmacology

It is important to investigate the potential for undesirable pharmacological activity in appropriate animal models and, where necessary, to incorporate particular monitoring for these activities in the toxicity studies and/or clinical studies. Safety pharmacology studies measure functional indices of potential toxicity. These functional indices may be investigated in separate studies or incorporated in the design of toxicity studies. The aim of the safety pharmacology studies should be to reveal any functional effects on the major physiological systems (e.g., cardiovascular, respiratory, renal, and central nervous systems). Investigations may also include the use of isolated organs or other test systems not involving intact animals. All of these studies may allow for a mechanistically-based explanation of specific organ toxicities, which should be considered carefully with respect to human use and indication(s).

4.2 Exposure assessment

4.2.1 Pharmacokinetics and Toxicokinetics

It is difficult to establish uniform guidances for pharmacokinetic studies for biotechnology-derived pharmaceuticals. Single and multiple dose pharmacokinetics, toxicokinetics, and tissue distribution studies in relevant species are useful; however, routine studies that attempt to assess mass balance are not useful. Differences in pharmacokinetics among animal species may have a significant impact on the predictiveness of animal studies or on the assessment of dose-response relationships in toxicity studies. Alterations in the pharmacokinetic profile due to immune-mediated clearance mechanisms may affect the kinetic profiles and the interpretation of the toxicity data. For some products, there may also be inherent, significant delays in the expression of pharmacodynamic effects relative to the pharmacokinetic profile (e.g., cytokines) or there may be prolonged expression of pharmacodynamic effects relative to plasma levels.

Pharmacokinetic studies should, whenever possible, utilize preparations that are representative of those intended for toxicity testing and clinical use and employ a route of administration that is relevant to the anticipated clinical studies. Patterns of absorption may be influenced by formulation, concentration, site, and/or volume. Whenever possible, systemic exposure should be monitored during the toxicity studies.

When using radiolabeled proteins, it is important to show that the radiolabeled test material maintains activity and biological properties equivalent to that of the unlabeled material. Tissue concentrations of radioactivity and/or autoradiography data using radiolabeled proteins may be difficult to interpret due to rapid in vivo metabolism or unstable radiolabeled linkage. Care should be taken in the interpretation of studies using radioactive tracers incorporated into specific amino acids because of recycling of amino acids into nondrug related proteins/peptides.

Some information on absorption, disposition, and clearance in relevant animal models should be available prior to clinical studies in order to predict margins of safety based upon exposure and dose.

4.2.2 Assays

The use of one or more assay methods should be addressed on a case-by-case basis and the scientific rationale should be provided. One validated method is usually considered sufficient. For example, quantitation of TCA-precipitable radioactivity following administration of a radiolabeled protein may provide adequate information, but a specific assay for the analyte is preferred. Ideally, the assay methods should be the same for animals and humans. The possible influence of plasma binding proteins and/or antibodies in plasma/serum on the assay performance should be determined.

4.2.3 Metabolism

The expected consequence of metabolism of biotechnology-derived pharmaceuticals is the degradation to small peptides and individual amino acids. Therefore, the metabolic pathways are generally understood. Classical biotransformation studies as performed for pharmaceuticals are not needed.

Understanding the behavior of the biopharmaceutical in the biologic matrix (e.g., plasma, serum, cerebral spinal fluid) and the possible influence of binding proteins is important for understanding the pharmacodynamic effect.

4.3 Single Dose Toxicity Studies

Single dose studies may generate useful data to describe the relationship of dose to systemic and/or local toxicity. These data can be used to select doses for repeated dose toxicity studies. Information on dose-response relationships may be gathered through the conduct of a single dose toxicity study or as a component of pharmacology or animal model efficacy studies. The incorporation of safety pharmacology parameters in the design of these studies should be considered.

4.4 Repeated Dose Toxicity Studies

For consideration of the selection of animal species for repeated dose studies, see section 3.3. The route and dosing regimen (e.g., daily versus intermittent dosing) should reflect the intended clinical use or exposure. When feasible, these studies should include toxicokinetics.

A recovery period should generally be included in study designs to determine the reversal or potential worsening of pharmacological/toxicological effects, and/or potential delayed toxic effects. For biopharmaceuticals that induce prolonged pharmacological/toxicological effects, recovery group animals should be monitored until reversibility is demonstrated. The duration of repeated dose studies should be based on the intended duration of clinical exposure and disease indication. This duration of animal dosing has generally been 1-3 months for most biotechnology-derived pharmaceuticals. For biopharmaceuticals intended for short-term use (e.g., < to 7 days) and for acute life-threatening diseases, repeated dose studies up to 2 weeks duration have been considered adequate to support clinical studies as well as marketing authorization. For those biopharmaceuticals intended for chronic indications, studies of 6 months duration have generally been appropriate, although in some cases shorter or longer durations have supported marketing authorizations. For biopharmaceuticals intended for chronic use, the duration of long-term toxicity studies should be scientifically justified.

4.5 Immunotoxicity Studies

One aspect of immunotoxicological evaluation includes assessment of potential immunogenicity (see section 3.6). Many biotechnology-derived pharmaceuticals are intended to stimulate or suppress the immune system and, therefore, may affect not only humoral but also cell-mediated immunity. Inflammatory reactions at the injection site may be indicative of a stimulatory response. It is important, however, to recognize that simple injection trauma and/or specific toxic effects caused by the formulation vehicle may also result in toxic changes at the injection site. In addition, the expression of surface antigens on target cells may be altered, which has implications for autoimmune potential. Immunotoxicological testing strategies may require screening studies followed by mechanistic studies to clarify such issues. Routine tiered testing approaches or standard testing batteries, however, are not recommended for biotechnology-derived pharmaceuticals.

4.6 Reproductive Performance and Developmental Toxicity Studies

The need for reproductive/developmental toxicity studies is dependent upon the product, clinical indication and intended patient population (Note 2). The specific study design and dosing schedule may be modified based on issues related to species specificity, immunogenicity, biological activity, and/or a long elimination half-life. For example, concerns regarding potential developmental immunotoxicity, which may apply particularly to certain monoclonal antibodies with prolonged immunological effects, could be addressed in a study design modified to assess immune function of the neonate.

4.7 Genotoxicity Studies

The range and type of genotoxicity studies routinely conducted for pharmaceuticals are not applicable to biotechnology-derived pharmaceuticals and therefore are not needed. Moreover, the administration of large quantities of peptides/proteins may yield uninterpretable results. It is not expected that these substances would interact directly with DNA or other chromosomal material (Note 3).

Studies in available and relevant systems, including newly developed systems, should be performed in those cases where there is cause for concern about the product (e.g., because of the presence of an organic linker molecule in a conjugated protein product). The use of standard genotoxicity studies for assessing the genotoxic potential of process contaminants is not considered appropriate. If performed for this purpose, however, the rationale should be provided.

4.8 Carcinogenicity Studies

Standard carcinogenicity bioassays are generally inappropriate for biotechnology-derived pharmaceuticals. However, product-specific assessment of carcinogenic potential may still be needed depending upon duration of clinical dosing, patient population, and/or biological activity of the product (e.g., growth factors, immunosuppressive agents, etc.). When there is a concern about carcinogenic potential, a variety of approaches may be considered to evaluate risk.

Products that may have the potential to support or induce proliferation of transformed cells and clonal expansion possibly leading to neoplasia should be evaluated with respect to receptor expression in various malignant and normal human cells that are potentially relevant to the patient population under study. The ability of the product to stimulate growth of normal or malignant cells expressing the receptor should be determined. When in vitro data give cause for concern about carcinogenic potential, further studies in relevant animal models may be needed. Incorporation of sensitive indices of cellular proliferation in long-term repeated dose toxicity studies may provide useful information.

In those cases where the product is biologically active and nonimmunogenic in rodents and other studies have not provided sufficient information to allow an assessment of carcinogenic potential, then the utility of a single rodent species should be considered. Careful consideration should be given to the selection of doses. The use of a combination of pharmacokinetic and pharmacodynamic endpoints with consideration of comparative receptor characteristics and intended human exposures represents the most scientifically based approach for defining the appropriate doses. The rationale for the selection of doses should be provided.

4.9 Local Tolerance Studies

Local tolerance should be evaluated. The formulation intended for marketing should be tested; however, in certain justified cases, the testing of representative formulations may be acceptable. In some cases, the potential adverse effects of the product can be evaluated in single or repeated dose toxicity studies, thus obviating the need for separate local tolerance studies.

Notes

Note 1

Animal models of disease may be useful in defining toxicity endpoints, selection of clinical indications, and determination of appropriate formulations, route of administration, and treatment regimen. It should be noted that with these models of disease there is often a paucity of historical data for use as a reference when evaluating study results. Therefore, the collection of concurrent control and baseline data is critical to optimize study design.

Note 2

There may be extensive public information available regarding potential reproductive and/or developmental effects of a particular class of compounds (e.g., interferons) where the only relevant species is the nonhuman primate. In such cases, mechanistic studies indicating that similar effects are likely to be caused by a new but related molecule may obviate the need for formal reproductive/developmental toxicity studies. In each case, the scientific basis for assessing the potential for possible effects on reproduction/development should be provided.

Note 3

With some biopharmaceuticals, there is a potential concern about accumulation of spontaneously mutated cells (e.g., via facilitating a selective advantage of proliferation) leading to carcinogenicity. The standard battery of genotoxicity tests is not designed to detect these conditions. Alternative in vitro or in vivo models to address such concerns may have to be developed and evaluated.

Dated: November 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–30274 Filed 11–17–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Mechano Transduction in Bone.

Date: December 18, 1997.

Time: 8:00 a.m.–5:00 p.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: Tommy L. Broadwater, Ph.D., Scientific Review Administrator, Natcher Building, 45 Center Drive, Rm 5AS25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review a research grant application.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individual associated with the application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Disease Research], National Institutes of Health, HHS)

Dated: November 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–30204 Filed 11–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Immunodampening Technology

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, ins contemplating the grant of an exclusive world-wide license to practice the invention embodied in U.S. Patent Number 5,585,250 and pending U.S. Patent Application Serial No. 08/764.575 both entitled ''Dampening of an Immunodominant Epitope of an Antigen for Use in Plant, Animal and Human Compositions and Immunotherapies'' and related foreign patent applications to Biological Memetics, Inc., of Frederick, Maryland. The patent rights in this invention have been assigned to the United States of America.

It is anticipated that this license will be limited to the field of vaccines for the treatment and prevention of infectious diseases in animals and humans.

DATES: Only written comments and/or applications for a license which are received by NIH on or before February 17, 1998 will be considered.

ADDRESSES: Requests for a copy of the patent and/or patent application, inquires, comments and other materials relating to the contemplated license should be directed to: Robert Benson, Patent Advisor, Office of Technology Transfer, National Institutes of Health, 6011 Executive Blvd., Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, x267; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: The patent and pending patent application describe a broadly applicable method of redirecting the immune response to an antigen from an immunodominant epitope to another epitope by altering the immunogenicity of the immunodominant epitope. The method is most useful for those pathogens with a highly variable immunodominant epitope, such as HIV, HCV or gonorrhea.

By immunodampening the dominant epitope the immune system then reacts to other more conserved epitopes.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. This prospective exclusive license may be granted unless within 90 days from the date of this published notice, NIH receives written evidence and argument that established that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contempleted license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. § 552.

Dated: November 5, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–30202 Filed 11–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; National Toxicology Program (NTP), Board of Scientific Counselors' Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee on December 9 and 10, 1997, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 1:30 p.m. on December 9, and at 8:30 a.m. on December 10, and is open to the public. The agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Additionally, there will be a presentation made concerning data obtained from transgenic mouse models on several of the chemicals being reviewed.

Tentatively scheduled to be peer reviewed on December 9–10 are draft Technical Reports of 10 two-year studies, listed alphabetically, along with supporting information in the attached table. All studies were done using Fischer 344 rats and B6C3F_1 mice. The order of review is given in the far right column of the table. Copies of the draft Reports may be obtained, as available, from: Central Data Management, MD E1–02, P.O. Box 12233, Research Triangle Park, NC 27709 (919/541–3419), FAX (919/541–3687), email: CDM@niehs.nih.gov.

Public comment on any of the Technical Reports is welcome. Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone, by FAX, by mail, or by email no later than December 4, 1997, and provide a written copy in advance of the meeting so copies can be made and distributed to all Subcommittee members, *ad hoc* expert consultants, and staff, and made available at the meeting for attendees. Written statements should supplement and may expand on the oral presentation. *Oral presentations should be limited to no more than five minutes.*

The program would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please contact Central Data Management at the address given above, and they will relay the information to the appropriate staff scientist.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919/541–3971; FAX 919/541–0295; email hart@niehs.nih.gov) will furnish agenda and a roster of Subcommittee members and expert consultants prior to the meeting. Summary minutes subsequent to the meeting will be available upon request to Central Data Management.

Attachment.

Charles E. Leasure, Jr.,

Acting Director, National Toxicology Program.

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE NTP BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE

[December 9–10, 1997]

Chemical CAS No.	Technical route/ report number	Primary uses	Exposure levels	Review order
1-Chloro-2-Propanol, Technical, 127–00–4.	TR–477	Chemical intermediate for propylene oxide & other organic compounds.	Dosed-Water (deionized water): Rats: 0, 150, 325, or 650 ppm; Mice: 0, 250, 500, or 1000 ppm (50/sex/group).	10
Coconut Oil Acid, Diethanolamine Condensate, 68603–42–9.	TR–479	Foam stabilizer in shampoos and dishwashing liquids; dyeing assistant in textile processing.	Topical (95% ethanol): Rats: 0, 50, or 100 mg/kg; Mice: 0, 100, or 200 mg/kg (50 sex/species/group).	2
Diethanolamine, 111–42–2	TR–478	Production of textile lubricants. Rubber chemicals intermediate; emulsifier in agricultural chemicals, cosmetics, and pharmaceuticals; gas conditioning agent.	Topical (ethanol): Male Rats: 0, 16, 32, or 64 mg/kg; Female Rats: 0, 8, 16, or 32 mg/kg; Mice: 0, 40, 80, or 160 mg/kg (50/sex/species/group).	1

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE NTP BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE—Continued

[December 9–10, 1997]

Chemical CAS No.	Technical route/ report number	Primary uses	Exposure levels	Review order
Furfuryl Alcohol, 098–00–0	TR–482	Solvent for ethers and esters; in manufacture of phenolic and furan resins. chemical intermediate. wetting agent; liquid propellant; flavoring agent, obtained from processing corncobs, coffee beans.	Inhalation (air): Rats & Mice: 0, 2, 8, or 32 ppm (50/sex/species/group).	8
Isobutene, 115–11–7	TR–487	Production of diisobutylene, trimers, butyl rubber, antioxidants for foods, packaging, food supplements & plastics, isooctane, high-octane aviation gasoline, polyisobutene resins. (NTP Executive Summary).	Inhalation (air): Rats & Mice: 0, 500, 2000, or 8000 ppm 50/sex/species/group).	6
Isoprene 78–79–5	TR–486	Monomer and comonomer for elastomers, prepared from turpentine, petroleum products (Merck 1989).	Inhalation (air): Rats: 0, 220, 700, or 7000 ppm; 50/sex/group).	7
Lauric Acid, Diethanolamine Condensate, 120–40–1.	TR–480	Foam stabilizer for liquid household detergents and shampoos.	Topical (95% ethanol): Rats: 0, 50, or 100 mg/kg; Mice: 0, 100, or 200 mg/kg (50/sex/species/group.	3
Oleic Acid, Diethanolamine Condensate, 93–83–4.	TR–481	Surfactant in wax emulsion; to increae shampoo viscosity.	Topical (95% ethanol): Rats: 0, 50, or 100 mg/kg; 50/sex/group; Mice: 0, 15, or 30 mg/kg; 55/sex/group.	4
Pentachlorophenol, Purified, 87–86–5	TR–483	Wood preservative, fungicide, soil fumigant for termites, preharvest defoliant, seed treatment for beans, preservative for paint, leather, textiles, inks, antibacterial agent in disinfectants & cleaners (HSDB 1990).	Dosed-Feed (NIH–07); Rats: 0, 200, 400, or 600 ppm; 50/sex/group—1000 ppm Stop Study (60/sex).	5
Pyridine 110–86–1	TR–470	Solvent, organic synthesis, flavoring ingredient, manufacture of fungicides, pharmaceuticals, dyestuff, explosives, mfr. of vitamins, sulfa drugs, intermediate in manufacture of diquat & paraquat, waterproofing textiles (HSDB 1990).	Dosed-Water (deionized water): Rats: 0, 100, 200, or 400 ppm; Male Mice: 0, 250, 500, or 1000 ppm; Female Mice: 125, 250 or 500 ppm; Male Wistar Rats: 0, 100, 200, or 400 ppm (50/sex/group).	9

[FR Doc. 97–30203 Filed 11–17–97; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

Applicant: Mark Hartman, Nashville, Tennessee PRT–836121.

The applicant requests authorization to take (salvage dead shells, and harass during surveys) the dwarf wedge mussel, *Alasmidonta heterodon,* throughout the species range in North Carolina, for the purpose of enhancement of survival of the species.

Applicant: David L. Leonard, Sebring, Florida PRT–836133.

The applicant requests authorization to take (harass during installation of cavity inserts) the red-cockaded woodpecker, *Picoides borealis,* at St. Sebastian River State Buffer Preserve, Brevard County, Florida, for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Biologist, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received by December 18, 1997.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: November 3, 1997.

Sam D. Hamilton,

Regional Director.

[FR Doc. 97–30196 Filed 11–17–97; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit for a Residential Development Proposal Called Phoenix VIII, in the City of Orange Beach, Baldwin County, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

Brett Real Estate, Robinson Development Company, Inc. (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). The ITP would authorize for a period of 30 years the incidental take of an endangered species, the Alabama beach mouse, *Peromyscus polionotus ammobates* (ABM). The Applicant made the decision to assume ABM are present based on surveys on adjacent property. The project would be called Phoenix VIII and consists of a single fourteen-story condominium tower with 81 residential units, parking areas, and a swimming pool on 5.06 acres. Associated landscaped grounds and a dune walkover structure would also be constructed. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the protected species are outlined in the Applicant's Habitat Conservation Plan (HCP) and in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA). The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6). The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances should the Service determine that an ITP will be granted and based upon the submitted HCP. Although not explicitly stated in the HCP, the Service has, since August 1994, announced its intention to honor a ''No Surprises'' Policy for applicants seeking ITPs. Copies of the Service's ''No Surprises'' Policy may be obtained by making a written request to the Regional Office (see **ADDRESSES**). The Service is soliciting public comments and review of the applicability of the ''No Surprises'' Policy to this application and HCP.

DATES: Written comments on the ITP application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before December 18, 1997.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Post Office Drawer 1190, Daphne, Alabama 36526. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be processed. Please reference permit number PRT–834795 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Ms. Celeste South, Fish and Wildlife Biologist, Daphne, Alabama, Field Office (see **ADDRESSES** above), telephone: 334/441–5181.

SUPPLEMENTARY INFORMATION: The Alabama beach mouse (ABM), *Peromyscus polionotus ammobates*, is a subspecies of the common oldfield mouse, *Peromyscus polionotus*, and is restricted to the dune systems of the Gulf Coast of Alabama. The known current range of ABM extends from Fort Morgan eastward to the western terminus of Alabama Highway 182, including the Perdue Unit on the Bon Secour National Wildlife Refuge. The sand dune systems inhabited by this species are not uniform; several habitat types are distinguishable. The species inhabits primary dunes, interdune areas, secondary dunes, and scrub dunes. The depth and area of these habitats from the beach inland varies. Population surveys indicate that this subspecies is usually more abundant in primary dunes than in secondary dunes, and usually more abundant in secondary dunes than in scrub dunes. Optimal habitat consists of dune systems with all dune types. Though fewer ABM inhabit scrub dunes, these high dunes can serve as refugia during devastating hurricanes that overwash, flood, and destroy or alter secondary and frontal dunes. ABM surveys on the Applicant's property did not reveal habitat occupied by ABM; however, the Applicant is seeking compliance with the Act in an abundance of caution. The Applicant's property does not contain designated critical habitat for the ABM. Construction of the Project may result in the death of, or injury to, ABM. Habitat alterations due to condominium placement and subsequent human habitation of the Project may reduce available habitat for food, shelter, and reproduction.

The EA considers the environmental consequences of several alternatives. One action proposed is the issuance of the ITP based upon submittal of the HCP as proposed. This alternative provides for restrictions that include conserving almost 86 percent of the Project's best ABM habitat conserved (essentially primary and secondary dunes), establishment of one walkover structure across primary and secondary dune features, a prohibition against housing or keeping pet cats, ABM competitor control and monitoring measures, scavenger-proof garbage containers, restoration of dune systems, the creation of educational and information brochures on ABM conservation, and the minimization and control of outdoor lighting. Further, the HCP proposes to provide an endowment of $20,865 to acquire ABM habitat offsite or otherwise perform some other conservation measure for the ABM. The HCP provides a funding source for these mitigation measures, as well as monitoring of the HCP, should an ITP be issued by the Service. Another alternative is consideration of a different project design that might result in more impacts to the ABM and its habitat. A third alternative is no-action, or deny the request for authorization to incidentally take the ABM.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major

Federal action significantly effecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

- Issuance of the ITP will not appreciably reduce the likelihood of survival and recovery of the effected species in the wild.
- The HCP contains provisions which sufficiently minimize and/or mitigate the impacts of issuing the ITP.
- Issuance of the ITP would not have significant effects on the human environment in the project area.
- The proposed take is incidental to an otherwise lawful activity.
- Adequate funding will be provided to implement the measures proposed in the submitted HCP and authorizing ITP.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: November 4, 1997.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 97–30198 Filed 11–17–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Wildwash Sand and Gravel Mine, San Bernardino County, CA

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: E. L. Yeager Construction Company, Incorporated, of Riverside, California, has applied to the Fish and Wildlife Service for a 20-year incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). The Service proposes to issue an incidental take permit for the federally-listed threatened desert tortoise (*Gopherus agassizii*) at the proposed mine site, located in San Bernardino County, California. The permit also would include the state-listed threatened Mojave ground squirrel (*Spermophilus mohavensis*) and the unlisted loggerhead shrike (*Lanius ludovicianus*), should these species be listed during the life of the permit. This notice announces the availability of the permit application and the environmental assessment. The permit application includes the habitat conservation plan for the Wildwash Sand and Gravel Mine and an implementing agreement. The Service requests comments on these documents, including the appropriateness of the ''No Surprises'' assurances contained in section 12.3.a of the implementing agreement. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments should be received on or before December 18, 1997.

ADDRESSES: Comments should be addressed to Ms. Diane Noda, Field Supervisor, Ventura Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Written comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION, CONTACT: Mr. Ray Bransfield, Fish and Wildlife Biologist, at the above address or call (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Ventura Fish and Wildlife Office at the above referenced address or telephone. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

Background

The permit applicant proposes phased mining of up to 100 acres of desert habitat adjacent to Interstate 15. Portions of the site are occupied by the desert tortoise. One loggerhead shrike was observed on site during biological surveys. The site is considered potentially suitable habitat for the Mojave ground squirrel, although surveys were not conducted for this species. During the initial mining phase, lasting 5 years, the applicant would mine sand and gravel on up to 35 acres of land. During the subsequent phase(s), lasting 15 years, the applicant would mine up to an additional 65 acres.

The applicant needs an incidental take permit from the Service because endangered and threatened wildlife species are protected against ''take'' pursuant to section 9 of the ESA. The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are at 50 CFR 17.22 and 17.32.

As part of the permit application, the applicant prepared a habitat conservation plan that addresses the desert tortoise, Mojave ground squirrel, and loggerhead shrike. Pursuant to section 10(a)(1)(B) of the Federal ESA, the Service proposes to issue a permit to the applicant for incidental take of the threatened desert tortoise, and for the Mojave ground squirrel and loggerhead shrike should Federal take authorization for these latter two species be necessary during the life of the permit. The ground squirrel and shrike would be named on the permit; however, incidental take authorization for these species would become effective only if they become listed under the Federal ESA.

The proposed sand and gravel mine would result in the loss of habitat for the desert tortoise, Mojave ground squirrel, and loggerhead shrike as the ground is disturbed and the vegetation communities are removed during mining activities. This mining could directly and indirectly affect these species.

The proposed action would authorize the incidental take of all desert tortoises on the 100 acre site in the form of harassment from being moved out of harm's way. Additionally, two desert tortoises may be taken in the form of direct mortality associated with mining activities and vehicle travel on the mine access road. If Mojave ground squirrels are present on site, they would likely be killed during the initial grading of the mining areas. Loggerhead shrikes are unlikely to be killed or injured by the proposed action.

The applicant's habitat conservation plan contains measures to minimize and/or mitigate the effects of the mining on the three species. Before mining begins, an amount of desert tortoise habitat equal to that being destroyed would be purchased and placed under management for recovery of the desert tortoise. A fence to prevent desert tortoises from entering the mine would be constructed under the supervision of

a biologist and the area enclosed by the fence would be systematically searched. All desert tortoises found would be relocated to adjacent habitat in a manner consistent with current handling procedures and guidelines. Workers at the mine site would be educated about the status of the desert tortoise and what to do if desert tortoises are found on access roads or during work activities. The applicant would ensure that trash is handled in a way that does not lure predators of the desert tortoise into the area.

The phasing of mining would reduce the numbers of Mojave ground squirrels killed at any given time. The acquisition and management of off-site habitat would be the primary means of compensating for the loss of this habitat and individual Mojave ground squirrels. Nest tree buffers and grading season restrictions would protect any loggerhead shrikes nesting on site. During reclamation of the site, trees would be planted that provide nesting habitat for the loggerhead shrike.

Environmental Assessment

The environmental assessment considers the environmental consequences of the proposed action and no action alternatives. A no take alternative was not feasible due to the size of the proposed mine and the unpredictable distribution of desert tortoises in the project area. Under the no action alternative, the Service would not issue an incidental take permit to the applicant and a habitat conservation plan would not be implemented. The applicant would not be able to proceed legally with mining as planned due to the presence of listed animal species in the area.

Authority

This notice is provided pursuant to section 10(c) of the ESA and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, its associated documents, and comments submitted thereon to determine whether the application meets the requirements of the ESA. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the listed species. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: November 12, 1997.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–30200 Filed 11–17–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Review of Utilities Data Content Standard

ACTION: Notice; request for comments.

SUMMARY: The FGDC is conducting a public review of the Utilities Data Content Standard. The purpose of this public review is to provide data users and producers with an opportunity to comment on this standard in order to ensure that it meets their needs. Specifically, the FGDC request responses in three areas: (1) Identify any ''ad hoc'' or ''defacto'' standards being used that address data content for utilities systems; (2) identify additional feature classes, feature types, attributes, and domains not contained in this standard that are necessary to meet a user's requirements; (3) identify any issues that a user may have in implementing the information contained in the utilities standard into a system's feature schema.

Participants in the public review are encouraged to provide comments that address specific issues/changes/additions that may result in revisions to the draft utilities standard. All participants who make comments during the public review period will receive an acknowledgment of the receipt of their comment. After comments have been considered, participants will receive notification of how their comments were addressed. After the formal adoption of the standard by the FGDC, the revised standard and a summary analysis of the changes will be made available.

DATES: Comments must be received on or before March 6, 1998.

FOR FURTHER INFORMATION CONTACT: The standard can be downloaded from the following Internet address: http://www.fgdc.gov/Standards/Documents/Standards/Utility.

Requests for written copies of the standard should be addressed to ''Utilities Data Content Standard'', FGDC Secretariat (attn: Jennifer Fox), U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192; or telephone 703–648–5514; facsimile 703–648–5755; or Internet ''gdc@usgs.gov.''

Reviewer's comments may be sent to the FGDC via Internet mail to: gdc.util@www.fgdc.gov. Reviewer comments may also be sent to the FGDC Secretariat at the above address. Please send one hardcopy version of the comments and a soft copy version, preferably on a 3.5×3.5 diskette in WordPerfect 5.0 or 6.0/6.1 format.

For answers to questions related to the content of the standard please contact the Federal Geographic Data Committee (FGDC) Facilities Working Group, U.S. Army Corps of Engineers, General Engineering Branch 20 Massachusetts Avenue, NW, Washington, DC 20314–1000; voice telephone numbers: Kevin Backe (703) 428–6505, Nancy Blyler facsimile telephone number: (703) 428–6991.

Dated: October 10, 1997.

John Fischer,

Acting Chief, National Mapping Division, U.S. Geological Survey.

[FR Doc. 97–30167 Filed 11–17–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

National Park Service

Homestead National Monument of America, NE

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, the National Park Service, Department of the Interior will prepare an Environmental Impact Statement (EIS) to assess the impact of alternative management concepts in a revised General Management Plan (GMP) for Homestead National Monument of America. The purpose of revising the GMP is to set forth the basic management philosophy for the next 10 to 15 years, and provide the strategies for addressing issues and achieving identified management objectives. Some of the issues needing addressing are: flooding threats to the park's developed infrastructure and operations much of which resides or occurs in a floodplain; the restored tallgrass prairie's relationship to the park's purpose; cultural landscape alterations misrepresenting the historic scene and integrity; adequacy of domestic water and sewerage infrastructure; Highway 4 and traffic safety; Freeman School's interpretive relationship and safe public access thereto; unfulfilled legislative mandates to serve as a repository for

literature applying to settlement and agricultural implements; interpretive themes as identified in the park's enabling legislation; and existing physical facilities limitations. The GMP/EIS will investigate alternatives ranging from no-action to a variety of development proposals and management approaches designed to guide visitor use and provide for resource protection.

To facilitate sound planning and environmental assessment, the National Park Service intends to gather information necessary for the preparation of the EIS, and to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in the scoping process are invited.

A series of public meetings and open houses will be held during the development of the GMP and the preparation of the EIS. Notices of the dates, times, and locations of these public sessions will be advertised in local media outlets prior to the events. Information about public sessions and about the GMP and EIS will also be provided through periodic newsletters.

The draft GMP/EIS is expected to be completed and available for public review by May 15, 1998.

DATES: Public open houses to collect information and opinions about the scope of issues to be addressed in the GMP will be held on January 13 and 14, 1998. The January 13 open house will be held between 7:30 p.m. and 9:00 p.m. at the Beatrice Public Library, 100 North 16th Street, Beatrice, Nebraska. The January 14 open house will be held between 2:00 p.m. and 6:00 p.m. on the 4th floor of the Federal Building, 100 Centennial Mall North, Lincoln, Nebraska.

ADDRESSES: Written comments and information concerning preparation should be directed to: Superintendent, Homestead National Monument of America, Route 3, Box 47, Beatrice, Nebraska 68310–9116. Comments should be received by January 30, 1998.

FOR FURTHER INFORMATION CONTACT: Superintendent, Homestead National Monument of America, at the above address or at telephone number 402-223–3514.

Dated: November 10, 1997.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 97–30253 Filed 11–17–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 8, 1997. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by December 3, 1997.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Phillips County

Mayo House, 302 Elm St., Marvell, 97001513

FLORIDA

Washington County

Woman's Club of Chipley (Clubhouses of Florida's Womens Clubs MPS), 607 Fifth St., Chipley, 97001514

LOUISIANA

Cameron Parish

Hebert House (Louisiana's French Creole Architecture MPS), Roughly jct. of Greenhouse Ln. and LA 3056, Lake Arthur vicinity, 97001516

East Feliciana Parish

Taylor House, 5000 LA 10, Jackson vicinity, 97001518

Pointe Coupee Parish

Samson House (Louisiana's French Creole Architecture MPS), 405 Richey St., New Roads, 97001515

St. Tammany Parish

Sardy House (Louisiana's French Creole Architecture MPS), 810 Main St., Madisonville, 97001517

Webster Parish

Watkins House, 109 N. College, Minden, 97001519

NEBRASKA

Gage County

Institution for Feeble Minded Youth Farm, 1 mi. E of Beatrice State Home and 1 mi. N of NE 3, Beatrice vicinity, 97001521

Jefferson County

District No. 1 School of Jefferson County, Jct. of N. Second and Curtis Sts., Steele City, 97001520

NEW HAMPSHIRE

Grafton County

Samuel Morey Memorial Bridge, The, NH 25A over the Connecticut R., Orford, 97001523

Hillsborough County

Goffstown High School, 12 Reed St., Goffstown, 97001524

NEW YORK

Ontario County

South Bristol Grange Hall 1107, 6457 NY 64, Bristol Springs, 97001528

Schuyler County

Chapman, A.E., House, 115 S. Monroe St., Watkins Glen, 97001526

Wayne County

Red Brick Church, Jct. of Brick Church Rd. and S. Geneva Rd., Sodus Center, 97001527

Yates County

Larzelere Tavern, 3858 County House Rd., Branchport vicinity, 97001525

NORTH CAROLINA

Halifax County

Whitaker's Chapel, NC 1003;0.4 mi. E of jct. of NC 1100 and NC 1003, Enfield vicinity, 97001522

TENNESSEE

Campbell County

Perkins, A.E., House, 130 Valley St., Jacksboro, 97001529

TEXAS

Austin County

Witte—Schmid House, Off Schoenau, near jct. with Eckermann, Shelby vicinity, 97001531

Bexar County

GoaD Motor Company Building, 317 Lexington Ave., San Antonio, 97001530

Randall County

Amarillo Globe Dream House, 3104 S. Harrison, Amarillo, 97001532

WYOMING

Sheridan County

Mount View, 610 S. Jefferson St., Sheridan, 97001534

Sheridan Flouring Mills, Inc., 2161 Coffeen Ave., Sheridan, 97001533

Sweetwater County

US Post Office—Green River (Wyoming Post Offices MPS), 3 W. Flaming Gorge Way, Green River, 97001535

[FR Doc. 97–30194 Filed 11–17–97; 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 an Associated Funerary Object From Park County, MT in the Possession of the Buffalo Bill Historical Center, Cody, WY

AGENCY: National Park Service.

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 an associated funerary object in the possession of the Buffalo Bill Historical Center, Cody, WY.

A detailed assessment of the human remains was made by Buffalo Bill Historical Center professional staff in consultation with representatives of the Crow Tribe of Montana.

In 1974, human remains representing one individual were removed from the Fricker Ranch by Federal Bureau of Investigation personnel following notification by the Park County Coroner that human remains had been discovered. In 1974, these human remains were donated to Buffalo Bill Historical Center by Mr. and Mrs. Eugene Gardner of the Fricker Ranch. No known individuals were identified. The associated funerary object is a nickel pendant with a date of 1835.

Based on posterior cradle deformation, shovel incisors, and dental wear patterns, this individual has been identified as Native American, specifically from the Northern Plains. Based on the date of the pendant, this burial is estimated to date to circa the mid-nineteenth century. Historical documents indicate that Park County was well within the Crow territory of the nineteenth century.

Based on the above mentioned information, officials of the Buffalo Bill Historical Center have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Buffalo Bill Historical Center have also determined that, pursuant to 25 U.S.C. 3001(3)(A), the one object listed above is 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 Buffalo Bill Historical Center 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 object and the Crow Tribe of Montana.

This notice has been sent to officials of the Crow Tribe of Montana, the Blackfoot Tribe of the Blackfoot Indian Reservation, and the Shoshone Tribe of the Wind River Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Emma I. Hansen, Curator, Buffalo Bill Historical Center, 720 Sheridan Avenue, Cody, WY 82414; telephone: (307) 587–4771, before December 18, 1997. Repatriation of the human remains and associated funerary objects to the Crow Tribe of Montana may begin after that date if no additional claimants come forward.

Dated: November 5, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–30231 Filed 11–17–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Extension of existing collection. Application for asylum and withholding of removal.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 14, 1997 at 62 FR 37604, allowing for an emergency extension with 60-day public comment period. The INS received 11 comments on the information collection from members of the general public, immigration practitioner, various components of the Executive Office for Immigration Review and non-governmental organizations. The comments have been reconciled and the collection revised as appropriate.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 18, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Written comments, and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Asylum and Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–589. Office of International Affairs, Asylum Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected is used by the INS and EOIR to access eligibility of persons applying for asylum and withholding of deportation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 80,000 responses at three and one half (3.16) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the*

collection: 252,800 annual burden hours.

If you have additional comments suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: November 12, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

BILLING CODE 4410–18–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0086

Instructions for Form I-589
Application for Asylum and for Withholding of Removal

Purpose of This Form.

This form is used to apply for asylum in the United States (U.S.), and for withholding of removal (formerly called "withholding of deportation"). You may file for asylum if you are physically present in the United States and you are not a United States citizen.

NOTE: You **must** submit an application for asylum within one (1) year of arriving in the United States, unless there are changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances relating to a delay in filing for asylum. (See filing Instruction, Section V, Part D, for further explanation.)

You may include in your application your spouse and your unmarried children who are under 21 years of age and physically present in the United States. Married children and children 21 years of age or older must file a separate Form I-589 application. If your spouse and/or unmarried children under the age of 21 are outside the United States, you may file a petition for them to gain similar benefits, if you are granted asylum.

This instruction pamphlet is divided into two (2) sections. The first section has filing instructions. It discusses eligibility and will guide you through filling out and filing the application. The second section describes how your application will be processed. This section also describes potential interim benefits while your application is pending. You will not be authorized to work based on filing this application.

Please read these instructions carefully. The instructions will help you complete your application and understand how it will be processed.

WARNING: **Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an Immigration Judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings, even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. See INA Section 208(d)(6) and 8 CFR 208.18.**

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FILING INSTRUCTIONS

I. Who May Apply and Filing Deadlines

You may apply for asylum irrespective of your immigration status, and even if you are in the United States unlawfully.

You MUST file this application within one (1) year after you arrived in the United States, unless you can show that there are changed circumstances that affect your eligibility for asylum or extraordinary circumstances that prevented you from filing within one (1) year. (See Filing Instructions, Section V, Completing the Form, Part D, for further explanations of this requirement.)

If you have previously been denied asylum by an Immigration Judge or the Board of Immigration Appeals, you must show that there are changed circumstances that affect your eligibility for asylum.

The determination of whether you are permitted to apply for asylum will be made once you have had an asylum interview with an asylum officer or a hearing before an Immigration Judge. Even if you are not eligible to apply for asylum because of the reasons stated above, you may still be eligible to apply for withholding of removal.

II. Basis of Eligibility

A. Asylum

In order to qualify for asylum, you must establish that you are a refugee. A refugee is a person who is unable or unwilling to return to his or her country of nationality or last habitual residence, because of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

If you are granted asylum, you and any eligible dependents included in your application will be permitted to remain and work in the United States and may eventually adjust to lawful permanent residence status. **If you are not granted asylum, the Immigration and Naturalization Service (INS) may use the information you provide in this application to establish that you are removable from the United States.**

B. Withholding of Removal

Your asylum application is also considered to be an application for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (INA), as amended. If asylum is not granted, you may still be eligible for withholding of removal.

In order to qualify for withholding of removal, you must establish that it is more likely than not that you would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country to which you do not wish to be removed.

If you obtain an order withholding your removal, you cannot be returned to that country in which your life or freedom would be threatened. Withholding of removal does not apply to any spouse or child included in the application. They would have to apply for such protection on their own. If you are granted withholding of removal, this would not give you the right to bring dependents to the United States. It also would not give you the right to become a permanent resident of the United States.

C. Legal Sources Relating to Eligibility

The documents listed below are some of the legal sources used in determining asylum eligibility. These sources are provided for reference only. You do not need to refer to them in order to complete your application.

- Section 101(a)(42) of the Immigration and Nationality Act, 8 U.S.C. 1101 (defining "refugee");
- Section 208 of the Immigration and Nationality Act, 8 U.S.C. 1158 (regarding eligibility for asylum);
- Section 241(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1251 (regarding eligibility for withholding of removal);
- Title 8 of the Code of Federal Regulations, section 208, et. seq.;
- The 1967 United Nations Protocol Relating to the Status of Refugees;
- The 1951 Convention Relating to the Status of Refugees;
- Office of the United Nations High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status (Geneva, 1992).

III. Confidentiality

The information collected will be used to make a determination on your application. It may also be provided to other government agencies (federal, state, local and/or foreign). All applicants are subject to a check of criminal and other information databases in order to determine eligibility. However, no information regarding this application will be provided to any government or country from which you claim a fear of persecution. There are regulations protecting the confidentiality of asylum claims.

IV. Right to Counsel

Although we have tried to make this form easy to use, immigration law concerning asylum is complex. You have a right to provide your own legal representation at an asylum interview and during removal proceedings before the Immigration Court, at no cost to the United States Government. If you need, or would like, help in completing this form and preparing your written statements, assistance from pro bono attorneys and/or voluntary agencies may be available. They may help you at no cost or for a reduced fee. If you have not already received from INS a list of attorneys and accredited representatives, you may obtain a list by calling 1-800-870-FORM (3676).

Representatives of the United Nations High Commissioner for Refugees (UNHCR) may be able to assist you in identifying persons to help you complete the application. You may, if you wish, forward a **copy** of your application and other supporting documents to the UNHCR. (For instructions on where to file the original, please see Filing Instructions, Section XI. "Where to File." The current address of the UNHCR is:

United Nations High Commissioner for Refugees
1775 K Street, NW, Third Floor
Washington, DC 20006
Telephone: (202) 296-5191

V. Completing the Form

Type or print all of your answers in **black** ink on the Form I-589. Your answers must be completed in English. Forms completed in a language other than English will be returned to you.

Provide the specific information requested about you and your family. **Answer ALL of the questions asked.** If any question does not apply to you, answer "none" or "not applicable." Provide detailed information and answer the questions as completely as possible. If you need more space, attach an additional sheet(s) indicating the question number(s) you are answering. You are strongly urged to attach additional written statements and documents that support your claim. Your written statements should include details of your experiences, events, and dates that relate to your claim for asylum.

NOTE: Please put your A# (if any), name (exactly as it appears in Part A of the form), signature and date on each supplemental sheet and on the cover page of any supporting documents.

You will be permitted to correct or supplement your application at the time of your asylum interview before an asylum officer and at your hearing in Immigration Court by providing additional information and explanations about your asylum claim.

Part A. Information About You

This part asks for basic information about you. Alien Registration Number (A#) refers to your INS file number. If you do not already have an A#, the INS will assign one to you. You must provide your residential street address in the United States in Part A, Question 7, of the asylum application. You may also provide a mailing address if different from the address where you reside. In Question 12, use the current name of the country. Do not use historical, ethnic, province, or other local names.

The I-94#, referred to in Question 18e, is the number on Form I-94, Departure Record, given to you when you entered the United States. In Question 18f, enter the date as it appears on the Form I-94. If you did not receive a Form I-94, write "None". If you entered without being inspected by an immigration officer, write "No Inspection" in Question 18d.

Part B. Spouse and Children

You should list your spouse and all your children in this application regardless of whether they are in the United States when you file your asylum application.

You may ask to have included in your asylum application your spouse and/or any children who are unmarried, if they are in the United States. Children who are married and/or children who are 21 years of age or older must file separately for asylum by submitting their own asylum applications (Form I-589).

If you apply for asylum while in proceedings before the Immigration Court, the Immigration Judge may not have authority to grant asylum to any spouse or child included in your application who is not also in proceedings.

When including family members in your asylum application, for each family member you MUST submit an additional copy of your completed asylum application and the documentary evidence establishing your family relationship, as described below.

- If you are including your spouse in your application, submit three (3) copies of your marriage certificate.
- If you are including any unmarried children under 21 in your application, submit three (3) copies of each child's birth certificate.

If you do not have, or are unable to obtain these documents, you may submit an affidavit from at least one (1) person for each event you are trying to prove. Affidavits may be provided by relatives or others. Persons providing affidavits need not be United States citizens or lawful permanent residents. **Affidavits must:**

- fully describe the circumstances or event in question and fully explain how the person acquired knowledge of the event(s);
- be sworn to, or affirmed by, persons who were alive at the time of the event(s) and have personal knowledge of the event(s) (date and place of birth, marriage, etc.) that you are trying to prove; and
- show the full name, address, date, and place of birth of each person giving the affidavit, and indicate any relationship between you and the person giving the affidavit.

If you have more than two (2) children, complete the Supplemental Form A, as needed, or attach additional pages and documentation providing the same information asked in Part B of the Form I-589.

Part C. Information About Your Claim for Asylum

This part asks specific questions relevant to eligibility for asylum and for withholding of removal. Check "yes" or "no" in the box provided for each question. If you answer "yes" to any question, explain in detail using the Supplemental Form continuation sheets as needed. You should clearly describe any of your experiences, or those of family members or others who have had similar experiences, that may show that you are a refugee.

If you have experienced harm that is difficult for you to write down and express, you should be aware that these experiences may be very important to the decision-making process regarding your request to remain in the United States. At your interview with an asylum officer or hearing with an Immigration Judge, you will need to be prepared to discuss the harm you have suffered. If you are having trouble remembering or talking about past events, it is suggested that you talk to a lawyer, a representative or health professional who may be able to help you explain your experiences and current situation.

Part D. Additional Information about Your Application for Asylum

Check "yes" or "no" in the box provided for each question. If you answer "yes" to any question, explain in detail using the Supplemental Form continuation sheets as needed.

If you answer "yes" to question 6, you must explain why you did not apply for asylum within the first year after you arrived in the United States. The government will accept as an explanation certain changes in the conditions in your country, certain changes in your own circumstances, and certain other events that may have prevented you from applying earlier. For example, some of the events the government might consider as valid explanations include, but are not limited to, the following:

- You have learned that human rights conditions in your country have worsened since you left;
- Because of your health, you were not able to submit this application within a year after you arrived;
- You submitted an application, but it was returned to you because it was not complete, and you submitted a complete application within a reasonable amount of time.

Federal regulations specify some of the other types of events that may also qualify as valid explanations for why you filed late. These regulations are found at Title 8, Section 208.4 of the Code of Federal Regulations. The list in the Code of Federal Regulations is not all-inclusive, and the government recognizes that there are many other circumstances that might be acceptable reasons for filing after one year of arrival.

If you are unable to explain why you did not apply for asylum within the first year after you arrived in the United States, or your explanation is not accepted by the government, you may not be eligible to apply for asylum, but you could still be eligible for withholding of removal.

Part E. Your Signature

You must sign your application in Part E and provide the information requested. Sign after you have completed and reviewed the application.

If it is determined that you have knowingly made a frivolous application for asylum you can be permanently ineligible for any benefits under the Immigration and Nationality Act. According to Title 8, Section 208.18 of the Code of Federal Regulations, an application is frivolous if any of its material elements is deliberately fabricated. (See Filing Instructions, Section IV, "Right to Counsel," in the event that you have any questions.)

Part F. Signature of Person Preparing Form if Other than You

Any person, other than an immediate family member (your spouse, parent(s), or children) who helped prepare your application must sign the application and provide the information requested.

Penalty for Perjury. All statements contained in response to questions contained in this application are declared to be true and correct under penalty of perjury. You and anyone, other than an immediate family member, who assists you in preparing the application must sign the application under penalty for perjury. Your signature is evidence that you are aware of the contents of this application. Any person assisting you in preparing this form, other than an immediate family member, must include his or her name and address and sign the application where indicated in Part F. Failure of the preparer to sign will result in the application being returned to you as an incomplete application. If the INS later learns that you received assistance from someone other than an immediate family member, and the person who assisted you failed to sign the application, this may result in an adverse ruling against you.

Title 18, United States Code, Section 1546, provides in part:

> Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement shall be fined in accordance with this title or imprisoned not more than five years, or both.

If you knowingly provide false information on this application, you or the preparer of this application may be subject to criminal penalties under Title 18 of the United States Code and to civil penalties under Section 274C of the Immigration and Nationality Act, 8 U.S.C. 1324c.

Part G. To Be Completed at Interview

Do not sign your application in Part G before filing this form. You will be asked to sign your application in this space at the conclusion of the interview regarding your claim.

NOTE: You must, however, sign Part E of the application.

VI. Required Documents and Required Number of Copies that You Must Submit with Your Application

You must submit the following documents to apply for asylum and withholding of removal:

- **The completed, signed original and two (2) copies of your completed application, Form I-589,** and the original and two (2) copies of any supplementary sheets and supplementary statements. You must submit a total of three (3) copies of any other documentation such as supporting documentation. In addition, you should make and keep one (1) additional copy of the completed application for your own records.

- **An additional copy of your completed application, Form I-589,** with supplementary sheets and supplementary statements, for each family member listed in Part B who you want to have included in your application.

- **Three (3) copies of any documentary evidence of relationship,** such as birth records of your children, marriage certificate, or proof of termination of marriage, for each family member listed in Part B who you want to have included in your application. NOTE: If you do not have, and are unable to obtain, these forms of documentary evidence, you must submit an original and two (2) copies of an affidavit from a third person who knows of the relationship. (For affidavit requirements, see Filing Instructions, Section V, Completing the Form, Part B.)

- **One (1) Fingerprint Card, FD-258,** for you and each family member listed in Part B who is 14 years of age or older and who is included in your application. The FD-258 MUST be properly filled out and the fingerprints must be clear with no smudges. You must complete the information on the top of the card and write your A# (if any) in the space marked "Your No. OCA" or "Miscellaneous No. MNU." Do not sign the card until you have been fingerprinted, or are told to sign by the person who takes your fingerprints. The person who takes your fingerprints must also sign the card and write his or her title and the date you are fingerprinted in the space provided. Do not bend, fold, or crease the fingerprint card. You may obtain a fingerprint card, FD-258, by calling 1-800-870-FORM (3676).

- **One (1) passport-style photograph** of you and each family member listed in Part B who is included in your application. The photos must have been taken no more than 30 days before you file your application. Print the person's complete name and A# (if any) on the back of his or her photo with a pencil.

- **A copy of all passports or other travel documents** (cover to cover) in your possession, and a copy of any U.S. Immigration documents, such as an I-94 Departure Record, for you and each family member who you want included in your application, if you have such documents.

- If you have **other identification documents** (for example, birth certificate, military or national identification card, drivers license, etc.), it is recommended that you submit a copy with your application and bring the original(s) with you to the interview.

Original documents may be retained if submitted. If these instructions state that a copy of a document may be filed with this application and you choose to send the original, the INS or Immigration Court may keep that original for its records.

Translation of documents not in English is required. Any document in a language other than English must be accompanied by an adequate English translation that the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate into English the language used in the document.

VII. Additional Documents that You May Submit

You may also submit any supporting documents, such as newspaper articles, affidavits of witnesses or experts, medical and or psychological records, doctors statements, periodicals, journals, books, photographs, official documents, or personal statements. If you have difficulty discussing harm you have suffered in the past, you may wish to submit a doctor's report explaining this difficulty.

VIII. Fee

There is no fee for filing this application.

IX. Organizing Your Application

Put your application together in the following order (if possible, secure with binder clips and rubber bands so that material may be easily separated):

- Your original Form I-589, with all questions completed, and the application signed by you, in Part E, and signed by any preparer, in Part F; and

- One (1) passport-style photo of you stapled to the form at Part E.

Behind your original Form I-589, attach in the following order:

- One (1) Form G-28, if represented by an attorney or other representative, signed by you and the attorney/ representative;

- The original of all supplemental sheets and supplementary statements submitted with your application;

- One (1) copy of the evidence of your relationship to your spouse and unmarried children under 21 who you want included in your application, if any;

- One (1) completed Fingerprint Card (FD-258), if you are 14 years of age or older (do not bend, fold or crease this card); and

- Two (2) copies of the items in your original package, except photograph and fingerprints.

If you are including family members in your application, attach one (1) additional package for each family member. Arrange each family member's package as follows:

- One (1) copy of your completed, signed Form I-589 and supplemental sheets submitted with the original application. In Part B, staple in the upper right hand corner one (1) passport-style photo of the family member to be included;

- One (1) copy of Form G-28, if any; and

- One (1) completed Fingerprint Card (FD-258) if the dependent is 14 years of age or older (do not bend, fold or crease this card).

For example, if you include your spouse and two (2) children, you should submit your original package, plus two (2) duplicates for you, plus one (1) package for your spouse, plus one (1) package for each child, for a total of 6 (six) packages. Be sure each has the appropriate documentation.

NOTE: Any additional pages submitted should include the applicant's printed name (exactly as it appears in Part A of the form), A# (if any), signature and date. Fingerprints do NOT require additional copies.

X. Incomplete Asylum Applications

An asylum application that is incomplete shall be returned to you by mail within thirty (30) days of receipt of the application by the INS. An application that has not been returned to you within thirty (30) days of having been received by the INS shall be considered complete.

The filing of a complete application starts the 150-day period you must wait before you may apply for employment authorization. If your application is not complete and is returned to you, the 150-day period will not begin until you complete the application and resubmit it. (See Other Information, Section V, Employment Authorization, for further information regarding eligibility for employment authorization.)

An application will be considered incomplete in each of the following cases:

- The application does not include a response to each of the questions contained in the Form I-589;
- The application is unsigned;
- You do not submit one (1) completed Form FD-258 (Fingerprint Card) for you and for every family member who is 14 years of age or older and who is included in your application, or if the FD-258(s) submitted is/are not properly filled out or the fingerprints are smudged or otherwise not readable;
- The application is sent without the appropriate number of copies for any supporting materials submitted;
- You indicated in Part E that the application was prepared by someone other than yourself or an immediate family member and the preparer failed to complete Part F of the asylum application.

XI. Where to File

Although the INS will confirm in writing its receipt of your application, you may wish to send the completed forms by registered mail (return receipt requested).

If you are in proceedings in Immigration Court:

If you are currently in proceedings in Immigration Court (that is, if you have been served with Form I-221, Order to Show Cause; Form I-122, Notice to Applicant for Admission Detained for Hearing; Form I-862, Notice to Appear; or Form I-863, Notice of Referral to Immigration Judge), you are required to file your application, Form I-589, with the Immigration Court having jurisdiction over your case.

If you are NOT in proceedings in Immigration Court:

You are to mail your completed application for asylum and withholding of removal, Form I-589, and any other additional information, to the INS Service Center as indicated below.

If you live in Alabama, Arkansas, Colorado, Commonwealth of Puerto Rico, District of Columbia, Florida, Georgia, Louisiana, Maryland, Mississippi, New Mexico, North Carolina, western Pennsylvania, South Carolina, Tennessee, Texas, United States Virgin Islands, Utah, Virginia, West Virginia, or Wyoming, mail your application to:

USINS Southern Service Center
P.O. Box 152122
Department A
Irving, TX 75015-2122

If you live in Alaska, northern California, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, northern Nevada, North Dakota, Ohio, Oregon, South Dakota, Territory of Guam, Washington, or Wisconsin, mail your application to:

USINS Northern Service Center
P.O. Box 87589
Lincoln, NE 68501-7589

If you live in Arizona, southern California, or southern Nevada, mail your application to:

USINS Western Service Center
P.O. Box 10589
Laguna Niguel, CA 92607-0589

If you live in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, eastern Pennsylvania, Rhode Island, or Vermont, mail your application to:

USINS Eastern Service Center
P.O. Box 9589
St. Albans, VT 05479-9589

OTHER INFORMATION

I. Notification Requirements when Address Changes

If you change your address you **must** inform the INS in writing within ten (10) days of moving.

While your asylum application is pending before the asylum office, you must notify the asylum office on Form AR-11 (Change of Address Form) or by a signed and dated letter of any changes of address within ten (10) days after you change your address. The address that you provide on the application, or the last change of address notification you submitted, will be used by the INS for mailing. Any notices mailed to that address shall constitute adequate service of all notices. These notices include an interview notice, or other documents, except a Notice to Alien Detained for Hearing by an Immigration Judge (Form I-122), and an Order to Show Cause (Form I-221), and a Notice and Order of Expedited Removal (Form I-860), in which personal service may be required.

If you are already in proceedings in Immigration Court, you MUST notify the Immigration Court on Form EOIR 33 (Change of Address Form) or in writing of any changes of address within five (5) days of the change in address. You must send the notification to the Immigration Court with jurisdiction over your case.

II. Asylum Interview Process

If you are not in proceedings in Immigration Court, you will be notified by the INS asylum office of the date, time and place (address) of a scheduled interview. The INS suggests that you bring a copy of your application with you when you have your asylum interview. An asylum officer will interview you under oath, make an assessment of your claim

and make a determination concerning your claim. In most cases, you will not be notified of the decision in your case until a date after your interview. You have the right to representation at your interview, at no cost to the United States government. You also may bring witnesses to testify on your behalf.

If you are unable to proceed with the asylum interview in fluent English, you must provide at no expense to the INS, a competent interpreter fluent in both English and a language that you speak fluently. Your interpreter must be at least 18 years of age. The following persons cannot serve as your interpreter: your attorney or representative of record, or a witness testifying on your behalf at the interview. Quality interpretation may be crucial to your claim. Such assistance must be obtained, at your expense, prior to the interview.

Failure without good cause to bring a competent interpreter to your interview may be considered an unexcused failure to appear for the interview. Any unexcused failure to appear for an interview may prevent you from receiving work authorization, and your asylum application may be dismissed or referred directly to the Immigration Court.

If available, you must bring some form of identification to your interview, including any passport(s), other travel or identification documents, or Form I-94 Departure Record. You may bring to the interview any additional available items documenting your claim that you have not already submitted with your application.

If **members of your family** are included in your application for asylum, they must also appear for the interview and bring any identity or travel documents they have in their possession.

III. Status While Your Claim is Pending

While your case is pending, you will be permitted to remain in the United States. After your asylum interview, if you have not been granted asylum and appear to be deportable under Section 237 of the INA, 8 U.S.C. 1227, or inadmissible under Section 212 of the INA, 8 U.S.C. 1182, your application will be filed with the Immigration Court upon referral by the asylum office.

IV. Travel Outside the United States

If you leave the United States without first obtaining advance parole, it will be presumed that you have abandoned your application. If you obtain advance parole and return to the country of claimed persecution, it will be presumed that you abandoned your application, unless you can show that there were compelling reasons for your return.

V. Employment Authorization while Your Application is Pending

You will be granted permission to work if your asylum application is granted.

You may request permission to work if your asylum application is pending and 150 days have lapsed since your application was accepted by the INS. See 8 CFR. 208.7(a)(1). If your asylum application has not been denied within 180 days from the date of filing a complete asylum application, you may be granted employment authorization. You may request permission to work by filing an Application for Employment Authorization, Form I-765. Follow the instructions on that application and submit it with a copy of evidence that you have a pending asylum application. Each family member you have asked to have included in your application who also wants permission to work must submit a separate Form I-765. You may obtain a Form I-765 by calling 1-800-870-FORM (3676).

You may NOT apply for employment authorization until your application for asylum or withholding of removal has been pending for at least 150 days since acceptance by the INS or the Immigration Court. If you file an application for employment authorization before 150 days has expired, that application will be denied. Any delay in the processing of your asylum application that you request or cause shall not be counted as part of the 150-day time period.

VI. Privacy Act Notice.

The authority to collect this information is contained in Title 8 of the United States Code. Furnishing the information on this form is voluntary; however, failure to provide all of the requested information may result in the delay of a final decision or denial of your request.

VII. Paperwork Reduction Act Notice.

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 30 minutes to learn about the form; (2) 55 minutes to complete the form; and (3) 105 minutes to assemble and file the application; for a total estimated average burden hours of 3 hours and 10 minutes per application. The estimated time to complete the form will vary dependent on the complexity of your individual circumstances. If you have comments regarding the accuracy of this estimate or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, 425 I Street, NW., Room 5307, Washington, DC 20536, OMB No. 1115-0086. **Do not mail your completed application to this address.**

U.S. Department of Justice
Immigration and Naturalization Service

OMB # 1115-0086

Application for Asylum and for Withholding of Removal

Start Here - Please Type or Print. **USE BLACK INK. SEE THE SEPARATE INSTRUCTION PAMPHLET FOR INFORMATION ABOUT ELIGIBILITY AND HOW TO COMPLETE AND FILE THIS APPLICATION.**

PART A. INFORMATION ABOUT YOU.

1. Alien Registration Number(s), if any (A#'s)	2. Social Security Number	
3. Complete Last Name	4. First Name	5. Middle Name
6. What Other Names Have You Used? *(Include maiden name and aliases.)*		
7. Mailing Address in the U.S. C/O		Telephone Number
Street Number and Name		Apt. No.
City	State	ZIP Code
8. Residence if Other than Above		Telephone Number
Street Number and Name		Apt. No.
City	State	ZIP Code
9. Sex ☐ Male ☐ Female	10. Marital Status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed	
11. Date of Birth *(Mo/Day/Yr)*	12. City and Country of Birth	
13. Present Nationality *(Citizenship)*	14. Nationality at Birth	
15. Race, Ethnic or Tribal Group	16. Religion	

17. *Check each box that applies.*

☐ I am **not** now in removal, deportation or exclusion proceedings.
☐ I am now in removal, deportation or exclusion proceedings.
☐ I was previously in removal, deportation or exclusion proceedings.
☐ I have never been in removal, deportation or exclusion proceedings.

18. *Complete 18a through 18g.* a. When did you last leave your country? *(Mo/Day/Yr)*	d. What was your status when you last entered the U.S.? *(What type of visa did you have, if any)?*
b. When did you last enter the U.S.? *(Mo/Day/Yr)*	e. What is your I-94 Number?
c. Where did you last enter the U.S.?	f. What is the expiration date of your authorized stay, if any?

g. Have you previsously entered the U.S.? ☐ No ☐ Yes. If YES, list place, date, and your status for each entry. *(Attach additional sheets as needed.)*

Date _____ Place _____ Status _____

Date _____ Place _____ Status _____

Date _____ Place _____ Status _____

FOR INS USE ONLY

Returned _____ _____	Receipt
Resubmitted _____ _____	
Reloc Sent _____ _____	
Reloc Rec'd _____ _____	
Action: Interview Date: _____	
Asylum: ☐ Granted ☐ Denied ☐ Referred ☐ Recommended Approval Date _____	
Date A.O. final decision or referral issued _____	
Total number of persons granted asylum _____	

For EOIR Use Only

To Be Completed by Attorney or Representative, if any

☐ Check if G-28/EOIR-28 is attached showing you represent the applicant.

INS VOLAG or PIN #

ATTY State License # _____

Information About You - Continued.

19. What is your native language?	20. Are you fluent in English? ☐ Yes ☐ No	21. What other languages do you speak fluently?

22. Have you ever applied to the United States government or to any other government(s) for refugee status, asylum, withholding of deportation, or withholding of removal?
- ☐ No.
- ☐ I was included in a pending application of my parent(s). However, I am now 21 years' old or married so I am filing my own application.
- ☐ I was included in my spouses application, but now I wish to file my own application.
- ☐ Yes. (In what country and what was the decision? Also specify the date of the decision.) *Country* _____ *Date* _____

24. What country issued your last passport or travel document?	25. Passport # Travel Document #	26. Expiration Date

27. Prior address in last country of residence or country in which you fear persecution. *(List Address, City/Town, Province, and Country)*

28. Provide the following information about your education, beginning with the most recent.

Name of School	Type of School	Location	Attended From *(Mo/Yr)*	To *(Mo/Yr)*

29. Provide the following information about your residences during the last five years. List your present address first. *(Use additional sheets of paper if necessary.)*

Number and Street	City	Province or State	Country	Dates From *(Mo/Yr)*	To *(Mo/Yr)*

30. Provide the following information about your employment during the last five years. List your present employment first. *(Use additional sheets of paper if necessary.)*

Name and Address of Employer	Your Occupation	Dates From *(Mo/Yr)*	To *(Mo/Yr)*

31. Provide the following information about your parents.

Name	Country and City of Birth	Location

PART B. INFORMATION ABOUT YOUR SPOUSE AND CHILDREN.

Your Spouse. ☐ I am not married. *(Skip to Part B, Your Children.)*

1. Alien Registration Number (A#)		2. Passport/ID Card, etc.#	
3. Complete Last Name	4. First Name	5. Middle Name	6. Date of Birth *(Mo/Day/Yr)*
7. Date of Marriage *(Mo/Day/Yr)*	8. Place of Marriage	9. City and Country of Birth	
10. Nationality *(Citizenship)*	11. Race, Ethnic or Tribal Group	12. Sex ☐ Male ☐ Female	
13. Is this person in the U.S.? ☐ Yes. *(Complete blocks 13 to 24.)* ☐ No. *(Specify Location)*		14. Social Security #	
15. Place of Last Entry in the U.S.?	16. Date of Last Entry in the U.S.? *(Mo/Day/Yr)*	17. I-94#	18. Status when Last Admitted *(Visa type, if any)*
19. Expiration of Status *(Mo/Day/Yr)*	20. Is your spouse in removal, deportation or exclusion proceedings? ☐ Yes ☐ No	21. If previously in the U.S., Date of Previous Arrival *(Mo/Day/Yr)*	
22. Place of Previous Arrival		23. Status at Time of Previous Arrival	

24. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)*

☐ Yes. *(Attach one (1) photograph of your spouse in the upper right hand corner of Page 3 on the extra copy of the application submitted for this person.)*
☐ No, because my spouse is/has:
- ☐ Filing separately.
- ☐ Separate application pending.
- ☐ Other reasons.

All of Your Children, Regardless of Age or Marital Status. *(Attach additional pages and documentation if you have more than two (2) children.)*

1. Alien Registration Number (A#)		2. Passport/ID Card, etc.#	
3. Complete Last Name	4. First Name	5. Middle Name	6. Date of Birth *(Mo/Day/Yr)*
7. City and Country of Birth	8. Nationality *(Citizenship)*	9. Race, Ethnic or Tribal Group	10. Sex ☐ Male ☐ Female
11. Is this child in the U.S.? ☐ Yes. *(Complete blocks 12 to 23.)* ☐ No. *(Specify Location)*		12. Social Security #	
13. Place of Last Entry in the U.S.?	14. Date of Last Entry in the U.S.? *(Mo/Day/Yr)*	15. I-94#	16. Status when Last Admitted *(Visa type, if any)*
17. Expiration of Status *(Mo/Day/Yr)*	18. Is your spouse in removal, deportation or exclusion proceedings? ☐ Yes ☐ No	19. If previously in the U.S., Date of Previous Arrival *(Mo/Day/Yr)*	
20. Place of Previous Arrival		21. Status at Time of Previous Arrival	

22. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)*

☐ Yes. *(Attach one (1) photograph of your child in the upper right hand corner of Page 3 on the extra copy of the application submitted for this person.)*
☐ No, because child is/has:
- ☐ Filing separately.
- ☐ Separate application pending.
- ☐ Over 21 years of age.
- ☐ Married.
- ☐ Other reasons.

Information About Your Spouse and Children - Continued.

All of Your Children, Regardless of Age or Marital Status.

1. Alien Registration Number (A#):		2. Passport/ID Card, etc. #	
3. Complete Last Name	4. First Name	5. Middle Name	6. Date of Birth *(Mo/Day/Yr)*
7. City and Country of Birth	8. Nationality *(Citizenship)*	9. Race, Ethnic or Tribal Group	10. Sex ☐ Male ☐ Female
11. Is this person in the U.S.? ☐ Yes. *(Complete blocks 11 to 22.)* ☐ No. *(Specify Location)*			12. Social Security #
13. Place of Last Entry in the U.S.?	14. Date of Last Entry in the U.S.? *(Mo/Day/Yr)*	15. I-94#	16. Status when Last Admitted *(Visa type, if any.)*
17. Expiration of Status *(Mo/Day/Yr)*	18. Is this child in removal, deportation or exclusion proceedings? ☐ Yes ☐ No		20. If previously in the U.S., Date of Previous Arrival *(Mo/Day/Yr)*
21. Place of Previous Arrival			22. Status at Time of Previous Arrival

23. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)*

☐ Yes. *(Attach one (1) photograph of your child in the upper right hand corner of Page 3 on the extra copy of the application submitted for this person.)*

☐ No, because spouse is/has:

- ☐ Filing separately.
- ☐ Separate application pending.
- ☐ Over 21 years of age.
- ☐ Married.
- ☐ Other reasons.

PART C. INFORMATION ABOUT YOUR CLAIM TO ASYLUM.

1. Why are you seeking asylum? Explain in detail what the basis is for your claim. *(Attach additional sheets of paper as needed.)*

Information About Your Claim to Asylum - Continued.

2. What do you think would happen to you if you returned to the country from which you claim you would be subjected to persecution? Explain in detail and provide information or documentation to support your statement, if available. *(Attach additional sheets of paper as needed.)*

3. Have you or any member of your family ever belonged to or been associated with any organizations or groups in your home country, such as, but not limited to, a political party, student group, labor union, religious organization, military or paramilitary group, civil patrol, guerrilla organization, ethnic group, human rights group, or the press or media?

☐ No. ☐ Yes. If yes, provide a detailed explanation of your or your relatives' involvement with each group and include the name of each organization or group; the dates of membership or affiliation; the purpose of the organization; your duties or your relatives' duties or responsibilities in the group or organization; and whether you or your relatives are still active in the group(s). *(Attach additional sheets of paper as needed.)*

4. Have you or any member of your family ever been mistreated or threatened by the authorities of your home country or any other country or by a group or groups that are controlled by the government, or that the government of the country is unable or unwilling to control?

☐ No. ☐ Yes. If YES, was it because of any of the following reasons? *(Check each of the following boxes that apply.)*

☐ Race ☐ Religion ☐ Nationality ☐ Membership in a particular social group ☐ Political Opinion

On a separate sheet of paper, specify for each instance, what occurred and the circumstances; the relationship to you of the person involved; the date; the exact location; who it was who took such action against you or your family member; his/her position in the government or group; the reason why the incident occurred. Attach documents referring to these incidents, if they are available. *(Attach additional sheets of paper as needed.)*

Information About Your Claim to Asylum - Continued.

5. Have you or any member of your family ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in your country, any other country, including the United States?

☐ No. ☐ Yes. If YES, for each instance, specify what occurred and the circumstances; dates; location; the duration of the detention or imprisonment; the reason(s) for the detention or conviction; the treatment received during the detention or imprisonment; any formal charges that were lodged against you or your relatives; the reason for release; treatment after release. Attach documents referring to these incidents if they are available. *(Attach additional sheets of paper as needed.)*

6. Describe in detail your trip to the United States from your home country. After leaving the country from which you are claiming asylum, did you or your spouse or child(ren), who are now in the United States, travel through or reside in any other country before entering the United States?

☐ No. ☐ Yes. If YES, for each person, identify each country and indicate the length of stay; the person's status while there; the reasons for leaving; whether the person is entitled to return for residence purposes; and if the person applied for refugee status or for asylum while there; or why he or she did not do so. *(Attach additional sheets of paper as needed.)*

7. Do you fear being subjected to torture (severe physical or mental pain or suffering, including rape or other sexual abuse) in your home country or any other country if you return?

☐ No. ☐ Yes. If YES, please explain why. *(Attach additional sheets of paper as needed.)*

PART D. ADDITIONAL INFORMATION ABOUT YOUR APPLICATION FOR ASYLUM.

1. Do you, your spouse, or your child(ren) now hold, or have you ever held, permanent residence, other permanent status, or citizenship, in any country other than the one from which you are now claiming asylum?

   ☐ No. ☐ Yes. If YES, please explain. *(Attach additional sheets of paper as needed).*

2. Have you, your spouse, your child(ren), your parents ever filed for, been processed for, or been granted or denied refugee status or asylum by the United States Government?

   ☐ No. ☐ Yes. If YES, please explain the decision and what happened to any status you received as a result of that decision. If you have been denied asylum by an immigration judge or the Board of Immigration Appeals, please describe any change in country conditions or your own circumstances since the date of the denial that may affect your eligibility for asylum. *(Attach supplemental sheets of paper as needed.)*

3. Have you, your spouse, your child(ren), or your parents ever filed for, been processed for, or been granted or denied refugee status or asylum by any other country?

   ☐ No. ☐ Yes. If YES, please explain the decision and what happened to any status you received as a result of that decision. *(Attach supplemental sheets of paper as needed.)*

4. Have you, your spouse, or child(ren) ever caused harm or suffering to any person because of his or her race, religion, nationality, membership in a particular social group or belief in a particular political opinion, or ever ordered, assisted, or otherwise participated in such acts?

   ☐ No. ☐ Yes. If YES, describe, in detail, each such incident and your own or your spouse's or child(ren)'s involvement. *(Attach supplemental sheets of paper as needed.)*

5. After you left your country of claimed persecution for the reasons you have described, did you return to that country?

   ☐ No. ☐ Yes. If YES, describe, in detail, the circumstances of your visit, for example, the date(s) of the trip(s), the purpose(s) of the trip(s), and the length of time you remained in that country for the visit(s). *(Attach supplemental sheets of paper as needed.)*

6. Are you filing the application more than one year after your last arrival in the United States?

   ☐ No. ☐ Yes. If YES, please explain why you did not file within the first year after you arrived. For guidance in answering this question see Filing Instructions, V. Completing the Form, Part D.

PART E. SIGNATURE.

After reading the information on penalties in the instructions, complete and sign below. If someone helped you prepare this application, he or she must complete Part F.

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. Title 18, United States Code, Section 1546, provides in part: "Whoever knowingly makes under oath, or as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement or which fails to contain any reasonable basis in law or fact -- shall be fined in accordance with this title or imprisoned not more than five years, or both". I authorize the release of any information from my record which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Staple your photograph here.

WARNING: **Applicants who are in the United States illegally are subject to removal if their asylum or withholding claims are not granted by an asylum officer or an immigration judge. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn. Applicants determined to have knowingly made a frivolous application for asylum will be permanently ineligible for any benefits under the Immigration and Nationality Act. See INA 208(d)(6) and 8 CFR 208.18.**

Signature of Applicant *(The person named in Part A)*

[_____] _____

Sign your name so it all appears within the brackets. Date *(Mo/Day/Yr)*

Print Name	Write your name in your native alphabet

Did your spouse, parent or child(ren) assist you in completing this application? ☐ No ☐ Yes *(If YES, please list their name(s) and relationship.)*

(Name) _____ *(Relationship)* _____ *(Name)* _____ *(Relationship)* _____

Did someone other than you or your spouse, parent or child(ren) prepare this application? ☐ No ☐ Yes *(Complete Part F)*

Asylum applicants may be represented by counsel. Have you been provided with a list of persons who may be available to assist you, at little or no cost, with your asylum claim? ☐ No ☐ Yes

PART F. SIGNATURE OF PERSON PREPARING FORM IF OTHER THAN ABOVE. *Sign below.*

I declare that I have prepared this application at the request of the person named in Part F, that the responses provided are based on all information of which I have knowledge, or which was provided to me by the applicant and that the completed application was read to the applicant in his or her native language for verification before he or she signed the application in my presence. I am aware that the knowing placement of false information of the Form I-589 may also subject me to civil penalties under 8 U.S.C. Section 1324(c).

Signature of Preparer	Print Name	Date *(Mo/Day/Yr)*
Daytime Telephone Number ( )	Address of Preparer: Street Number and Name	

Apt. No.	City	State	ZIP Code

PART G. TO BE COMPLETED AT INTERVIEW.

You will be asked to complete this Part when you appear before an asylum officer of the Immigration and Naturalization Service (INS), or an immigration judge of the Executive Office for Immigration Review (EOIR) for examination.

I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are ☐ all true or ☐ not all true to the best of my knowledge and that corrections numbered _____ to _____ were made by me or at my request.

Signed and sworn to before me by the above-name applicant on:

_____ _____

Signature of Applicant Date *(Mo/Day/Yr)*

_____ _____

Write your Name in your Native Alphabet Signature of Asylum Officer or Immigration Judge

SUPPLEMENT A FORM I-589

A# *(If available)*	Date
Applicant's Name	Applicant's Signature

ALL OF YOUR CHILDREN, REGARDLESS OF AGE OR MARITAL STATUS. *(Attach additional pages and documentation if you have more than two (2) children.)*

1. Alien Registration Receipt Number (A#):		2. Passport/ID Card, etc.#	
3. Complete Last Name	4. First Name	5. Middle Name	6. Date of Birth *(Mo/Day/Yr)*
7. City and Country of Birth	8. Nationality *(Citizenship)*	9. Race, Ethnic or Tribal Group	10. Sex ☐ Male ☐ Female
11. Is this child in the U.S.? ☐ Yes. *(Complete blocks 12 to 23.)* ☐ No. *(Specify Location)*			12. Social Security #
13. Place of Last Entry in the U.S.?	14. Date of Last Entry in the U.S.? *(Mo/Day/Yr)*	15. I-94#	16. Status when Last Admitted *(Visa type if any.)*
17. Expiration of Status *(Mo/Day/Yr)*	18. Is this child in removal, deportation or exclusion proceedings? ☐ Yes ☐ No		19. If previously in the U.S., Date of Previous Arrival (Mo/Day/Yr)
20. Place of Previous Arrival			21. Status at Time of Previous Arrival

22. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)*

☐ Yes. *(Attach one (1) photograph of your child in the upper right hand corner of Page 3 on the extra copy of the application submitted for this person.)*
☐ No, because child is/has:
☐ Filing separately.
☐ Separate application pending.
☐ Over 21 years of age.
☐ Married.
☐ Other reasons.

1. Alien Registration Receipt Number (A#):		2. Passport/ID Card, etc.#	
3. Complete Last Name	4. First Name	5. Middle Name	6. Date of Birth *(Mo/Day/Yr)*
7. City and Country of Birth	8. Nationality *(Citizenship)*	9. Race, Ethnic or Tribal Group	10. Sex ☐ Male ☐ Female
11. Is this child in the U.S.? ☐ Yes. *(Complete blocks 12 to 23.)* ☐ No. *(Specify Location)*			12. Social Security #
13. Place of Last Entry in the U.S.?	14. Date of Last Entry in the U.S.? *(Mo/Day/Yr)*	15. I-94#	16. Status when Last Admitted *(Visa, type if any.)*
17. Expiration of Status *(Mo/Day/Yr)*	18. Is this child in removal, deportation or exclusion proceedings? ☐ Yes ☐ No		19. If previously in the U.S., Date of Previous Arrival (Mo/Day/Yr)
20. Place of Previous Arrival			21. Status at Time of Previous Arrival

22. If in the U.S., is this person to be included in this application? *(Check the appropriate box.)*

☐ Yes. *(Attach one (1) photograph of your child in the upper right hand corner of Page 3 on the extra copy of the application submitted for this person.)*
☐ No, because child is/has:
☐ Filing separately.
☐ Separate application pending.
☐ Over 21 years of age.
☐ Married.
☐ Other reasons.

SUPPLEMENT B FORM I-589

ADDITIONAL INFORMATION ABOUT YOUR CLAIM TO ASYLUM.

A# *(If available)*	Date
Applicant's Name	Applicant's Signature

Use attached blank response sheet to supplement any information requested. Please copy and complete as needed.

PART ____

QUESTION ____

SUPPLEMENT B FORM I-589

ADDITIONAL INFORMATION ABOUT YOUR CLAIM TO ASYLUM.

A# *(If available)*	Date
Applicant's Name	Applicant's Signature

Use attached blank response sheet to supplement any information requested. Please copy and complete as needed.

PART ____

QUESTION ____

[FR Doc. 97–30192 Filed 11–17–97; 8:45 am]
BILLING CODE 4410–18–C

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Hate Crime Statistics Improvement Program

[OJP (BJS)–1144]

RIN 1121–ZA90

AGENCY: Bureau of Justice Statistics (BJS), Office of Justice Programs (OJP), Justice.

ACTION: Solicitation for award of cooperative agreement.

SUMMARY: The purpose of this notice is to announce a public solicitation for services related to improving the accuracy and geographic coverage of hate crime statistics, developing trend data with regard to hate crime statistics and identifying ''best practices'' regarding the collection of hate crime statistics.

DATES: Proposals must be postmarked on or before December 30, 1997.

ADDRESSES: Proposals should be mailed to: Application Coordinator, Bureau of Justice Statistics, 810 7th Street, NW, Suite 2400, Washington, DC 20531, (202) 616–3500.

FOR FURTHER INFORMATION CONTACT: Charles R. Kindermann, Ph.D., Senior Statistician, Bureau of Justice Statistics, (202) 616–3489.

SUPPLEMENTARY INFORMATION:

Background

Crimes motivated by bias are devastating because of their impact on the victims and the polarizing effect that such crimes have on a community. Although many people believe that the hate crime problem is increasing, the statistical evidence for an increase is very weak. More specifically, the available statistical evidence understates the incidence of hate crime and does not provide valid indications of trends. Obtaining accurate information on the incidence of hate crime is crucial to understanding the full scope of the problem and effectively deploying resources to combat it.

Currently, hate crime statistics are compiled by the Federal Bureau of Investigation (FBI) under the Uniform Crime Reporting (UCR) program, which itself relies on voluntarily reported data. Little more than half the nation's 16,000 UCR-participating law enforcement agencies report hate crime data, and a majority of those that do participate in the FBI's hate crime reporting program indicate that each year their jurisdiction experienced no hate crimes at all.

There are four points at which failures in reporting can occur: victims reporting to their local law enforcement agencies, law enforcement officers recording the fact that the reported incident is a hate or bias crime, official determination that the reported crime was indeed bias-motivated, and transmitting the information from local law enforcement agencies to the FBI's UCR program. These factors complicate the Attorney General's efforts to publish a meaningful annual report on hate crimes under the Hate Crime Statistics Act (HCSA). While the HCSA does not specify any particular method of data collection, the Attorney General delegated the duty of collecting hate crime statistics to the Director of the FBI who, in turn, assigned this responsibility to the FBI's UCR program. The FBI assembles the information provided by state and local agencies and annually publishes a national hate crime statistics report which is available from the FBI in printed form on its website (http://www.fbi.gov/ucr/hatecm.htm).

The FBI is gradually phasing in a replacement for the summary UCR program which is called the National Incident-Based Reporting System (NIBRS). Every incident reported in the NIBRS program allows for an indicator of whether or not it is a hate crime, so widespread implementation of NIBRS by law enforcement agencies is currently viewed as an important mechanism for enhancing hate crime reporting.

Consistent with its role as the statistical arm of the Justice Department and its longstanding interest in hate crime statistics, the Bureau of Justice Statistics (BJS) is adding hate crime questions to the National Crime Victimization Survey (NCVS) to provide a national estimate of the overall extent of hate crimes. In addition, BJS has developed this solicitation to learn more about the impediments to local jurisdictions' participation in the collection of hate crime statistics and transmission of the statistics to the FBI for compilation at the national level. The work to be carried out under this solicitation will be closely coordinated with the FBI.

Objectives

The purpose of this award is to develop and/or recommend methodologies and procedures that will improve the quality and accuracy of hate crime statistics, to improve the geographic coverage of hate crime statistics, and to recommend procedures that will result in reliable trend data. Profiles of jurisdictions that currently collect accurate hate crime statistics will be developed that will result in ''best practices'' models.

Type of Assistance

It is anticipated that assistance, in the form of one cooperative agreement of up to $100,000, will be awarded for a one-year period of study.

Statutory Authority

The cooperative agreement to be awarded pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with its mandate as set forth in 42 U.S.C. 3732.

Eligibility Requirements

Consistent with fiscal requirements of the Department of Justice's Office of Justice Programs, both profit-making and nonprofit organizations may apply for funds. However, no fees may be charged against the project by profit-making organizations.

Scope of Work

The object of this solicitation is to obtain a cost-effective research study that will assist the federal government in identifying activities to be undertaken in the future towards the goal of improving the accuracy and reporting of hate crime statistics, producing accurate trend data on hate crime, and developing ''best practices'' models.

The applicant must specify a detailed timetable for each task involved in the project. The successful applicant's timetable will be reviewed by the BJS grant monitor; after agreement on a final timetable, all work must be completed as scheduled.

The successful applicant must convene an advisory group comprised of representatives from a cross section of the community (to include a representative of victim advocates, victims, law enforcement agencies, government, business, education, legislators). This group will meet periodically throughout the course of the project to review progress, give advice, make recommendations for follow-up and implementation of research recommendations, and to review the final report. Both BJS and the FBI will provide key input to the selection of membership on the group. Staff work (including both administrative support for meetings, payment, and substantive drafting tasks) for the group will be provided by the recipient organization.

In addition, the applicant must choose from the following tasks and propose activities to accomplish the tasks (not all listed tasks need be included in the application):

1. Through the evaluation of current hate crimes training programs, recommend how they might be utilized

or modified to improve the accuracy, reliability, and geographic coverage of hate crime statistics.

2. Evaluate the effectiveness of existing training curricula or materials that help law enforcement officers recognize and report hate or bias-motivated crimes, and produce a synthesized model incorporating the best features of them based on evaluations and other criteria stated in the proposal.

3. Improve national estimates of the incidence, type, and trends of hate crimes, based on the UCR program as a model (data to be aggregated from law enforcement jurisdictions).

4. Evaluate the impact of incident-based crime reporting systems (that include a check box or similar item for identifying each incident as bias-motivated or not) on the quality of hate crime statistics.

5. Assess the status of hate crime reporting in a stratified sample of law enforcement agencies throughout the country (the strata could include the following: degree of urbanization, geographic region, size of agency, and hate crime reporting history). From this assessment:

—Discuss and recommend steps to be taken by law enforcement agencies to produce quality hate crime statistics.
—Identify effective ''screening'' and ''verification'' procedures for first identifying and then confirming the bias motivation.
—Determine factors associated with disparities in hate crime statistics reporting.
—Identify impediments to hate crime reporting at both the agency and the individual officer levels.

6. Convene a focus group made up of representatives of groups vulnerable to hate crimes, relevant advocacy groups, and hate crime victims who did not report the crime to police, to ascertain methods of improving hate crime reporting.

7. Examine the relationship between the characteristics of jurisdictions and agencies (population size, regional location, UCR crime rate, racial/ethnic mix, age distribution, median income, presence or absence of community policing, etc.) and the level of reporting of hate crime statistics.

8. Assess the circumstances that led law enforcement agencies to develop effective hate crimes programs, such as whether there was a significant event, or other factors, that resulted in jurisdictions collecting accurate hate crime statistics; or in what ways was the adoption of such hate crime statistics collection methods related to instituting proactive efforts by the police to prevent hate crime?

The recipient must produce a final report for submission to the Bureau of Justice Statistics which details the study, and suggests methods of improving the accuracy and geographic coverage of hate crime statistics, producing accurate trend data on hate crime, and developing ''best practices'' models.

Suggested References

Bishop, Eric and Jeff Slowikowski. ''Hate Crime.'' Fact Sheet 29. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. August, 1995.

Bureau of Justice Assistance. ''A Policymaker's Guide to Hate Crimes.'' Washington, D.C.: U.S. Department of Justice. 1996.

Community Relations Service. ''Hate Crime: The Violence of Intolerance.'' Washington, D.C.: U.S. Department of Justice. 1997.

Federal Bureau of Investigation. ''Hate Crime Data Collection Guidelines.'' Washington, D.C.: U.S. Department of Justice. 1996.

Federal Bureau of Investigation. ''Training Guide for Hate Crime Data Collection.'' Washington, D.C.: U.S. Department of Justice. 1997.

Federal Bureau of Investigation. ''Hate Crime Statistics, 1995.'' Washington, D.C.: U.S. Department of Justice. 1996.

''Hate Crime Statistics Act of 1990,'' Pub. L. 100–275 (104 Stat. 140). 1990.

Jacobs, James B. and Barry Eisler. ''The Hate Crime Statistics Act of 1990''; Criminal Law Bulletin. Warren Gorham and Lamont. Boston, Massachusetts. 1993, p. 99–123.

Klanwatch, a Project of the Southern Poverty Law Center. ''The Dynamics of Youth, Hate and Violence.'' Klanwatch Intelligence Report. Montgomery, Alabama. October, 1995.

Levin, Jack and Jack McDevitt. ''Hate Crimes: The Rising Tide of Bigotry and Bloodshed.'' New York. Plenum Press. 1993.

Lieberman, Michael. ''Federal Action to Confront Hate Crimes: Preventing Violence and Improving Police Response.'' New Challenges: The Civil Rights Record of the Clinton Administration Mid-Term. Washington, D.C.: Citizens' Commission on Civil Rights. 1995. p. 217–229.

McLaughlin, Karen A. and Kelly J. Brilliant. ''Healing the Hate: A National Bias Crime Prevention Curriculum for Middle Schools.'' Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. 1997.

NGLTF Policy Institute. ''Anti-Gay and Lesbian Violence in 1994: National Trends, Analysis, and Incident Summaries.'' Washington, D.C. 1991.

Nolan, J. & Y. Akiyama. ''Assessing the Factors That Affect Law Enforcement Participation In Hate Crime Reporting.'' Washington, D.C.: Federal Bureau of Investigation. 1997.

Office for Victims of Crime. ''National Bias Crimes Training for Law Enforcement and Victim Assistance Professionals: A Guide for Training Instructors.'' Washington, D.C.: U.S. Department of Justice. 1995.

Award Procedures

Proposals should describe in detail the procedures to be undertaken in furtherance of each of the activities described under Scope of Work. State by number (as listed above) which tasks are being included in the proposal and provide a brief (several paragraphs) introductory justification as to why these tasks were chosen in furtherance of the goals. Information on staffing levels and qualifications should be included for each task, and descriptions of experience relevant to the project should be included. Resumes of the proposed project director and key staff should be enclosed with the proposal.

Applications will be reviewed competitively by a panel comprised of members selected by BJS. The panel will make recommendations to the Director of BJS. Final authority to enter into a cooperative agreement is reserved for the Director of BJS or his designee.

Applications will be evaluated on the overall extent to which selected tasks, and the work performed on them, meet the objectives of the solicitation; respond to the priorities and technical complexities of the issue of hate crime reporting; specify work activities likely to produce useful results; conform to standards of high quality data analysis; and are fiscally feasible and efficient. Applicants will be evaluated on the basis of:

—Knowledge of issues related to hate crime data collection.
—Knowledge of issues related to the Uniform Crime Reports (UCR) and the National Incident Based Reporting System (NIBRS).
—Experience in organizing meetings of Federal, state, or local professionals related to criminal justice issues.
—Research expertise and experience in data gathering and report writing.
—Availability of qualified professional and support staff and suitable equipment for project activities.
—Demonstrated fiscal, management and organizational capability and experience suitable for providing

sound data within budget and time constraints.

—Reasonableness of estimated costs for the total project and for individual cost categories.

Application and Awards Process

An original and two (2) copies of a full proposal must be submitted with SF 424 (Rev. 1988), ''Application for Federal Assistance,'' as the cover sheet. Proposals must be accompanied by a Budget Detail Worksheet (replaced the SF 424A, Budget Information); OJP Form 4000/3 (Rev. 1–93), Program Narrative and Assurances' OJP Form 4061/6, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements; and OJP Form 7120–1 (Rev. 1–93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not recently received Federal funds from the Office of Justice Programs and are not state or local units of government). If appropriate, applicants must complete and submit Standard Form LLL, Disclosure of Lobbying Activities. All applicants must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity the receives Federal funds. To obtain appropriate forms, contact Getha Hilario, BJS Management Assistant, at (202) 616–3500.

The application should cover a one-year period with information provided for completion of the entire project. Proposals must include a program narrative, detailed budget, and budget narrative. The program narrative shall describe activities as stated in the scope of work and address the evaluation criteria. The detailed budget must provide costs including salaries of staff involved in the project and portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs, and supplies required to complete the project. The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to the project activities and should provide a justification and explanation for the budgeted items. Refer to the aforementioned timetable when developing the program narrative and budget information.

This award will not be used to procure equipment for the conduct of the study.

Dated: November 13, 1997.

Jan M. Chaiken,

Director, Bureau of Justice Statistics.

[FR Doc. 97–30271 Filed 11–17–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Agency Information Collection Activities: New Collection; Comment Request

ACTION: Request OMB approval; The Second National Incidence Studies of Missing, Abducted, Runaway and Thrownaway Children (NISMART 2).

The Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 29, 1997 at 62 FR 40545, allowing for a 60-day public comment period. No comments were received by the Office of Juvenile Justice and Delinquency Prevention. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 18, 1997. This process is conducted in accordance with 5 CFR 1320.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Ms. Victoria Wassmer, 202–395–5871, Department of Justice Desk Officer, Room 10202, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, N.W., Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technical collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* The Second National Incidence Studies of Missing, Abducted, Runaways and Thrownaway Children (NISMART 2).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* None; Applicable component of the Department of Justice sponsoring the collection: Department of Justice (DOJ), Office of Justice Programs (OJP), Office of Juvenile Justice Delinquency Prevention (OJJDP).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households, Other: State, local, tribal governments; Not for profit.

Abstract: Pursuant to the Missing Children's Assistance Act, Title IV, section 404(b)(3) of the Juvenile Justice and Delinquency Prevention Act 1974, as amended 42 U.S.C. 5773(b)(3), OJJDP is required to conduct periodic studies of the incidence of missing children. The purpose of these studies is to develop reliable and valid statistics on the incidence of children who are missing, abducted, runaways, or thrownaway in the course of a given year, as well as the number of these children who are recovered.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75,000 respondents at 2.5 minutes per response; 22,000 respondents at 20 minutes per response; 9500 respondents at 10 minutes per response; 2500 respondents at 45 minutes per response; 50 respondents at 16 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 14,716 burden hours.

If additional information is required contact: Mr. Robert Briggs, Clearance Officer, United States Department of

Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, DC 20530.

Dated: November 12, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–30154 Filed 11–17–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Notice of Request for Comment

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: Article 10(1)(a) of the North American Agreement on Labor Cooperation (NAALC) calls for the Council for the Commission for Labor Cooperation to review the operation and effectiveness of the NAALC within four years of its entry into force. In order to undertake the review, the Council agreed to a process which includes seeking public input on the operation and effectiveness of the NAALC. Written comments are requested.

DATES: Written comments on the operation and effectiveness of the NAALC should be submitted by December 18, 1997.

ADDRESSES: Send written comments to the U.S. National Administrative Office, U.S. Department of Labor, Room C–4327, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or the Secretariat, Commission for Labor Cooperation, 350 North St. Paul, Suite 2424, Dallas, Texas 75201–4240.

FOR FURTHER INFORMATION CONTACT: Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The North American Agreement on Labor Cooperation (NAALC) was signed by the Presidents of the United States of America and of the United Mexican States, and the Prime Minister of Canada in September 1993 and entered into force on January 1, 1994. Article 10(1)(a) of the NAALC provides that the Council shall ''oversee the implementation and develop recommendations on the further elaboration of this Agreement and, to this end, the Council shall, within four years after the date of entry into force of this Agreement, review its operation and effectiveness in light of experience * * *.'' The Council agreed to a process of review that includes issuing an invitation for written public comments on the operation and effectiveness of the NAALC. Written comments may be made to the National Administrative Offices of any Party or to the international Secretariat. Any comment received by the U.S. National Administrative Office will be transmitted verbatim to the Secretariat, which has been delegated responsibility by the Council to oversee the review process.

Signed at Washington, D.C. on November 12, 1997.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 97–30262 Filed 11–17–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act, Title III, Demonstration Program: Labor Organization Adjustment Assistance; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: In notice document FR Doc. 97–28830 Filed 10–30–97; 8:45 a.m. beginning on page 58984 in the issue of Friday, October 31, 1997, make the following correction:

On page 58985, in the second column, Part II., (A) Eligible Applicants (1) reads: ''Provide exclusive representation to the target population to be served through collective bargaining agreements in effect at the time of the effective date of worker layoff or termination.'' This should be replaced with: ''(1) Act as the exclusive bargaining agent for the target population to be served;''

On page 58986, in the third column, Part III. Statement of Work, (A) Target Population, second paragraph reads: ''Indicate the beginning and the end dates of the collective bargaining agreement(s) under which the target population was covered at the time of the workers' layoff or termination and the labor organization(s) and company(ies) who were the parties to the agreements(s).'' This paragraph should be replaced with: ''Provide documentation showing that you have been designated as the exclusive agent to represent the target population.''

Dated: November 4, 1997.

Janice E. Perry,

Grant Officer, Employment and Training Administration.

[FR Doc. 97–30261 Filed 11–17–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. H–372]

RIN 1218–AB58

Metalworking Fluids Standards Advisory Committee: Notice of Open Meeting

AGENCY: Occupational Safety and Health Administration (OHSA), Labor.

ACTION: Metalworking Fluids Standards Advisory Committee: Notice of open meeting.

SUMMARY: The Occupational Safety and Health Administration announces a meeting of the Metalworking Fluids Standards Advisory Committee (MWFSAC). OSHA invites all interested persons to attend. The Secretary of Labor established MWFSAC to advise the Assistant Secretary for OSHA on appropriate actions to protect workers from the hazards associated with occupational exposure to metalworking fluids.

DATES: The meeting dates are Wednesday, December 10, 1997, from 10 a.m. to approximately 5 p.m.; Thursday, December 11, 1997, from 9 a.m. to approximately 5 p.m.; and Friday, December 12, 1997, from 9 a.m. to approximately 3 p.m. Please submit comments, requests to make oral presentations, and requests for special disability accommodations by November 28, 1997.

ADDRESSES: On Wednesday and Thursday, December 10 and 11, 1997, the meeting will take place in Room N–5437 (C and D) of the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. On Friday, December 12, 1997 the meeting will be held in Room S–3215 (A and B) of the Department of Labor at the above address. Mail comments and requests for oral presentations to Dr. Peter Infante, U.S. Department of Labor, OSHA, Directorate of Health Standards Programs, Metalworking Fluids Standards Advisory Committee, Room

N–3718, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, 202–219–8151. For special disability accommodations, contact Theresa Berry (phone: 202–219–8615 ext. 106; FAX: 202–219–5986).

SUPPLEMENTARY INFORMATION: OSHA invites all interested persons to attend this meeting. Seating will be available on a first-come, first-served basis.

Meeting Agenda

At this meeting the following will be presented: An overview of the National Institute for Occupational Safety and Health (NIOSH) criteria document (''Criteria for a Recommended Standard: Occupational Exposures to Metalworking Fluids''), which will include a discussion of the respiratory studies and dermatological studies reported on in the criteria document; an overview of epidemiology, respiratory disease and dermatology related to metalworking fluids; machining in small business; and overview to using a systems approach to controlling metalworking fluids; the scope of fluids to be considered in the advisory committee inquiries. Informal work groups will be established. In addition, OSHA will discuss with the committee its current data collection activities with respect to the use of metalworking fluids in small business establishments and some agenda items for future meetings.

Public Participation

Interested persons may file written comments, data, views or statements for consideration by MWFSAC by submitting them to Dr. Peter Infante. Interested persons may also address the committee on items that are on the meeting agenda. Any person wishing to make such an oral presentation must provide Dr. Infante with a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest that the person represents. Presentation time will be allotted to speakers based on the amount of time available. In addition, public attendees may be allowed to participate in committee discussions, in the Chair's discretion and subject to time available.

Authority: This notice is issued under the authority of section 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 666), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR Part 1912.

Signed at Washington, DC., this 12th day of November, 1997.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 97–30175 Filed 11–17–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act. NACOSH will hold a meeting on December 9, 1997, in Room N3437 A-D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 9:00 a.m. lasting until approximately 4:30 p.m.

Agenda items will include: a brief overview of current activities in the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH); a dialogue with OSHA's new Assistant Secretary, Charles N. Jeffress; regulatory and legislative updates; updates on OSHA's 11(c) and cooperative compliance programs, and NIOSH's National Occupational Research Agenda (NORA); as well as reports from NACOSH's workgroups.

Written data, views or comments for consideration by the committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is often insufficient time on the agenda for members of the public to address the committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Theresa Berry (phone: 202–219–8615, extension 106; FAX: 202–219–5986) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500). For additional information contact: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW, Washington, DC, 20210 (phone: 202–219–8021, extension 107; FAX: 202–219–4383; e-mail joanne.goodell@osha-no.osha.gov).

Signed at Washington, D.C. this 13th day of November, 1997.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 97–30260 Filed 11–17–97; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–20586, License No. 49–21384–01 EA 97–457]

In the Matter of Frontier Production Logging, Inc. Cody, WY; Confirmatory Order Modifying License (Effective Immediately)

I

Frontier Production Logging, Inc., (Licensee) is the holder of NRC License No. 49–21384–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 39. The license authorizes the Licensee to conduct well logging activities related to the use of licensed material. The license was first issued on July 14, 1983, was most recently amended on April 17, 1997, and was due to expire on June 30, 1994, but remains in effect in a timely renewal status.

II

During a routine inspection conducted on March 19–20, 1997, an investigation completed by the NRC's Office of Investigations on June 13, 1997, and subsequent in-office reviews which were completed on July 9, 1997, the NRC identified six apparent violations which were considered for escalated enforcement. NRC Inspection Report 030–20586/97–01 dated July 22, 1997, documented the findings of the inspection. As a result, the NRC

conducted a predecisional enforcement conference on August 4, 1997, in which the licensee's president participated by telephone. Based on the information obtained during the inspection and the information that the licensee's president presented at the August 4 conference, the NRC concluded that violations of NRC requirements occurred. The violations are cited in the Notice of Violation and Proposed Imposition of Civil Penalty dated November 7, 1997. The violations involve failures to: (1) File the appropriate documentation to receive NRC approval prior to vacating an authorized radioactive material storage location, (2) conduct operations so that the dose in any unrestricted area from external sources does not exceed 2 millirem in any 1 hour, (3) make adequate surveys of radiation levels in unrestricted areas to demonstrate compliance with the dose limits for individual members of the public, (4) utilize authorized shipping containers while transporting radioactive material, (5) monitor, upon receipt, the external surfaces of Department of Transportation (DOT) labeled packages for radioactive contamination, and (6) properly post areas in which licensed materials are stored.

The NRC concluded that the Licensee's failure to seek NRC approval prior to vacating an authorized radioactive material storage location demonstrated at least careless disregard for regulatory requirements. Specifically, the Licensee's president was aware of the requirements to obtain prior authorization and did not to comply with this requirement so as to delay payment of the applicable fees. As indicated in the November 7, 1997 Notice, a $2,750 civil penalty was proposed for this willful violation.

The remaining five violations, which were not willful, were also discussed during the conference. Based on the information available, it appears that these violations resulted from a lack of understanding of the regulations by the company's radiation safety officer (who is also the company president). In fact, during the conference, the Licensee's radiation safety officer committed to attending appropriate radiation safety training as corrective action for the remainder of the violations. Subsequently, on August 8 and October 20, 1997, staff members from NRC Region IV discussed with the Licensee specific commitments that the NRC believed were necessary. Specifically, the NRC believed that, in addition to the training, two independent audits were warranted. The licensee agreed to the commitments during the August 8 and October 20 telephone discussions, and to confirming the commitments through an Order.

On October 20, 1997, the NRC sent the Licensee a letter listing the specific commitments and formally seeking the Licensee's consent to confirming the commitments through an Order, thereby waiving its right to a hearing. On October 29, 1997, the Licensee signed and returned its consent to this Order.

III

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above, and on the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 110, *It Is Hereby Ordered*, effective immediately, that License No. 49–21384–01 is modified as follows:

A. The Licensee's Radiation Safety Officer shall attend a Radiation Safety training course designed to meet the requirements necessary to serve as a radiation safety officer and to implement and manage a radiation safety program specifically designed for well logging and tracer study operations.

B. The Licensee shall retain the services of an independent individual or organization (consultant) to perform two audits of the Licensee's radiation safety program. The consultant is to be independent of the Licensee's organization and is to be experienced in, or be capable of, evaluating the effectiveness of the management and implementation of a radiation safety program for well logging and tracer study operations. At a minimum, each audit will: (1) Evaluate the effectiveness of the Licensee's radiation safety program and compliance with all NRC requirements; (2) evaluate the understanding of the Licensee's radiation safety officer of radiation safety and NRC requirements; (3) evaluate the adequacy of the Licensee's corrective actions for any violations or audit findings previously identified by the NRC or consultant; (4) make recommendations as necessary for improvements in management oversight of licensed activities; and (5) physically observe well logging and/or tracer study operations in the field.

C. Within 30 days of the date of this Order, the Licensee shall submit to the Regional Administrator, NRC Region IV, for NRC review and approval, the following:

i. The name, location, dates and syllabus of the course the Licensee proposes to use in meeting the requirements of this Order.

ii. The name and qualifications of the consultant the Licensee proposes to use in conducting the audits.

D. Within 60 days of the date of the NRC's approval of the consultant, the first audit shall be completed and the Licensee shall ensure that the consultant submit to NRC Region IV the results of the audit and the review, including the deficiencies identified, at the same time the consultant provides the results to the Licensee.

E. Within 6 months of the date of completion of the first audit, the second audit shall be completed and the Licensee shall ensure that the consultant submit to NRC Region IV the results of the audit and the review, including the deficiencies identified, at the same time the consultant provides the results to the Licensee.

F. Within 30 days of the date of completion of each audit, the Licensee shall submit to NRC Region IV its corrective actions for any identified deficiencies in the audit reports. Alternatively, if the Licensee does not believe that corrective actions should be taken, the Licensee shall provide justification for its position to the NRC.

G. For the purpose of the Order, the Licensee shall send the qualifications of the consultant and the results of the audits to the Director, Division of Nuclear Material Safety, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

The Regional Administrator, Region IV, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

Any person adversely affected by this Confirmatory Order, other than the Licensee may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also

shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, and to Frontier Production Logging, Inc. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An Answer Or a Request for Hearing Shall Not Stay the Immediate Effectiveness of This Order.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 7th day of November 1997.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 97–30207 Filed 11–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

In the Matter of Pacific Gas and Electric Company (Diablo Canyon Power Plant, Units 1 and 2); Exemption

I

The Pacific Gas and Electric Company, et al. (the licensee) is the holder of Facility Operating License Nos. DPR–80 and DPR–82, which authorize operation of the Diablo Canyon Power Plant (DCPP), Units 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized-water reactors at the licensee's site located in San Luis Obispo County, California.

II

Section 70.24 of Title 10 of the Code of Federal Regulations, ''Criticality Accident Requirements,'' requires that each licensee authorized to possess special nuclear material (SNM) shall maintain a criticality accident monitoring system in each area where such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors. Subsection (a)(3) of 10 CFR 70.24 requires licensees to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored and provides that (1) the procedures ensure that all personnel withdraw to an area of safety upon the sounding of a criticality accident monitor alarm, (2) the procedures must include drills to familiarize personnel with the evacuation plan, and (3) the procedures designate responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in such an emergency. Subsection (b)(1) of 10 CFR 70.24 requires licensees to have a means to identify quickly personnel who have received a dose of 10 rads or more. Subsection (b)(2) of 10 CFR 70.24 requires licensees to maintain personnel decontamination facilities, to maintain arrangements for a physician and other medical personnel qualified to handle radiation emergencies, and to maintain arrangements for the transportation of contaminated individuals to treatment facilities outside the site boundary. Paragraph (c) of 10 CFR 70.24 exempts Part 50 licensees from the requirements of paragraph (b) of 10 CFR 70.24 for SNM used or to be used in the reactor. Paragraph (d) of 10 CFR 70.24 states that any licensee who believes that there is good cause why he should be granted an exemption from all or part of 10 CFR 70.24 may apply to the Commission for such an exemption and shall specify the reasons for the relief requested.

III

The SNM that could be assembled into a critical mass at DCPP, Units 1 and 2, is in the form of nuclear fuel; the quantity of SNM other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission's technical staff has evaluated the possibility of an inadvertent criticality of the nuclear fuel at DCPP, Units 1 and 2, and has determined that it is extremely unlikely for such an accident to occur if the licensee meets the following seven criteria:

1. Only one fuel assembly is allowed out of a shipping cask or storage rack at one time.

2. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with pure water.

3. If optimum moderation occurs at low moderator density, then the k-effective does not exceed 0.98, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with a moderator at the density corresponding to optimum moderation.

4. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with pure water.

5. The quantity of forms of special nuclear material, other than nuclear fuel, that are stored on site in any given area is less than the quantity necessary for a critical mass.

6. Radiation monitors, as required by General Design Criterion 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions.

7. The maximum nominal U-235 enrichment is limited to 5.0 weight percent.

By letter dated April 3, 1997, and supplemental letter dated August 4, 1997, the licensee requested an exemption from 10 CFR 70.24. In this request the licensee addressed the seven criteria given above. The Commission's technical staff has reviewed the licensee's submittals and has determined that DCPP, Units 1 and 2, meets the criteria for prevention of inadvertent criticality; therefore, the staff has determined that it is extremely unlikely for an inadvertent criticality to occur in SNM handling or storage areas at DCPP, Units 1 and 2.

The purpose of the criticality monitors required by 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. The staff has

determined that it is extremely unlikely that such an accident could occur; furthermore, the licensee has radiation monitors, as required by General Design Criterion 63, in fuel storage and handling areas. These monitors will alert personnel to excessive radiation levels and allow them to initiate appropriate safety actions. The low probability of an inadvertent criticality, together with the licensee's adherence to General Design Criterion 63, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24.

IV

The Commission has determined that, pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Pacific Gas and Electric Company an exemption from the requirements of 10 CFR 70.24.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (62 FR 59907).

This exemption is effective upon issuance.

For The Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 12th day of November 1997.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–30210 Filed 11–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8968]

Hydro Resources, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of issuance of errata.

SUMMARY: The U. S. Nuclear Regulatory Commission has issued an Errata to the ''Final Environmental Impact Statement to Construct and Operate the Crownpoint Uranium Solution Mining Project, Crown Point, New Mexico'' (NUREG–1508). It should be noted that none of these errata change the conclusions of the Final Environmental Impact Statement.

ADDRESSES: A copy of the Errata is available for public inspection and/or copying at the NRC Public Document Room, 2120 L. Street (Lower Level), NW, Washington, DC 20555–0001. Copies of NUREG–1508 and the accompanying Errata may be purchased from the Superintendent of Documents, U. S. Government Printing Office, PO Box 37082, Washington, DC. 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Robert Carlson, Uranium Recovery Branch, Mail Stop TWFN 7–J8, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–8165.

Dated at Rockville, Md, this 15th day of November 1997.

For The Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

The following information is provided as errata to the ''Final Environmental Impact Statement to Construct and Operate the Crownpoint Uranium Solution Mining Project, Crownpoint, New Mexico'' (NUREG–1508), dated February 1997.

Errata

1. Page 1–5, 1st paragraph: replace the term ''* * * Safe Water Drinking Act (SWDA)'' with ''* * * Safe Drinking Water Act (SDWA).''

2. Page 2–6, Table 2.2, equation (2a): replace the term ''* * * $+4Na+H_2O$'' with ''* * * $+4Na^{+}+H_2O$.''

3. Page 2–19, 1st complete paragraph, 5th sentence: change sentence to read: ''NRC would require HRI to decontaminate areas if radionuclide accumulation exceeds decommissioning standards, if HRI uses land application to dispose of process waters.''

4. Page 2–19, 1st complete paragraph, 4th sentence; Page 4–81, last paragraph, last sentence: delete the following phrase from the existing text ''* * * generally using a zero-release NPDES permit.''

5. Page 2–28, 4th paragraph, last sentence: delete the word ''preestablished.''

6. Page 3–56, 1st paragraph, 1st sentence: revise existing text to read, '' * * * known as the ''checkerboard'' for its mixed private, tribal, and government property rights.''

7. Page 3–5, Table 3.4; Page 3–7, Table 3.5; and Page 4–3, Table 4.3: replace the term ''fg/m^3'' with ''$\mu g/m^3$.''

8. Page 4–20, last paragraph, #1: replace the term ''alkalinity'' with the term ''bicarbonate.''

9. Page 4–28, Table 4.6; and Page 4–30, Table 4.7: replace the parameter ''Radium-226'' with ''Radium'' (i.e., radium is inclusive of radium-226 and radium-228).

10. Page 4–61, 5th bullet, #(4): replace the phrase ''one production/ injection well per 1.6 ha (4 acres) in each well field'' with the phrase ''one production/ injection well per acre in each well field.''

11. Page 4–63, #8: replace entire text with the following, ''All casing strings shall be pressure tested to 125% of actual wellfield operating pressure, not to exceed 70% of the minimum burst strength (measured on surface usually using water and the rig pump). If pressure declines more than 10% in 30 minutes, corrective action shall be taken.''

12. Page 4–71, last paragraph: delete last sentence beginning with, ''However, to further minimize transportation risk, * * *''

13. Page 4–72, top of page: delete entire proposed license condition (entire bullet beginning with, ''Yellowcake and 11e(2) by-product waste material, * * *''), and subsequent phrase, ''In addition to this license condition,''.

14. Page xx of the Summary and Conclusions, 2nd complete paragraph; Page 2–20, 1st paragraph; Page 4–27, 1st complete paragraph; Page 4–45, 1st complete paragraph; Page 4–47, top of page; and Page A–21, 3rd complete paragraph: change the term ''300 pCi/mL'' to ''300 pCi/L.''

15. Page 3–27, Table 3.13: replace the existing table with the following (values in italic have been changed):

REVISED TABLE 3.13.—CROWNPOINT SITE WATER QUALITY DATA,[a] WESTWATER CANYON AQUIFER

Parameter	Mean (mg/L)	Maximum (mg/L)	Minimum (mg/L)	EPA (and NNEPA) drinking water standard
Calcium	*2.73*	7.8	0.07	.....
Magnesium	*0.48*	2.5	0.00000	.....
Sodium	*127.7*	184.0	97.0	.....
Potassium	*13.0*	56.0	1.5	.....
Carbonate	*27.9*	127.0	0.00000	.....
Bicarbonate	*203.0*	260.0	54.0	.....
Sulfate	*62.2*	177.0	19.0	250.0
Chloride	*15.8*	54.0	1.8	250.0
Nitrate	0.05	0.26	0.00000	10.0
Fluoride	0.35	*0.62*	0.23	4.0 or 2.0
Silica	*16.3*	20.0	1.0	
TDS	*394.0*	666.0	*281.0*	500.0
Conductivity[b]	*602.3*	1040.0	*418.0*	
Alkalinity	*213.0*	256.0	*191.0*	
pH[c]	9.0	10.4	8.26	6.5–8.5
Arsenic	0.00000	*0.002*	0.00000	0.05
Barium	*0.13*	1.0	*0.01*	2.0
Cadmium	0.00000	0.0008	0.00000	0.01
Chromium	0.00000	0.00000	0.00000	0.05
Copper	0.00000	*0.02*	0.00000	1.0
Iron	*0.11*	*0.92*	0.00000	0.3
Lead	0.00000	*0.078*	0.00000	0.05
Manganese	*0.035*	0.029	0.00000	0.05
Mercury	0.00000	0.00000	0.00000	0.002
Molybdenum	0.00000	0.02	0.00000	
Nickel	0.00000	0.00000	0.00000	0.1
Selenium	0.00000	0.00000	0.00000	0.05
Silver	0.00000	0.00000	0.00000	0.1
Uranium	*0.005*	0.021	0.00000	
Vanadium	0.00000	0.00000	0.00000	
Zinc	0.00000	0.03	0.00000	5.0
Boron	*0.05*	0.11	0.00000	
Ammonia	*0.05*	0.31		
Radium-226[d]	*58.7*	806.0	0.1	5.0

[a] Values obtained from Wells CP–3, CP–5, CP–6, CP–7, CP–9, and well CP–2 (for parameters from arsenic to radium-226, (*Source:* HRI 1992b).
[b] µmhos/cm.
[c] Units.
[d] pCi/L.

[FR Doc. 97–30208 Filed 11–17–97; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 17, 24, December 1 and 8, 1997.

PLACE: Comissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 17

Friday, November 21

11:30 a.m. Affirmation Session (Public Meeting). A. Final Rule—Deliberate Misconduct by Unlicensed Persons (Tentative) (Contact: Ken Hart, 301–415–1659)

Week of November 24—Tentative

There are no meetings the week of November 24.

Week of December 1—Tentative

There are no meetings the week of December 1.

Week of December 8—Tentative

Thursday, December 11

2:00 p.m. Briefing on Investigative Matters (Closed—Ex. 5 & 7)

3:00 p.m. Affirmation Session (Public Meeting) (if needed)

Friday, December 12

9:00 a.m. Meeting with Northeast Nuclear on Millstone (Public Meeting) (Contact: Bill Travers, 301–415–1200)

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: November 14, 1997.

William M. Hill, Jr.,

Secy Tracking Officer, Office of the Secretary.

[FR Doc. 97–30403 Filed 11–14–97; 2:33 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

1998 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 1997, is $83,062,894.58;

2. The September 30, 1997, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $2,754,953,781.58 as of June 30, 1997;

4. The cumulative system unallocated charge balance is ($194,812,974.38) as of June 30, 1997;

5. The pooled credit ratio for calendar year 1998 is zero;

6. The pooled charged ratio for calendar year 1998 is zero;

7. The surcharge rate for calendar year 1998 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $925 for months in calendar year 1998;

9. The amount described in section 1(k) of the Act as ''2.5 times the monthly compensation base'' is $2,312.50 for base year (calendar year) 1998;

10. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,195 for months in calendar year 1998;

11. The amount described in section 3 of the Act as ''2.5 times the monthly compensation base'' is $2,312.50 for base year (calendar year) 1998;

12. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $2,312.50 with respect to disqualifications ending in calendar year 1998;

13. The maximum daily benefit rate under section 2(a)(3) of the Act is $44 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 1998.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 1997. The balance in notice (2) is based on data as of September 30, 1997. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 1998. The determinations made in notices (8) through (12) are effective January 1, 1998. The determination made in notice (13) is effective for registration periods beginning after June 30, 1998.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Pub. L. 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 1997, the computation of the calendar year 1998 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 1998, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 1998.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account is less than $100 million on the preceding June 30. If the RUI Account balance is less than $100 million, but at least $50 million, the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million, but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The Account balance on June 30, 1997, was $83,062,894.58. Accordingly, the surcharge rate for calendar year 1998 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 1998 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A − 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 1998 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 1998 tier 1 tax base is $68,400. Subtracting $37,800 from $68,400 produces $30,600. Dividing $30,600 by $56,700 yields a ratio of 0.53968254. Adding one gives 1.53968254. Multiplying $600 by the amount 1.53968254 produces the amount of $923.81, which must then be rounded to $925. Accordingly, the monthly compensation base is determined to be $925 for months in calendar year 1998.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1998 monthly compensation base of $925 produces $2,312.50. Accordingly, the amount determined under section 1(k) is $2,312.50 for calendar year 1998.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio

to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.The calendar year 1998 monthly compensation base is $925. The ratio of $925 to $600 is 1.54166667. Multiplying 1.54166667 by $775 produces $1,195. Accordingly, the amount determined under section 2(c) is $1,195 for months in calendar year 1998.

Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Multiplying 2.5 by the calendar year 1998 monthly compensation base of $925 produces $2,312.50. Accordingly, the amount determined under section 3 is $2,312.50 for calendar year 1998.

Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends. Multiplying 2.5 by the calendar year 1998 monthly compensation base of $925 produces $2,312.50. Accordingly, the amount determined under section 4(a–2)(i)(A) is $2,312.50 for calendar year 1998.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 1998, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 1997 monthly compensation base is $890. Multiplying $890 by 0.05 yields $44.50, which must then be rounded down to $44. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 1998, is determined to be $44.

Dated: November 10, 1997.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–30168 Filed 11–17–97; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 10b–10, SEC File No. 270–389, OMB Control No. 3235–0444

Rule 11Ac1–3, SEC File No. 270–382, OMB Control No. 3235–0435

Rule 15c2–12, SEC File No. 270–330, OMB Control No. 3235–0372

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 10b–10, Confirmation of Transactions, applies to all securities transactions, other than transactions in municipal securities or U.S. savings bonds, it would potentially apply to all of the approximately 5,400 firms registered with the Securities and Exchange Commission that effect transactions on behalf of customers.

Rule 10b–10 requires broker-dealers convey to customers basic trade information regarding their securities transactions. This information includes the date and time of the transaction; the identity and number of shares bought or sold; and the trading capacity of the broker-dealer. Depending on the trading capacity of the broker-dealer, the rule requires the disclosure of commissions and, under specified circumstances, mark-up and mark-down information. For transactions in debt securities, the rule requires the disclosure of redemption and yield information.

The confirmation process is automated, and it takes about one minute to generate and send a confirmation. The cost per confirmation generally stays the same. Per year, it is estimated that broker-dealers spend 10.8 million hours complying with Rule 10b–10.

It is important to note, however, that the confirmation is a customary document used by the industry. The staff estimates the costs of producing and sending a confirmation to be approximately 89 cents, although the amount of confirmations sent and the cost of sending each confirmation will vary from firm to firm. Smaller firms will send fewer confirmations because they will have fewer transactions. As a result, the total cost to the industry is approximately $578 million per year (650 million confirmations at 89 cents per confirmation).

Rule 11Ac1–3, Customer Account Statements, requires disclosure on each new account and on a yearly basis thereafter, on the annual statement, the firm's policies regarding receipt of payment for order flow from any market makers, exchanges or exchange members to which it routes customers' order in the national market system securities for execution; and information regarding the aggregate amount of monetary payments, discounts, rebates or reduction in fees received by the firm over the past year.

It is estimated that there are 5,308 registered broker-dealers with customer accounts. The staff estimates that the average number of hours necessary for each broker-dealer to comply with the Rule 11Ac1–3 is fourteen hours annually. Thus, the total burden is 74,312 hours annually. The average cost per hour is approximately $40. Therefore, the total cost of compliance for broker-dealers is $297,248.

Rule 15c2–12, Municipal Securities Disclosure, requires underwriters of municipal securities: (1) To obtain and review a copy of an official statement deemed final by an issuer of the securities, except for the omission of specified information; (2) in non-competitively bid offerings, to make available, upon request, the most recent preliminary official statement, if any; (3) to contract with the issuer of the securities, or its agent, to receive, within specified time periods, sufficient copies of the issuer's final official statement to comply both with this rule and any rules of the Municipal Securities Rulemaking Board; (4) to provide, for a specified period of time, copies of the final official statement to any potential customer upon request; (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or other specified person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information about the issue or issuer on a continuing basis to a nationally recognized municipal securities information repository; and (6) to review the information the issuer

of the municipal security has undertaken to provide prior to recommending a transaction in the municipal security.

These disclosure and recordkeeping requirements will ensure that investors have adequate access to official disclosure documents that contain details about the value and risks of particular municipal securities at the time of issuance while the existence of compulsory repositories will ensure that investors have continued access to terms and provisions relating to certain static features of those municipal securities. The provisions of Rule 15c2–12 regarding an issuer's continuing disclosure requirements assist investors by ensuring that information about an issue or issuer remains available after the issuance.

Municipal offerings of less than $1 million are exempt from the rule, as are offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors, have short-term maturities, or have short-term tender or put features. It is estimated that approximately 12,000 brokers, dealers, municipal securities dealers, issues of municipal securities, and nationally recognized municipal securities information repositories will spend a total of 123,850 hours per year complying with Rule 15c2–12. Based on average cost per hour of $50, the total cost of compliance with Rule 15c2–12 is $6,192,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 10, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30177 Filed 11–17–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22882/812–10050]

The Benchmark Funds, et al.; Notice of Application

November 12, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants request an order under sections 6(c), 10(f) and 17(b) of the Act for an exemption from the provisions of sections 10(f) and 17(a) of the Act. The order would permit principal transactions effected in the ordinary course of business between the Benchmark Funds, The Commerce Funds, and Goldman, Sachs & Co.

APPLICANTS: The Benchmark Funds, The Commerce Funds (collectively, the ''Funds''), and Goldman, Sachs & Co. (''Goldman Sachs'').

FILING DATES: The application was filed on March 19, 1996 and amended on October 15, 1996, and September 18, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 8, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. The Benchmark Funds, 4900 Sears Tower, Chicago, Illinois 60606–6303, The Commerce Funds, PO Box 16391, St. Louis, Missouri 63105, Goldman, Sachs & Co., 85 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Mary Kay Frech, Branch Chief at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Benchmark Funds is a Massachusetts business trust that is registered under the Act as an open-end management investment company. The Benchmark Funds currently offers to institutional investors 17 equity, fixed income and money market Portfolios.[1] The Benchmark Funds is the proprietary fund of the Northern Trust Company (''Northern''), which serves as investment adviser, transfer agent and custodian for each of the Benchmark Funds' Portfolios. Northern, a member of the Federal Reserve System, is an Illinois state-chartered commercial bank and the principal subsidiary of Northern Trust Corporation, a bank holding company.

2. The Commerce Funds is a Delaware business trust that is registered under the Act of an open-end management investment company. The Commerce Funds currently consists of nine Portfolios, which are offered to both individual and institutional investors. The Commerce Funds is the proprietary fund of the Commerce Bank, N.A. (St. Louis) and Commerce Bank, N.A. (Kansas City), which serve as the investment advisers to the Commerce Funds. Each of these banks is a subsidiary of Commerce Bancshares, Inc., a registered multi-bank holding company (collectively, ''Commerce Bank'' and together with Northern, the ''Banks'').

3. At present, federal banking laws and regulations are interpreted to restrict the ability of banks and bank holding companies, directly or through affiliated persons, to act as distributors for mutual funds or to provide personnel to act as officers and employees of the funds. Consistent with these requirements, bank proprietary funds must find a third party, independent of the bank, to act as the nominal ''distributor,'' and retain officers who are not affiliated with the bank to perform certain administrative functions not associated with the selection of investments or broker-dealers through which trades may be effected.

4. Goldman Sachs is a registered broker-dealer that was founded in 1869.

[1] As used in this release, the term ''Portfolio'' refers to any series of a registered open-end management investment company relying on any order granting the application or, if the company relying on any such order has a single investment portfolio, the company itself.

It is one of the oldest and largest international investment banking and brokerage firms, with offices in New York and other financial capitals of the world.

5. Goldman Sachs has acted as principal underwriter/distributor and administrator for the Funds since their inception. The primary consideration for using Goldman Sachs is its capacity as an administrator. Goldman Sachs is entitled to a fee from each Portfolio of the Funds for its administrative services, but generally receives no fee for its distribution activities.[2]

6. It its capacity as administrator, Goldman Sachs supplies each Fund with administrative officers, including an employee who serves as president of one of the Funds, who are responsible for performing administrative functions on behalf of the Funds. These officers are also officers and/or employees of Goldman Sachs. No administrative officer of a Fund who is an affiliated person of Goldman Sachs serves as a director of the Fund, sets fund policies, or currently is affiliated with any investment adviser to any Portfolio of a Fund. Such administrative officers have no involvement in, or influence over, the selection of any investment for the Fund or any broker or dealer through whom transactions may be effected.

7. The Funds rely upon Goldman Sachs to perform the distribution tasks that the federal banking regulators presently may restrict them from undertaking. These tasks include: Entering into distribution agreements with the Funds; being named as the distributor in Fund prospectuses and sales literature; at the direction of the Banks, entering into agreements with broker-dealers selling the Funds; acting as broker of record for unsolicited direct sales of shares of the Funds; paying the costs of printing and distributing the Funds' prospectuses to potential investors; providing sales compliance training; consulting with the Funds' investment advisers about new market and product opportunities; and monitoring advertising and sales literature compliance. Goldman Sachs does not solicit any trades or provide any telemarketing services, and has no sales personnel dedicated to the Funds. Shares of each Fund are made available through a bank or its affiliated persons to their customers, or through other intermediaries that are not affiliated with Goldman Sachs. If investors are permitted to purchase shares by contacting the Funds' distributor, Goldman Sachs acts as the broker of record for unsolicited trades, and takes phone orders and redemption requests. Goldman Sachs does not locate customers for the Funds, does not instruct its clients to purchase shares from the Funds, and does not accompany Fund salespersons in meetings with potential investors.

8. Applicants request an order under sections 6(c), 10(f), and 17(b) of the Act that would exempt applicants from sections 10(f) and 17(a). The order would permit principal transactions in the ordinary course of business between any Portfolio and Goldman Sachs or any entity controlled by, controlling, or under common control with Goldman Sachs. Applicants request that the order also apply to any registered open-end management investment company (i) for which officers or employees of Goldman Sachs in the future act as officers as described in the application, or (ii) for which Goldman Sachs in the future provides distribution services as described in the application.

Applicants' Legal Analysis

1. Sections 17(a) of the Act generally prohibits any affiliated person or principal underwriter for a registered investment company, or any affiliated person of such affiliated person or principal underwriter (a ''second-tier affiliate''), acting as principal, from knowingly selling any security or other property to such registered investment company and from knowingly purchasing any security or other property from the registered investment company. Goldman Sachs may not knowingly engage in principal transactions with a Fund absent an exemptive order, because Goldman Sachs is the principal underwriter for the Funds.

2. Section 17(b) of the Act authorizes the SEC to issue an order of exemption from one or more of the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.[3]

4. Applicants state that Congress enacted section 17(a) of the Act to address the problems associated with transactions of affiliated persons and underwriters or distributors that are able to control or influence the investment decisions of investment companies. Applicants assert that the prohibitions of section 17(a) were applied to distributors of investment company shares because, at the time of the enactment of the Act, distributors possessed enormous control over investment companies.

5. Applicants argue that the prohibitions of section 17(a) apply to distributors of the shares of open-end investment companies in recognition of the extent of control and influence a distributor in many circumstances is in a position to assert over an open-end investment company. Applicants note that when a distributor serves as the focal point for the purchase and sale of shares of an open-end investment company, an investment company may be pressured to enter into arrangements with the distributor that may not be benefical to the company in order to assure the continued sale of the company's securities. Applicants also note that the provisions of section 17(a) relating to distributors of shares of open-end companies reflect a recognition that an open-end company's distributor is often affiliated with the company's investment adviser.

6. Applicants contend that Goldman Sachs' role as distributor of the Funds does not raise the types of problems that section 17(a) is designed to address. Applicants argue that the Funds are not captives of Goldman Sachs as a matter of either contract of *de facto* influence. Applicants state that Goldman Sachs has been chosen as the Funds' distributor primarily because federal banking laws and regulations have been interpreted to prohibit the Banks from

[2] The Commerce Funds is forming a class of shares that is expected to bear a distribution fee pursuant to rule 12b–1 under the Act at a rate of 0.25% of the class' net asset value. Although Goldman Sachs would be the initial recipient of the fee because it is the Funds' distributor, the fee is expected to be used primarily to make ''trail commission'' or shareholder service payments to third parties. If unsolicited trades are effected for which Goldman Sachs is broker of record, Goldman Sachs may retain the trail commissions attributable to those trades to help defray the cost of Fund advertisements and other distribution expenses. In the future, the Funds may create classes of shares that bear different distribution fees or may change the distribution fees attributable to their existing classes.

[3] Section 17(b) applies to a specific proposed transaction, rather than an ongoing series of future transactions. Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c), along with section 17(b), frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

distributing Fund shares. Applicants note that although banks are permitted to engage in most distribution activities, interpretations of the federal banking regulations prevent full participation by banks in the underwriting process.[4] Applicants assert that the Banks retain the services of an entity such as Goldman Sachs to provide administrative and nominal distribution services consistent with these interpretations.[5]

7. Applicants assert that Goldman Sachs does not serve as the focal point for the purchase and sale of Fund shares. Applicants state that Goldman Sachs plays no role in promoting the Funds to retail or institutional customers. Sales of investment company shares are instead conducted by each of the respective Banks and/or bank holding company organizations with which the Funds are affiliated and have advisory relationships or broker-dealers identified by those Banks. Applicants state that all sales of the Funds since inception have resulted from the institutional and retail relationships of the Banks. Applicants emphasize that it is these institutions, and not Goldman Sachs, that provide the organizational structures that actively promote the Funds. Applicants state that if Goldman Sachs was replaced as principal underwriter, the Banks and broker-dealers would merely enter into agreements with a new underwriter, because the broker-dealers' substantive relationship is with the Banks and/or bank holding company organizations with which the Funds are affiliated and not with Goldman Sachs.

8. Applicants state that investment decisions for each of the Portfolios are made exclusively by the Banks or other investment advisers that are not affiliated with Goldman Sachs. Applicants assert that it has always been the intent of the Banks and their parent banks and/or bank holding companies to retain control over the investment decisions of the Funds which they advise, except to the extent that third parties are to act as investment advisers or sub-advisers to the Portfolios. Applicants also state that although not presently intended, Goldman Sachs could become a sub-adviser or adviser to a Portfolio of a Fund in the future. If Goldman Sachs became a sub-adviser or adviser to any Portfolio, it would engage in principal transactions in reliance on any order granting the application only with Portfolios advised by parties other than Goldman Sachs or its affiliated persons, and would do so only in conformity with applicable exemptive orders[6] or no-action letters.[7] Applicants assert that the section 17(a) concern regarding affiliated distributors would not arise in applicants' case because in no instance will Goldman Sachs engage in principal transactions with portfolios for which it acts as adviser or sub-adviser except as permitted under condition 1.

9. Applicants state that although Goldman Sachs' officers or employees serve as officers of the Funds, none of such persons are responsible for the formulation or establishment of the Portfolios' investment objectives, policies or restrictions. The officers and employees function only as administrative officers of the Funds, handling administrative tasks necessary to maintain the Funds as going concerns. Applicants contend that the performance of these functions by Goldman Sachs' personnel does not result in any opportunity for control of the Funds. The policy-making functions of each Fund rest with its respective independent board of directors, which have been and will continue to be responsible for the selection and review of the major contractors to the Funds, including the advisers and the distributor. Goldman Sachs' officers and employees do not and will not serve as members of the Funds' boards of directors and, consequently, will not be engaged in considering and approving the Funds' advisory and distribution arrangements.

10. Applicants contend that since the proposed principal transactions would not implicate the principal concerns reflected in section 17(a), the inability of the Portfolios to engage in these transactions with a major financial institution imposes opportunity and execution costs on the investment company. Applicants contend that the prohibitions of section 17(a) and the resulting costs to the Portfolios are neither required nor appropriate because an independent third party, with a vested interest in each Portfolio's performance, is making all investment decisions for the Portfolio and the Funds are in no way dependent on the distribution services of Goldman Sachs.

11. Section 10(f) of the Act, in relevant part, prohibits a registered investment company from knowingly purchasing or otherwise acquiring any security, during its underwriting or syndication, the principal underwriter of which is a person who is an officer or employee of the investment company or is a person affiliated with an officer or employee of the investment company. Section 10(f) authorizes the SEC to exempt any transactions or classes of transactions from the prohibitions of section 10(f) if the exemption is consistent with the protection of investors.

12. Under section 10(f), the Portfolios are restricted from acquiring securities from Goldman Sachs during the securities' underwriting or syndication period when Goldman Sachs serves as underwriter of the securities. Applicants note that the only reason that section 10(f) applies is because officers and employees of Goldman Sachs serve as officers of the Funds. Applicants argue that the reason for applying this prohibition to officers of the Funds—the control and influence that an officer may have over the investment decisions of a Portfolio—does not apply for the same reasons described above in connection with section 17(a). Applicants contend that the Portfolios presently are deprived of full access to the many securities (especially in the fixed-income arena) of which Goldman Sachs is an underwriter. Applicants assert that the terms and conditions set forth in the proposed relief are reasonable and fair and do not involve overreaching on the part of any person; they are consistent with the general purposes of the Act, in general, and sections 17(a) and 10(f), in particular, and the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. Neither Goldman Sachs nor its affiliated persons will engage in principal transactions with a Portfolio for which Goldman Sachs or any of its affiliated persons act as investment

[4] Applicants cite OCC Interpretive Letter No. 648 (May 4, 1994) and Melanie L. Fein, *Securities Activities of Banks* § 9.07 (1995).

[5] Although Goldman represents that it provides nominal distribution services to the Funds, Goldman acknowledges that it continues to retain responsibility as principal underwriter for all purposes under the federal securities laws.

[6] *See North American Security Trust*, Investment Company Act Release Nos. 18860 (July 22, 1992) (notice) and 18899 (Aug. 18, 1992) (order); *The One Group*, Investment Company Act Release Nos. 19410 (Apr. 15, 1993) (notice) and 19470 (May 11, 1993) (order) (the ''*Sub-Adviser Orders*''). Under these orders, Goldman Sachs is permitted to engage in principal transactions with portfolios of any registered investment company of which Goldman Sachs may be deemed to be an affiliated person of an affiliated person solely because of its sub-advisory relationship with other portfolios of that investment company. Goldman Sachs intends to reply on these orders in conjunction with the exemptive order requested by this application.

[7] *Salomon Brothers Inc.*, SEC No-Act. Letter (pub. avail. May 26, 1995).

adviser except to the extent permitted by the Act, the rules under the Act, no-action letter, or any exemptive order granted after the date of an order granting this application, provided that the application requesting the subsequent order refers specifically to this application.

2. Goldman Sachs and its affiliated persons will engage in principal transactions with a Portfolio in reliance on any order granting this application only if (i) Goldman Sachs is not affiliated with any investment adviser to the Portfolio, (ii) neither Goldman Sachs nor any affiliated person of Goldman Sachs is responsible for the selection of particular securities to be acquired for the Portfolio, and (iii) neither Goldman Sachs nor any affiliated person of Goldman Sachs is responsible for the selection of any particular broker-dealer or other counterparty for transactions effected by the Portfolio.

3. Goldman Sachs and its affiliated persons will engage in principal transactions with a Portfolio in reliance on any order granting this application only if no affiliated person of Goldman Sachs is serving as a director of the Fund of which the Portfolio is a part.

4. Transactions between Goldman Sachs or its affiliated persons and any Portfolio made in reliance on any order granting this application will be effected only pursuant to arm's length negotiations with the Portfolio, acting through its investment adviser or other person unaffiliated with Goldman Sachs, and will be consistent with the policy of the Portfolio.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30179 Filed 11–17–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26777]

Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

November 10, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 4, 1997, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

GPU, Inc. and GPU International, Inc. (70–7727)

GPU, Inc. ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and GPU International, Inc. ("GPU International"), One Upper Pond Road, Parsippany, New Jersey 07054, a nonutility subsidiary of GPU, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45, 53 and 54 under the Act to their application-declaration filed under sections 6(a), 7, 9(a), 10, 12(b), 12(c) and 13(b) of the Act and rules 45, 50, 51, 90 and 91 under the Act.

By orders dated November 16, 1995, June 14, 1995, December 28, 1994, September 12, 1994, December 18, 1992, and June 26, 1990 (HCAR Nos. 26409, 26307, 26205, 26123, 25715, and 25108) ("Prior Orders"), GPU International [1] was authorized to engage in preliminary project development and administrative activities ("Project Activities") for its investments in: (i) Qualifying facilities ("QFs"), as defined in the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"); (ii) exempt wholesale generators ("EWGs"), as defined in section 32 of the Act; and (iii) foreign utility companies ("FUCOs"), as defined in section 33 of the Act.

The Prior Orders also authorized GPU from time to time through December 31, 1997 to: (i) Enter into guarantees, support instruments, and bank letters of credit reimbursement agreements or similar financial instruments or undertakings ("Guarantees") to secure GPU International's agreement with any person (including without limitation project lenders) in connection with GPU International's Project Activities and the acquisition of ownership or participation interests in QF, EWG, or FUCO projects; (ii) guarantee the securities or other obligations of EWGs and FUCOs; and (iii) assume liabilities of EWGs and FUCOs, in an amount of up to $500 million. The Prior Orders also authorized GPU International to enter into guarantees, and to assume liabilities of EWGs and FUCOs, in an aggregate amount of up to $50 million from time to time through December 31, 1997.

GPU and GPU International ("Applicants") propose to: (i) Expand the purposes for which GPU may enter into Guarantees on behalf of GPU International to include Guarantees of any security or other obligation of GPU International or a subsidiary of GPU International ("GPUI Subsidiary"), provided the issuance and sale of any such security is exempt from the requirement of prior Commission approval under section 6(a) of the Act or has been otherwise authorized by the Commission; (ii) to increase to $150 million the aggregate principal amount of Guarantees which GPU International may have outstanding hereunder and to expand the purposes for which GPU International may enter into Guarantees to include guarantees of the securities or other obligations of GPUI Subsidiaries, provided the issuance and sale of any such security is exempt from the requirement of prior Commission approval under section 6(a) of the Act or has been otherwise authorized by the Commission; (iii) to extend until December 31, 2000 the period during which Applicants may enter into Guarantees; and (iv) to permit any GPUI Subsidiary which is not an EWG or FUCO to guarantee the securities or other obligations of their direct or indirect subsidiaries from time to time through December 31, 2000 in an aggregate amount not to exceed, together with the aggregate amount of GPU International Guarantees outstanding, $150 million, provided the issue and sale of any such security is exempt from the requirement of prior Commission approval under section 6(a) of the Act or has been otherwise authorized by the Commission.

The term of each Guarantee and any letter of credit ("L/C") reimbursement agreement, would not exceed 35 years. L/C fees would not exceed 1% annually of the face amount of the L/C. Drawings under each L/C would bear interest at not more than 5% above the prime rate

[1] The Prior Orders were issued for Energy Initiatives, Inc. ("EII"). GPU International is the entity which succeeded EII.

as in effect from time to time. The interest rate on GPU International debt guaranteed by GPU, and fees payable, would not exceed rates and fees which are generally obtainable for debt bearing similar terms, conditions and features and which is issued by companies of the same or reasonably comparable credit quality.

GPU agrees that it will not enter into any Guarantee which: (i) Guarantees the securities or obligations of an EWG or FUCO; or (ii) guarantees the performance of a Guarantee executed by GPU International or a GPUI Subsidiary of the securities or other obligations of an EWG or FUCO, unless in any such case the conditions set forth in the Commission's supplemental order dated November 5, 1997 (HCAR No. 26773) have been satisfied. Furthermore, any such Guarantee by GPU would be included in GPU's ''aggregate investment'' as defined in rule 53(a).

Allegheny Power System, Inc., et al. (70–7888)

Allegheny Power System, Inc. (''Allegheny''), 10435 Downsville Pike, Hagerstown, Maryland 21740, a registered holding company, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, Allegheny's service company subsidiary, three electric utility subsidiary companies of Allegheny—(i) Monongahela Power Company (''Monongahela''), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, (ii) The Potomac Edison Company (''Potomac Edison''), 10435 Downsville Pike, Hagerstown, Maryland 21740, and (iii) West Penn Power Company (''West Penn''), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, and Allegheny Generating Company (''AGC''), 10435 Downsville Pike, Hagerstown, Maryland 21740, an electric utility subsidiary of Monongahela, Potomac Edison and West Penn (collectively, ''Applicants'') have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 43, 45, 53 and 54 under the Act.

By orders dated January 29, 1992, February 28, 1992, July 14, 1992, November 5, 1993, November 28, 1995, and April 18, 1996 (HCAR Nos. 25462, 25481, 25581, 25919, 26418, and 26506) (''Prior Orders''), Applicants were authorized to engage in certain short-term financing programs and operation of the Allegheny System Money Pool (''Money Pool''). Applicants now propose, from December 31, 1997 through December 31, 2002, to continue certain short-term financing programs and operation of the Money Pool, described below.

Allegheny, Monongahela, Potomac Edison, West Penn, and AGC (the ''Companies'') request that, from December 31, 1997 to December 31, 2002, they be authorized to engage in short-term financing, including notes to banks (''Notes''), commercial paper (''CP''), and Money Pool borrowings, in aggregate amounts not to exceed the following amounts outstanding at any one time for each of the following Applicants: Allegheny—$400 million; Monongahela—$106 million; Potomac Edison—$130 million; West Penn—$182 million; AGC—$100 million.

The Companies have established bank lines of credit ranging from $10 million to $40 million for an aggregate total of $295 million available for short-term borrowings. The Companies have agreed to pay for each of these lines of credit an annual cash fee no greater than 10 basis points on all or the balance of the line of credit.

Each Note payable to a bank will be dated as of the date of the borrowing which it evidences, will mature not more than 270 days after the date of issuance or renewal thereof, will bear interest at a mutually agreed upon rate, provided that the effective rate for any 30-day period, on an annualized basis, will not exceed prime plus 2 percentage points and may or may not have prepayment privileges, as set forth in the Prior Orders. It is estimated that the maximum aggregate amount of any short-term borrowings on behalf of Applicants at any one time outstanding, when taken together with any CP then outstanding and funds borrowed by such affiliates under the Money Pool, will not be in excess of $918 million.

The CP will be in the form of promissory notes and will be of varying maturities, with no maturity more than 270 days after the date of issue. The CP will have the other terms and conditions as authorized by the Prior Orders. Applicants state that no Notes or CP will mature after June 30, 2003.

Applicants also propose to continue the Allegheny Power System Money Pool from December 31, 1997 to December 31, 2002. Allegheny is a participant in the Money Pool only to the extent it has funds available for lending through the Money Pool. Allegheny may not borrow from the Money Pool. AGC will be allowed to borrow from, but not invest in, the Money Pool.

The calculation of interest income and expense have been revised in the Money Pool agreement (''Agreement''). Interest income and expense are now calculated using the previous day's Fed Funds Effective Interest Rate as quoted by the Federal Reserve Bank of New York as long as this rate is at least four basis points lower than the previous day's seven-day commercial paper rate as quoted by the same source. Whenever the Fed Funds rate is not at least four basis points lower than the seven-day commercial paper rate, the Agreement provides that the seven-day commercial paper rate minus four basis points should be used.

The Agreement has been revised in the following additional ways. The interest income resulting from the external investments will be accrued daily instead of booked upon receipt. In addition, interest income will be allocated to members of the Money Pool on a basis equal to their pro rata share of net contributions in the Money Pool throughout the month, instead of on the net contributions on the day the investment was placed. Also, a sentence was added to the Agreement providing that the allocation of interest income will be settled on a cash basis on the last business day of each month.

Allegheny proposes to use the proceeds from the proposed borrowings to: (1) Acquire common stock of subsidiaries; (2) make capital contributions to subsidiaries (which, in turn, may use the proceeds for investments in exempt wholesale generators or foreign utility companies); and (3) purchase shares of Allegheny common stock in order to fund its Dividend Reinvestment and Stock Purchase Plan and Employee Stock Option and Stock Purchase Plan in lieu of issuing additional new shares of common stock pursuant to such plans.

Northeast Utilities, et al. (70–8507)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned subsidiaries, Northeast Utilities Service Company (''Service''), PO Box 270, Hartford, Connecticut 06141–0270, Charter Oak Energy, Inc. (''Charter Oak'') and COE Development Corporation (''COE Development''), both located at 107 Seldon Street, Berlin, Connecticut 06037, (collectively, ''Applicants'') have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a) 10, 12(b), 12(c), 13(b), 32 and 33 of the Act and rules 45, 46, 53, 54, 83, 86, 87(b)(1), 90 and 91 under the Act.

By orders dated December 30, 1994 (HCAR No. 26213), as amended on August 7, 1995 (HCAR No. 26345), December 12, 1996 (HCAR No. 26623), and March 25, 1997 (HCAR No. 26691) (collectively, ''Prior Orders''), the

Commission generally authorized, among other things, Charter Oak and COE Development to invest in, and finance the acquisition of, exempt wholesale generators within the meaning of section 32 of the Act (''EWGs'') and foreign utility companies within the meaning of section 33 of the Act (''FUCOs,'' and together with EWGs, ''Exempt Projects''), subject to certain limitations. Specifically, the Prior Orders authorized: (1) The formation of intermediate subsidiary companies (''Intermediate Companies'') to acquire an interest in, finance the acquisition and hold the securities of Exempt Projects, through the issuance by the Intermediate Companies of up to $600 million of equity securities and debt securities to third parties, of which $150 million would be recourse; (2) Intermediate Companies to make partial sales of certain projects; (3) participation in joint ventures with nonassociate companies; (4) 1% of the total NU system employees and no more than 2% of the total of NU Service Company employees to provide services to Intermediate Companies, EWGs and FUCOs; and (5) certain Intermediate Companies, EWGs and FUCOs to pay dividends to their parent companies, from time to time out of capital or unearned surplus, and for Charter Oak to use such funds to pay dividends to NU, to the extent permitted by applicable corporate law.

The Prior Orders authorized Charter Oak and COE Development to invest and hold interests in qualifying cogeneration and small power production facilities as defined in the Public Utility Regulatory Policies Act of 1978 (''QF''), throughout the United States; independent power production facilities that would constitute a part of NU's ''integrated public utility system'' within the meaning of section 2(a)(29)(A) of the Act (''Qualified IPPs''); and Exempt Projects. Charter Oak and COE Development were also authorized to provide consulting services to the projects. In addition, the Applicants have authority to issue guarantees and assume the liabilities of subsidiary companies for pre-development activities, and for both pre-development and contingent liabilities subsequent to operation with regard to Exempt Projects, subject to certain restrictions.

To date, NU has invested approximately $115 million in Charter Oak and expects to invest an additional $5 million through December 31, 1997. NU has $80 million remaining from its previous authorization to engage in power development activities (''Remaining Amount''). Charter Oak and COE Development may invest in QF and Qualified IPPs after obtaining Commission approval.

NU has announced its intention to sell its interest in Charter Oak and the majority of its subsidiaries to an unaffiliated third party (''Sale''). Charter Oak may sell the voting stock of some or all of its subsidiaries to third parties prior to NU's sale of the voting securities of Charter Oak. NU may retain an indirect interest in one or more of Charter Oak's Exempt Projects by transferring the stock of that Exempt Project or its Intermediate Company parent to another NU subsidiary.

As a result of the proposed Sale, the Applicants are requesting authorization to extend NU's period of authorization to invest directly in Charter Oak and indirectly, in COE Development, the Remaining Amount, and engage in the related transactions, pursuant to the terms and conditions set forth in the Prior Orders, through December 31, 1998.

The Applicants also request modification of the Prior Orders to authorize: (1) Charter Oak and its subsidiaries to pay dividends to their parent companies out of capital or unearned surplus, in compliance with rule 46 and relevant corporate law, to ensure that the NU system receives the full amount of funds available to it in connection with the sale or transfer of these entities; (2) Service employees (which include the current employees of Charter Oak) to continue to provide services [2] to Exempt Projects and Intermediate Companies after they have been sold to unaffiliated buyers, subject to the *de minimis* amount limitation established under the Prior Orders; and (3) NU to invest a maximum of $75 million to fund the acquisition by an NU subsidiary of any Exempt Project or Intermediate Company currently owned by Charter Oak.[3]

Service company employees may continue to provide services at market rates to any Exempt Project or Intermediate Company retained by the system subject to the terms and conditions set forth in the Prior Orders.

[2] The services that may be rendered will include: management, administrative, legal, tax and financing advice, accounting, engineering consulting, language skills and software development, provided that, such software development will not involve proprietary software owned by Service.

[3] The investment may take the form of acquisitions of common stock, capital contributions, open account advances, and/or subordinated loans. Open account advances or subordinated loans will either bear no interest or bear interest at a rate based on NU's cost of funds in effect on the date of issue, but in no case in excess of the prime rate at a bank designated by NU. Any investment by NU in the equity securities of a subsidiary that have a stated par value will be in an amount equal or greater to that value.

GPU, Inc. et al. (70–8593)

GPU, Inc. (''GPU''), of 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and two of its nonutility subsidiaries, GPU International, Inc. and EI Services, Inc., both of One Upper Pond Road, Parsippany, New Jersey 07054, its operating companies, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each of P.O. Box 16001, Reading, Pennsylvania 19640, and its service company, GPU Service, Inc., of 100 Interpace Parkway, Parsippany, New Jersey 07054, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 43, 45, 53 and 54 thereunder, to their application-declaration, under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45, 52, 53 and 54 thereunder, in the above file.

By orders of the Commission dated November 5, 1997, January 19, 1996 and July 6, 1995 (HCAR Nos. 26773, 26457 and 26326, respectively) (''Orders''), among other things, GPU is authorized to acquire and own interests in exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs'' and EWGs, ''Exempt Entities'') through GPU subsidiaries (''Project Parents'') that are not Exempt Entities, but are engaged, directly or indirectly, and exclusively, in the business of owning and holding the interests and securities of one or more Exempt Entities and related project development activities. GPU is authorized to make equity investments in Project Parents in the form of capital stock or shares, trust certificates, partnership interests or other equity or participation interests. GPU is also authorized, through December 31, 1997, to make investments in one or more Project Parents in the form of: Loans evidenced by promissory notes; guarantees by GPU of the principal of, or interest on, any promissory notes or other evidences of indebtedness or obligations of any Project Parent or an undertaking by GPU to contribute equity; assumption of liabilities of a Project Parent; and reimbursement agreements with banks which support letters of credit delivered as security for GPU's obligations to contribute equity to a Project Parent or otherwise in connection with the project development activities of a Project Parent.

GPU is also authorized to make investments in Exempt Entities, through December 31, 1997, in the form of:

Guarantees of the indebtedness or other obligations of one or more Exempt Entities; assumption of liabilities of one or more Exempt Entities; and guarantees and letter of credit reimbursement agreements in support of equity contribution obligations or otherwise in connection with project development activities for one or more Exempt Entities.

Under the Orders, GPU's ''aggregate investment'' (as defined in rule 53(a)(1)(i)) in Project Parent and Exempt Entities cannot exceed 100% of GPU's ''consolidated retained earnings'' (as defined in rule 53(a)(1)(ii)).

Applicants now propose to extend the authorizations under the Orders through December 31, 2000. In addition, applicants request authorization for Project Parent to guarantee or assume liabilities of the securities issued by, or other obligations of, their direct or indirect subsidiaries in an aggregate amount not to exceed $1 billion, through December 31, 2000.[4]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30180 Filed 11–17–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting; Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 17, 1997.

A closed meeting will be held on Thursday, November 20, 1997, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, November 20, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: November 14, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–30338 Filed 11–14–97; 11:03 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39315; File No. SR–AMEX–97–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to a Reduction in Minimum Size for Closing Transactions in FLEX Equity Options

November 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19n–4 thereunder,[2] notice is hereby given that on November 4, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 903G to decrease from 100 contracts to 25 contracts the minimum value size of closing transactions and quotes for Flex Equity Options. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to reduce from 100 contracts to 25 contracts the minimum value size of closing transactions in and exercises of FLEX Equity Options, and to make a comparable reduction in the minimum value size of FLEX Equity Quotes in response to a Request for Quotes.

Currently, Rule 903G(a)(4)(iii) imposes a 100 contract minimum on all transactions in FLEX Equity Options unless the transaction is for the entire remaining position in the account. The Exchange believes that the current minimum value size of closing and exercise transactions in FLEX Equity Options is too large to accommodate the needs of certain member firms and their customers. These firms may purchase 100 or more FLEX Equity Options in an opening transaction for a single firm account in which more than one of the firm's clients have an interest.[3] If one of these clients wants to redeem its investment in the account, the firm likely will want to engage in a closing or exercise transaction in order to reduce the account's position in those FLEX Equity Options by the number being redeemed. Thus, if the redeeming client's interest is less than 100 FLEX Equity Options and does not represent the total remaining position in the account, Rule 903G(a)(4)(iii), as it stands presently, prevents the firm from closing or exercising positions of this size.

[4] Applicants represent that these guarantees will support only securities issuances authorized by the Commission or exempt from the requirement of prior Commission approval under section 6(a) of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the minimum size for an opening transaction in a Request for Quotes is 250 contracts for any FLEX series in which there is no open interest, and 100 contracts in any currently opened FLEX series. *See* Amex Rule 903G(a)(4)(ii) and (iii).

The Exchange believes that the proposed rule change would remedy the situation described above, by permitting an order to close or exercise as few as 25 FLEX Equity Option contracts. The corresponding change to Rule 903G(a)(4)(iv), which governs the minimum size for FLEX Equity Quotes that may be entered in response to Request for Quotes, is necessary in order to provide the liquidity needed to facilitate the execution of closing orders between 25 and 99 FLEX Equity Option contracts that would be permitted by the proposed amendment to Rule 903G(a)(4)(iii).

The Exchange represents that it will issue a circular that (1) describes the new rule; and (2) reminds all members and member firms of their continuing responsibility to ensure that FLEX Equity Options are utilized only by sophisticated investors with the necessary financial resources to sustain the possible losses arising from transactions in the requisite FLEX Equity Options class size.[4]

2. Statutory Basis

The Exchange believes that by providing firms and their customers greater flexibility to trade FLEX Equity Options by lowering from 100 to 25 the minimum number of contracts required for a closing transaction, for exercises, and for FLEX Quotes responsive to a Request for Quotes, the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[5] by removing impediments to and perfecting the mechanism of a free and open market in securities and otherwise serving to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex 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

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from November 4, 1997, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(e)(6)[7] thereunder.

At any time within 60 days of the filing of the proposed 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, 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, 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 in the Commission's Public Reference Room, 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 Amex. All submissions should refer to File No. SR–Amex–97–43 and should be submitted by December 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30178 Filed 11–17–97; 8:45 am]

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[4] The Commission's staff has reviewed the Annex's surveillance program and believes it provides a reasonable framework in which to monitor investor open interest to ensure that only such sophisticated investors are utilizing this product. Nonetheless, the Commission requests that the Exchange provide a report to the Commission's Division of Market Regulation describing the nature of investor participation in FLEX Equity Options for one year from the implementation date for the rule change. The report is due on December 31, 1998. If the Exchange determines in the interim that the proposed rule change has resulted in a pattern of inappropriate investor participation in FLEX Equity Options, it should notify the Commission's Division of Market Regulation to determine if the minimum closing transaction sizes should be modified.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e)(6).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2987]

State of Florida

Volusia County and the contiguous Counties of Brevard, Flagler, Lake, Orange, Putnam, and Seminole in the State of Florida constitute a disaster area as a result of damages caused by heavy rains, strong thunderstorms, and tornadoes which occurred on November 2, 1997. Applications for loans for physical damage may be filed until the close of business on January 5, 1998 and for economic injury until the close of business on August 6, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.812
Busineses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 298706 and for economic injury the number is 963600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 6, 1997.

Ginger Lew,

Acting Administrator.

[FR Doc. 97–30265 Filed 11–17–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2985]

State of Florida

Pinellas County and the contiguous Counties of Hillsborough and Pasco in the State of Florida constitute a disaster area as a result of damages caused by tornadoes, wind burst, and thunderstorms which occurred on October 27, 1997. Applications for loans for physical damage may be filed until the close of business on January 5, 1998 and for economic injury until the close of business on August 4, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.812
Busineses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 298511 and for economic injury the number is 9636.400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 4, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–30266 Filed 11–17–97; 8:45 am]

BILLING CODE 8025–01–P–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2986]

State of Florida

Manatee County and the contiguous Counties of DeSoto, Hardee, Hillsborough, Polk, and Sarasota in the State of Florida constitute a disaster area as a result of damages caused by extensive flash flooding as a result of severe rains which occurred on October 31, 1997. Applications for loans for physical damage may be filed until the close of business on January 5, 1998 and for economic injury until the close of business on August 4, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.812
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 298606 and for economic injury the number is 963500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 4, 1997.

Ginger Lew,

Acting Administrator.

[FR Doc. 97–30268 Filed 11–17–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2988]

Louisiana; (and Contiguous County in Texas)

Beauregard Parish and the contiguous parishes of Allen, Calcasieu, Jefferson Davis, and Vernon State of Louisiana; and Newton County in Texas constitute a disaster area as a result of damages caused by severe thunderstorms, rain, and tornadoes which occurred on October 23–24, 1997. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 12, 1998 and for economic injury until the close of business on August 10, 1998 at the address listed below U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.812
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage is 298812 and for Louisiana; and 298912 for Texas. For economic injury the numbers are 966900 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 10, 1997.

Aida Alvarez,

Administrator.

[FR Doc. 97–30267 Filed 11–17–97; 8:45 am]

BILLING CODE 8025–01–P–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. 2628]

New International Bridge, Brownsville, Texas: Finding of No Significant Impact and Summary Environmental Assessment

SUMMARY: On October 9, 1997 the Department of State made a finding that two new international bridges sponsored by the Brownsville Navigation District (hereafter, BND), Brownsville, Texas, would have no significant impact on the environment. Accordingly, the Department of State is announcing issuance of a finding of no significant impact. A draft environmental assessment of the proposed Port of Brownsville International Crossings was prepared for the BND, under the guidance and supervision of the State Department, by Parsons Brinckerhoff Quade & Douglas, Inc., of Austin, Texas; St. John-Villarreal Associates of Fairfax, Virginia; Mariah Associates of Austin, Texas; Gonzalez Engineers and Surveyors of Brownsville, Texas; and Dr. Michael Tewes of Kingsville, Texas. The Department of State placed a notice in the **Federal Register** (56 FR 223 November 19, 1991) regarding the availability for inspection of the Brownsville Navigation District's

Permit application and the draft environmental assessment; one public comment was received, from the Texas Center for Policy Studies. In August 1995, Hicks & Company, of Austin, Texas and Brown & Root, Inc. of Houston, Texas, submitted an addendum to the environmental assessment. In March 1997, Hicks & Company submitted a document summarizing mitigation efforts associated with the permit application.

Eighteen Federal and state agencies reviewed the draft environmental assessment. They were: the Immigration and Naturalization Service, the United States Customs Service, the Food and Drug Administration, the Animal and Plant Health Inspection Service (of the Department of Agriculture), the General Services Administration, the International Boundary and Water Commission-United States Section, the Department of Defense, the Department of Transportation (Federal Highway Administration and the United States Coast Guard), the Federal Emergency Management Agency, the Department of the Interior (United States Fish and Wildlife Service), the Department of Commerce, the Environmental Protection Agency, the Interstate Commerce Commission (now part of the Department of Transportation), the Department of State, the Texas Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Natural Resource Conservation Commission (formerly the Texas Water Commission). All comments received from these agencies were either responded to directly or resulted in further analysis being conducted and incorporated into this assessment, including consideration of mitigation measures. Additionally, the BND met and corresponded with agencies to discuss ways of meeting their particular concerns and, where appropriate, to discuss mitigation measures; these contacts were most frequent with the U.S. Fish and Wildlife Service (USFWS).

The results of the BND's meetings and other contacts with agencies involved in the application review were recorded in correspondence and in the August, 1995 and March, 1997 addenda to the 1991 BND application. This summary environmental assessment, the comments submitted by the agencies, the responses to these comments, and all correspondence between the agencies and the Permit applicant addressing the agencies' concerns, together constitute the final environmental assessment.

Based on the final environmental assessment, including mitigation measures, and information developed during the review of the BND's application, the Department of State has concluded that issuance of the Presidential Permit authorizing construction of the Port of Brownsville International Crossings will not have a significant impact on the quality of the human environment within the United States. In accordance with the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, Council on Environmental Quality Regulations, 40 CFR 1501.4 and 1508.13, and with Department of State Regulations, 22 CFR 161.8(c), an environmental impact statement, therefore, will not be prepared.

A finding of no significant impact was made on October 9, 1997.

ADDRESSES: Copies of the Finding of No Significant Impact may be obtained from M. Elizabeth Swope, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520 (202–647–8529).

SUPPLEMENTARY INFORMATION: The Department of State (the Department) is charged with issuance of Presidential Permits for the construction of international bridges between the United States and Mexico under the International Bridge Act of 1972, 86 Stat. 731; 33 U.S.C. § 535 *et seq.*, and Executive Order 11423, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 96 (1993).

The Brownsville Navigation District, Texas, has applied to the Department for a Presidential Permit to build two bridges, one for commercial-cargo vehicular traffic and the other for commercial-cargo rail traffic, across the Rio Grande River from River Mile 24, eight miles east of downtown Brownsville, Cameron County, Texas, and three miles south of the Brownsville Ship Channel, to Matamoros, Tamaulipas, Mexico. The site is 13.5 miles west of the mouth of the Rio Grande, which empties into the Gulf of Mexico. There are no bridges between the site and the Gulf of Mexico.

The two bridges will be built adjacent to each other at the terminus of an undeveloped 1,000-foot wide, BND-owned corridor extending three miles northward from the site to the Brownsville Ship Channel. The bridges will be connected to the Ship Channel by a roadway and a railway built through the center of the corridor. Texas State Highway 4 (SH 4) bisects the corridor approximately 3,600 feet north of the bridge site. The General Services Administration (GSA) inspection facility and BND toll-installation will be located on 40 acres of land immediately south of SH 4.

The new bridges will:

- Provide the Port of Brownsville with additional direct rail and road links with Mexico, thereby enhancing its competitiveness;
- Create an alternative route for commercial traffic destined for the Port, most of which is obliged to use bridges located in downtown Brownsville (the Los Tomates bridge, scheduled to open in March, 1999, is also located in the metropolitan Brownsville area).
- Divert traffic away from downtown Brownsville bridges and thereby reduce noise, vehicle congestion, air pollution, and deterioration of roadways in the downtown area caused by commercial traffic.
- Reduce the traffic of hazardous materials carriers through populated areas in Brownsville; and
- Accommodate anticipated economic growth in the Brownsville area.

Summary Environmental Assessment

The Department evaluated possible environmental impacts of the project. The Lower Rio Grande Valley of Texas is the primary zone of occupation within the United States for two species of Federally-protected cat, the ocelot and the jaguarundi. The project area constitutes a potential travel corridor for the cats. Additionally, there is potential that a Federally-protected bird, the northern aplomado falcon, may nest in or near the area. The project corridor contains 93 acres of wetlands, 12.77 acres of which would be lost, and lies entirely within the 100-year floodplain.

The BND worked closely with all agencies involved in the review process, especially the USFWS, to address their concerns about the possible environmental impacts of this project. The project has been extensively redesigned to avoid and mitigate potential impacts. Specifically, the BND has agreed, *inter alia*, to elevate the bridges inland 430 feet and revegetate the area underneath the bridge structures to reestablish a wildlife travel corridor; construct a minimum of ten culverts in the elevated approach structure leading to the bridges that will allow wildlife to pass through; conduct a breeding-season nest survey to gather information about the northern aplomado falcon, conduct a three-year public education and information campaign focusing on three Federally-protected species; and enhance or create 60.6 acres of wetlands adjacent to Little San Martin Lake, located north of the

Ship Channel, about five miles from the impact site.

The Department considered cumulative environmental impacts resulting from the project. Mitigation of wetlands impacts, preservation of the riparian vegetation corridor, and establishment of travel corridors for endangered cats will minimize the project's contribution to potential environmental impacts caused by existing and reasonably foreseeable international crossings in the Lower Rio Grande Valley. The reduction in vehicle waiting times and the deviation of a significant portion of commercial traffic from downtown Brownsville bridges will positively impact air quality for the population of the region. The removal of hazardous cargoes from downtown Brownsville will have a positive impact on public safety. The commercial-cargo-only nature of the bridges and constraints to secondary development in the project area will limit urban and commercial sprawl.

On April 30, 1992, a programmatic agreement was executed among the Department of State, the Texas State Historic Preservation Officer (SHPO), the Texas Department of Transportation, the Advisory Council on Historic Preservation, and the Brownsville Navigation District, in which the BND agreed, *inter alia,* to:

- Conduct a cultural resources survey within the Area of Potential Effect prior to initiating construction;
- Consult with the SHPO to avoid, minimize, or mitigate adverse effects on any standing structures or archaeological properties within the Area of Potential Effect eligible for inclusion in the National Register of Historic Places; and
- Consult with the SHPO to develop a plan for recovery of any archaeological data within the Area of Potential Effect that cannot be avoided or preserved in place.

Dated: November 4, 1997.

M. Elizabeth Swope,

Coordinator, U.S.-Mexico Border Affairs.

[FR Doc. 97–30162 Filed 11–17–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. 2629]

New International Bridge, Brownsville, Texas: Issuance of Presidential Permit

SUMMARY: The Department of State is announcing the issuance to the Brownsville Navigation District of a Presidential Permit for two new international bridges between Brownsville, Texas, and Matamoros, Tamaulipas, Mexico. The Department determined that issuance of the Permit would serve the national interest and the Permit was signed on October 12, 1997 and issued on November 3, 1997 pursuant to the International Bridge Act (33 U.S.C. 555 *et seq.*) and Executive Order 11423, 33 FR 11741 (1968), as amended by Executive Order 12847 of May 17, 1993, 58 FR 96 (1993). No notifications of disagreement were received within the 15-day period prescribed in Section 1(f) of Executive Order 11423.

ADDRESSES: Copies of the Presidential Permit may be obtained from M. Elizabeth Swope, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520 (Telephone 202–647–8529).

SUPPLEMENTARY INFORMATION: Notice of the application by the Brownsville Navigation District for a Permit to build two new international bridges across the Rio Grande between Brownsville, Texas, and Matamoros, Tamaulipas, Mexico, was placed in the **Federal Register** on November 19, 1991, 56 FR 223. The new bridges will be located parallel to each other about eight miles east of downtown Brownsville, Cameron County, Texas at River Mile 24. One bridge will be for commercial-cargo vehicular traffic and the other will be for commercial-cargo rail traffic. The bridges are intended to remove commercial tariff bound for the Port of Brownsville from downtown Brownsville. Eighteen Federal and state agencies reviewed the draft environmental assessment. They were: the Immigration and Naturalization Service, the United States Customs Service, the Food and Drug Administration, the Animal and Plant Health Inspection Service (of the Department of Agriculture), the General Service Administration, the International Boundary and Water Commission—United States Section, the Department of Defense, the Department of Transportation (Federal Highway Administration and the United States Coast Guard), the Federal Emergency Management Agency, the Department of the Interior (United States Fish and Wildlife Service), the Department of Commerce, the Environmental Protection Agency, the Interstate Commerce Commission (now part of the Department of Transportation), the Department of State, the Texas Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Natural Resource Conservation Commission (formerly the Texas Water Commission).

Dated: November 4, 1997.

M. Elizabeth Swope,

Coordinator, U.S.-Mexico Border Affairs.

[FR Doc. 97–30163 Filed 11–17–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF STATE

[Public Notice 2630]

Privacy Act of 1974; Creation of a New System of Records

Notice is hereby given that the Department of State proposes to create a new system of records, STATE–23, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a)), and the Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on November 5, 1997.

This system of records is being implemented by the Department of State pursuant to the Debt Collection Improvement Act of 1996 to support its responsibilities with regard to the accounting and collection of debts incurred by employees of the Department of State, employees of other federal agencies, private U.S. citizens and other individuals with the Department of State or the U.S. Government. The information included is directly related to the accounting and collection of these debts.

Any persons interested in commenting on this new system of records may do so by submitting comments in writing to Kenneth F. Rossman, Acting Chief; Programs and Policies Division, Office of Information Resources Management Programs and Services, Room 1239, Department of State, 2201 C Street, NW, Washington, DC 20520–1512.

This system of records will be effective 40 days from the date of publication (December 29, 1997) unless we receive comments which will result in a contrary determination.

The new system description, ''Records of the Domestic Accounts Receivable Tracking System, STATE–23'' will read as set forth below.

Dated: November 5, 1997.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration.

STATE–23

SYSTEM NAME:

Records of the Domestic Accounts Receivable Tracking System.

SECURITY CLASSIFICATION:

Unclassified and classified.

SYSTEM LOCATION:

Department of State, Annex 15; 1800 N. Kent Street; Arlington, VA 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of State, employees of other federal agencies, private U.S. citizens, and other individuals who have incurred a debt to the Department of State or the U.S. Government. Examples may include but are not limited to repatriation loans, emergency medical/dietary assistance loans, employee medical services, salary advances, and travel advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of service); 5 U.S.C. 301 (Management of the Department of State); 31 U.S.C. 3701–3720A (Claims of the United States Government).

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation and related correspondence regarding the incurrence of a debt, which may include, but are not limited to the following: Fiscal irregularity accounts, installment and promissory agreements, repatriation loan applications, emergency medical/dietary assistance loan applications, transmittals from the Office of Medical Services regarding employee medical services and insurance reimbursement to the Department, salary advances, travel advances, unused tickets, and other debtor accounts submitted to the Department of State by other federal agencies for collection action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is used for aging, reviewing, collecting and updating the individual accounts of debts owed to the Department of State or the U.S. Government, in accordance with the Debt Collection Improvement Act of 1996. The principal user of this information outside the Department of State is the Department of Treasury for administrative offset collection. Also see the ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media, hard copy.

RETRIEVABILITY:

Individual name, Social Security Number.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Access to Annex 15 has security access controls (code entrances) and/or security alarm systems. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and *ad hoc* monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specific information may be obtained by writing to the Director; Office of Information Resources Management Programs and Services, Room 1239, Department of State; 2201 C Street, NW, Washington, DC 20520–1512.

SYSTEM MANAGER AND ADDRESS:

Managing Director, Domestic Financial Services Directorate, Room 6604D, Department of State, Annex 15, 1800 N. Kent Street, Arlington, VA 22209.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Domestic Financial Services Directorate might have records pertaining to themselves should write to the Director; Office of Information Resources Management Programs and Services, Room 1239, Department of State, 2201 C Street, NW, Washington, DC 20520–1512. The individual must specify that he/she wishes the Records of the Domestic Accounts Receivable Tracking System to be checked. At a minimum, the individual should include: Name; date and place of birth; Social Security Number; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record, (including the city and/or country); and the approximate dates which give the individual cause to believe that the Domestic Financial Services Directorate has records pertaining to him/her.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of Information Resources Management Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained primarily from the individual who is the subject of these records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–30161 Filed 11–17–97; 8:45 am]

BILLING CODE 4710–05–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected costs and burden hours. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published in FR 62 46400, September 2, 1997.

DATES: Comments must be submitted on or before December 18, 1997.

FOR FURTHER INFORMATION CONTACT: David Mednick, Environmental Specialist, K–20, Bureau of Transportation Statistics, 400 Seventh

Street, SW., Washington, DC 20590, (202) 366–8871; fax: (202) 366–3640; e-mail: david.mednick@bts.gov.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

1. Title: Quarterly Report of Class I Motor Carriers of Property.

OMB Control No: 2139–0002.

Type of Request: Extension of a currently approved information collection.

Form Number: BTS Form QFR.

Affected Public: Class I Motor Carriers of Property.

Abstract: These data collection forms were transferred from the Interstate Commerce Commission (ICC) to the Department of Transportation (DOT) on January 1, 1996, by the ICC Termination Act of 1995. The OMB Control numbers while under the ICC were 3120–0002, 3120–0032, and 3120–0138. Pursuant to 14 U.S.C. § 14123, DOT is required to collect annual financial reports from Class I and Class II motor carriers. DOT may also require motor carriers to file quarterly reports. In determining the matters to be covered by the reports, DOT must consider (1) safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. BTS wishes to continue to provide periodic information on the health of the motor carrier of property industry, its impact on the economy, and industry changes that may affect national transportation policy.

Estimated Annual Burden: The total estimated annual burden is 7,200 hours.

2. Title: Annual Report of Class I Motor Carriers of Property.

OMB Control No. 2139–0004.

Form No.: BTS Form M–1.

Type of Review: Extension of a currently approved collection.

Affected Public: Class I Motor Carriers of Property.

Abstract: These data collection forms were transferred from the Interstate Commerce Commission (ICC) to the Department of Transportation (DOT) on January 1, 1996, by the ICC Termination Act of 1995. The OMB Control numbers while under the ICC were 3120–0002, 3120–0032, and 3120–0138. Pursuant to 14 U.S.C. § 14123, DOT is required to collect annual financial reports from Class I and Class II motor carriers. DOT may also require motor carriers to file quarterly reports. In determining the matters to be covered by the reports, DOT must consider (1) safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. BTS wishes to continue to provide periodic information on the health of the motor carrier of property industry, its impact on the economy, and industry changes that may affect national transportation policy.

Annual Burden Hours Estimate: 22,500.

3. Title: Annual Report of Class II Motor Carriers of Property.

OMB Control No. 2139–0005.

Form No.: BTS Form M–2.

Type of Review: Extension of a currently approved collection.

Affected Public: Class II Motor Carriers of Property.

Abstract: These data collection forms were transferred from the Interstate Commerce Commission (ICC) to the Department of Transportation (DOT) on January 1, 1996, by the ICC Termination Act of 1995. The OMB Control numbers while under the ICC were 3120–0002, 3120–0032, and 3120–0138. Pursuant to 14 U.S.C. § 14123, DOT is required to collect annual financial reports from Class I and Class II motor carriers. DOT may also require motor carriers to file quarterly reports. In determining the matters to be covered by the reports, DOT must consider (1) safety needs; (2) the need to preserve confidential business information and trade secrets and prevent competitive harm; (3) private sector, academic, and public use of information in the reports; and (4) the public interest. BTS wishes to continue to provide periodic information on the health of the motor carrier of property industry, its impact on the economy, and industry changes that may affect national transportation policy.

Annual Burden Hours Estimate: 19,000.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention BTS Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 12, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–30224 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published in 62 FR 38339, July 17, 1997.

DATES: Comments must be submitted on or before December 18, 1997.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Overflight Billing and Collection Customer Information Form.

OMB Control Number: 2120–0618.

Type of Request: Extension of currently approved collection.

Affected Public: Approximately 600 business or other for-profit organizations.

Abstract: The customer information form is needed in order to request and obtain proper billing information from carriers as well as properly identify Tail numbers as commercial or general aviation in order that carriers are charged the correct rate.

Annual Estimated Burden Hours: 50 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, D.C. on November 12, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–30225 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of November 7, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–3080

Date Filed: November 3, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR–JK 0017

Europe—Japan/Korea Expedited Resos

r–1—002s r–3—074i

r–2—071ee r–4—250j

Intended effective date: December 15, 1997

Docket Number: OST–97–3081

Date Filed: November 3, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC12 Telex Mail Vote 897

Portugal-Canada Fares r1–4

r–1—044j r–3—070gg

r–2—064j r–4—076kk

Intended effective date: January 1, 1998.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–30226 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–62–P

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 November 7, 1997

The following Applications for Certificates 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–97–3089.
Date Filed: November 5, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 3, 1997.
Description: Application of Federal Express Corporation, pursuant to 49 U.S.C. Section 41110 and Subpart Q of the Regulations, applies for amendment of its existing certificate authority to provide scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in China, on the other hand, as contained in Federal Express' certificate of public convenience and necessity for Route 638.

Docket Number: OST–97–3076.
Date Filed: November 3, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 1, 1997.
Description: Application of Servicios Aereos Profesionales S.A., pursuant to 49 U.S.C. Section 41110 and Subpart Q of the Regulations, applies for a foreign air carrier permit to provide service between the Dominican Republic and the United States under a wet lease agreement with a U.S. Carrier.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–30227 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Winair, Inc. for Issuance of New Certificate Authority

AGENCY: Office of the Secretary, (OCT).

ACTION: Notice of Order to Show Cause (Order 97–11–21); Dockets OST–97–2936 and OST–97–2937.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue orders (1) finding WINAIR, Inc., fit, willing, and able, and (2) awarding it a certificates to engage in interstate and foreign charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than November 19, 1997.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–97–2936 and OST–97–2937 and addressed to Department of Transportation Dockets (SVC 121.30, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: November 12, 1997.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–30211 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–62–P–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–97–044]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of full committee meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will hold a special meeting to discuss the proposal by the Army Corps of Engineers (ACOE) to dredge the Houston Ship Channel through Galveston Bay along the east side only. As part of the approved, multi-year project to deepen and widen the Houston Ship Channel, this proposed east-side-only dredging will occur between Bolivar Roads and Five Mile Cut. The meeting will be open to the public.

DATES: The meeting of HOGANSAC will be held on Wednesday, November 19,

1997 at 9:00 a.m. Members of the public may present written or oral statements at the meeting.

ADDRESSES: The HOGANSAC meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Kevin Eldridge, Executive Director of HOGANSAC, telephone (713) 671–5199, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671–5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of the Meeting

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Executive Director (CAPT Eldridge) and chairman (Tim Leitzell).

(2) Discussion on the ACOE proposal and comments from the floor.

Procedural

All meetings are open to the public. Members of the public may make oral presentations during the meetings.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: October 29, 1997.

T.W. Josiah,

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

[FR Doc. 97–30366 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program: Naples Municipal Airport, Naples, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Naples under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On April 2, 1997, the FAA determined that the noise exposure maps submitted by the City of Naples under Part 150 were in compliance with applicable requirements. On September 29, 1997, the Administrator approved the Naples Municipal Airport noise compatibility program. Most of the program measures were fully approved. Four (4) measures was partially approved and one (1) measure was disapproved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Naples Municipal Airport noise compatibility program is September 29, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 29. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Naples Municipal Airport, effective September 29, 1997.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

The City of Naples submitted to the FAA on March 24, 1997, updated noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from April 3, 1995 through March 21, 1997. The Naples Municipal Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on April 2, 1997. Notice of this determination was published in the **Federal Register**.

The Naples Municipal Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that FAA evaluate and approve this material as a noise compatibility program as

described in Section 104(b) of the Act. The FAA began its review of the program on April 2, 1997, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained fifteen (15) proposal actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 29, 1997.

Outright approval was granted for ten (10) of the fifteen (15) specific program measures. Four (4) measures were partially approved and one (1) measure was disapproved. The approval action was for the following program controls:

Noise abatement measure	Description	NCP pages
	OPERATIONAL MEASURES	
7.2.1 Preferential Runway	It is recommended that the existing preferential runway measure to maximize the use of Runway 4 for departures and Runway 22 for arrivals for aircraft with departure noise levels exceeding 76.4 EPNdB to continued in order to take advantage of the low sensitivity to noise of the commercial/industrial development located northeast of the airport. Implementation is based on pilot education and preferential runway assignment by the air traffic controllers when the tower is open. FAA Action: Approved.	Pages 3–3 to 3–8 and 7–1; Tables 3–1 to 3–3, 3–16, 7–1 and 7–2; and Figures 3–1 and 3–2.
7.2.2 Flight Procedures	This measure recommends elimination of the existing restriction to initial climb altitudes on departure from Naples Municipal Airport (APF) to 2,000′ above sea level (ASL). FAA Action: Disapproved. This measure will not have a significant noise reduction. In addition, it could interfere with air traffic safety and efficiency because the altitude limit is initially necessary to ensure separation from other traffic in the area and is removed by the controller when the aircraft is radar identified and separation is assured.	Pages 3–12, 3–13, and 7–3; Figure 3–4; and Tables 3–6, 3–16 and 7–2.
7.2.3 Flight Paths	Revised Visual Flight Rules (VFR) noise abatement departure flight paths have been proposed for each runway at the airport to reduce noise by moving traffic away from developed areas. Runway 4—early left turn. Aircraft would fly just to the east of Airport-Pulling Road and would avoid the residential communities in the area. Runway 22—right turn. Aircraft would move away from the majority of the residential dwellings which are located southwest of the airport. Runway 13—early left turn. This track turns aircraft just north of Davis Boulevard, away from the residential development south of Davis. Runway 31—the existing departure, with a right turn, would impact the least number of people due to the fact that the aircraft do not overfly the coastline with its density packed residential units. The FAA must also develop procedures which allow the pilots to fly these preferred flight paths. This is typically accomplished through SIDs or STARs, which are departure or arrival paths defined by radio navigation aids. Current systems such as the VOR, located on and off the airport, already provide this capability, but newer technology has even greater promise. Two newer systems, the Global Positioning System (GPS) and Transponder Landin System (TLS) could be used to define complex curved approach or departure paths which could be used to keep aircraft away from densely populated residential areas. The NAA has applied for state grants to install the TLS system by the end of the fiscal year 1997. FAA Action: Approved in part as a voluntary measure. The recommended noise abatement departure flight paths are approved as voluntary. The measure is disapproved in part, for purposes of Part 150, for that portion of the proposal which recommends use of the GPS and TLS to define complex curved approach and departure paths, pending submission of additional information describing the noise benefits of these techniques when technology becomes available.	Pages 3–16 to 3–31, 7–3 and 7–4; Tables 3–8 to 3–11, 3–16 and 7–2; and Figures 3–5 to 315.
7.2.4 Helicopters	It is recommended that the existing noise abatement measures for helicopters be continued including modification of take-off areas to implement common centralized departure areas and education of helicopter pilots. Helicopter pilots have agreed to depart from midfield, rather than runway ends, in order to obtain as much altitude as possible before departing the airport and helicopters will follow the fixed wing routes on the crosswind runway. The Naples Airport Authority (NAA) will maintain contact with pilot operators to modify these procedures, if necessary, and work out additional issues as they arise. FAA Action: Approved as a voluntary measure.	Pages 3–31, 3–32 and 7–4; and Tables 3–7, 3–16, 7–1 and 7–2.

Noise abatement measure	Description	NCP pages
7.2.5 Use Restrictions	This following measures were adopted by ordinance effective May 15, 1996, and are proposed for FAA approval in this Part 150 document. The measures include: a. nighttime elimination of Stage 1 aircraft use of the airport; b. voluntary curfew of Stage 2 and 3 jets during nighttime hours; c. future nighttime elimination of Stage 2 aircraft after the beginning of the year 2000, which is the target for the federal phase-out of Stage 2 aircraft weighing greater than 75,000 pounds. These restrictions would not apply to emergency flights, medical or government flights, or other flights which are for the benefit of public health, safety, and welfare. A Part 161 study may be appropriate or required. FAA Action: a. Approved, with respect to the Stage 1 ban. The airport operator has submitted supplemental information by letter dated July 31, 1997, which has been made part of this ROA, to support that Stage 1 operators have been successfully able to comply with this measure. The NCP states that this measure would reduce the population impacted within the DNL 65dB noise contour from 158 to 0 for the 5-year time frame. This measure has been in effect since May 1996 with no apparent concern by affected operators regarding undue burden on interstate or foreign commerce (see supplemental information submitted by airport operator). However, should impacts on air commerce occur which cannot be foreseen at the time of this approval, the FAA will reevaluate this determination in view of new factual information to ascertain whether it still meets the standards for Part 150 approcal or whether approval should be withdrawn in accordance with section 105.35(d)(6). b. Disapproved for purposes of Part 150 pending submission of sufficient information to make an informed analysis with respect to the voluntary curfew of Stage 2 and Stage 3 jets during nighttime hours. Although noise benefits of the voluntary curfew may be ''intuitive'', the NCP does not provide noise benefits for this measure. Truly voluntary operational measures affecting Stage 2 and Stage 3 aircraft are not subject to 14 CFR Part 161. However, any changes to the method of implementation which may affect whether this measure is voluntary would be subject to applicable procedures contained in 14 CFR Part 161. c. Disapproved with regard to the mandatory Stage 2 phaseout to begin the year 2000, pending satisfactory compliance with 14 CFR Part 161, and pending submittal of additional information to make an informed analysis. The Federal phaseout applies to aircraft weighing greater than 75,000 pounds. The NCP states that ''Significantly less than 1 percent of all corporate jet operations at APF are in aircraft with maximum gross takeoff weights over 75,000 pounds.'' Part 161 requires separate analysis of restrictions on Stage 2 aircraft weighing less than 75,000 pounds; in addition, the burden on commerce has not been presented nor are the noise impacts versus the benefits of this measure presented.	Pages 3–32 to 3–42 and 7–4; Tables 3–12 to 3–14, 3–16 and 7–4; and Figures 3–16 and 3–17); supplemental information submitted from NAA by letter dated July 31, 1997.
7.2.6 Ground Noise	It is recommended that the existing ban on nighttime (between 10:00 p.m. and 7:00 a.m.) maintenance runups, effective May 15, 1996, and the designated locations and orientations recommended for maintenance and preflight runups for turboprop aircraft be continued. Operators may request permission from airport management to conduct a maintenance runup during the restricted hours under exceptional circumstances. For example, an operator may require the aircraft for an early morning departure, which would have to incur a substantial delay if the runup could not be conducted until after 7:00 a.m. For such approval, management may set limits on exactly when and where the runup would be conducted, and limit duration of the runup and the power settings used. Maintenance or pre-flight runups for turboprop aircraft should be conducted at one of the locations shown on Figure 3–19 in the NCP document and, as wind conditions permit, should be oriented to the north or northeast. This will abate ground noise levels in the community, especially at times when background noise levels are very low. FAA Action: Approved. FAA approval is given in consideration of the exceptions available to aircraft operators. This measure has been in effect since May 1995. New information which may become available to the FAA which demonstrates that this measure could impact total number or hours of Stage 2 or Stage 3 aircraft operations may make this measure subject to applicable requirements of 14 CFR Part 161.	Pages 3–43 to–3 45; Tables 3–16, 7–1 and 7–2; and Figures 3–18 and 3–17.

Noise abatement measure	Description	NCP pages
	LAND USE MEASURES	
7.3.1 Land Acquisition	This measure recommends land acquisition in Rock Creek Campground and residential or vacant uses in the Naples Villas area to develop a compatible buffer when no other land use strategy is appropriate. FAA Action: Approved under 14 CFR Part 150 with respect to noncompatible land uses within the noise contours of the official noise exposure maps as provided in the Aviation Safety and Noise Abatement Act and 14 CFR Part 150. Some of these areas may be outside of the noise contours, in which case they would be outside the parameters of this Part 150 approval. However, the FAA would encourage local government to exercise its prerogative to establish noise buffers that meet locally determined needs. Vacant land is deemed compatible under 14 CFR Part 150 unless it is demonstrated that there is imminent danger of it being developed noncompatibly.	Pages 5–2 to 5–5 and 7–5; Tables 5–2 and 7–3; and Figures 4–2 and 5–1.
7.3.2 Easements	This measure recommends the purchase of easements for homes in the Naples Villas area and the consideration of easements for Rock Creek Campground to provide an adequate buffer of compatible uses around the airport. FAA Action: Approved under 14 CFR Part 150 with respect to noncompatible land uses within the noise contours of the official noise exposure maps as provided in the Aviation Safety and Noise Abatement Act and 14 CFR Part 150. Some of these areas may be outside of the noise contours, in which case they would be outside the parameters of this Part 150 approval. However, the FAA would encourage local government to exercise its prerogative to establish noise buffers that meet locally determined needs. Vacant land is deemed compatible under 14 CFR Part 150 unless it is demonstrated that there is imminent danger of it being developed noncompatibly.	Pages 5–7, 5–8 and 7–5; Tables 5–2 and 7–3; and Figures 4–2 and 5–1.
7.3.3 Zoning/Land Use Planning.	The NAA has adopted the DNL 65dB noise contour as the threshold of incompatibility for residential areas, but for zoning and land use planning this measure recommends that the area within the DNL 60dB noise contour apply the same standard as Part 150 recommends for the DNL 65dB noise contour as a buffer to ensure that residential and noise sensitive uses are not developed too close to the Airport. FAA Action: Approved. This is within the authority of the local land use planning jurisdictions.	Pages 5–10 to 5–12 and 7–5; Tables 5–2 and 7–3; and Figure 5–2.
7.3.4 Fair Disclosure	It is recommended that a Fair Disclosure Program be developed to educate potential home buyers of the airport and its flight paths through voluntary cooperation from realtors, lenders, property managers, and local government staff so all potential residents who would be located along the flight paths for the runways would be aware of their location. This measure includes the development, publication and distribution of information regarding airport noise and operations. FAA Action: Approved.	Pages 5–13, 5–14 and 7–5; and Tables 5–2 and 7–3.
	CONTINUING PROGRAMS MEASURES	
7.4.1 Noise Abatement Officer	It is recommended that the Noise Abatement Officer position currently being filed by staff with additional responsibilities at the Airport be continued. This person's responsibilities include oversight of the implementation of all noise abatement/land use compatibility programs as well as investigation of noise complaints FAA Action: Approved.	Pages 2–3, 6–1 and 7–6; and Table 7–4.
7.4.2 Noise Compatibility Advisory Committee.	This measure recommends the implementation of a noise compatibility advisory committee with membership consisting of representatives of airport users and tenants, local officials, area businesses, area residents, and Airport management. This will be an advisory committee to provide feedback regarding noise issues and represent all interests on and around the airport FAA Action: Approved.	Pages 6–1 and 7–6; and Table 7–4.
7.4.3 Noise Monitoring Program.	This measure recommends the implementation of a noise monitoring program and the purchase (or rental) of a portable noise monitor and associated computer software and hardware. Residents surrounding the Airport can assist the noise abatement officer by providing sites for noise monitoring FAA Action: Approved.	Pages 6–2 and 7–6; and Table 7–4.
7.4.4 Public Information Program.	The development and implementation of a public information program is recommended to provide the public with information which makes them aware of the efforts of the Airport management to address their concerns. One measure which would continue is the newsletter which is routinely published by the NAA. FAA Action: Approved.	Pages 6–2 and 7–6; and Table 7–4.
7.4.5 NCP Review, Evaluation, and Revision.	This measure recommends that the Noise Compatibility Program be reviewed and evaluated on a regular basis to measure performance against goals. The Part 150 will be updated every five years or sooner if applicable. FAA Action: Approved.	Pages 6–2 and 7–6; and Table 7–4.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 29, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the City of Naples.

Issued in Orlando, Florida on October 22, 1997.

Charles E. Blair,

Manager, Orlando Airports District Office.

[FR Doc. 97–30228 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Termination of Environmental Impact Statement; Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of termination.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advertise to the public that the environmental impact statement for the proposed extension of Runway 9L–27R to 10,000 feet at Palm Beach International Airport has been terminated. The FAA will continue the environmental process for the proposed extension of Runway 9L–27R to 10,000 feet as an environmental assessment (EA). This is consistent with the previous Notice of Intent which was published in the Federal Register on March 12, 1996, as well as within the information presented during scoping.

FOR FURTHER INFORMATION CONTACT: Mr. Bart Vernace, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, extension 27.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA will terminate the Environmental Impact Statement and continue the environmental process as an Environmental Assessment for a proposed project to lengthen Runway 9L–27R at the Palm Beach International Airport (PBI) to 10,000 feet for air carrier aircraft use. The decision to terminate the EIS and continue the environmental process as an EA was based on the preliminary environmental analysis which depicted no significant impact in any environmental impact category. The Palm Beach County Department of Airports will prepare the draft EA document, make the draft EA document available to the public and governmental agencies for comment, offer the opportunity for a public hearing and submit the EA document to the FAA for the appropriate environmental decision.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida, November 7, 1997.

W. Dean Stringer,

Acting Manager, Orlando Airports District Office.

[FR Doc. 97–30214 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air traffic issues.

DATES: The meeting will be held on December 8, 1997, at 10:00 a.m.

ADDRESSES: The meeting will be held at the Air Traffic Control Association Headquarters, 2300 Clarendon Blvd., Suite 711, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Thorson, Transportation Regulations Analyst, Airmen and Airspace Rules Division, Office of Rulemaking (ARM–107), 800 Independence Avenue, SW, Washington, DC 20591. Telephone: (202) 267–7470; FAX: (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee. This meeting will be held on December 8, 1997, at 10:00 a.m., at the Air Traffic Control Association Headquarters, 2300 Clarendon Blvd., Suite 711, Arlington, VA.

The agenda for this meeting will include an update and discussion on Special Visual Flight Rules (VFR) tasking.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC on November 10, 1997.

Reginald C. Matthews,

Assistant Executive Director for Air Traffic Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–30213 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application #97–02–I–00–SPW To Impose a Passenger Facility Charge (PFC) at Spencer Municipal Airport, Spencer, IA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Spencer Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 18, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Donna M. Fisher, City Clerk, Spencer, Iowa, at the following address: City of Spencer, 418 2nd Avenue West, Spencer, Iowa 51301.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Spencer under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna K. Sandridge, PFC Program Manager, FAA, Central Region, 601 E.

12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Spencer Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 4, 1997, the FAA determined that the application to impose a PFC submitted by the City of Spencer, Iowa, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 14, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January, 2003.

Proposed charge expiration date: September, 2011.

Total estimated PFC revenue: $128,500.

Brief description of proposed project: Purchase snow removal equipment and construct equipment storage building.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Spencer, Iowa.

Issued in Kansas City, Missouri on November 5, 1997.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 97–30229 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Proposed Central Light Rail Transit Line Between North Seattle (Northgate) and SeaTac, WA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Central Puget Sound Regional Transit Authority (RTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). The RTA will also ensure that the EIS satisfies the requirements of the Washington State Environmental Policy Act (SEPA). The FTA will be the NEPA lead agency. The RTA will be the SEPA lead agency. Corridor alternatives were evaluated in a SEPA plan-level EIS (1993) and in a Major Investment Study (1997).

The EIS will evaluate the Central Light Rail Transit (LRT) Project and alignment alternatives in the 23-mile long corridor between North Seattle (Northgate) and SeaTac, Washington. The proposed Central LRT Project is intended to provide light rail transit service between key activity centers along the corridor, including the region's three largest employment centers, many major institutions, dense residential neighborhoods, and regional destinations, such as Sea-Tac International Airport.

The study area also includes several sites for a proposed LRT vehicle storage and maintenance facility. In addition, the EIS will evaluate the no-build alternative and any new, reasonable alternatives within the corridor generated through the scoping process.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state, regional, and local agencies. Six public scoping meetings will be held, as well as one inter-agency scoping meeting. See **DATES** below for details.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered should be sent to the RTA by January 5, 1998. See **ADDRESSES** below. Oral comments should be made at one of the six public scoping meetings scheduled below. *Scoping Meetings:* Public scoping meetings will be held on the following days and locations:

Tuesday, December 9, 1997, from 4:00 p.m. to 9:00 p.m., Kane Hall, Walker Ames Room, University of Washington Campus, Seattle, WA

Wednesday, December 10, 1997, from 4:00 p.m. to 9:00 p.m., Union Station, 401 S. Jackson Street, Seattle, WA

Thursday, December 11, 1997, from 4:00 p.m. to 9:00 p.m., Rainier Community Center, 4600 36th Avenue South, Seattle, WA

Saturday, December 13, 1997, from 9:00 a.m. to 12:00 noon, Seattle Central Community College, 1701 Broadway, Room 1110, Seattle, WA

Saturday, December 13, 1997, from 1:30 p.m. to 5:00 p.m., Foster High School Commons, 4242 S. 144th Street, Tukwila, WA

Wednesday, December 17, 1997, from 4:00 p.m. to 9:00 p.m., Tyee High School Auditorium, 4424 South 188th Street, SeaTac, WA

A scoping meeting for governmental agencies will be held on Monday, December 8, 1997, between 1:00 p.m. and 4:00 p.m. at the RTA, 1100 2nd Avenue, Suite 500, Seattle, WA 98101–3423. All the locations for the scoping meetings are accessible to people with disabilities. People with special needs should contact the RTA at the address below or by calling (206) 684–6776. A TDD number is also available: (206) 684–1394.

Scoping meetings will be held in an ''open-house'' format. Project representatives will be available to discuss the project throughout the entire meeting. Informational displays and written materials will also be available throughout the entire meeting. In addition to written comments, which may be made at the meeting or as described below, a stenographer will be available at the meeting to record oral comments.

ADDRESSES: *Written comments on the project scope should be sent to:* Perry Weinberg, Environmental Compliance Manager, Regional Transit Authority, 1100 Second Avenue, Suite 500, Seattle, WA 98101–3423; *fax number:* (206) 689–3525.

FOR FURTHER INFORMATION CONTACT: Mr. F. William Fort, Transportation Program Specialist, Federal Transit Administration, Region X, 915 Second Avenue, Room 3142, Seattle, WA 98174; *phone number:* (206) 220–4461.

SUPPLEMENTARY INFORMATION:

I. Scoping

The FTA and the RTA invite interested individuals, organizations, and federal, state, regional and local agencies to participate in defining the alternatives within the corridor to be evaluated in the EIS and identifying any significant, social, economic, or environmental issues related to the alternatives. An Environmental Scoping Information Report describing the project, the proposed alternatives, the impact areas to be evaluated, the public involvement program and the preliminary project schedule has been prepared. You may request a copy of the report by contacting the person identified above in the section **FOR FURTHER INFORMATION CONTACT**. Scoping comments may be made orally at the public scoping meetings or in writing. See **DATES** above for locations and times, and see the **ADDRESSES** section above for written comments. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated

and suggesting alternatives that are more cost-effective or have fewer environmental impacts while achieving similar transit objectives.

Scoping materials will be available at the meeting or in advance of the meeting by contacting the RTA at (206) 684–6776. If you wish to be placed on the mailing list to receive further information as the project proceeds, please contact the following at the *RTA:* Ron Endlich, LRT North Corridor Manager (206) 684–1634 or Jonathan Jackson, LRT South Corridor Manager (206) 684–6773.

II. Description of Study Area and Project Need

The Central LRT Project study area is a north-south corridor, approximately 23 miles long between the Northgate area in north Seattle and SeaTac, Washington. The Central LRT Project will include a partially grade-separated, double-track light rail line on new right-of-way. Conventional LRT low-floor vehicles are expected to be used. Service is expected to operate every 6 minutes in peak periods and every 8 minutes in off-peak times, 18 to 20 hours a day, seven days a week.

A total of 21 LRT stations are proposed to serve the major transit markets of Northgate, the University District, Capitol Hill, First Hill, downtown Seattle, Southeast Seattle, and the cities of Tukwila and SeaTac. Light rail service will operate through downtown Seattle in the existing transit tunnel. Bus transfer facilities will be provided at each LRT station. Transfers to planned commuter rail service will take place at several selected stations.

III. Alternatives

The alternatives proposed for evaluation include a variety of alignment alternatives for different segments of the corridor. In addition, various track profiles will be evaluated throughout the study area. Profiles include tunnel, surface and aerial sections.

Beginning from the south, in the SeaTac segment two route alignment alternatives will be evaluated. One route follows International Blvd. (State Route 99) from S. 200th Street, north past Sea-Tac Airport to the intersection with SR–518. The other alignment starts from the same location at the south end of the City and follows 28th Street, using Sea-Tac Airport property traveling north to connect with the SR–99 route.

In the Tukwila segment, two alternative alignments will be evaluated. One alignment would use Pacific Highway South (State Route 99) between the SeaTac city limits and Boeing Access Road. The second alignment would travel east from State Route 99 along State Route 518 and continue east past Southcenter Mall. The line would proceed north along Interurban Avenue to I–5 at Boeing Access Road.

In the southeast Seattle (Rainier Valley) segment, two alignment alternatives will be considered. One follows Martin Luther King, Jr. Way from Henderson Street north to McClellan Street. The other follows Rainier Avenue South between the same locations. Various combinations of these alignments may also be considered.

Between South McClellan Street and the Downtown Seattle Transit Tunnel, two general alignments will be evaluated. One alignment would run north along Rainier Avenue past I–90, before heading west to connect with the existing International District tunnel station. The second alignment would explore the feasibility of tunneling under Beacon Hill, beginning just west of the intersection of Rainier Avenue and Martin Luther King, Jr. Way. The route would connect with the existing E–3 busway at South Lander Street and would travel north to the International District tunnel station.

From the north end of the Downtown Seattle Transit Tunnel to the University District, two alignments will be evaluated. One alignment is a tunnel beginning under I–5 east of the existing Convention Place tunnel station. The tunnel would loop south to serve First Hill, then continue north under Broadway Avenue and 10th Avenue East. The tunnel would continue under Portage Bay and 15th Avenue Northeast in the University District. Another alignment would run north from the Downtown Seattle Transit Tunnel at the Westlake Station underground through the Denny Regrade and the Seattle Center areas. The route would continue northeast through south Lake Union and the Eastlake/Fairview area, adjacent to I–5. The route would leave the tunnel north of SR–520 and would cross the Ship Canal on a new high-level bridge parallel to the existing I–5 bridge. The route would continue east along Campus Parkway and reenter a tunnel under the University District.

In the University District to Northgate segment, several alternative alignments will be considered for the segment between Ravenna Boulevard and N.E. 75th Street. These alternatives include alignments along 8th Avenue N.E., Roosevelt Way, and 12th Avenue N.E.

The proposed Central LRT Project also includes construction of an LRT vehicle storage and maintenance facility. Alternative locations for the facility will be evaluated in the City of Tukwila, near Boeing Access Road and East Marginal Way South, and in Southeast Seattle, between Boeing Access Road and Henderson Street.

The No-Build alternative, which involves no change to transportation services or facilities in the corridor beyond those currently programmed, will also be evaluated in the EIS.

IV. Probable Effects/Potential Impacts for Analysis

The FTA and RTA plan to evaluate in the EIS all significant, social, economic, and environmental impacts of the alternatives. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, traffic circulation, visual impacts, health and safety impacts, impacts on cultural and archaeological resources, impacts on wetland and parkland areas, and noise and vibration impacts. The impacts on natural areas, rare and endangered species, and earth, air and water quality, will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operations. Reasonable measures to mitigate adverse impacts will be identified.

V. FTA Procedures

The Environmental Impact Statement (EIS) and the Preliminary Engineering (PE) for the Central Light Rail Transit Project will be conducted simultaneously. The locally preferred light rail transit mode and its general alignment were selected previously on the basis of the evaluation in the Major Investment Study (1997). The EIS/PE process will assess the social, economic and environmental impacts of alternative specific alignments, station locations and designs, and maintenance facility locations and designs to minimize and mitigate adverse impacts. A draft EIS will be published and made available for public and agency review and comment, and public hearings will be held. On the basis of the draft EIS and the comments received, the RTA will refine the project design and complete preliminary engineering and the final EIS.

Issued: November 12, 1997.

Helen M. Knoll,

Regional Administrator.

[FR Doc. 97–30212 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 18, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, Room 8421, DHM–30, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW. Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 12, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulations(s) affected	Nature of exemption thereof
11905–N	RSPA–97–2661	Russell-Stanley Corp., Red Bank, NJ.	49 CFR 178.601(a)(b)(c)	To authorize the transportation in commerce of certain steel and plastic UN drums that may not comply with the design performance stack test. (Modes 1, 2, 3.)
11980–N	RSPA–97–3093	American Type Culture Collection (ATCC), Rockville, MD.	49 CFR 173.196, 178.609	To authorize the transportation in commerce of infectious substances in small quantities in glass, plastic vials and ampules in mechanical freezers. (Mode 1.)
11981–N	RSPA–97–3094	The Dexter Corporation, Electric Materials, Division Londonderry, NH.	49 CFR 173.28(b)(2)	To authorize the one-time reuse of 1H1 plastic drums without performing the leakproofness test and marking the drums as would otherwise be required by Sec. 173.28(b)(2). (Mode 1.)
11982–N	RSPA–97–3095	Webasto Thermosystems, Inc., Madison Heights, MI.	49 CFR 177.834 (1)(2)(i)	To authorize the manufacture, mark and sale of cargo heaters for use in transporting Class 3 or Division 2.1 hazardous materials in enclosed trucks or trailers on highway vehicles. (Mode 1.)
11983–N	RSPA–97–3096	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 172.101, T–37	To authorize the transportation in commerce of hydrogen peroxide, stabilized, Division 5.1, in concentrations of 92% which exceeds the authorized 72%, in IM portable tanks. (Modes 1, 3.)
11987–N	RSPA–97–3097	Exceed, Inc., Oklahoma City, OK	49 CFR 173.196(c), 173.24a(a)(1), 173.24a(a)(3).	To authorize the manufacture, marking and sale of a specially designed combination packaging for use in transporting infectious substances, Division 6.2 in vials (Modes 1, 2, 3, 4.)
11990–N	RSPA–97–3098	Taylor-Wharton Coyne, Huntsville, AL.	49 CFR 173.201(c), 173.202(c), 173.302(a)(1), 173.304(a)(1), 175.3, 178.35–(e), 178.35–(f), 178.36–(a)(1), 178.36(b), 178.36–(g), 178.36–(j), 178.36–(m).	To authorize the manufacture, mark and sale of non-DOT specification cylinders for transportation in commerce of gas and oil well samplings containing certain Division 2.1, 2.2 and Class 3 material. (Modes 1, 2, 3, 4.)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulations(s) affected	Nature of exemption thereof
11993–N	RSPA–97–3100	Breed Technologies, Inc., Lakeland, FL.	49 CFR 173.301(h), 173.302, 173.306(d)(3).	To authorize the manufacture, mark and sale of non-DOT specification cylinders for use as components of automobile vehicle safety systems. (Modes 1, 2, 3, 4.)

[FR Doc. 97–30169 Filed 11–17–97; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (*e.g.,* to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before December 3, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Docket No.	Applicant	Modification of exemption
3216–M		E.I. DuPont de Nemours, Wilmington, DE (See Footnote 1)	3216
6971–M		Chem Service, West Chester, PA (See Footnote 2)	6971
7277–M		Structural Composites Industries, Pomona, CA (See Footnote 3)	7277
8757–M		YZ Industries, Inc., Snyder, TX (See Footnote 4)	8757
9791–M		Pressed Steel Tank Co., Inc., Milwaukee, WI (See Footnote 5)	9791
11054–M		Welker Engineering Co., Sugar land, TX (See Footnote 6)	11054
11344–M		E.I. DuPont, Wilmington, DE (See Footnote 7)	11344
11375–M		Oceaneering Space Systems, Houston, TX (See Footnote 8)	11375
11489–M		TRW Vehicle Safety Systems, Queen Creek, AZ (See Footnote 9)	11489
11952–M	RPSA–97–3101	Department of Defense, Falls Church, VA (See Footnote 10)	11952
11955–M	RPSA–97–2667	Scott Aviation, Lancaster, NY (See Footnote 11)	11955
11988–M	RPSA–97–3102	COFAP of America, Inc., Dayton, OH (See Footnote 12)	11988

(1) To modify the exemption to provide for rail transportation as an additional mode.

(2) To modify exemption to provide for transportation by passenger aircraft as an additional mode for use in transporting small quantities of chemicals inside glass bottles packaged in metal boxes overpacked in strong wooden or fiberboard boxes.

(3) To modify the exemption to provide for an alternative testing of non-DOT specification fiber reinforced plastic full composite cylinders used as part of a ground support system for aircraft maintenance.

(4) To modify the exemption to provide for additional service pressure of 2,250 psi, alternative hydrostatic test of 4,500 psi and alternative markings.

(5) To modify the exemption to provide for cargo aircraft as an additional mode of transportation for use in transporting non-specification cylinders, conforming in part with the DOT–3AA specification for transportation of certain nonflammable, nonliquefied compressed gases.

(6) To modify the exemption to authorize a series of piston cylinders with a 3600 psi service pressure for use in transporting various hazardous materials classed in Class 3, Division 2.1 and 2.3.

(7) To modify the exemption to provide for tank cars, containing chlorine, Division 2.3, to remain standing with unloading connections attached without the physical presence of an unloader.

(8) To modify the exemption to provide for several design changes to non-specification cylinder built to DOT-Specification 4L containing Division 2.2 material.

(9) To modify the exemption to provide for cargo only aircraft and cargo vessel as additional modes of transportation for use in transporting Division 1.4C explosive articles.

(10) To reissue the exemption originally issued on an emergency basis for use in transporting specially designed packaging consisting of a cylinder containing less than 7.22 cubic inches of nitrogen, compressed, Division 2.2

(11) To reissue the exemption originally issued on an emergency basis for transportation in commerce of oxygen generators which utilize special inegra as secondary means of preventing actuation.

(12) To reissue the exemption originally issued on an emergency basis to manufacture, mark and sale shock absorbers and struts containing non-flammable gas, Division 2.2, as accumulators.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 6, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 97–30170 Filed 11–17–97; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–535X and STB Docket No. AB–536X]

West Central Ohio Port Authority—Abandonment Exemption—in Clark County, OH; The Indiana and Ohio Central Railroad Company, Inc.—Discontinuance of Service Exemption—in Clark County, OH

West Central Ohio Port Authority (Westco) and The Indiana and Ohio Central Railroad Company, Inc. (IOCR), have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for Westco to abandon and IOCR to discontinue service over a 5.6-mile line of railroad between milepost 123.86 at or near Glen Echo and milepost 129.46 at the north edge of Warder Street in Springfield, Clark County, OH. The line traverses United States Postal Zip Code 45502.[1]

Westco and IOCR have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) overhead traffic has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 18, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 28, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 8, 1997, with: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Thomas F. McFarland, Jr., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Westco and IOCR have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 21, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Westco shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Westco's filing of a notice of consummation by November 18, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: November 12, 1997.

By the Board, Beryl Gordon, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–30303 Filed 11–17–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center: Advisory Committee of the National Center for State, Local, and International Law Enforcement Training, Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, as amended), and with the approval of the Secretary of the Treasury and the concurrence of the Office of Management and Budget, the Federal Law Enforcement Training Center (FLETC) announces the renewal of the following Advisory Committee:

Title: Advisory Committee to the National Center for State, Local, and International Law Enforcement Training.

Purpose: The primary purpose of the Advisory Committee is to provide a forum for discussion and interchange between a broad cross-section of representatives for the law enforcement community and related training institutions on training issues and needs. Considering that there are over 40,000 individual police departments throughout the country,the advice emanating from this exchange is very important to the Director of the FLETC and the Director of the National Center for State, Local, and International Law Enforcement Training (National Center). The Committee's advice is critical to ensuring that programs developed and offered by the National Center are meeting the unique and specialized needs of the State and local law enforcement community and enhancing

[1] Westco acquired the involved line from Consolidated Rail Corporation in *West Central Ohio Port Authority—Acquisition Exemption—Consolidated Rail Corporation,* Finance Docket No. 32443 (ICC served Jan. 28, 1994).

IOCR's lease and operation of the involved line was approved in *The Indiana & Ohio Central Railroad Company, Inc.—Lease and Operation—West Central Ohio Port Authority,* Finance Docket No. 32602 (ICC served Mar. 15, 1995).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

the networking between Federal, State, and local agencies. This networking is essential to an efficient and effective overall system.

Although FLETC representatives participate in the training committee activities of the major police membership associates, no forum exists which provides the broad representation required to meet the needs of the National Center. The uniqueness of the program requires an appropriately selected and specifically dedicated group.

The Committee advises the Director of the FLETC and the Director of the National Center on policy formulation, training needs, curriculum and course content, student admission and evaluation. There is no question that the Committee's input has been very instrumental in the successes enjoyed to this point. Resources have been committed only to those programs which meet unique needs of the State, local, and international law enforcement community. All programs have been well attended, and critiques and evaluations are quite positive. In addition, State, local, and international agencies have actively participated in the development and delivery of the programs by providing personnel as subject matter experts, course developers, and instructors. The programs offered have been developed only after a thorough screening process to ensure that the limited resources available are being committed most productively. The Committee's input has been invaluable on this decision process.

The Committee does not duplicate functions being performed within Treasury or elsewhere in the Federal Government.

Termination Date: The services of the Committee are expected to be needed for an indefinite period of time. No termination date has been established which is less than two years from the date the Advisory Committee's Charter is approved. The Advisory Committee's Charter is approved by signature of the Assistant Secretary of the Treasury for Management.

John C. Dooher,

Associate Director.

[FR Doc. 97–30206 Filed 11–17–97; 8:45 am]

BILLING CODE 4810–32–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–33: OTS No. 3455]

Newport Federal Savings Bank, Newport, AR; Approval of Conversion Application

Notice is hereby given that on November 7, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Newport Federal Savings Bank, Newport, Arkansas, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Midwest Regional Office, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: November 13, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–30269 Filed 11–17–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–34: OTS No. 1515]

Ninth Ward Savings Bank, FSB, Wilmington, DE; Approval of Conversion Application

Notice is hereby given that on November 10, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Ninth Ward Savings Bank, FSB, Wilmington, Delaware, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: November 13, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–30270 Filed 11–17–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–32: OTS No. 3780]

Wyman Park Federal Savings and Loan Association, Lutherville, MD; Approval of Conversion Application

Notice is hereby given that on October 9, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Wyman Park Federal Savings and Loan Association, Lutherville, Maryland, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, GA 30309.

Dated: November 13, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–30264 Filed 11–17–97; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register
Vol. 62, No. 222
Tuesday, November 18, 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 THE INTERIOR

Bureau of Land Management

[AZ-024-5440-A015; AZA 25918; AZA 17969; AZA 18069]

Notice of Termination of Classification and Airport Application

Correction

In notice document 97–28069 beginning on page 55275 in the issue of Thursday, October 23, 1997, the subject heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029-AB93

Abandoned Mine Land Reclamation Fund Reauthorization Implementation

Correction

In proposed rule document 97–23958, beginning on page 47617, in the issue of Wednesday, September 10, 1997, make the following correction:

On page 47618, in the second column, under the heading **Discussion of Proposed Rule**, in the first line ''not'' and ''move'' should read ''now'' and ''remove'', respectively.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

[CGD 94-055]

RIN 2115-AF23

Licensing and Manning for Officers of Towing Vessels

Correction

In proposed rule document 97–28409, beginning on page 55548, in the issue of Monday, October 27, 1997 make the following correction:

§ 10.466 [Corrected]

On page 55560, in the third column, in §10.466(b)(3), ''the'' should read ''a limited''.

BILLING CODE 1505-01-D

Federal Register

Tuesday
November 18, 1997

Part II

Department of Labor

Employment and Training Administration

20 CFR Part 645
Welfare-to-Work (WtW) Grants; Interim Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 645

RIN 1205–AB15

Welfare-to-Work (WtW) Grants

AGENCY: Employment and Training Administration (ETA), DOL.

ACTION: Interim final rule; request for comments.

SUMMARY: The Employment and Training Administration hereby issues an Interim Final Rule implementing the Welfare-to-Work (WtW) grant provisions of Title IV, Part A of the Social Security Act as amended by the recent enactment of the Balanced Budget Act of 1997. The Interim Final Rule provides an administrative framework for the WtW program which is being coordinated with the closely-related Temporary Assistance for Needy Families (TANF) program administered by the Department of Health and Human Services (DHHS). While the use of WtW funds should occur within the larger framework of the TANF program in each State, these funds have a purpose that is distinct from that of the TANF program. The purpose of WtW is to provide transitional assistance which moves hard-to-employ welfare recipients living in high poverty areas into unsubsidized employment and economic self-sufficiency.

DATES: *Effective Dates:* This Interim Final Rule shall become effective on November 18, 1997. However, affected parties do not have to comply with the information collection requirements in § 645.240 (reporting requirements for WtW programs) until DOL publishes in the **Federal Register** the control numbers assigned by the Office of Management and Budget (OMB). Publication of the control numbers notifies the public that OMB has approved this information collection requirement under the Paperwork Reduction Act of 1995.

Comment Period: Comments must be submitted by January 20, 1998. The Department will not consider comments received after this date. Comments that are less than 10 pages in length may be transmitted via facsimile at (202) 219–0376, provided that submission of written text follows.

ADDRESSES: Submit written comments to the Employment and Training Administration, Welfare-to-Work Office, 200 Constitution Avenue, NW, Room S5513, Washington, D.C. 20210, *Attention:* Peter E. Rell.

All comments shall be available for public inspection and copying during normal business hours at the Employment and Training Administration, Office of Employment and Training Programs, 200 Constitution Avenue, NW, Room N4459, Washington, D.C. 20210. Copies of the Interim Final Rule are available in the alternate formats of large print and electronic file on computer disk which may be obtained at the above-stated address. The Interim Final Rule is also available on the WtW web site at http://wtw.doleta.gov. Comments may be submitted electronically to that web address.

In compliance with 28 U.S.C. 2112(a), the Employment and Training Administration designates the Associate Solicitor for Employment and Training Services, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2101, Washington, D.C. 20210, as the recipient of petitions to review this Interim Final Rule.

FOR FURTHER INFORMATION CONTACT: Mr. Peter E. Rell, Welfare-to-Work Office, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S5513, Washington, D.C. 20210, Telephone: (202) 219–0181 (voice) (This is not a toll-free number.) or 1–800–326–2577 (TDD).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, information collection requirements which would be imposed as a result of the Interim Rule are being submitted separately to the Office of Management and Budget.

I. Background

On August 22, 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a comprehensive welfare reform bill, under which the TANF program was established to supersede the Aid to Families with Dependent Children (AFDC) welfare program, the Job Opportunities and Basic Skills (JOBS) Training program and the Emergency Assistance (EA) Program. The TANF program at section 401(a) of the Social Security Act (Act) established the following objectives:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.

The TANF provisions substantially changed the nation's welfare system from one in which cash assistance was provided on an entitlement basis to a system in which the primary focus is on moving welfare recipients to work and promoting family responsibility, accountability and self-sufficiency. In general, adult welfare recipients are expected to become self-sufficient within a 60-month period of time. In support of this ''work-first'' objective, the TANF provisions established an overall work participation rate for all households and a work participation rate for two-parent families that must be met by each State starting in fiscal year (FY) 97 and in each fiscal year thereafter through FY 2002. States that do not meet the TANF-established work participation rates face significant financial penalties.

The reference to ''work-first'' refers to the TANF concept that the primary focus is on placing individuals in employment activities. Nevertheless, the work-first approach also recognizes that individuals may be provided, as appropriate, education and skills training related to the job, as well as other services to ensure lasting employment and the achievement of self-sufficiency. Since the enactment of PRWORA, the Administration and Congress have been concerned that those welfare recipients who have the least skills, education, employment experience and who live within high poverty areas may need additional assistance to obtain lasting jobs and become self-sufficient.

On August 5, 1997, the President signed the Balanced Budget Act of 1997. This legislation amended certain TANF provisions of the Social Security Act and authorized the Secretary of Labor to provide WtW grants to States and local communities for transitional employment assistance to move the hard-to-employ TANF welfare recipients into unsubsidized jobs and economic self-sufficiency. Approximately 75 percent of the funds in each fiscal year will be distributed as formula grants to the States, with 85 percent to be passed through to local service delivery areas (SDAs) (generally, one or more units of local government with a population of 200,000 or more) in the States to be administered by the

Private Industry Council (PIC) for the SDA, or an alternate administering entity approved by the Secretary of Labor according to the statutory requirements. The funds distributed through the WtW grant program will assist States and PICs to meet their welfare reform objectives by providing additional resources targeted to hard-to-employ welfare recipients residing in high poverty areas within the State.

WtW activities should be coordinated with those undertaken through TANF, as hard-to-employ welfare recipients constitute a significant portion of the TANF eligible population. Therefore, the ability of State/County TANF agencies, the PICs under the Job Training Partnership Act (JTPA), local governments and a variety of other entities (e.g., One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population) to implement WtW programs that move these individuals into employment and self-sufficiency will be a major factor in the success of the national initiative to reform the welfare system.

The Interim Final Rule provides a framework for the administration of WtW programs, in coordination with the closely-related TANF program. The Employment and Training Administration (ETA) has coordinated its WtW regulatory efforts with the rulemaking being initiated by the Department of Health and Human Services (DHHS) for the TANF program. The Interim Final Rule supplements TANF's emphasis on moving welfare recipients into work, and on improving program evaluation and performance.

Section 403(a)(5)(A)(ii)(I) of the Act indicates that the States' WtW formula plans are an ''addendum'' to the State TANF plans. In keeping with the Congressional intent to allow States maximum flexibility in implementing TANF requirements, the WtW regulations provide States and local governments with broad discretion to design and implement WtW programs that meet the needs of the hard-to-employ population in the individual States. This approach is consistent with PRWORA's statutory intent to provide States with maximum discretion. The PRWORA Conference Report, H.R. Conf. Rep. No. 725 104th Cong. 2nd Sess. (1996), states that the legislation establishes ''broad cash welfare and child care block grants providing maximum flexibility so that States can reform welfare in ways that are appropriate for them, and can move families into jobs.''

The WtW statute contains several provisions designed to encourage creative and effective use of grant funds. In particular, section 403(a)(5)(B) provides that approximately 25 percent of WtW funds shall be distributed through a competitive grant process which are designed, in part, to expand the base of knowledge about programs to successfully move hard-to-employ recipients to unsubsidized employment and self-sufficiency. In addition, section 403(a)(5)(E) sets aside $100 million as a successful performance bonus, to be distributed in FY 2000 among States who most effectively place hard-to-employ individuals in lasting employment at increased earnings.

The format, as well as the substance, of the Interim Final Rule reflects the Administration's commitment to regulatory reform. The current Federal Register *Document Drafting Handbook* encourages Federal agencies to produce regulations that are reader-friendly. The Department has made every effort to make these regulations clear and easy to understand, as well as to anticipate issues that may arise and to provide appropriate direction. To this end, the Part 645 regulatory text is presented in a ''question and answer'' format.

Section 403(a)(5)(C)(viii) of the Act requires the Secretary of Labor to prescribe regulations implementing the WtW program within 90 days of enactment, after consultation with the Secretaries of DHHS and Housing and Urban Development (HUD). Pursuant to Secretary of Labor's Order No. 4–75, the Assistant Secretary for Employment and Training has been delegated the responsibility to carry out WtW policies, programs, and activities for the Secretary of Labor.

Given the short time frame imposed on the Department, the Employment and Training Administration (ETA) has moved quickly to initiate coordination with the other Federal agencies that have related concerns. In particular, the Department established a Federal Policy Committee composed of officials from the Departments of HHS, HUD, Transportation and Labor. The Policy Committee reviewed and provided policy recommendations to the Department on issues that arose during the development of the Interim Final Rule.

In addition, ETA requested and received input from a broad range of interested parties regarding guidance to be provided by the Agency on how to comply with a number of WtW statutory provisions, e.g., allowable matching funds, expenditure time limits, reallocation policy, Governors' authority to select the State administrative agency, conditions under which the Governor may select an alternate administrative agency (other than the Private Industry Council) at the local level, eligible grant applicants for competitive WtW grants, allowable activities, post-employment and job retention services, job creation through public or private sector employment wage subsidies, community services and work experience programs, limits on administration costs, and performance standards and bonuses.

The Agency has determined that this Interim Final Rule, as promulgated, complies with the WtW statutory mandate and will provide effective direction for the implementation of WtW programs. ETA will review all comments received in response to the Interim Final Rule, as well as program experience, in considering what further action is necessary and promulgating a Final Rule.

II. Summary and Explanation

This section describes and explains the individual provisions of the Interim Final Rule. The explanatory text, in general, adheres closely to the corresponding WtW statutory language. The supporting rationale is provided for those instances where the rule provides direction not prescribed by the WtW statute.

ETA has set regulations only where they are necessary to clarify or to explain how the Agency intends to interpret the WtW statute. Consistent with the Act, the Interim Final Rule provides the States and local governments with the primary responsibility to initiate and develop program implementation procedures and policy guidance regarding WtW administration. For example, while 20 CFR 645.230 indicates that the OMB Circular A–102 ''Common Rule'' requirements apply to WtW programs, the Department has not defined what constitutes WtW ''allowable activities'' which are used under section 403(a)(5)(C) of the Act.

Pursuant to Section 411(a)(1) of the Social Security Act, DHHS has the responsibility to issue WtW participant and program data reporting requirements, after consultation with other appropriate parties. Accordingly, this Interim Final Rule does not address such reporting requirements in detail. Consistent with the purpose of WtW, which is to move welfare recipients into

unsubsidized employment and economic self-sufficiency, the statute anticipates reporting on these measures: placements in unsubsidized employment; placements in unsubsidized employment that last at least six months; placements in the private and public sectors; earnings of individuals who obtain employment; and average expenditures per placement.

Subpart A—Scope and Purpose

What Does This Part Cover? (§ 645.100)

This section of the Interim Final Rule indicates that Part 645 provides regulatory provisions applicable to WtW formula grant funds that are to be used to carry out State-level programs and programs conducted by the PICs at the Service Delivery Area (SDA) level. This part of the regulations also provides general guidance on WtW competitive grants, but it should be clear the Department intends to publish specific Solicitations for Grant Applications (SGAs) in the future. The SGAs to be published will be disseminated widely and will contain specific information about purpose, application requirements, funding amounts, and submission instructions for competitive grant awards.

What Are the Purposes of the Welfare-to-Work Program? (§ 645.110)

This section of the Interim Final Rule describes what the Department believes to be the statutory objective of the WtW program, which complements the overall objectives of the TANF program. For example, the WtW statutory provisions indicate that the ultimate objective to be achieved through the various allowable activities is to ''* * * move individuals into and keep individuals in lasting unsubsidized employment * * *''. In this regard, the WtW program complements the TANF objective to ''* * * end the dependence of needy parents by promoting job preparation, work * * *''. The WtW Program focuses on assistance on hard-to-employ welfare recipients living in high poverty areas.

Although the section requires only that WtW grant funds be coordinated with the State TANF expenditures, the Department also intends that WtW grant funds be coordinated with available resources from the Job Training Partnership Act (JTPA), the Employment Service, the Child Care and Development Block Grant, One-Stop systems, private sector employers, labor organizations, business and trade associations, vocational rehabilitation and other education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities and other sources that provide assistance to the WtW targeted individuals.

What Definitions Apply to This Part? (§ 645.120)

This section of the Interim Final Rule includes a limited number of definitions of terms, acronyms and phrases important to the implementation of the WtW programs. This section is not intended to be an all-inclusive listing of definitions provided within the WtW legislation and WtW regulations.

This section includes definitions for the terms ''adult'', ''minor'', and ''TANF MOE'' found in the TANF statute. The Department also relied on the definitions provided in the JTPA regulations at 20 CFR Part 626 for the terms ''PIC'' and ''SDA.'' The definition for ''Chief Elected Official'' comes from Section 103(c) of the Job Training Partnership Act, as amended.

States and PICs (and alternate agencies) should keep in mind that additional definitions applicable to the WtW program, but not listed in this section for the sake of brevity, can be found in the definitions section(s) of the pertinent OMB Circulars on Uniform Administrative Requirements and the OMB Cost Principles Circulars. For example, 29 CFR 97.3 contains definitions for terms and acronyms relating to administration of the WtW programs operated by State, local and Indian tribal organizations, unless otherwise specified. Similarly, 29 CFR Part 95 contains other administrative definitions relating to non-profit organizations.

Subpart B—General Program and Administrative Requirements

What Does This Part Cover? (§ 645.200)

This subpart provides general program and administrative requirements for WtW formula grant funds, including Governors' funds for long-term recipients of assistance, and for competitive grant funding.

Of the total amount of WtW funds available for allotment (after reserving an amount for Indian tribes, evaluation, and performance bonuses), 75 percent is allotted to the States on a formula basis. Generally, the States are required to distribute at least 85 percent of this amount, pursuant to a statutory formula, to service delivery areas. The Governor of a State may reserve up to 15 percent of the State's allotment for projects to help long-term recipients of assistance. The roughly 25 percent of the funds that is not allotted to the States by formula is available for the Secretary to award through a competitive grant process. The regulations which appear in this subpart apply to these funds.

What Is Meant by the Terms ''Entity'' and ''Project'' in the Statutory Phrase ''An Entity that Operates a Project'' With Welfare-to-Work Funds? (§ 645.210)

This section defines the terms ''entity'' and ''project'' in the phrase ''an entity that operates a project'' with WtW funds, as used in section 403(a)(5)(C)(ii) of the Act.

For WtW substate formula funds, ''entity'' means the PIC (or the alternate agency designated by the Governor and approved by the Secretary) which administers the WtW formula funds in a service delivery area(s). This entity is referred to in §§ 645.211 through 645.225 as the ''operating entity''. The term ''entity'' does not refer to subrecipients, contractors, vendors, or other parties to which the PIC or alternate agency may choose to distribute WtW formula funds to provide specific services. The term ''project'' means all activities, administrative and programmatic, supported by the total amount of the WtW formula funds allotted to an entity as described above. Therefore, the requirement relating to the expenditure of 70 percent WtW funds on hard-to-employ individuals, as described in § 645.211, applies to all of the funds allotted to the PIC/alternate administering agency. The entity need not impose these expenditure requirements on each individual subrecipient, contractor, vendor or other party to whom it may choose to distribute WtW funds. However, the entity must ensure that, in the aggregate, it complies with the 70 percent expenditure requirement.

For Governors' funds for long-term recipients of assistance, ''entity'' means the agency, group, or organization to which the Governor has distributed such funds, as described in § 645.410 (b) and (c). This entity is referred to in §§ 645.211 through 645.225 as the ''operating entity''. The term ''project'' means all activities, administrative and programmatic, supported by the total amount of any one award of Governor's funds made to an entity as described above. Therefore, should the entity receive more than one award from the Governor, the 70 percent expenditure requirement, as described in § 645.211, applies individually to each award. The entity need not impose the expenditure requirement on each individual

subrecipient, contractor, vendor or other party to whom it may choose to distribute WtW funds. However, the entity must ensure that in the aggregate it complies with the 70 percent expenditure requirement.

For competitive WtW grants, ''entity'' means an eligible applicant, as described in § 645.500, which is awarded a competitive WtW grant by the Secretary. This entity is referred to in §§ 645.211 through 645.225 as the ''operating entity''. The term ''entity'' does not refer to subrecipients, contractors, vendors, or other parties to which the competitive grant recipient may choose to distribute WtW funds. The term ''project'' means all activities, administrative and programmatic, supported by the total amount of any one competitive grant award. Therefore, should the same entity receive more than one competitive grant, the 70 percent expenditure requirement, as described in § 645.211, applies individually to each competitive grant. The entity need not impose the expenditure requirements on each individual subrecipient, contractor, vendor or other party to whom it may choose to distribute WtW funds. However, the entity must ensure that in the aggregate it complies with the 70 percent expenditure requirement.

How Must Welfare-to-Work Funds Be Spent by the Operating Entity? (§ 645.211)

This section restates the statutory provisions, at section 403(a)(5)(C)(ii) and (iii) of the Act, which require that an operating entity, as described in § 645.210 of this part, expend not less than 70 percent of the WtW funds allotted or awarded to it for the benefit of hard-to-employ individuals, as described in § 645.212, and which provide that up to 30 percent of the funds may be spent to assist individuals with characteristics associated with long-term welfare dependence, as described in § 645.213. If less than 30 percent of the funds are spent to assist individuals with long-term welfare dependence characteristics, as described in § 645.213, the remaining funds shall be spent to benefit hard-to-employ individuals, as described in § 645.212. This requirement applies to all WtW funds, i.e., to substate formula funds, Governors' funds for long-term recipients of assistance, and competitive funds. It should be noted that the requirement does not apply to the proportion of WtW participants served; rather, as noted above, it applies to the percentage of WtW funds expended on the participants in each category of eligibility.

Who May be Served as a Hard-to-Employ Individual Under the 70 Percent Provision? (§ 645.212)

The WtW legislation targets those welfare recipients who will have the most difficulty transitioning into employment. Specifically, the Act, at sections 403(a)(5)(C)(ii) and (iv), establishes three different categories of individuals who may be served under the 70 percent provision. An individual is eligible if (s)he meets the criteria of any one of the following three eligibility categories. (1) To be eligible under the first category, individuals: (a) must be recipients of TANF assistance; *and* (b) must have two of the three specified barriers to employment; *and* (c) must be long-term recipients of TANF assistance or will become ineligible for TANF assistance within twelve months. (2) To be eligible under the second category, an individual must be a noncustodial parent of a minor whose custodial parent meets the three criteria of the first eligibility category. (3) To be eligible under the third category, an individual must have the specified barriers to employment *and* no longer be receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit. The regulations paraphrase the statutory language.

Eligibility: Category One. To be eligible to be served under category one of the 70 percent provision, an individual must meet each of the following three eligibility criteria:

Criterion a: Recipients of TANF Assistance. The individual must be a current recipient of TANF assistance. The Act, at section 403(a)(5)(C)(ii), uses the term ''recipients of assistance under the program funded under this part.'' In order to facilitate coordination at the local level, the Department has consulted with DHHS regarding interpretations for ''the program funded under this part'' and ''assistance''. Provisions in the statute which use the term ''the program funded under this part'' refer to the State's program of family assistance that is operated in accordance with the TANF statute, regardless of its funding source. Thus, any individual receiving TANF assistance under the State TANF program (whether funded with State or Federal funds) is deemed to meet this criterion of eligibility under the 70 percent provision.

''Assistance'' means every form of support provided to families under TANF (including child care, work subsidies, and allowances to meet living expenses), except: (a) services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support, such as counseling, case management, peer support, and employment services that do not involve subsidies or other forms of income support; and (b) one-time, short-term assistance (i.e., assistance which is paid no more than once in any 12 month period, is paid within a 30 day period, and covers needs that do not extend beyond a 90-day period, such as automobile repair to obtain employment and avoid welfare receipt, and appliance repair to maintain living arrangements). The Secretary notes that she may issue further rules to conform this provision to similar provisions in forthcoming final regulations governing the TANF program.

Criterion b: Barriers to Employment. The Act, at section 403(a)(5)(C)(ii)(I), states that as the second criterion of eligibility under category one of the 70 percent provision, an individual must face at least two of the three following barriers to employment: (1) the individual has not completed secondary school or obtained a certificate of general equivalency, *and* has low skills in reading or mathematics; (2) the individual requires substance abuse treatment for employment; or (3) the individual has a poor work history.

We are defining the phrase ''has low skills in reading or mathematics'', which is used in the first barrier in criterion b, to mean having reading or mathematics skills at or below grade level 8.9. This definition is consistent with the definition which is used in the Job Training Partnership (JTPA) program. We are also defining the phrase ''has a poor work history'' to mean having worked no more than three consecutive months in the last 12 calendar months. In this way individuals who have taken the initiative to try employment but have not been successful for more than a brief period of time, are eligible for assistance. These definitions reinforce the intent of the WtW legislation to focus assistance on hard-to-employ individuals. However, we provide PICs flexibility for each of these definitions for up to 10 percent of participants to recognize individual circumstances, specialized needs, including individuals with disabilities, and local labor market conditions.

TANF agencies are required to perform an initial assessment of the skills, prior work experience and employability of each TANF recipient who is at least 18 years old, or who has not completed high school (or equivalent) and is not attending

secondary school. It is likely that this assessment may identify the above-noted barriers, and we do not want to require further assessment for the purposes of establishing eligibility where it is not needed. Additionally, in relation to the criterion ''requires substance abuse treatment for employment,'' we note that DHHS is suggesting that the optional individual responsibility plan which the TANF agency develops based on the initial assessment may require the individual to undergo appropriate substance abuse treatment. We do not want to impose an additional Federal definition which would cause a local WtW program operator to ''second-guess'' this determination.

Criterion c: Long-Term/Duration-Impacted TANF Recipients. The third eligibility criterion under category one of the 70 percent provision requires that individuals be long-term recipients of TANF assistance or will become ineligible for TANF assistance within 12 months. The regulations paraphrase the statutory requirements, at section 403(a)(5)(C)(ii)(II), which states that an individual: (1) must have received assistance under a State TANF program, and/or its predecessor program, for at least 30 months, whether consecutive or not; or (2) will become ineligible for assistance within 12 months due to Federal or State-imposed durational time limits on receipt of TANF assistance. This includes individuals who have been exempted from the durational limits due to hardship pursuant to section 408(a)(7)(C) of the Act, but would have faced termination within 12 months without the exemption.

Eligibility: Category Two: Noncustodial Parents. The regulations paraphrase the statutory requirement at section 403(a)(5)(C)(ii). A noncustodial parent of a minor child whose custodial parent meets the eligibility criteria of category one, as specified in § 645.212(a) of this part, is eligible under the 70 percent provision. In order to facilitate coordination at the local level, we are not defining the term ''noncustodial'' any further. We are allowing States to develop and employ their own definition of the term, which we understand States generally use to mean a parent who is absent from the child's household. Under TANF, States can extend employment services to noncustodial parents by including them in their definition of ''eligible family''. In these cases, the States are already using their own non-Federal definition of ''noncustodial.'' Further, States are required by statute to report to DHHS on the number of noncustodial parents participating in work activities. We do not want to impose a definition which would be at odds with those already existing in the States. If a State does not have a definition for ''noncustodial'' parent for TANF purposes, it should develop one in order to serve noncustodial parents in WtW projects.

Eligibility: Category Three: Exceeding Durational Time Limits. The regulations interpret the statutory provision at section 403(a)(5)(C)(iv) to apply to individuals who have reached State-imposed time limits on receipt of TANF assistance in addition to individuals who have reached the five-year Federal limit on receipt of Federal assistance. This interpretation is consistent with the purpose of the WtW funds to assist those who have the most difficulty making the transition from welfare to work. Therefore, an individual who has barriers to employment, as specified in § 645.212(a)(2) of this part, and who would otherwise be eligible to receive TANF assistance but is no longer receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit, is eligible.

Who May be Served as an Individual With Long-Term Welfare Dependence Characteristics Under the 30 Percent Provision? (§ 645.213)

The Act, at sections 403 (a)(5)(C)(iii) and (iv), establishes three different categories of individuals who may be served as individuals with characteristics associated with long-term welfare dependence under the 30 percent provision. An individual is eligible if (s)he meets any one of the following three eligibility categories: (1) To be eligible under the first category, individuals must be recipients of TANF assistance *and* have characteristics associated with, or predictive of, long-term welfare dependence. (2) To be eligible under the second category, an individual must be a noncustodial parent of a minor whose custodial parent is receiving TANF assistance, and the noncustodial parent must have characteristics associated with, or predictive of, long-term welfare dependence. (3) To be eligible under the third category, an individual must have characteristics associated with, or predictive of, long-term welfare dependence, be otherwise eligible to receive TANF assistance, but no longer be receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit.

Eligibility: Category One. To be eligible under category one of the 30 percent provision, an individual must meet both of the following criteria:

Criterion a: Recipients of TANF Assistance. The individual must be a current recipient of TANF assistance. The Act states, at section 403 (a)(5)(C)(iii)(I), that individuals with long-term welfare dependence characteristics under the 30 percent provision must be ''recipients of assistance under the program funded under this part''. The regulations paraphrase the statutory requirement. In order to facilitate coordination at the local level, the Department has consulted with DHHS regarding interpretations for ''the program funded under this part'' and ''assistance''. For a fuller discussion of this approach, refer to the discussion regarding recipients of TANF assistance in the preamble for § 645.212.

Criterion b: Characteristics Associated With Long-Term Welfare Dependence. The Act states, at section 403 (a)(5)(C)(iii)(I), that an individual must have characteristics associated with long-term welfare dependence, such as having dropped out of school, teenage pregnancy, or having a poor work history. We are interpreting ''associated with'' to include characteristics ''predictive of'' long-term welfare dependence. In order to facilitate coordination at the local level, we will not further define the characteristics associated with long-term welfare dependence. It is likely that the TANF assessment may identify the above-noted characteristics, and we do not want to require further assessment for the purposes of establishing eligibility where it is not needed. Moreover, the regulations interpret the statutory phrase ''such as'' to mean that, in addition to the characteristics listed in the statute, States and PICs may designate other characteristics associated with, or predictive of, long-term welfare dependence, including having a disability. In order to provide the State and local areas with flexibility to design the WtW program to support the goals and objectives of their overall program of assistance for welfare recipients, we are not imposing any further restrictions in this area. Starting with the FY99 State WtW formula plans, States will be asked to include examples of characteristics which the State and PICs consider to be predictive of long-term welfare dependency.

Eligibility: Category Two: Noncustodial Parents. The Act states, at section 403(a)(5)(C)(iii)(II), that noncustodial parents of minors who have the characteristics associated with,

or predictive of, long-term welfare dependence, as described under category one, are eligible to participate under the 30 percent provision if the custodial parent is receiving TANF assistance. In order to facilitate coordination at the local level, we are not defining the term ''noncustodial'' any further. For a fuller discussion of this approach, refer to the discussion regarding noncustodial parents in the preamble for § 645.212.

Eligibility: Category Three: Exceeding Durational Time Limits. The regulations interpret the statutory provision at section 403(a)(5)(C)(iv) to apply to individuals who have reached State-imposed time limits on receipt of TANF assistance in addition to individuals who have reached the five-year Federal limit on receipt of Federal assistance. This interpretation is consistent with the purpose of the WtW funds to assist those who have the most difficulty making the transition from welfare to work. Therefore, an individual who has characteristics associated with, or predictive of, long-term welfare dependence, as specified in § 645.213(a)(2) of this part, and who would otherwise be eligible to receive TANF assistance but is no longer receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit, is eligible to participate under the 30 percent provision.

How Will Welfare-to-Work Participant Eligibility be Determined? (§ 645.214)

The regulations state that the operating entity is accountable for ensuring that WtW funds are spent on individuals who are eligible for WtW projects. The regulations acknowledge, however, that the operating entity may not be in the best position to determine all aspects of WtW eligibility, particularly those associated with receipt of TANF assistance. Therefore, the regulations require that the operating entity ensure that there are mechanisms in place to establish WtW eligibility based on the criteria in §§ 645.212 and 645.213. We urge that the mechanisms for determining WtW eligibility address how the PIC or other WtW operating entity and the TANF agency will work together to facilitate the exchange of eligibility information. The actual scope of the mechanisms, operating procedures, and roles and responsibilities of the cooperating parties are best left to local determination given the myriad of circumstances that exist in local areas.

Since receipt of TANF assistance will be the single most critical WtW eligibility criterion in the majority of cases, it is critical that the TANF agency be the source of information about whether an individual is receiving TANF assistance, the length of such receipt, and applicable time limits on such receipt. At a minimum, therefore, for TANF recipients, WtW eligibility determination mechanisms must include arrangements with the TANF agency to ensure that such a determination is based on information, current at the time of the WtW eligibility determination, for the factors specified in § 645.214(b)(1) of this part.

In establishing WtW eligibility for the criteria of barriers to employment, pursuant to § 645.212(a)(2), and characteristics associated with long term-welfare dependency, pursuant to § 645.213(a)(2) of this part, the regulations seek to minimize duplication of effort and encourage coordination of TANF and WtW resources. Specifically, the regulations state that for TANF recipients, the operating entity may base a determination of WtW eligibility for these factors on information that was collected up to six months prior to the WtW eligibility determination, by or through the operating entity for JTPA or for other purposes, or by the TANF agency for the TANF assessment or individual responsibility plan (IRP). This mechanism provides an efficient method to minimize duplication of effort and utilize existing, reliable information while ensuring that a WtW eligibility determination will not be made on the basis of outdated information. This six-month window is intended to provide flexibility to the operating entity to customize its mechanisms for determining WtW eligibility to address the unique circumstances of its local area. In some cases, the operating entity may determine that a shorter time period is preferable. In others, the operating entity may determine that for some characteristics, such as the possession of a high school diploma, the individual's status immediately prior to determination of eligibility should be used in the determination. We recognize that the information previously collected by the operating entity or in the TANF assessment and IRP: (1) may be sufficiently comprehensive to allow for making the WtW eligibility determination; or (2) may not necessarily provide sufficient information to determine WtW eligibility in all categories. In either case, we urge close coordination between the TANF agency and the operating entity to develop a coordinated mechanism for eligibility determination.

The operating entity must also have mechanisms in place to determine WtW eligibility for individuals who are not receiving TANF assistance (i.e., noncustodial parents and individuals who have reached the time limit on receipt of TANF). Mechanisms may include approaches such as: (1) using staff from the operating entity to determine WtW eligibility (utilizing information from TANF and other appropriate agencies); (2) entering into agreements with local agencies, such as the TANF agency, and other appropriate entities, such as One-Stop systems and substance abuse treatment providers, which foster coordination and facilitate the exchange of eligibility information among parties at the local level; and/or (3) performing joint WtW eligibility determination with other appropriate agencies, including the TANF agency. The TANF agency should be able to provide information about assistance received by the custodial parent of minors or by exhaustees to permit the PIC to determine whether an individual qualifies as a noncustodial parent or about individuals who are no longer receiving TANF assistance.

In determining whether someone requires substance abuse treatment for employment, the operating entity can benefit from coordinating with the local recipients of funds from the Substance Abuse Prevention and Treatment (SAPT) Block Grant. In some States, SAPT funds substance abuse awareness and identification programs for TANF case workers. In others, substance abuse counselors supported by SAPT funds are co-located in TANF offices. We urge close coordination by the operating entity with efforts of SAPT and other agencies to identify and address substance abuse among the TANF population.

The regulations also state that once an individual begins to receive WtW services, the operating entity is not required to redetermine WtW eligibility. For instance, if someone ceases to receive TANF assistance due to increased earnings, that individual may continue to participate in appropriate WtW services (such as occupational training offered as a post-employment service or job retention services, if such services are not otherwise available).

What Activities Are Allowable Under This Part? (§ 645.220)

The ultimate objective for each welfare recipient is placement into an unsubsidized job which provides the potential for achieving economic self-sufficiency. Activities conducted with

WtW grant funds must be grounded in the ''work first'' philosophy which is a fundamental tenet of the Act. Although a variety of activities are authorized under WtW, these activities should be viewed as employment-based developmental steps for helping individuals secure and retain unsubsidized employment.

Section 403(a)(5)(C)(i) specifies the allowable activities which can be funded under WtW grants. The statute prescribes the following as allowable activities: job readiness, placement, and post-employment services financed through job vouchers or through contracts with public or private providers; community service or work experience programs; job creation through public or private sector employment wage subsidies; on-the-job training; and job retention or support services if such services are not otherwise available. Congress did not define these activities further. Some activities have commonly understood meanings from their use over time or from operational definitions adopted by other employment and training programs, but others may not.

We consulted with a variety of groups to determine what others thought about how these activities should be defined. A major theme they expressed is the need for maximum State and local flexibility to design programs to successfully move the hardest to employ welfare recipients into unsubsidized employment leading to economic self-sufficiency.

Another major theme expressed by those with whom we consulted is the need for flexibility to provide to the WtW eligible population, training in basic educational and occupational skills, English as a second language training, and referral to vocational rehabilitation services. Indeed, one of the eligibility factors is the lack of a high school or secondary school diploma or a certificate of general equivalency, coupled with low skills in math or reading. In order to make it possible for these educationally disadvantaged individuals to begin to achieve economic self-sufficiency, they need access to tools for developing the skills necessary for achieving their employment goal.

The regulations address these concerns. They provide maximum flexibility to provide transitional assistance which moves welfare recipients into unsubsidized employment providing good career potential for achieving economic self-sufficiency. They also encourage effective linkages of welfare agencies, other agencies serving people with disabilities, adult education, and the workforce development system at the State and local operational levels to maximize the use of all available resources and to focus resources on direct assistance to recipients. Additionally, they encourage the use of training interventions only after an individual begins to work to help participants retain their jobs and move toward economic self-sufficiency.

Specifically, in order to facilitate coordination between WtW and TANF activities at the State and local level, the regulations do not define or describe the activities which are common to both WtW allowable activities and TANF work activities. That is, the regulations provide no definitions or description for community service, work experience, job creation through public or private sector employment wage subsidies, on-the-job training, or job readiness activities. Job readiness may, however, include training for WtW participants starting their own businesses. It is expected that operating definitions for these activities will be arrived at through partnership between the State and local administering agencies, taking into consideration applicable statutory and regulatory provisions.

The regulations do provide examples of post-employment services. Whether an individual is working in a subsidized or unsubsidized job, including self-employment or participation in a registered apprenticeship program, that individual may be allowed to receive post-employment services, which may include basic education, English as a second language, occupational skills training, and mentoring. While the legislation does not permit stand-alone training activities independent of a job, allowing them as post-employment activities only while the participant is working in a subsidized or unsubsidized job reflects the basic ''work first'' thrust of the legislation, while recognizing the critical importance of continuous skills acquisition and lifelong learning to economic self-sufficiency. These examples of post-employment services are not intended to imply that only educational, training, or mentoring services are allowable as post-employment services.

The regulations incorporate the statutory requirement that job readiness, placement, and post-employment services be provided through job vouchers or contracts with public or private providers. Additionally, the requirement, at § 645.230(a)(3), that contracts or vouchers for job placement must include a provision to require that at least one-half of the payment occur after an eligible individual has been placed into the workforce for six months, is referenced.

Given the needs of the target group for this assistance, the provision of adequate job retention and support services will be critical. Each participant engaged in a job readiness activity, an employment activity, or in any other subsidized or unsubsidized job, including participation in a registered apprenticeship program, will also be allowed to receive appropriate job retention and support services, if such services are not otherwise available. These could include transportation assistance, substance abuse treatment, child care, emergency or short-term housing assistance, disability-related services, or other supportive services. However, these services can be provided with WtW funds *only* where they are not otherwise available to the participant. For instance, in the area of child care, the operating entity should ensure that WtW funds are not substituted for child care services available from the Child Care and Development Block Grant, TANF funds, and other State and local funds.

The availability of transportation services, to get welfare recipients to work, training, and child care, is a significant factor in obtaining and retaining employment. Historically, DHHS and DOL programs have defined transportation in terms of the individual client, and allowed reimbursement for services used rather than for service availability. However, client reimbursement will not work where services do not exist. WtW funds may be used for both purposes. For instance, WtW funds may be used to reimburse individual participants for transportation costs, to enable an administering agency to purchase additional needed services from transportation providers, or alternatively to support, in combination with other funding sources, the development of new transportation services that may be needed in order to connect individuals to jobs. Such services could include: late night and other off peak hour services, shuttle service, guaranteed ride home, van pooling and ridesharing, and specialized transportation services provided by non-profit agencies. WtW funds cannot be substituted for services available or already provided through other sources. However, this is not meant to preclude funding of an individual's access to existing sources. For example, although a transit service may exist, an individual may need financial assistance to afford such transportation.

Substance abuse treatment is specifically provided as an example of a job retention service because one of the eligibility factors under the hard-to-employ criteria is the need for substance abuse treatment for employment. In arranging for substance abuse treatment, States and localities should coordinate with the Single State Authority (SSA) (and its subcontractors) designated by the Governor to receive and administer the Substance Abuse Prevention and Treatment (SAPT) Block Grant administered by the Substance Abuse and Mental Health Services Administration, DHHS. This grant, totaling $1.23 billion in FY 1998, accounts for approximately 40 percent of all substance abuse treatment provided through State agencies. The SSA and its county or regional subcontractors also coordinate with, or actually provide, substance abuse treatment funded through other sources. It is imperative that use of WtW funds for substance abuse treatment be coordinated with other funding sources to provide only services not otherwise available. It is equally important that the expertise of SAPT block grant recipients be utilized in developing a strategy to provide WtW participants with substance abuse treatment services.

Regarding substance abuse treatment, States and localities need to be aware that section 408(a)(6) of the Act, which bars the use of Federal TANF funds for medical services, also applies to WtW funds. In many, but not all, instances the treatment of alcohol and drug abuse involves not just ''medical services,'' but other kinds of social and support services as well. Allowing States to use Federal WtW funds for substance abuse treatment is programmatically sound since it addresses the need of a particular target group and may help clients make successful transitions to work. Therefore, WtW funds can be used for drug and alcohol abuse treatment services to the extent that such services are not medical and not otherwise available to the participant. States and localities will have to look at the range of services offered and differentiate between those that are medical and those that are not. For instance, an evaluation of a substance abuser, to determine the appropriate level of care, performed by a member of the medical profession is considered a medical service, as is a medically supervised detoxification program. However, services performed by those not in the medical profession, such as counselors, technicians, social workers, and psychologists, and services not provided in a hospital or clinic, including 24 hour care programs, may be considered non-medical. In short, as in TANF, States and localities cannot use Federal WtW funds for services that the State identifies as medical; they may only use Federal WtW funds for services that are non-medical. States may, however, use their own funds or other funds to provide these services as long as they do not commingle State and Federal funds. Medicare and Medicaid funds may provide another source of funding for medical substance abuse treatment.

Individual development accounts (IDAs) are authorized by section 403(a)(5)(C)(v)(I) of the Act. They are described in detail at section 404(h) of the Act, which gives States the option to fund IDAs with TANF, and by extension, WtW funds, for WtW participants. An IDA is an account established by or for an individual to allow the individual to accumulate funds for specific purposes enumerated in the Act, i.e., postsecondary educational expenses, first home purchase, and business capitalization. The Secretary of DHHS is authorized to establish regulations regarding IDAs. Therefore, we are not regulating or providing further guidance in this area. An entity that funds IDAs with WtW grant funds must comply with Section 404(h) of the Act and the applicable DHHS regulations.

Lastly, the regulations state that intake, assessment, eligibility determination, the development of an individualized service strategy, and case management are allowable and may be incorporated in the program design of any of the allowable activities.

How Do Welfare-to-Work Activities Relate to Activities Provided Under TANF and Other Related Programs? (§ 645.225)

The regulations require that activities provided through WtW be coordinated effectively with activities being provided through the TANF grant and other related programs. The WtW grants provide a critical tool to help States and local governments achieve their own welfare reform goals and to meet their responsibilities under the Act to reduce welfare caseloads and move welfare recipients into permanent employment and off welfare. WtW must be an integral part of the States' and local governments' overall program of assistance to move welfare recipients into unsubsidized employment. WtW formula grants are intended to work through the operating entity to supplement and enhance their overall capacity for assisting welfare recipients find work and progress toward self-sufficiency.

Coordination of resources should include not only those available through WtW and TANF grant funds, and the Child Care and Development Block Grant, but also those available through other related activities and programs, such as the JTPA programs, the State employment service, One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population.

The regulations require that an assessment of skills, prior work experience, employability, and other relevant information be in place for each WtW participant. This is consistent with the TANF requirement, at section 408(b)(1) of the Act, that an assessment be developed for each recipient of TANF assistance who has attained 18 years of age or has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school. In order to maximize coordination and minimize duplication of effort, we urge the use of the TANF assessment to meet this requirement where feasible in order to avoid duplicative assessments and unnecessary use of WtW resources.

The regulations require that an individualized strategy for transition to unsubsidized employment should be in place for each participant. This requirement is similar to the TANF provision, at section 408(b)(2) of the Act, regarding an individual responsibility plan (IRP). This strategy should take into account the individual's circumstances reflected in the TANF assessment, JTPA individual service strategy or any participant assessment which may have been performed by the operating entity or its agent. The individualized strategy should also include information regarding disabilities since the characteristics associated with long-term welfare dependence can be caused, or contributed to, by a physical, emotional or cognitive disability. The strategy should assure that activities funded through WtW are effectively coordinated with similar activities (e.g., assessment, case management, supportive services, work activities) being funded through TANF and other related programs to address the

individual's needs so that (s)he can obtain and retain unsubsidized employment. In order to maximize coordination and minimize duplication of effort, the regulations also state that, where appropriate, the TANF IRP may be used for this purpose. It is our understanding that most, if not all, States have exercised their option under TANF of implementing an IRP requirement. The statutory guidelines for the content of an IRP, at section 408(b)(2) of the Act, include an employment goal for the individual and a plan for moving the individual into unsubsidized employment as quickly as possible, and for increasing the responsibility and amount of work the individual is to handle over time. The statutory guidelines also include a description of the obligations of the individual and the services to be provided so that the individual will be able obtain and retain employment. In order to avoid duplicative strategies and unnecessary use of staff resources, we urge the use of the TANF IRP as the WtW individualized service strategy where feasible.

What General Fiscal and Administrative Rules Apply to the Use of Federal Funds? (§ 645.230)

This regulation identifies the appropriate DOL regulations which specify the rules applicable to WtW grants in the areas of fiscal and administrative requirements, audit requirements, allowable cost/cost principles, debarment and suspension, drug-free workplace, restrictions on lobbying, and nondiscrimination. In addition, paragraph (a)(3) of this section specifically indicates that the provision at section 403(a)(5)(C)(i) of the Act is a requirement that is imposed in addition to the procurement provisions applicable to an entity awarding a contract or voucher for job placement services. That provision requires that contracts or vouchers for job placement services must include a provision to require that at least one-half of the payment occur after an eligible individual placed into the workforce has been in the workforce for at least 6 months. Consistent with the purpose of the Act, we have interpreted this provision to apply to placement in unsubsidized jobs. We have done this to avoid the unintended consequence of having all subsidized employment last a minimum of six months.

Paragraph (a)(4) of this section adds a provision to address PIC conflict of interest which is not addressed by the uniform requirements. Paragraph (a)(5) of this section specifies the requirement that the addition method will be required for the use of program income and that the cost of generating any program income may be deducted in determining the amount of program income earned. In paragraph (c) of this section, the authority to grant or deny prior approval for those selected items of cost which require such approval has been delegated to the Governor. Paragraph (g) of this section sets forth restrictions on nepotism related to individuals being hired into WtW subsidized employment, work experience, on-the-job training positions and the like.

What Are the Time Limitations on the Expenditure of Welfare-to-Work Grant Funds? (§ 645.233)

The regulation specifies the time limitation rules for expenditure of the two types of Federal WtW grant funds:

(a) Formula funds—The general rule is that these funds will be available for expenditure for a ''maximum'' period of three years which commences with the effective date of the grant to a State. The grant period will be specified in the Department's formula grant document for each fiscal year of funds provided to the State.

(b) Competitive funds—The general rule is that these funds have the potential for being granted for the ''maximum'' three-year period from the effective date of the grant award but are subject to the terms and conditions of the specific grant.

For both types of grant funds, any remaining funds unexpended at the end of the approved grant period must be returned to the Department in accordance with the applicable closeout rules and procedures. For purposes of determining the time limitations for expenditure of ''performance bonus'' grants, the provisions applicable to formula funds (excluding match) will apply.

What Types of Activities Are Subject to the Administrative Cost Limit on Welfare-to-Work Grants? (§ 645.235)

Paragraph (a) of the regulation restates the fact that the statute imposes a 15 percent limitation on administrative costs for formula grants to States. For competitive grants, the regulation permits a different limitation, up to a maximum of 15 percent, to be specified in the grant agreement. If no limitation is specified, then the 15 percent limitation on administrative costs will also apply to competitive grants.

Paragraphs (b) & (c) spell out the definition of administrative costs for these WtW grants and provide some additional cost classification guidance. Because the local JTPA system is the presumed delivery system for these grants, the regulation uses the JTPA definition of ''administrative costs'' except that paragraph (c)(3) of the regulation incorporates an exception specified at Section 404(b)(2) of the Act. The exception specifically excludes from the administrative cost category the costs of computer hardware and software that is used for tracking and monitoring under a WtW grant. It is only the cost of the assets, however, and not the salaries or wages of staff who use the computers, that is excluded. The regulation also requires that all information technology purchased for WtW grants must be ''year 2000 compliant.'' To meet this requirement, information technology must be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000. The information technology must also be able to make leap year calculations.

These Interim Final WtW regulations adopt the JTPA definition of the term ''Administrative Costs'' to minimize the burden on PICs. The Secretary notes that she may issue further rules to conform this provision to similar provisions in forthcoming final regulations governing the TANF program. Comments on this subject are invited and would be helpful in assessing the advantages and disadvantages of such a change.

What Are the Reporting Requirements for Welfare-to-Work Grants? (§ 645.240)

This regulation indicates that DOL will issue instructions and formats for financial reporting, that DHHS will issue the instructions for participant reporting, and that DOL will issue supplemental participant reporting requirements for competitive grants.

With respect to participant reporting, DOL will, as an interim measure, revise the Standard Program Information Report (SPIR) to incorporate identification of WtW enrollees and WtW activity categories to facilitate the use of a SPIR-based management information system by PICs who choose to use it to manage their WtW funded activities. However, DOL will not require the use or submission of SPIR for WtW.

Who is Responsible for Oversight and Monitoring of Welfare-to-Work Grants? (§ 645.245)

The Secretary of Labor is authorized to provide WtW grants to States and local entities through formula allocations and a competitive process,

respectively. To ensure that Federal funds are accounted for and used in a permissible manner, the Secretary is responsible for oversight of grant activities and expenditure of grant funds, and may monitor any WtW grant recipient or subrecipient. The regulations provide for Federal and State oversight responsibilities.

For formula grants, the Department's monitoring of the States will include a sample of subrecipients. States funded under this program shall develop a statewide monitoring plan and shall make the monitoring plan available for Federal review. In the event that the Secretary determines that a State grant recipient is not in compliance with Federal statutory or regulatory requirements, the Department may provide technical assistance as part of the corrective action process.

The Governor is responsible for oversight of formula grants at the substate level. The State monitoring plan shall provide for adequate oversight and should include State policies and procedures for the implementation, operation and management of the program, as well as State monitoring of reporting requirements for WtW substate grants. The State shall ensure compliance with statutory and regulatory requirements of WtW at the substate level. The State monitoring plan should include an annual monitoring schedule and should describe its process for providing technical assistance to substate grantees that are not in compliance with State or Federal requirements.

What Procedures Apply to the Resolution of Findings Arising From Audits, Investigations, Monitoring and Oversight Reviews? (§ 645.250)

The regulation assigns to the Governor the responsibility to resolve subrecipient findings that arise from audits, investigations, monitoring reviews, and the like. If the States have procedures in place that are used for audit resolution, debt collection and appeal for other grant programs, then the existing processes may be used. Otherwise the State must develop and implement such procedures.

The regulation reserves to the Secretary the authority for resolution of findings that arise from Federal audits, investigations, incident reports, and monitoring reviews, as well as recipient level OMB Circular A–133 audits. The process that will be used is the grant officer initial and final determination process used for other grant programs which is codified at 29 CFR 96.503. Appeals of grant officer final determinations are to be made to the Department's Office of Administrative Law Judges in accordance with the procedures found at 29 CFR 96.603(b).

So as to avoid confusion about which procedures apply to nondiscrimination findings, paragraph (c) specifies that findings arising from investigations or reviews conducted under nondiscrimination laws are to be resolved in accordance with those nondiscrimination laws and the applicable implementing regulations.

What Nondiscrimination Protections Apply to Participants in Welfare-to-Work Programs? (§ 645.255)

Section 645.255 of the regulations provides that participants in WtW programs have such rights as are available under any applicable Federal, State or local law prohibiting discrimination, including, but not limited to: the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*); Section 504 of the Rehabilitation Act of 1975 (Section 504)(29 U.S.C. 794); the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 *et seq.*) and Title VI of the Civil Rights Act of 1964 (Title VI)(42 U.S.C. 2000d *et seq.*). ETA is not responsible for administering any civil rights laws. Rather, it is the Civil Rights Center (CRC), formerly the Directorate of Civil Rights, within the Office of the Assistant Secretary for Administration and Management, that has the responsibility to enforce such laws as the Age Discrimination Act of 1975, Section 504 and Title VI, with respect to recipients of federal financial assistance from the Department. Additionally, the CRC is responsible for processing complaints alleging violations of the ADA by all State and local government programs, services, and regulatory activities relating to labor and the workforce.

Section 645.255 of the regulations further provides that complaints alleging discrimination, except for those alleging gender discrimination in violation of § 645.255(d), shall be processed in accordance with applicable regulations. For example, WtW recipients who are not also JTPA grant recipients should process complaints that allege discrimination based on race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 in accordance with the Department's Title VI regulation at 29 CFR part 31 by forwarding all such complaints to the CRC (Address at the end of this paragraph.). Similarly, WtW recipients who are not also JTPA grant recipients should process complaints that allege discrimination based upon disability in violation of Section 504 in accordance with 29 CFR 32.45(b), i.e., using the complaint procedures established pursuant to that section. WtW recipients who are also JTPA grant recipients should process complaints of discrimination under procedures established pursuant to 29 CFR 34.42.

29 CFR 34.42 establishes the procedures under which JTPA grant recipients shall process complaints involving violations of the JTPA nondiscrimination and equal opportunity provisions. Since many WtW grant recipients will be PICs and other entities with experience operating programs under JTPA, the Department has determined that, in order to avoid administrative burdens, such entities shall process WtW discrimination complaints under these procedures rather than require that they comply with two different sets of procedures. (Recipients of financial assistance from the Department should be aware that the DOL regulations, at 29 CFR Parts 31, 32, and 34, also require that programs and activities meet certain administrative obligations. Among those is the responsibility to notify participants of their rights under nondiscrimination laws (e.g., Title VI, Section 504 and the Age Discrimination Act), including the right to file a complaint with the CRC. Individuals with questions about the requirements of these nondiscrimination laws, or concerns about compliance by individual WtW programs with these laws, should address their comments or concerns to the Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N4123, Washington, D.C. 20210.)

Both Section 408(d) of the PRWORA and its legislative history, as reflected in H.R. Conf. Rep. No. 725, 104 Cong., 2nd Sess. 293 (1996), clarify that recipients are subject to Federal enforcement mechanisms. The Balanced Budget Act of 1997 amended the PRWORA. It provides for, among other things, a new civil rights protection against gender discrimination. This provision ensures that participants who may not be covered under either Title VII of the Civil Rights Act of 1964 or Title IX of the Education Amendments of 1972, are protected against gender discrimination. The PRWORA, as amended, requires States to have grievance procedures to process complaints alleging gender discrimination. The legislative history makes clear that gender-based discrimination is the only civil rights matter that the legislation required to be resolved through a State grievance procedure. See H.R. Conf. Rep. No. 217, 105th Cong., 1st Sess. 935–937 (1997). Other civil rights matters are to be resolved in accordance with the

applicable statutes and regulations listed in the preceding paragraph.

What Health and Safety Provisions Apply to Participants in Welfare-to-Work Programs? (§ 645.260)

The regulation restates the health and safety provisions which are found in section 403(a)(5)(J)(ii) of the Act and specifies that participants alleging a violation of these standards may file a complaint using the State's legislatively mandated grievance system. The Department interprets the statutory phrase ''work activity'' to refer to the allowable employment activities provided for at § 645.220(b) of this part.

What Safeguards Are There to Ensure That Participants in Welfare-to-Work Employment Activities do not Displace Other Employees? (§ 645.265)

Section 403(a)(5)(J) of the Act provides protections to ensure that employees are not displaced by WtW participants engaged in a work activity. The Department interprets the phrase ''work activity'' to refer to the allowable employment activities provided for at § 645.220(b) of this part.

The regulation incorporates the statutory prohibition, in section 403(a)(5)(J)(i) of the Act, against allowing WtW participants to be enrolled in employment activities which violate existing contracts for services or collective bargaining agreements. Where an employment activity would violate a collective bargaining agreement, the regulations provide that the appropriate affected labor organization and employer must provide written concurrence before the employment activity can be undertaken.

The regulations also incorporate the statutory prohibition against allowing an individual participating in employment activities under the WtW program from displacing another employee. Employment activities shall not result in the employment or assignment of a WtW participant or the filling of a position when any other person is on layoff from the same or substantially equivalent job within the same organizational unit. The use of the phrase ''within the same organizational unit'' further clarifies the parameters for the concept of ''a substantially equivalent job''. The employment or assignment of a WtW participant or the filling of a position is prohibited when an employer has terminated any regular, unsubsidized employee or otherwise reduced its workforce with the intent of filling the vacancy with a WtW program participant. In addition, a WtW participant may not be employed or assigned to a position where the employer has caused an involuntary reduction to less than full time in hours of an employee in the same or substantially equivalent job.

Consistent with the goal of this program, which is to place participants in employment which will eventually lead to their economic self-sufficiency, we encourage the States to safeguard the current workforce, while aggressively promoting the creation of employment opportunities for welfare recipients. The State's goal should be the expansion of its workforce through the creation of additional new jobs.

The regulations also specify that grievances regarding displacement may be filed using the State's legislatively mandated grievance system.

What Procedures Are There To Ensure That Currently Employed Workers May File Grievances Regarding Displacement and That Welfare-to-Work Participants in Employment Activities May File Grievances Regarding Displacement, Health and Safety Standards and Gender Discrimination? (§ 645.270)

The regulations reflect the statutory language concerning the requirement that a State must establish a grievance system for regular, unsubsidized employees regarding displacement and for participants in the WtW program regarding displacement, health and safety standards and gender discrimination.

The statute requires that the grievance system must provide an opportunity for a hearing, an appeal, and a final determination within 120 days of the original filing date of the complaint. The regulations give the State the option of including in the grievance system an opportunity for informal resolution prior to the formal hearing. The regulations also provide that in developing its grievance system, the State must specify the time period and format for the hearing and the appeal portions of the procedure. The informal resolution and hearing steps in the grievance procedure may occur at either the State or SDA level. This section of the regulations also restates the statutory provision concerning the designation of a State agency, independent of the State or local agency responsible for administering or supervising the administration of State TANF and WtW programs, to hear appeals.

Subpart C—Additional Formula Grant Administrative Requirements and Procedures

What Constitutes an Allowable Match? (§ 645.300)

A State will be awarded a total of $2 in WtW formula grant funds for each $1 in State matching expenditures up to the maximum amount that the State is entitled to receive under the WtW allotment formula. If the State chooses to propose a lesser amount of match than would be required in order for it to receive the full allotment, it may do so. In such cases, the amount of the Federal WtW grant will be reduced accordingly.

The regulation authorizes the States to use the uniform financial and administrative requirements, codified at 29 CFR 97.24 (the Common Rule), regarding match allowability and documentation, except that no more than one-half of the match may be in the form of in-kind contributions. We will allow 50 percent of the required match to be in-kind contributions in order to encourage the participation of private non-profit and faith-based organizations in efforts to assist individuals transition from welfare to unsubsidized employment and economic self-sufficiency. These organizations can offer significant resources, especially in-kind services, to assist WtW program participants.

Cash donations from non-Federal third parties that are used to pay for allowable costs of the WtW grant program will be considered as cash match, and not counted as in-kind contributions. Matching funds include those State and local dollars in excess of funds spent to meet the TANF MOE requirement when those funds are spent on WtW eligible individuals and activities. Matching requirements may not be met by the use of employers' share of participant wage payments, e.g., the employer's share of OJT. The planning guidance issued for FY98 reiterated the legislative provision requiring that the total matching funds must be expended during the FY in which the WtW grant is awarded. A legislative amendment eliminating this requirement and permitting the expenditure of matching funds over the same three-year period as Federal funds is being considered by Congress. The final rule will reflect the action taken by the Congress with respect to this amendment. If match expenditures do not satisfy the requirement for the full level of Federal funds, the grant amount will be reduced by an appropriate corresponding amount.

Paragraph (c)(7) of the regulation indicates that the burden-of-proof for substantiating match expenditures is to be borne by the recipient of a WtW grant based on its own records and/or those of its subrecipients.

What Assurances Must a State Provide That It Will Make the Required Matching Expenditures? (§ 645.310)

This regulation restates the planning guidance which requires a State to provide a written estimate of planned matching expenditures in its State plan and to describe the process by which the funds will be tracked and reported to ensure that the State meets its projected match.

What Actions Are To Be Taken if a State Fails To Make the Required Matching Expenditures? (§ 645.315)

This regulation requires the Department to implement an annual reconciliation and grant adjustment process for WtW grants. The reconciliation will be based on reported match expenditures made through the end of the FY, as specified in the required report due 45 days after the end of each fiscal year. If the end-of-fiscal-year report has not been received by December 1 of that year, then the reconciliation will be based on the most current report received.

In addition, each FY the Department will evaluate second quarter matching expenditures to determine the status of each State's expenditures compared with planned match. DOL will alert and consult with States that appear to be underexpending matching funds concerning the possibility of reducing the grant to reallot funds if match requirements are not met.

When Will Formula funds be Reallotted and What Reallotment Procedures Will the Secretary Use? (§ 645.320)

This section describes the reconciliation process that the Department will use for determining whether or not a State has expended the required level of matching funds and the process for reallotment of funds that become available as a result of underexpenditure of the required match or failure to fully obligate funds by either States or substate entities. Funds are fully obligated by States when they are awarded to the substate entities.

Subpart D—State Formula Grants Administration

Under What Conditions May the Governor Request an Alternate Administering Agency at the Local Level? (§ 645.400)

The regulations reflect the WtW legislative intent to assign PICs, in cooperation with Chief Elected Officials (CEOs), a presumptive role as the administering agencies for the WtW program at the local level. The Act also provides the Governor authority to select an alternate administrative agency and to request from the Secretary a waiver of the statutory provision that PICs have the sole authority to expend funds for the program at the local level. The Governor may request such a waiver in the State's annual plan and must provide information indicating how the selection of the alternate agency will improve the effectiveness or efficiency of the program in each substate area. In presenting the rationale, pursuant to section 403(a)(5)(A)(vii)(III) of the Act, the Governor shall provide such information as (s)he deems is necessary to establish that the designated alternate agency would improve the effectiveness or efficiency of the administration of the funds in each SDA.

The Department intends for the Governors to have maximum flexibility on what should be included in their presentation(s) of the reason(s) for the selection of an alternate administering agency at the local level. While no specific format is provided, it is suggested the Governor include, as part of the rationale for the selection of an alternate administering agency, information regarding the PIC's performance, administrative capacity, or whether the PIC has turned down the WtW role; and information on the alternate agency's capacity and fiscal integrity. In addition, the Governor is to provide copies of any comments from the CEOs regarding the Governor's selection of the alternate agency.

In addition, the Governor must request a waiver if, during the operation of the local WtW program, s(he) determined that the PIC, or alternate agency, which is administering WtW has not coordinated its expenditures with expenditure of funds provided to the State under TANF. Whenever the Governor requests a waiver, the Governor is to provide a copy of such request to the PIC and CEO of the affected SDA.

The Governor shall bear the burden of proving that the proposed designated alternate agency, rather than the PIC, would improve the effectiveness or efficiency of the administration of WtW funds in the SDA. The Secretary shall assess the information provided by the Governor, as well as any input from the affected CEOs, in reaching a decision on the granting of the waiver requested. The regulations provide the PIC and CEO 15 days in which to respond to the Governor's waiver request and submit written comments to the Department. The Secretary's decision on the Governor's request constitutes final agency action and is not subject to further administrative review.

It is the Department's position, consistent with section 403(a)(5)(A)(vii)(I) of the Act, that in WtW programs the PICs have the same policy guidance and oversight functions as the PICs have under the JTPA. In service delivery areas where, pursuant to the PIC/CEO agreement, the PIC is not the ''administrative entity'' or the ''grant recipient'' (see JTPA sections 4(2) and 103(b)(1)(B)), the PICs will exercise the authority specified in the WtW legislation. In such situations, consistent with section 403(a)(5)(A)(vii)(I) of the Act, the PIC can use the current JTPA administering agency or grant recipient to disburse WtW funds and manage the program. Finally, in situations where the alternate administering agency selected and approved by the Secretary is neither the SDA's administrative entity nor the SDA's grant recipient entity, the Department intends for the alternate agency to take steps to ensure the CEO(s) continues to be consulted on WtW service strategies and activities planned for the SDA.

What Elements Will the State Use in Distributing Funds Within the State? (§ 645.410)

The regulations follow closely the statutory provisions concerning the Governor's responsibility to distribute funds to the SDAs in the State. The Act requires the Governors to establish a formula to distribute funds to the SDAs in the State and specifies the use of up to three formula factors described at section 403(a)(5)(A)(vi)(I) of the Act. The Governor's formula cannot contain any additional formula factors.

In developing the Governor's formula, the statute requires that a weight of no less than 50 percent be given to the following factor: the number by which the population of the area with an income less than the poverty line exceeds 7.5 percent of the total population of the area, compared to all such numbers for all SDAs in the State. This means that at least 50 percent of the funds must be distributed to SDAs based on this factor. If the Governor

chooses not to use this factor in distributing the rest of the funds, these funds may be distributed to an SDA based on one or both of the following factors: an SDA's share of the number of adults receiving assistance under TANF, or the predecessor program, in the SDA for at least 30 months (whether consecutive or not), relative to the number of such adults residing in the State; or an SDA's share of the number of unemployed individuals residing in the SDA, relative to the number of such individuals residing State. If the Governor chooses to use one or both of these additional factors, s(he) may not distribute more that 50 percent of the funds on the basis of these factors. In circumstances where the Governor's formula allocation to an SDA is less than $100,000, those amounts are added to the funds retained at the State level, thereby increasing the amount of funds which may be retained at the State above the 15 percent level. However, in cases where the distribution formula would allocate at least $100,000 to an SDA, those amounts must be allocated to the SDA within 30 days of the date the State receives its Federal allotment.

For guidance in determining the number of individuals with income less than the poverty line, the regulations point the States to section 403(a)(5)(D) of the Act. This section instructs States to use the methodology used by the Bureau of the Census to produce and publish intercensal poverty data for States and counties. The Department is aware that the Bureau of the Census in March of 1997 produced an intercensal report containing State and county data estimates of the number of individuals in poverty and poverty rates for 1993. States should use this data, or comparable more recent data published by the Bureau, to determine the number of individuals below the poverty line who exceed 7.5 percent of the total population of the area. For areas for which 1993 intercensal data is not produced and published by the Bureau of the Census, Governors may use 1990 Census poverty data, in conjunction with the intercensal poverty data for related jurisdictions, where appropriate, as a basis for determining the poverty data for those areas. The Governor is to use the most recent year for which poverty data is available when determining the number of individuals below the poverty line and should use data for the most recent 12-month period when determining the number of adults receiving assistance for at least 30 months.

This section also sets forth the statutory authority of the PICs (or alternate administering agency) to determine, within their respective service delivery areas, the eligible individuals and the allowable activities upon which to expend their within-State fund allocation. The Department expects that a PIC's targeting of eligible individuals and the selection of service strategies will reflect the needs of the target population and the local employment opportunities, and are coordinated with State TANF expenditures.

Up to 15 percent of the funds allotted to the State may be retained by the State for projects to transition long-term recipients into unsubsidized jobs. For a full discussion of what other requirements are applicable to funds retained by the State, please refer to the preamble discussions of §§ 645.210 through 645.225. The regulations clarify that the Governor may utilize PICs, as well other entities, such as One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities, to operate projects for long-term recipients to enter unsubsidized jobs. The Department intends for the Governors to develop guidelines on such matters as project application criteria, project design criteria, project outcome goals, project placement expectations, project duration, etc. The Department intends for the Governors to have maximum flexibility in the management and operation of the funds retained by the State, consistent with statutory requirements, to enable the Governors to fund projects that support and complement the Governors' and the PICs' strategies to transition welfare recipients into unsubsidized jobs and economic self-sufficiency.

What Planning Information Must a State Submit in Order to Receive a Formula Grant? (§ 645.415)

The regulation follows section 403(a)(5)(ii) of the Act and specifies that a State must provide an annual plan to the Secretary for each fiscal year it wishes to receive funding. The format of the State plan, as well as the date for submission, will be established by the Secretary and provided to the States. The plan will be an addendum to the TANF plan and will be submitted to the Secretaries of Labor and Health and Human Services.

The Department will review the State plan and will accept it as complete if the plan demonstrates compliance with the WtW legislation. Once the plan is accepted, the Department will provide funding to the State. Where a State includes in its plan a request to use an agency other than the PIC to administer the program locally, the Secretary will carefully assess waiver requests for each local jurisdiction and will grant a waiver if the Secretary determines that the designated alternate agency will more effectively or efficiently administer the WtW grant funds for that area. The Secretary will use the information submitted by the Governor as well as input from the affected PICs and CEOs in the decision-making process. The Secretary's decision whether to grant a waiver shall be considered final agency administrative action.

What Factors Will Be Used in Measuring State Performance? (§ 645.420)

This regulation advises that the Secretary will develop and issue a formula that will be used to measure State performance and to serve as the basis for the award of performance grants in FY 2000. The formula will be developed in consultation with DHHS, the National Governors Association (NGA), and the American Public Welfare Association (APWA), and will be published in mid-1998. As required by section 403(a)(5)(E), the formula will be the basis used to measure the success of States in placing individuals in private sector employment or any kind of employment, the duration of such placements, any increase in earnings of such individuals, and other additional factors that the Secretary of Labor deems to be appropriate.

What Are the Roles and Responsibilities of the State(s) and PIC(s)? (§ 645.425)

This section of the regulations enumerates a number of State and PIC roles and responsibilities embedded in the WtW statute. During the consultation process conducted by the Department to gather input on WtW policy development, there were a number of requests for the Department to explain and clarify the State and PIC roles. The Department believes this section of the regulation is responsive to those requests and highlights the key responsibilities at the State and local level. It does not attempt to create arbitrary divisions since it is our view that coordination among State agencies and programs (e.g., TANF, employment service, One-Stop centers), and local agencies and programs (e.g., PICs, JTPA Title IIA) is essential to meeting the goals of the WtW legislation and that the methods and mechanisms established to

combine resources and mount a coordinated effort to serve WtW participants will necessarily vary according to State/local needs and established relationships. In general, it is our view that, under the Act, the State has the primary responsibility for ensuring that WtW programs are consistent with and well coordinated with services under TANF, and that local entities are in the best position to decide the participants to be targeted and the service mix most appropriate for the participants. Consistent with statutory provisions, the State may not restrict PICs from exercising their authority to expend funds on the statutorily eligible populations. PICs, therefore, have authority to determine the individuals to be served in the service delivery areas.

Subpart E—Welfare-To-Work Competitive Grants

Who Are Eligible Applicants for Competitive Grant Funds? (§ 645.500)

According to the Act, in order to be eligible to apply for competitive grant funds, an organization must be a PIC for an SDA in a State, a political subdivision of a State (e.g., cities, counties), or a private entity applying in conjunction with the PIC or political subdivision. The proposal must be developed in consultation with the Governor. The Department defines the term ''in conjunction with'' to mean that the application submitted by a private entity must include a signed certification by both the applicant and either the applicable PIC or political subdivision that the relevant PIC/political subdivision has been consulted during the development of the application and that the activities proposed in the application are consistent with, and will be coordinated with, the WtW efforts of the PIC/political subdivision.

We believe that this definition of ''in conjunction with'' provides sufficient flexibility for private nonprofit entities, such as community development corporations, community-based and faith-based organizations, disability community organizations, community action agencies, and public and private colleges and universities, to apply for funds, while ensuring that adequate coordination with the ongoing WtW formula program occurs. Our requirement for consultation and certification reiterates the Department's emphasis on collaboration and integration of resources at the local level.

We are also interpreting ''private entity'' to be any qualified organization, public or private, which is neither a PIC nor a political subdivision of a State. The legislative intent, however, is that competitive grants are for projects which are community based and responsive to the circumstances in a local community. Therefore, an application for competitive grant funds will be judged for its connection and responsiveness to a local community.

Although the Department considers local collaboration to be critical to the development of a WtW proposal, in some limited cases, providing evidence of such a collaborative effort may not be possible. In these cases, where a private entity cannot obtain certification from the PIC/political subdivision, the applicant must certify, and provide information indicating, that the PIC/political subdivision has been provided a sufficient opportunity to cooperate in the development of the application and has not acted within a reasonable period of time. The Department believes that 30 days is a sufficient period of time in which a private entity can expect a response from the PIC or political subdivision.

This requirement applies to all PICs or political subdivisions included in the area to be served by the proposed project.

What Is the Required Consultation With the Governor? (§ 645.510)

All applicants for competitive grants, including PICs and political subdivisions, must submit their application to the Governor or the designated State administrative entity for the WtW program for review and comment prior to submission of the application to the Secretary. We have defined sufficient time for review and comment at the State level to be at least 15 days. For applications from private entities, the 15 day comment period must be consecutive to the 30 day period for obtaining evidence of collaboration and support from the PIC or political subdivision.

What Are the Program and Administrative Requirements That Apply to Both the Formula Grants and Competitive Grants? (§ 645.515)

The regulations indicate that all of the general program and administrative requirements that apply to the WtW formula grants also apply to the competitive grants. Competitive grants will be subject to additional reporting and monitoring requirements, however, which will be tailored to the scope of work of the specific grants.

What Are the Application Procedures and Timeframes for Competitive Grant Funds? (§ 645.520)

The Secretary shall establish appropriate application procedures, selection criteria and an approval process to ensure that grant awards accomplish the statutory purposes of the competitive grant funds and that available funds are used in an effective manner. We anticipate that more than one application and award process will occur in each fiscal year of the WtW program. Grant application procedures will be published in the **Federal Register** for each round of competitive grants.

What Special Consideration Will Be Given to Rural Areas and Cities With Large Concentrations of Poverty? (§ 645.525)

Competitive grant awards will be targeted to areas of significant need, especially rural areas and cities with large concentrations of residents living in poverty.

Subpart F—Administrative Appeal Process

What Administrative Remedies Are Available Under This Part? (§ 645.800)

The WtW statute contains provisions (e.g., those addressing the allowable use of funds) which contemplate the exercise of discretion by ETA. It is reasonable to anticipate that there will be instances where parties will seek to overturn decisions made by the Agency.

This section sets the administrative procedures available where a party seeks review of a Grant Officer determination that imposes a sanction or corrective action, pursuant to § 645.250(b) of this part. Paragraph (a) provides that an adverse decision by a Grant Officer may be appealed, within 21 days of the Grant Officer's final determination, to the Department of Labor's Office of Administrative Law Judges. The parties present their cases before an Administrative Law Judge (ALJ) who develops the record for the proceeding, making findings of fact and of law. Such proceedings are relatively informal, utilizing relaxed rules of evidence. For example, a Notice of Appeal functions simply as the invocation of a party's right to administrative review of an Agency decision, rather than as a formal complaint.

Paragraph (b) of this section provides that the ALJ's decision regarding a case arising under this section constitutes final agency action for the purpose of judicial review, unless, within 20 days of the ALJ's decision, a dissatisfied

party petitions the Administrative Review Board (ARB) for review. Review by the ARB is discretionary, so paragraph (b) of this section provides that the ALJ's decision constitutes final Agency action unless the ARB notifies the parties, within 30 days of the filing of the petition for review, that the case has been accepted for review. Further, the ALJ's decision constitutes final Agency action if the ARB has not decided the case arising under this section within 120 days of acceptance for review.

III. Regulatory Flexibility and Executive Order

The Regulatory Flexibility Act of 1980, as amended in 1996 (5 U.S.C. Chapter 6), requires the Federal government to anticipate and minimize the impact of rules and paperwork requirements on small entities. ''Small entities'' are defined as small businesses (those with fewer than 500 employees, except where otherwise provided), small non-profit organizations (those with fewer than 500 employees, except where otherwise provided) and small governmental entities (those in areas with fewer than 50,000 residents). ETA has assessed the potential impact of the draft Interim Final Rule, consulting with a wide range of small entities, in order to identify any areas of concern. Based on that assessment, the Agency certifies that the Interim Final Rule, as promulgated, will not have a significant impact on a substantial number of small entities.

As indicated in the Background Section (Section I, above), the WtW Interim Final Rule implements grant programs that enhance the resources available to States and PICs or the additional WtW financial resources targeted to hard-to-employ welfare recipients and which will assist in efforts to move these individuals into lasting unsubsidized jobs.

ETA has minimized any potential burdens for grant applicants and recipients in order to maximize the resources that will be applied to achieve the purposes of the WtW program. The Agency has further ameliorated any foreseeable burdens by providing (at § 645.235 of the Interim Final Rule) that a grantee can allocate up to 15 percent of a grant award for management and administration of the grant, rather than for the direct provision of services to participants. The Agency has determined that the incremental costs of applying for or administering WtW grants will be minimal, because applicants and grantees will, in general, already be familiar with the grant process due to involvement in existing TANF and JTPA programs. Further, ETA has concluded that any such costs will not place small entities at a disadvantage in relation to larger entities, with regard to obtaining formula grants or competitive grants. Therefore, it is unnecessary to set alternative requirements for small entities.

In addition, pursuant to the Small Business Regulatory Fairness Act (SBREFA) (5 U.S.C. Chapter 8), the Agency has screened the Interim Final Rule and has determined that it is not a ''major rule,'' as defined in 5 U.S.C. 804(2).

IV. Executive Order 12866

Pursuant to Executive Order 12866, the Agency has evaluated the Interim Final Rule and has determined its provisions are consistent with the statement of regulatory philosophy and principles promulgated by the Executive Order. The Department of Labor is required to prescribe regulations for the WtW program within 90 days of the enactment of the Balanced Budget Act of 1997. Within this limited time frame, the Department has made every reasonable effort to obtain input in a purposeful manner from a variety of interested parties (State and local government officials, community-based organizations, and the general public). The WtW grant program increases the resources available to the public and private organizations that promote long-term employment and family self-sufficiency. The Agency has determined the Interim Final Rule will not have an adverse effect in a material way on the nation's economy.

ETA has developed the Interim Final Rule in close consultation with the Departments of HHS, HUD, and Transportation, and with other responsible Federal agencies. Based on that consultation, the Agency has determined the Interim Final Rule will not create a serious inconsistency or otherwise interfere with any action taken or planned by another agency.

The Agency has also assessed the impact of the WtW State match requirement and has determined it will not materially alter the budgetary impact of entitlements and grants. States will receive $2 dollars in WtW grant funds for each $1 in State matching expenditures up to the State WtW fund allotment. Further, ETA has determined that up to 50 percent of the State matching effort can be ''in kind'' (goods and services provided in lieu of cash), allowing the States additional flexibility in qualifying for formula funds.

Overall, as discussed above, the Department has determined that the Interim Final Rule is not unduly burdensome and that the impacts and consequences are non-material for States, local governmental entities and other potentially interested parties.

The Agency finds that this Interim Final Rule raises novel policy issues and thus constitutes a significant regulatory action which has been reviewed by the Office of Management and Budget for the purposes of Executive Order 12866.

V. Unfunded Mandates

The Interim Final Rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*) and Executive Order 12875. Section 202 of UMRA requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 of UMRA further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 of UMRA requires a plan for informing and advising any small government that may be significantly or uniquely impacted.

ETA has determined that the WtW Interim Final Rule will not regulate the expenditure by the State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (Tribal governments are covered by a separate Interim Final Rule for which a separate Unfunded Mandates statement has been prepared). Accordingly, the Agency has not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significant or uniquely impacted small government.

VI. Effective Date and Absence of Notice and Comment

The Employment and Training Administration has determined, pursuant to 5 U.S.C. 553(b)(B), that the statutory mandate to promulgate regulations within 90 days of the enactment of the statute constitutes good cause for waiving notice and comment proceedings. In addition, the Agency has determined, pursuant to 5 U.S.C. 553(d)(3), that the WtW statutory mandate provides good cause for waiving the customary requirement to

delay the effective date of a final rule for 30 days following its publication. The short statutory duration of the WtW program underscores the importance of beginning the disbursement of WtW funds at the earliest possible date. Accordingly, the issuance of a proposed rule, rather than an interim final rule, (or delaying the effective date for 30 days) would be contrary to the public interest. The Interim Final Rule sets a comment period to elicit any concerns raised by the Rule. ETA has limited the comment period to 60 days so that any input is received in time for the Agency to review it in considering any revisions to Part 645 while the WtW program is still in its early steps of operation.

VII. Catalog of Federal Domestic Assistance Number

The program is listed in the *Catalog of Federal Domestic Assistance* at No. 17.253, ''Employment and Training Assistance—Welfare-to-Work Grants to States & Local Entities for Hard-to-Employ Welfare Recipient Programs.''

List of Subjects in 20 CFR Part 645

Employment programs, Grant programs—labor, Welfare-to-Work programs.

Signed at Washington, D.C., this 10th day of November 1997.

Alexis M. Herman,

Secretary of Labor.

Raymond J. Uhalde,

Acting Assistant Secretary, Employment and Training Administration.

For the reasons set forth in the preamble, 20 CFR Ch. V is amended by adding Part 645 to read as follows:

PART 645—PROVISIONS GOVERNING WELFARE-TO-WORK GRANTS

Subpart A—Scope and Purpose

Sec.
645.100 What does this subpart cover?
645.110 What are the purposes of the Welfare-to-Work program?
645.120 What definitions apply to this part?

Subpart B—General Program and Administrative Requirements

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645.210 What is meant by the terms ''entity'' and ''project'' in the statutory phrase ''an entity that operates a project'' with Welfare-to-Work funds?
645.211 How must Welfare-to-Work funds be spent by the operating entity?
645.212 Who may be served as a hard-to-employ individual under the 70 percent provision?
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645.225 How do Welfare-to-Work activities relate to activities provided through TANF and other related programs?
645.230 What general fiscal and administrative rules apply to the use of Federal funds?
645.233 What are the time limitations on the expenditure of Welfare-to-Work grant funds?
645.235 What types of activities are subject to the administrative cost limit on Welfare-to-Work grants?
645.240 What are the reporting requirements for Welfare-to-Work programs?
645.245 Who is responsible for oversight and monitoring of Welfare-to-Work grants?
645.250 What procedures apply to the resolution of findings arising from audits, investigations, monitoring, and oversight reviews?
645.255 What nondiscrimination protections apply to participants in Welfare-to-Work programs?
645.260 What health and safety provisions apply to participants in Welfare-to-Work programs?
645.265 What safeguards are there to ensure that participants in Welfare-to-Work employment activities do not displace other employees?
645.270 What procedures are there to ensure that currently employed workers may file grievances regarding displacement and that Welfare-to-Work participants in employment activities may file grievances regarding displacement, health and safety standards and gender discrimination?

Subpart C—Additional Formula Grant Administrative Standards and Procedures

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645.310 What assurances must a State provide that it will make the required matching expenditures?
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645.400 Under what conditions may the Governor request a waiver to designate an alternate local administering agency?
645.410 What elements will the State use in distributing funds within the State?
645.415 What planning information must a State submit in order to receive a formula grant?
645.420 What factors will be used in measuring State performance?
645.425 What are the roles and responsibilities of the State(s) and PIC(s)?

Subpart E—Welfare-to-Work Competitive Grants

645.500 Who are eligible applicants for competitive grants?
645.510 What is the required consultation with the Governor?
645.515 What are the program and administrative requirements that apply to both the formula grants and competitive grants?
645.520 What are the application procedures and timeframes for competitive grant funds?
645.525 What special consideration will be given to rural areas and cities with large concentrations of poverty?

Subpart F—Administrative Appeal Process

645.800 What administrative remedies are available under this part?

Authority: 42 U.S.C. 606(a)(5)(C)(viii).

Subpart A—Scope and Purpose

§ 645.100 What does this subpart cover?

(a) Subpart A establishes regulatory provisions that apply to the Welfare-to-Work (WtW) programs conducted at the State and at the Service Delivery Area (SDA) levels.

(b) Subpart B provides general program requirements applicable to all WtW formula funds. The provisions of this subpart govern how WtW funds must be spent, who is eligible to participate in the program, allowable activities and their relationship to TANF, Governor's projects for long-term recipients, administrative and fiscal provisions, and program oversight requirements. This subpart also addresses worker protections and the establishment of a State grievance system.

(c) Subpart C sets forth additional administrative standards and procedures for WtW Formula Grants, such as matching requirements and reallotment procedures.

(d) Subpart D sets forth the conditions under which the Governor may request a waiver to designate an alternate administering agency, sets forth the formula elements that must be included in the within-State distribution formula, the submission of a State annual plan, the factors for measuring State performance, and the roles and responsibilities of the States and the Private Industry Councils (PICs).

(e) Subpart E outlines general conditions and requirements for the WtW Competitive Grants.

(f) Regulatory provisions applicable to the Indian and Native American Welfare-to-Work Program (INA WtW) are found at 20 CFR part 646.

§ 645.110 What are the purposes of the Welfare-to-Work Program?

The purposes of the WtW program are:

(a) To facilitate the placement of hard-to-employ welfare recipients into transitional employment opportunities which will lead to lasting unsubsidized employment and self-sufficiency;

(b) To provide a variety of activities, grounded in TANF's ''work first'' philosophy, to prepare individuals for, and to place them in, lasting unsubsidized employment;

(c) To provide for a variety of post-employment and job retention services which will assist the hard-to-employ welfare recipient to secure lasting unsubsidized employment;

(d) To provide targeted WtW funds to high poverty areas with large numbers of hard-to-employ welfare recipients.

§ 645.120 What definitions apply to this part?

The following definitions apply under this part:

Act means Title IV, Part A of the Social Security Act, 42 U.S.C. 601–619.

Adult means an individual who is not a minor child.

Chief Elected Official(s) (CEOs) means:

(1) The chief elected official of the sole unit of general local government in the service delivery area,

(2) The individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative, or

(3) In the case of a service delivery area designated under section 101(a)(4)(A)(iii) of JTPA, the representative of the chief elected official for such area (as defined in section 4(4)(C) of JTPA).

Competitive Grants means those WtW funds awarded by the Department under a competitive application process to local governments, PICs, and private entities (such as community development corporations, community-based and faith-based organizations, disability community organizations, and community action agencies) who apply in conjunction with a PIC or local government.

Department or *DOL* means the U.S. Department of Labor.

Employment activities means the activities enumerated at § 645.220(b).

ETA means the Employment and Training Administration of the U.S. Department of Labor.

Fiscal year (FY) means any 12-month period ending on September 30 of a calendar year.

Formula grants means the WtW funds allotted to each Welfare-to-Work State, based on a formula prescribed by the Act, which equally considers States' shares of the national number of poor individuals and of adult recipients of assistance under TANF. The State is required to distribute not less than 85 percent of the allotted formula grant funds to service delivery areas in the State; and the State may retain not more than 15 percent for projects to help long-term recipients of assistance enter unsubsidized employment. Unless otherwise specified, the term ''formula grant'' refers to the 85 percent and 15 percent funds.

Governor means the Chief Executive Officer of a State.

Job Training Partnership Act or *JTPA* means Public Law (Pub. L.) 97–300, as amended, 29 U.S.C. 1501, *et seq.*

Minor child means an individual who has not attained 18 years of age; or has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

MOE means maintenance of effort. Under TANF, States are required to maintain a certain level of spending on welfare based on ''historic'' FY 1994 expenditure levels (Section 409 (a)(7) of the Act).

PIC means a Private Industry Council established under Section 102 of the Job Training Partnership Act, which performs the functions authorized at Section 103 of the JTPA.

PRWORA means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (Pub. L.) 104–193, which established the TANF program.

SDA means a service delivery area designated by the Governor pursuant to section 101(a)(4) of the Job Training Partnership Act.

Secretary means the Secretary of Labor.

Separate State program means a program operated outside of TANF in which the expenditures of State funds may count for TANF MOE purposes.

State means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the US Virgin Islands, Guam, and American Samoa, unless otherwise specified.

State TANF Program means those funds expended under the State Family Assistance Grant (SFAG), the basic block grant allocated to the States under Section 403(a)(1) of the Act.

TANF means Temporary Assistance for Needy Families Program established under PRWORA.

TANF MOE means the expenditure of State funds that must be made in order to meet the Temporary Assistance for Needy Families Maintenance of Effort requirement.

WtW means Welfare-to-Work.

WtW State means those States that the Secretary of Labor determines have met the five conditions established at Section 403(a)(5)(A)(ii) of the Act. Only States that are determined to be WtW States can receive WtW grant funds.

WtW statute means those provisions of the Balanced Budget Act of 1997 containing certain amendments to PRWORA and establishing the new Welfare-to-Work program, amending Title IV of the Social Security Act, (codified at 42 U.S.C. 601–619).

Subpart B—General Program and Administrative Requirements

§ 645.200 What does this subpart cover?

This subpart provides general program and administrative requirements for WtW formula funds, including Governors' funds for long-term recipients of assistance, and for competitive grant funding (section 403(a)(5) of the Act).

§ 645.210 What is meant by the terms ''entity'' and ''project'' in the statutory phrase ''an entity that operates a project'' with Welfare-to-Work funds?

The terms ''entity'' and ''project'', in the statutory phrase ''an entity that operates a project'', means:

(a) For WtW substate formula funds:

(1) ''Entity'' means the PIC (or the alternate agency designated by the Governor and approved by the Secretary pursuant to § 645.400 of this part) which administers the WtW substate formula funds in a service delivery area(s). This entity is referred to in §§ 645.211 through 645.225 of this part as the ''operating entity.''

(2) ''Project'' means all activities, administrative and programmatic, supported by the total amount of the WtW substate formula funds allotted to the entity described in paragraph (a)(1) of this section.

(b) For WtW Governors' funds for long-term recipients of assistance:

(1) ''Entity'' means the agency, group, or organization to which the Governor has distributed any of the funds for long-term recipients of assistance, as described in § 645.410 (b) and (c) of this part. This entity is referred to in §§ 645.211 through 645.225 of this part as the ''operating entity.''

(2) ''Project'' means all activities, administrative and programmatic, supported by the total amount of one discrete award of WtW Governors' funds for long-term recipients of assistance awarded to the entity described in paragraph (b)(1) of this section.

(c) For competitive WtW funds:

(1) ''Entity'' means an eligible applicant, as described in § 645.500 of this part, which is awarded a competitive WtW grant. This entity is referred to in §§ 645.211 through 645.225 of this part as the ''operating entity.''

(2) ''Project'' means all of the activities, administrative and programmatic, supported by the total amount of one discrete WtW competitive grant awarded to the entity described in paragraph (c)(1) of this section (section 403(a)(5)(C) of the Act).

§ 645.211 How must Welfare-to-Work funds be spent by the operating entity?

(a) At least 70 percent of the WtW funds allotted to or awarded to an operating entity, as described in § 645.210 of this part, must be spent to benefit hard-to-employ individuals, as described in § 645.212 of this part.

(b) Not more than 30 percent of the WtW funds allotted to or awarded to an operating entity, as described in § 645.210 of this part, may be spent to assist individuals with long-term welfare dependence characteristics, as described in § 645.213 of this part. If less than 30 percent of the funds is spent to assist individuals with long-term welfare dependence characteristics, the remaining funds shall be spent to benefit hard-to-employ individuals pursuant to paragraph (a) of this section (section 403(a)(5)(C)of the Act).

§ 645.212 Who may be served as a hard-to-employ individual under the 70 percent provision?

(a) An individual is eligible to be served under the 70 percent provision if (s)he meets all three of the criteria listed in paragraphs (a)(1), (2), and (3) of this section:

(1) The individual is receiving TANF assistance; and

(2) Barriers to employment—at least two of the three following barriers to employment must apply to the individual:

(i) Has not completed secondary school or obtained a certificate of general equivalency, and has low skills in reading or mathematics. At least 90 percent of individuals determined to have low skills in reading or mathematics must be proficient at the 8.9 grade level or below.

(ii) Requires substance abuse treatment for employment.

(iii) Has a poor work history. At least 90 percent of individuals determined to have a poor work history must have worked no more than 3 consecutive months in the past 12 calendar months; and

(3) Length of receipt of TANF assistance—the individual must be a long-term recipient, meeting one of the following two criteria:

(i) Has received assistance under a State TANF program, and/or its predecessor program, for at least 30 months. The months do not have to be consecutive; or

(ii) Will become ineligible for assistance within 12 months due to either Federal or State-imposed durational time limits on receipt of TANF assistance. This includes individuals who have been exempted from the durational limits due to hardship pursuant to section 408(a)(7)(C) of the Act, but would face termination within 12 months without the exemption.

(b) A noncustodial parent of a minor is eligible to participate under the 70 percent provision if the custodial parent meets the eligibility requirements of paragraph (a) of this section.

(c) An individual who has barriers to employment, as specified in paragraph (a)(2) of this section, and who would be otherwise eligible to receive TANF assistance but is no longer receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit, is eligible to participate under the 70 percent provision (section 403(a)(5)(C) of the Act).

§ 645.213 Who may be served as an individual with long-term welfare dependence characteristics under the 30 percent provision?

(a) An individual is eligible to be served under the 30 percent provision if (s)he meets both criteria listed in paragraphs (a)(1) and (2) of this section:

(1) The individual is receiving TANF assistance; and

(2) The individual has characteristics associated with, or predictive of, long-term welfare dependence, such as having dropped out of school, teenage pregnancy, or having a poor work history. States, in consultation with the operating entity, may designate additional characteristics associated with, or predictive of, long-term welfare dependence.

(b) A noncustodial parent of a minor child is eligible to participate under the 30 percent provision if the noncustodial parent has the characteristics specified in paragraph (a)(2) of this section, and the custodial parent is receiving TANF assistance.

(c) An individual who has characteristics associated with, or predictive of, long-term welfare dependence, as specified in paragraph (a)(2) of this section, and who would be otherwise eligible to receive TANF assistance but is no longer receiving TANF assistance because (s)he has reached either the Federal five-year lifetime limit on receipt of assistance, or a State-imposed lifetime limit, is eligible to participate under the 30 percent provision (section 403(a)(5)(C) of the Act).

§ 645.214 How will Welfare-to-Work participant eligibility be determined?

(a) The operating entity, as described in §§ 645.210(a)(1), (b)(1), and (c)(1) of this part, is accountable for ensuring that WtW funds are spent only on individuals eligible for WtW projects.

(b) The operating entity must ensure that there are mechanisms in place to determine WtW eligibility for individuals who are receiving TANF assistance. These mechanisms:

(1) Must include arrangements with the TANF agency to ensure that a WtW eligibility determination is based on information, current at the time of the WtW eligibility determination, about whether an individual is receiving TANF assistance, pursuant to §§ 645.212(a)(1) and 645.213(a)(1) of this part, the length of receipt of TANF assistance, pursuant to § 645.212(a)(3)(i) of this part, and when an individual may become ineligible for assistance pursuant to § 645.212(a)(3)(ii) of this part (section 403(a)(5)(A)(ii)(dd) of the Act).

(2) May include a determination of WtW eligibility for barriers to employment, pursuant to § 645.212(a)(2) of this part, and for characteristics of long-term welfare dependence, pursuant to § 645.213(a)(2) of this part, based on information collected by the operating entity or the TANF agency up to six months prior to the WtW eligibility determination.

(c) The operating entity must ensure that there are mechanisms in place to determine WtW eligibility for individuals who are not receiving TANF assistance (i.e., noncustodial parents, pursuant to §§ 645.212(b) and 645.213(b) of this part, and individuals who have reached the time limit on receipt of TANF, pursuant to §§ 645.212(c) and 645.213(c) of this part). Mechanisms may include, but are not limited to:

(1) Using staff from the operating entity to determine eligibility;

(2) Entering into agreements with local agencies such as the TANF agency and other appropriate agencies which foster coordination and facilitate the exchange of eligibility information among parties at the local level; and/or

(3) Performing joint eligibility determination with other appropriate agencies, including the TANF agency.

(d) Eligibility for WtW need not be redetermined for an individual after the individual begins to receive WtW services (section 403(a)(5)(C) of the Act).

§ 645.220 What activities are allowable under this part?

Entities operating WtW projects may use WtW funds for the following:

(a) Job readiness activities financed through job vouchers or through contracts with public or private providers.

(b) Employment activities which consist of any of the following:

(1) Community service programs;

(2) Work experience programs;

(3) Job creation through public or private sector employment wage subsidies; and

(4) On-the-job training.

(c) Job placement services financed through job vouchers or through contracts with public or private providers, subject to the payment requirements at § 645.230(a)(3).

(d) Post-employment services financed through job vouchers or through contracts with public or private providers, which are provided after an individual is placed in one of the employment activities listed in paragraph (b) of this section, or in any other subsidized or unsubsidized job. Post-employment services include, but are not limited to, such services as:

(1) Basic educational skills training;

(2) Occupational skills training;

(3) English as a second language training; and

(4) Mentoring.

(e) Job retention services and support services which are provided after an individual is placed in a job readiness activity, as specified in paragraph (a) of this section, in one of the employment activities, as specified in paragraph (b) of this section, or in any other subsidized or unsubsidized job. These services can be provided with WtW funds only if they are not otherwise available to the participant. Job retention and support services include, but are not limited to, such services as:

(1) Transportation assistance;

(2) Substance abuse treatment (except that WtW funds may not be used to provide medical treatment);

(3) Child care assistance;

(4) Emergency or short term housing assistance; and

(5) Other supportive services.

(f) Individual development accounts which are established in accordance with section 404 (h) of the Act.

(g) Intake, assessment, eligibility determination, development of an individualized service strategy, and case management may be incorporated in the design of any of the allowable activities listed in paragraphs (a) through (f) of this section (section 403(a)(5)(C) of the Act).

§ 645.225 How do Welfare-to-Work activities relate to activities provided through TANF and other related programs?

(a) Activities provided through WtW must be coordinated effectively at the State and local levels with activities being provided through TANF (section 403(a)(5)(A)(vii)(II) of the Act).

(b) The operating entity must ensure that there is an assessment of skills, prior work experience, employability, and other relevant information in place for each WtW participant. Where appropriate, the assessment performed by the TANF agency or JTPA should be used for this purpose.

(c) The operating entity must ensure that there is an individualized strategy for transition to unsubsidized employment in place for each participant which takes into account participant assessments, including the TANF assessment and any JTPA assessment. Where appropriate, the TANF individual responsibility plan (IRP) or JTPA individual service strategy should be used for this purpose.

(d) Coordination of resources should include not only those available through WtW and TANF grant funds, and the Child Care and Development Block Grant, but also those available through other related activities and programs such as the JTPA programs, the State employment service, One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population (section 402(a)(5)(A) of the Act).

§ 645.230 What general fiscal and administrative rules apply to the use of Federal funds?

(a) *Uniform fiscal and administrative requirements.* (1) State, local, and Indian tribal government organizations are required to follow the common rule *''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''* which is codified in the DOL regulations at 29 CFR part 97.

(2) Institutions of higher education, hospitals, and other non-profit organizations are required to follow OMB Circular A–110 which is codified in the DOL regulations at 29 CFR part 95.

(3) In addition to the requirements at 29 CFR 95.48 and 29 CFR 97.36(i), contracts or vouchers for job placement services supported by funds provided for this program must include a provision to require that at least one-half (½) of the payment occur after an eligible individual placed into the workforce has been in the workforce for six (6) months. This provision applies only to placement in unsubsidized jobs (section 403(a)(5)(C)(i) of the Act).

(4) In addition to the requirements at 29 CFR 95.42 and 29 CFR 97.36(b)(3) which address codes of conduct and conflict of interest issues related to employees, it is also required that:

(i) A PIC member shall neither cast a vote on, nor participate in, any decision making capacity on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his immediate family.

(ii) Neither membership on the PIC nor the receipt of WtW funds to provide training and related services shall be construed, by itself, to violate these conflict of interest provisions.

(5) The addition method shall be required for the use of all program income earned under WtW grants. The cost of generating program income shall be subtracted from the amount earned to establish the amount of program income available for use under the grants.

(b) *Audit requirements.* All governmental and non-profit organizations are required to follow the audit requirements of OMB Circular A–133.[1] This requirement is imposed at 29 CFR 97.26 for governmental organizations and at 29 CFR 95.26 for institutions of higher education, hospitals, and other non-profit organizations.

(c) *Allowable costs/cost principles.* The DOL regulations at 29 CFR 95.27 and 29 CFR 97.22 identify the Federal principles for determining allowable costs which each kind of recipient and subrecipient must follow. For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor.

(1) State, local, and Indian tribal government organizations must determine allowability of costs in

[1] OMB Circulars are available from: Executive Office of the President Publications Service, 725 17th Street NW, Suite G–2200, Washington, DC 20503; 202–395–7332.

accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.''

(2) Non-profit organizations must determine allowability of costs in accordance with OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.''

(3) Institutions of higher education must determine allowability of costs in accordance with OMB Circular A–21, ''Cost Principles for Education Institutions.''

(4) Hospitals must determine allowability of costs in accordance with the provisions of appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.''

(5) Commercial organizations and those non-profit organizations listed in Attachment C to OMB Circular A–122 must determine allowability of costs in accordance with the provisions of the Federal Acquisition Regulation (FAR), at 48 CFR part 31.

(d) *Government-wide debarment and suspension, and government-wide drug-free workplace requirements.* All WtW grant recipients and subrecipients are required to comply with the government-wide requirements for debarment and suspension, and the government-wide requirements for a drug-free workplace which are codified in the DOL regulations at 29 CFR part 98.

(e) *Restrictions on lobbying.* All WtW grant recipients and subrecipients are required to comply with the restrictions on lobbying which are codified in the DOL regulations at 29 CFR part 93.

(f) *Nondiscrimination.* All WtW grant recipients and subrecipients are required to comply with the nondiscrimination provisions which are codified in the DOL regulations at 29 CFR parts 31 and 32. In addition, recipients of WtW grants who are also recipients under JTPA are required to comply with 20 CFR part 34. For purposes of this paragraph, the term ''recipient'' has the same meaning as the term is defined in 29 CFR parts 31, 32, and 34. Participant rights related to nondiscrimination may be found at § 645.255 of this part.

(g) *Nepotism.* (1) No individual may be placed in a WtW employment activity if a member of that person's immediate family is engaged in an administrative capacity for the employing agency.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

§ 645.233 What are the time limitations on the expenditure of Welfare-to-Work grant funds?

(a) *Formula grant funds.* The maximum time limit for the expenditure of a given fiscal year allotment is three years from the effective date of the Federal grant award to the State. The maximum time limit will be allowed and will be specified in the Department's formula grant document for each fiscal year of funds provided to the State. Any remaining funds that have not been expended at the end of the expenditure period must be returned to the Department in accordance with the applicable closeout procedures for formula grants.

(b) *Competitive grant funds.* The maximum time limit for the expenditure of these funds is three years from the effective date of award, but will, in all cases, be determined by the grant period and the terms and conditions specified in the Federal grant award agreement (including any applicable grant modification documents). Any remaining funds that have not been expended at the end of the approved grant period must be returned to the Department in accordance with the applicable closeout procedures for competitive grants (section 503(a)(5)(C)(vii) of the Act).

§ 645.235 What types of activities are subject to the administrative cost limit on Welfare-to-Work grants?

(a) *Administrative cost limitation (section 404(b)(1)).* (1) *Formula grants to States.* Expenditures for administrative purposes under WtW formula grants to States are limited to fifteen percent (15%) of the grant award.

(2) *Competitive grants.* The limitation on expenditures for administrative purposes under WtW competitive grants will be specified in the grant agreement but in no case shall the limitation be more than fifteen percent (15%) of the grant award.

(b) The costs of administration are that allocable portion of necessary and allowable costs associated with the overall management and administration of the WtW program and which are not directly related to the provision of services to participants. These costs can be both personnel and non-personnel and both direct and indirect. Costs of administration shall include:

(1) Except as provided in paragraph (c)(1) of this section, costs of salaries, wages, and related costs of the recipient's, subrecipient's or PIC's staff engaged in:

(i) Overall program management, program coordination, and general administrative functions, including the salaries and related costs of the executive director, WtW director, project director, personnel officer, fiscal officer/bookkeeper, purchasing officer, secretary, payroll/insurance/property clerk and other costs associated with carrying out administrative functions;

(ii) Preparing program plans, budgets, schedules, and amendments thereto;

(iii) Monitoring of programs, projects, subrecipients, and related systems and processes;

(iv) Procurement activities, including the award of specific subgrants, contracts, and purchase orders;

(v) Providing State or local officials and the general public with information about the program (public relations);

(vi) Developing systems and procedures, including management information systems (except as provided in paragraph (c)(3) of this section), for assuring compliance with program requirements;

(vii) Preparing reports and other documents related to the program requirements;

(viii) Coordinating the resolution of audit findings;

(ix) Evaluating program results against stated objectives; and

(x) Performing administrative services, including such services as general legal services, accounting services, audit services; and managing purchasing, property, payroll, and personnel;

(2) Except as provided at paragraph (c)(3) of this section, costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;

(3) The costs of organization-wide management functions; and

(4) Travel costs incurred for official business in carrying out program management or administrative activities.

(5) These Interim Final WtW regulations adopt the description of the term ''Administrative Costs'' found in the JTPA regulations at 29 CFR 627.440 to minimize the burden on PICs. The Secretary reserves the right to change the definition to be consistent with the TANF definition when final TANF regulations are issued.

(c) *Other cost classification guidance.* (1) Personnel and related non-personnel costs of the recipient's or subrecipient's staff, including project directors, who perform both administrative and programmatic services or activities may be allocated to the benefitting cost objectives/categories based on documented distributions of actual time

worked or other equitable cost allocation methods.

(2) Indirect or overhead costs normally shall be charged to administration, except that specific costs charged to an overhead or indirect cost pool that can be identified directly with a cost objective/category other than administration may be charged to the cost objective/category directly benefitted. Documentation of such charges shall be maintained.

(3) The costs of information technology—computer hardware and software—needed for tracking or monitoring under a WtW grant shall not be charged to the administration of the grant (section 404(b)(2) of the Act).

Only the costs of information technology that is ''year 2000 compliant'' shall be allowable under WtW grants. To meet this requirement, information technology must be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000. The information technology must also be able to make leap year calculations. Furthermore, ''year 2000 compliant'' information technology when used in combination with other information technology shall accurately process date/time data if the other information technology properly exchanges date/time data with it.

§ 645.240 What are the reporting requirements for Welfare-to-Work programs?

(a) *General.* All States and other direct grant recipients shall report pursuant to instructions issued by DOL (financial data) and by DHHS (participant data only). Reports shall be submitted no more frequently than quarterly within a time period specified in the reporting instructions. In addition, DOL will establish supplemental reporting requirements for competitive grant recipients through the grant agreements pursuant to § 645.515 of this part.

(b) *Subrecipient reporting.* A State or other direct grant recipient may impose different forms or formats, shorter due dates, and more frequent reporting requirements on subrecipients. However, the recipient is required to meet the reporting requirements imposed by DOL and DHHS.

(c) *Financial reports.* Financial reports shall be submitted to DOL by each grant recipient. Reported expenditures and program income must be on the accrual basis of accounting and cumulative by fiscal year of appropriation. If the recipient's accounting records are not normally kept on the accrual basis of accounting, the recipient shall develop accrual information through an analysis of the documentation on hand.

(d) *Due date.* Financial reports will be due no later than 45 days after the end of each quarter. A final financial report is required 90 days after the expiration of a funding period or the termination of grant support.

(e) Optional SPIR Reporting. DOL may also provide instructions for an optional modified SPIR for internal program management (section 411(a) of the Act).

§ 645.245 Who is responsible for oversight and monitoring of Welfare-to-Work grants?

(a) The Secretary may monitor all recipients and subrecipients of all grants awarded and funds expended under WtW. Federal oversight will be conducted primarily at the State level for formula grants and at the recipient level for competitive grants.

(b) The Governor shall monitor PICs (or other approved administrative entities) funded under the State's formula allocated grants on a periodic basis for compliance with applicable laws and regulations. The Governor shall develop and make available for review a State monitoring plan.

§ 645.250 What procedures apply to the resolution of findings arising from audits, investigations, monitoring and oversight reviews?

(a) *Resolution of subrecipient level findings.* (1) The Governor is responsible for the resolution of findings that arise from the State's monitoring reviews, investigations and audits (including OMB Circular A–133 audits) of subrecipients.

(2) A State shall utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.

(3) If a State does not have such procedures, it shall prescribe standards and procedures to be used for this grant program.

(b) *Resolution of State level findings.* (1) The Secretary is responsible for the resolution of findings that arise from federal audits, monitoring reviews, investigations, incident reports, and recipient level OMB Circular A–133 audits.

(2) The Secretary will use the DOL audit resolution process, consistent with the Single Audit Act of 1996 and OMB Circular A–133.

(3) A final determination issued by a grant officer pursuant to this process may be appealed to the DOL Office of Administrative Law Judges under the procedures at § 645.800.

(c) *Resolution of nondiscrimination findings.* Findings arising from investigations or reviews conducted under nondiscrimination laws shall be resolved in accordance with those laws and the applicable implementing regulations.

§ 645.255 What nondiscrimination protections apply to participants in Welfare-to-Work programs?

(a) All participants in WtW programs under this part shall have such rights as are available under all applicable Federal, State and local laws prohibiting discrimination including:

(1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*);

(2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*); and

(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(b) Complaints alleging discrimination in violation of any applicable Federal, State or local law, including those listed in paragraph (a) of this section, shall be processed in accordance with those laws and the implementing regulations.

(c) Questions about or complaints alleging a violation of the nondiscrimination laws in paragraph (a) of this section may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, D.C. 20210 for processing.

(d) Participants in job readiness and employment activities operated with WtW funds, as defined in § 645.220 of this part, shall not be discriminated against because of gender. Participants alleging gender discrimination may file a complaint using the State's grievance system procedures as described in § 645.270 of this part (section 403(a)(5)(J)(iii) of the Act).

§ 645.260 What health and safety provisions apply to participants in Welfare-to-Work programs?

(a) Participants in an employment activity operated with WtW funds, as defined in § 645.220 of this part, are subject to the same health and safety standards established under State and Federal law which are applicable to similarly employed employees, of the same employer, who are not participants in programs under WtW.

(b) Participants alleging a violation of these health and safety standards may file a complaint pursuant to the procedures contained in § 645.270 of this part (section 403(a)(5)(J)(ii) of the Act).

§ 645.265 What safeguards are there to ensure that participants in Welfare-to-Work employment activities do not displace other employees?

(a) An adult participating in an employment activity operated with WtW funds, as described in § 645.220 of this part, may fill an established position vacancy subject to the limitations in paragraph (c) of this section.

(b) An employment activity operated with WtW funds, as described in § 645.220 of this part, shall not violate existing contracts for services or collective bargaining agreements. Where such an employment activity would violate a collective bargaining agreement, the appropriate labor organization and employer shall provide written concurrence before the employment activity is undertaken.

(c) An adult participating in an employment activity operated with WtW funds, as described in § 645.220 of this part, shall not be employed or assigned:

(1) When any other individual is on layoff from the same or any substantially equivalent job within the same organizational unit;

(2) If the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the WtW participant; and,

(3) If the employer has caused an involuntary reduction to less than full time in hours of any employee in the same or substantially equivalent job within the same organizational unit.

(d) Regular employees and program participants alleging displacement may file a complaint pursuant to § 645.270 of this part (section 403(a)(5)(J)(i) of the Act).

§ 645.270 What procedures are there to ensure that currently employed workers may file grievances regarding displacement and that Welfare-to-Work participants in employment activities may file grievances regarding displacement, health and safety standards and gender discrimination?

(a) The State shall establish and maintain a grievance procedure for resolving complaints from:

(1) Regular employees that the placement of a participant in an employment activity operated with WtW funds, as described in § 645.220 of this part, violates any of the prohibitions described in § 645.265 of this part; and

(2) Program participants in an employment activity operated with WtW funds, as described in § 645.220 of this part, that any employment activity violates any of the prohibitions described in §§ 645.255(d), 645.260, or 645.265 of this part.

(b) Such grievance procedure should include an opportunity for informal resolution.

(c) If no informal resolution can be reached within the specified time as established by the State as part of its grievance procedure, such procedure shall provide an opportunity for the dissatisfied party to receive a hearing upon request.

(d) The State shall specify the time period and format for the hearing portion of the grievance procedure, as well as the time period by which the complainant will be provided the written decision by the State.

(e) A decision by the State under paragraph (d) of this section may be appealed by any dissatisfied party within 30 days of the receipt of the State's written decision, according to the time period and format for the appeals portion of the grievance procedure as specified by the State.

(f) The State shall designate the State agency which will be responsible for hearing appeals. This agency shall be independent of the State or local agency which is administering, or supervising the administration of the State TANF and WtW programs.

(g) No later than 120 days of receipt of an individual's original grievance, the State agency, as designated in paragraph (f) of this section, shall provide a written final determination of the individual's appeal.

(h) The grievance procedure shall include remedies for violations of §§ 645.255(d), 645.260, and 645.265 of this part which may continue during the grievance process and which may include:

(1) Suspension or termination of payments from funds provided under this part;

(2) Prohibition of placement of a WtW participant with an employer that has violated §§ 645.255(d), 645.260, and 645.265 of this part;

(3) Where applicable, reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(4) Where appropriate, other equitable relief (section 403(a)(5)(J)(iv) of the Act).

Subpart C—Additional Formula Grant Administrative Standards and Procedures

§ 645.300 What constitutes an allowable match?

(a) A State is entitled to receive two (2) dollars of Federal funds for every one (1) dollar of State match expenditures, up to the amount available for allotment to the State based on the State's percentage for WtW formula grant for the fiscal year. The State is not required to provide a level of match necessary to support the total amount available to it based on the State's percentage for WtW formula grant. However, if the proposed match is less than the amount required to support the full level of federal funds, the grant amount will be reduced accordingly (section 403(a)(5)(A)(i)(I) of the Act).

(b) States shall follow the match or cost-sharing requirements of the ''Common Rule'' *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* (codified for DOL at 29 CFR 97.24). Paragraphs (b)(1)(i) and (ii), (b)(3), (b)(4) and (c)(1) of this section are in addition to the common rule requirements. Also, paragraphs included in the common rule which relate to the use of donated buildings and other real property as match have been excluded from this provision.

(1) Only costs that would be allowable if paid for with WtW grant funds will be accepted as match.

(i) Because the use of Federal funds is prohibited for construction or purchase of facilities or buildings except where there is explicit statutory authority permitting it, costs incurred for the construction or purchase of facilities or buildings shall not be acceptable as match for a WtW grant.

(ii) Because the costs of construction or purchase of facilities or buildings are unallowable as match, the donation of a building or property as a third party in-kind contribution is also unallowable as a match for a WtW grant.

(2) A match or cost-sharing requirement may be satisfied by either or both of the following:

(i) Allowable costs incurred by the grantee, subgrantee or a cost type contractor under the assistance agreement. This includes allowable cost borne by non-Federal grants or by others and cash donations from non-Federal third parties.

(ii) The value of third party in-kind contributions applicable to the FY period to which the cost-sharing or matching requirement apply.

(3) No more than one-half (½) of the total match expenditures may be in the form of third party in-kind contributions.

(4) Match expenditures must be recorded in the books of account of the entity that incurred the cost or received the contribution. These amounts may be

rolled up and reported as aggregate State level match.

(c) *Qualifications and exceptions.* (1) The matching requirements may not be met by the use of an employer's share of participant wage payments (e.g., employer share of OJT wages).

(2) *Costs borne by other Federal grant agreements.* A cost-sharing or matching requirement may not be met by costs borne by another Federal grant. This prohibition does not apply to income earned by a grantee or subgrantee from a contract awarded under another Federal grant.

(3) *General revenue sharing.* For the purpose of this section, general revenue sharing funds distributed under 31 U.S.C. 6702 are not considered Federal grant funds.

(4) *Cost or contributions counted towards other Federal cost-sharing requirements.* Neither costs nor the values of third party in-kind contributions may count towards satisfying a cost-sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost-sharing or matching requirement of another Federal grant agreement, a Federal procurement contract, or any other award of Federal funds.

(5) *Costs financed by program income.* Costs financed by program income, as defined in 29 CFR 97.25, shall not count towards satisfying a cost-sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. (This use of general program income is described in § 97.25(g)).

(6) *Services or property financed by income earned by contractors.* Contractors under a grant may earn income from the activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost-sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement.

(7) *Records.* Costs and third party in-kind contributions counting towards satisfying a cost-sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

(8) *Special standards for third party in-kind contributions.* (i) Third party in-kind contributions count towards satisfying a cost-sharing or matching requirement only where, if the party receiving the contributions were to pay for them, the payments would be allowable costs.

(ii) Some third party in-kind contributions are goods and services that, if the grantee, subgrantee, or contractor receiving the contribution had to pay for them, the payments would have been an indirect costs. Cost sharing or matching credit for such contributions shall be given only if the grantee, subgrantee, or contractor has established, along with its regular indirect cost rate, a special rate for allocating to individual projects or programs the value of the contributions.

(iii) A third party in-kind contribution to a fixed-price contract may count towards satisfying a cost-sharing or matching requirement only if it results in:

(A) An increase in the services or property provided under the contract (without additional cost to the grantee or subgrantee) or

(B) A cost savings to the grantee or subgrantee.

(iv) The values placed on third party in-kind contributions for cost-sharing or matching purposes will conform to the rules in the succeeding sections of this part. If a third party in-kind contribution is a type not treated in those sections, the value placed upon it shall be fair and reasonable.

(d) *Valuation of donated services.* (1) *Volunteer services.* Unpaid services provided to a grantee or subgrantee by individuals will be valued at rates consistent with those ordinarily paid for similar work in the grantee's or subgrantee's organization. If the grantee or subgrantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount for fringe benefits may be included in the valuation.

(2) *Employees of other organizations.* When an employer other than a grantee, subgrantee, or cost-type contractor furnishes free of charge the services of an employee in the employee's normal line of work, the services will be valued at the employee's regular rate of pay exclusive of the employee's fringe benefits and overhead costs. If the services are in a different line of work, paragraph (d)(1) of this section applies.

(e) *Valuation of third party donated supplies and loaned equipment or space.* (1) If a third party donates supplies, the contribution will be valued at the market value of the supplies at the time of donation.

(2) If a third party donates the use of equipment or space in a building but retains title, the contribution will be valued at the fair rental rate of the equipment or space.

§ 645.310 What assurance must a State provide that it will make the required matching expenditures?

In its State plan, a State must provide a written estimate of planned matching expenditures and describe the process by which the funds will be tracked and reported to ensure that the State meets its projected match (section 403(a)(5)(A)(i)(I) of the Act).

§ 645.315 What actions are to be taken if a State fails to make the required matching expenditures?

(a) The Department will implement an annual reconciliation and grant adjustment for WtW grants.

(1) The reconciliation will be based on reported match expenditures through the end of the FY report, which is due 45 days after the end of the fiscal year.

(2) If the end of FY report has not been received by December 1 of that year, then the reconciliation will be based on the most current report received.

(b) If match expenditures do not satisfy the requirement of the FY grant, the subsequent FY grant amount will be reduced by the appropriate corresponding amount (i.e., the grant will reduced by two (2) dollars for each one (1) dollar shortfall in State matching funds).

§ 645.320 When will formula funds be reallotted, and what reallotment procedures will the Secretary use?

(a) No reallotment of funds among States will occur during FY 98;

(b) For subsequent fiscal years, a reconciliation will be made during the first quarter of the fiscal year under § 645.315 of this part to determine whether or not a State has satisfied its required level of matching funds for the prior year.

(c) If a State has failed to expend the required level of matching funds, the required reduction in the State grant will be made during the second quarter of the fiscal year.

(d) Also, any funds which become available as a result of underexpenditures of required match, or failure to obligate 100 percent of the funds by either States or substate entities by the end of the fiscal year of the grant, will be reallotted among qualifying States (i.e., those which have committed a sufficient match to qualify for additional funds). The reallotment

will occur during the second quarter of the following fiscal year (section 403(a)(5)(A)(i)(I) of the Act).

Subpart D—State Formula Grants Administration

§ 645.400 Under what conditions may the Governor request a waiver to designate an alternate local administering agency?

(a)(1) The Governor may include in the State's WtW Plan a waiver request to select an agency other than the PIC to administer the program for one or more SDAs in a State; or

(2) When the Governor determines the PIC, or alternative agency, has not coordinated its expenditures with the expenditure of funds provided to the State under TANF, pursuant to section 403(a)(5)(A)(vii)(II) of the Act, the Governor shall request a waiver.

(b) The Governor shall bear the burden of proving that the designated alternative agency, rather than the PIC or other administering agency, would improve the effectiveness or efficiency of the administration of WtW funds in the SDA. The Governor's waiver request shall include information to meet that burden. The Governor shall provide a copy of the waiver request and any supporting information submitted to the Secretary to the PIC and CEO of the SDA for which an alternative administering agency is requested.

(c) The PIC and CEO shall have fifteen (15) days in which to submit his or her written response to the Department. The PIC and CEO shall provide a copy of such response to the Governor.

(d) The Secretary will assess the waiver information submitted by the Governor, including input from the PIC and CEO in reaching the decision whether to permit the use of an alternate administrative agency.

(e) The Secretary shall approve a waiver request if she determines that the Governor has established that the designated alternative administering agency, rather than the PIC or other administering agency, will improve the effectiveness or efficiency of the administration of WtW funds provided for the benefit of the SDA.

(f) Where an alternate administering agency is approved by the Secretary, such administrative entity shall coordinate with the CEO for the applicable SDA(s) regarding the expenditure of WtW grant funds in the SDA(s).

(g) The decision of the Secretary to approve or deny a waiver request will be issued promptly and shall constitute final agency action.

§ 645.410 What elements will the State use in distributing funds within the State?

(a) Of the WtW funds allotted to the State, not less than 85 percent of the State allotment must be distributed to the SDAs in the State.

(1) The State shall prescribe a formula for determining the amount of funds to be distributed to each SDA in the State using no factors other than the three factors described in paragraphs (a)(2) and (3) of this section;

(2) The formula prescribed by the Governor must include as one of the formula factors for distributing funds the provision at section 403(a)(5)(A)(vi)(I)(aa) of the Act. The Governor is to distribute funds to an SDA based on the number by which the population of the area with an income that is less than the poverty line exceeds 7.5 percent of the total population of the area, compared to all such numbers in all such areas in the State. The Governor must assign a weight of not less than 50 percent to this factor;

(3) The Governor shall distribute the remaining funds, if any, to the SDAs utilizing only one or both of the following factors:

(i) The SDA's share of the number of adults receiving assistance under TANF or the predecessor program in the SDA for 30 months or more (whether consecutive or not), relative to the number of such adults residing in the State;

(ii) The SDA's share of the number of unemployed individuals residing in the SDA, relative to the number of such individuals residing in the State.

(4) If the amount to be distributed to a service delivery area by the Governor's formula is less than $100,000, the funds shall be available to be used by the Governor to fund projects described at paragraph (b) of this section.

(5) States shall use the guidance provided at section 403(a)(5)(D) of the Act in determining the number of individuals with an income that is less than the poverty line.

(6) PICs (or alternate administering agency) shall determine, pursuant to section 403(a)(5)(A)(vii)(I) of the Act, on which individual(s) and on which allowable activities to expend its WtW fund allocation.

(7) The State shall distribute the SDAs' allocations in a timely manner, but not later than 30 days from receipt of the State's fund allotment.

(b) Of the funds allocated to the State, up to 15 percent of the funds may be retained at the State level to fund projects that appear likely to help long-term recipients of assistance enter unsubsidized employment. Any additional funds available as a result of the process described at paragraph (a)(4)of this section, shall also be available to be used to fund projects to help long-term recipients of assistance enter unsubsidized jobs.

(c) The Governors may distribute the funds retained pursuant to paragraph (b) of this section to a variety of workforce organizations, in addition to PICs, and other entities such as One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population.

§ 645.415 What planning information must a State submit in order to receive a formula grant?

(a) Each State seeking financial assistance under the formula grant portion of the WtW legislation must submit an annual plan meeting the requirements prescribed by the Secretary. This plan shall be in the form of an addendum to the TANF State plan and shall be submitted to the Secretaries of Labor and Health and Human Services.

(b) The Secretary shall review the State plan for compliance with the statutory and regulatory provisions of the WtW program. The Secretary's decision whether to accept a State plan as in compliance with the Act shall constitute final agency action.

(c) If the Governor has requested a waiver to permit the selection of an alternative administering agency in the State plan, the provisions of § 645.400 of this part shall apply (section 403(a)(5)(A)(ii) of the Act).

§ 645.420 What factors will be used in measuring State performance?

(a) State performance will be measured by a formula issued by the Secretary after consultation with DHHS, the National Governors Association (NGA) and the American Public Welfare Association (APWA).

(b) The formula shall be the basis for measuring the success of States in placing individuals in private sector employment or any kind of employment, the duration of such placements, any increase in earnings of such individuals and other additional factors that the Secretary of Labor deems to be appropriate. The formula will provide for adjustments due to general economic conditions on a State-by-State basis.

(c) The formula shall serve as the basis for the award of FY 2000 bonus grants based on successful performance (section 403(a)(5)(E) of the Act).

§ 645.425 What are the roles and responsibilities of the State(s) and PIC(s)?

(a) *State roles and responsibilities.* A State:

(1) Designates State WtW administering agency;

(2) Provides overall administration of WtW funds, consistent with the WtW statute, WtW regulations and the State's WtW Plan;

(3) Develops the State WtW Plan in consultation and coordination with appropriate entities in substate areas, such as One-Stop systems, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population (section 403(a)(5)(A)(ii)(I)(cc) of the Act);

(4) Distributes funds to SDAs, consistent with the provisions described at § 645.410(a) (section 403(a)(5)(A)(ii)(I)(bb));

(5) Conducts oversight and monitoring of WtW activities and fund expenditures at the State and local levels for compliance with applicable laws and regulations, consistent with the provisions at § 645.245 and provides technical assistance as appropriate;

(6) Ensures coordination of PIC fund expenditures with the State TANF expenditures and other programs (section 403(a)(5)(A)(ii)(I)(dd));

(7) Determines whether to request waivers to select an alternate administering agency consistent with the provisions described at § 645.400 of this part (sections 403(a)(5)(A)(ii)(I)(ee) and 403(a)(5)(A)(vii)(III));

(8) Manages and distributes State level WtW funds (15 percent), consistent with the provisions at §§ 645.410(b) and (c) (section 403(a)(5)(A)(vi)(III));

(9) Ensures that the 15 percent administration limitation and the match requirement are met;

(10) Ensures that worker protections provisions are observed and establishes an appropriate grievance process, consistent with §§ 645.255 through 645.270 of this part (section 403(a)(5)(J));

(11) Provides comments on Competitive Grant Application(s) from eligible entities within the State, consistent with § 645.510 of this part (section 403(a)(5)(B)(ii));

(12) Cooperates with the Department of Health and Human Services on the evaluation of WtW programs (section 403(a)(5)(A)(ii)(III));

(13) Provides technical assistance to PICs or alternate administering agencies; and

(14) Establishes internal reporting requirements to ensure Federal reports are accurate, complete and are submitted on a timely basis, consistent with § 645.240 of this part.

(b) *Private Industry Council (or alternate administering agency) roles and responsibilities.* A PIC:

(1) Has sole authority, in coordination with CEOs, to expend formula funds (section 403(a)(5)(A)(vii)(I) of the Act);

(2) Has authority to determine the individuals to be served in the SDA (section 403(a)(5)(A)(vii)(I));

(3) Has authority to determine the services to be provided in the SDA (section 403(a)(5)(A)(vii)(I));

(4) Ensures funds are expended on eligible recipients and on allowable activities, consistent with § 645.410(a)(5) of this part;

(5) Coordinates WtW fund expenditures with State TANF expenditures and other programs (section 403(a)(5)(A)(ii)(dd));

(6) Ensures that there is an assessment and an individual service strategy in place for each WtW participant, consistent with §§ 645.225(a) and (b) of this part;

(7) Conducts oversight and monitoring of subrecipients, consistent with the provisions at § 645.245 of this part;

(8) Ensures worker protection provisions and grievance process are observed, consistent with State guidelines (section 403(a)(5)(J)); and

(9) Consults with and provides comments on private entity Competitive Grant Application(s), consistent with the provisions at § 645.500(b)(1)(i) of this part.

Subpart E—Welfare-To-Work Competitive Grants

§ 645.500 Who are eligible applicants for competitive grants?

(a) Eligible applicants for competitive grants are:

(1) PICs;

(2) Political subdivisions of a State; and

(3) Private entities including nonprofit organizations such as community development corporations, community-based and faith-based organizations, disability community organizations, community action agencies, and public and private colleges and universities, and other qualified private organizations.

(b) Entities other than a PIC or a political subdivision of the State must submit an application for competitive grant funds in conjunction with the applicable PIC or political subdivision.

(1) The term ''in conjunction with'' shall mean that the application submitted by such an entity must include a signed certification by both the applicant and either the applicable PIC or political subdivision that:

(i) The applicant has consulted with the applicable PIC/political subdivision during the development of the application; and

(ii) The activities proposed in the application are consistent with, and will be coordinated with, WtW efforts of the PIC/political subdivision.

(2) If the applicant is unable to include such a certification in its application, the applicant will be required to certify, and provide information indicating that efforts were undertaken to consult with the PIC/political subdivision and that the PIC/political subdivision was provided a sufficient opportunity to cooperate in the development of the project plan and to review and comment on the application prior to its submission to the Secretary. ''Sufficient opportunity for PIC/political subdivision review and comment'' shall mean at least 30 calendar days.

(3) The certification described in paragraph (b)(1) of this section, or the evidence of efforts to consult described in paragraph (b)(2), must be with each PIC or political subdivision included in the geographic area in which the project proposed in the application is to operate (section 403(a)(5)(B)(ii) of the Act).

§ 645.510 What is the required consultation with the Governor?

(a) All applicants for competitive grants, including PICs and political subdivisions, must consult with the Governor by submitting their application to the Governor or the designated State administrative entity for the WtW program for review and comment prior to submission of the application to the Secretary. The application submitted to the Secretary must include:

(1) Comments on the application from the State; or

(2) Information indicating that the State was provided a sufficient opportunity for review and comment prior to submission to the Secretary. ''Sufficient opportunity for State review and comment'' shall mean at least 15 calendar days.

(b) For private entity applicants, the submission of the application for State review and comment must follow the 30 day period provided for PIC/political subdivision review. Evidence of PIC/political subdivision review should be included in the submission to the State (section 403(a)(5)(B)(ii) of the Act).

§ 645.515 What are the program and administrative requirements that apply to both the formula grants and competitive grants?

(a) All of the general program requirements and administrative standards set by 29 CFR part 645 subpart B apply (section 403(a)(5)(C) and section 404(b) of the Act).

(b) In addition, competitive grants will be subject to:

(1) Supplemental reporting requirements; and

(2) Additional monitoring and oversight requirements based on the negotiated scope-of-work of individual grant awards (section 403(a)(5)(B)(iii) and (v)).

§ 645.520 What are the application procedures and timeframes for competitive grant funds?

(a) The Secretary shall establish appropriate application procedures, selection criteria and an approval process to ensure that grant awards accomplish the purpose of the competitive grant funds and that available funds are used in an effective manner.

(b) The Secretary shall publish such procedures in the **Federal Register** and establish submission timeframes in a manner that allows eligible applicants sufficient time to develop and submit quality project plans (section 403(a)(5)(B)(i) and (iii) of the Act).

§ 645.525 What special consideration will be given to rural areas and cities with large concentrations of poverty?

(a) Competitive grant awards will be targeted to geographic areas of significant need. In developing application procedures, special consideration will be given to rural areas and cities with large concentrations of residents living in poverty.

(b) Grant application guidelines will clarify specific requirements for documenting need in the local area (section 403(a)(5)(B)(iv) of the Act).

Subpart F—Administrative Appeal Process

§ 645.800 What administrative remedies are available under this part?

(a) Within 21 days of receipt of a final determination that has directly imposed a sanction or corrective action pursuant to § 645.250(b) of this part, a recipient, subrecipient, or a vendor directly against which the Grant Officer has imposed a sanction or corrective action, may request a hearing before the Department of Labor Office of Administrative Law Judges, pursuant to the provisions of 29 CFR part 96 subpart 96.6.

(b) In accordance with 29 CFR 96.603(b)(2), the rules of practice and procedure published at 29 CFR part 18 shall govern the conduct of hearings under this section, except that a request for hearing under this section shall not be considered a complaint to which the filing of an answer by DOL or a DOL agency is required. Technical rules of evidence shall not apply to a hearing conducted pursuant to this part; however, rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross-examination shall apply.

(c) The decision of the Administrative Law Judge (ALJ) shall constitute final agency action unless, within 20 days of the decision, a party dissatisfied with the decision of the ALJ has filed a petition for review with the Administrative Review Board (ARB) (established pursuant to the provisions of Secretary's Order No. 2–96, published at 61 Fed. Reg. 19977 (May 3, 1996)), specifically identifying the procedure, fact, law or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. A copy of the petition for review must be sent to the opposing party at that time. Thereafter, the decision of the ALJ shall constitute final agency action unless the ARB, within 30 days of the filing of the petition for review, has notified the parties that the case has been accepted for review. Any case accepted by the ARB shall be decided within 120 days of such acceptance. If not so decided, the decision of the ALJ shall constitute final agency action.

[FR Doc. 97–29966 Filed 11–17–97; 8:45 am]

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Federal Register

Tuesday
November 18, 1997

Part III

Department of Housing and Urban Development

24 CFR Part 5, et al.

Adoption of Revised OMB Circular A–133; Administrative Requirements for Grantees to Reflect the Single Audit Act Amendments of 1996; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 44, 45, 84, and 85

[Docket No. FR–4258–I–01]

RIN 2501–AC40

Adoption of Revised OMB Circular A–133; Administrative Requirements for Grantees to Reflect the Single Audit Act Amendments of 1996

AGENCY: Office of the Chief Financial Officer, HUD.

ACTION: Interim rule.

SUMMARY: On June 30, 1997, OMB published revised Circular A–133 to implement the Single Audit Act Amendments of 1996. The Act sets forth requirements for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards. This rule adopts the revised requirements.

DATES: Effective date: December 18, 1997.

Comment Due Date: January 20, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–0500. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (weekdays 7:30 a.m. to 5:30 p.m. Eastern time) at the above address. Facsimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: William E. Dobrzykowski, Deputy Chief Financial Officer for Finance, (202) 708–0650. (This is not a toll-free number.) Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal Information Relay Service during working hours at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On June 30, 1997, the Office of Management and Budget (OMB) published revised Circular No. A–133, re-titled ''Audits of States, Local Governments, and Non-Profit Organizations,'' which established uniform audit requirements for non-Federal entities that administer Federal awards and implemented the Single Audit Act Amendments of 1996 (Pub.L. 104–156, enacted July 5, 1996). OMB Circular No. A–128, ''Audits of States and Local Governments,'' which was issued in 1985, was rescinded as a result of the consolidation of audit requirements under Circular A–133.

One of the more significant revisions is that the threshold for when an entity is required to have an audit is raised from $25,000 to $300,000. Other significant changes are: a report submission due date which is shortened from 13 to 9 months and a report submission process that includes a data collection form and streamlined filing requirements; a new risk-based approach for major program determination; and additional guidance for program-specific audits, audit findings, and audit findings follow-up.

Through this interim rule the Department of Housing and Urban Development (HUD) adopts these requirements. In addition, HUD is adding a provision to set forth a clarification regarding the uniform audit requirements for non-profit organizations participating in HUD programs whose regulations are set forth in 24 CFR in the part 200 and 800 series, such as parts 207, 213, 220, 221, 231, 232, 234, 236, 241, 242, 244, 266, 880, 881, 882, 883, 884, 886, and 891. The clarification provides that non-profit organizations subject to regulations in the part 200 and part 800 series of 24 CFR shall comply with the audit requirements of revised OMB Circular A–133. Audits of non-profit organizations under these programs were previously subject to the requirements of the Consolidated Audit Guide for Audits of HUD Programs (HUD Handbook 2000.04). This audit guide no longer applies to audits of non-profit organizations. For HUD programs, a non-profit organization is the mortgagor or owner and not a related or affiliated organization or entity. The terms ''mortgagor'' or ''owner'' are defined in the regulations in the part 200 and part 800 series, such as §§ 207.251, 891.205 and 891.305.

HUD is also removing and reserving 24 CFR parts 44 and 45 since these parts are no longer applicable because of the revised circular. A number of conforming technical revisions are needed throughout HUD's regulations in title 24 of the CFR as a result of HUD's adoption of the uniform audit requirements. Those revisions will be set forth in a subsequent separate rulemaking.

Findings and Certifications

Environmental Impact

This amendment is excluded from the environmental review requirements of the National Environmental Policy Act (42 U.S.C. 4321–4347) and the other related Federal environmental laws and authorities, as set forth in 24 CFR part 50. In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this amendment does not ''direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy.''

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this interim rule before publication and by approving it certifies that this interim rule will not have a significant economic impact on a substantial number of small entities. This interim rule merely adopts government-wide requirements related to auditing. The interim rule does not affect the amount of funds provided in the covered programs, but rather increases the threshold for non-Federal entities subject to audit, thereby reducing burden on some small entities.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this interim rule does not have ''federalism implications'' because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This interim rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects

24 CFR Part 5

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

disabilities, Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Penalties, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 44

Accounting, Grant programs, Indians, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements.

24 CFR Part 45

Accounting, Colleges and universities, Grant programs, Loan programs, Non-profit organizations, Reporting and recordkeeping requirements.

24 CFR Part 84

Accounting, Audit requirements, Colleges and universities, Grant programs—housing and community development, Loan programs—housing and community development, Non-profit organizations, Reporting and recordkeeping requirements.

24 CFR Part 85

Accounting, Audit requirements, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Accordingly, parts 5, 44, 45, 84, and 85 of title 24 of the Code of Federal Regulations are amended as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

2. Subpart A is amended to add a new § 5.107 to read as follows:

§ 5.107 Audit requirements for non-profit organizations

Non-profit organizations subject to regulations in the part 200 and part 800 series of title 24 of the CFR shall comply with the audit requirements of revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'' (see 24 CFR 84.26). For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the part 200 and part 800 series) and not a related or affiliated organization or entity.

PARTS 44 AND 45—[REMOVED AND RESERVED]

3. Parts 44 and 45 are removed and reserved.

PART 84—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

4. The authority citation for part 84 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

5. Section 84.26 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 84.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organization (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(1) Non-profit organizations subject to regulations in the part 200 and part 800 series of this title which receive awards subject to part 84 shall comply with the audit requirements of revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the part 200 and part 800 series) and not a related or affiliated organization or entity.

(2) Reserved.

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(c) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements of the Federal awarding agencies.

* * * * *

6. Section 84.82 is amended by revising paragraphs (e)(1), (2), and (3) to read as follows:

§ 84.82 Provisions applicable only to lump sum grants.

* * * * *

(e) *Non-Federal audits.* (1) Recipients and subrecipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(i) Non-profit organizations subject to regulations in the part 200 and part 800 series of this title which receive awards subject to part 84 shall comply with the audit requirements of revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' For HUD programs, a non-profit organization is the mortgagor or owner (as these terms are defined in the regulations in the part 200 and part 800 series) and not a related or affiliated organization or entity.

(ii) [Reserved].

(2) State and local governments shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

(3) For-profit hospitals not covered by the audit provisions of revised OMB Circular A–133 shall be subject to the audit requirements of the Federal awarding agencies.

* * * * *

PART 85—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

7. The authority citation for part 85 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

8. Section 85.26 is amended by revising paragraphs (a), (b) introductory text, and (b)(1), to read as follows:

§ 85.26 Non-Federal audits.

(a) *Basic rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.'' The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee which expends $300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

(1) Determine whether State or local subgrantees have met the audit

requirements of the Act and whether subgrantees covered by OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' have met the audit requirements of the Act.

Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

* * * * *

Dated: October 22, 1997.

Andrew Cuomo,

Secretary.

[FR Doc. 97–30181 Filed 11–17–97; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 79/P.L. 105–79

Hoopa Valley Reservation South Boundary Adjustment Act (Nov. 13, 1997; 111 Stat. 1527)

H.R. 672/P.L. 105–80

To make technical amendments to certain provisions of title 17, United States Code. (Nov. 13, 1997; 111 Stat. 1529)

H.R. 708/P.L. 105–81

To require the Secretary of the Interior to conduct a study concerning grazing use and open space within and adjacent to Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges. (Nov. 13, 1997; 111 Stat. 1537)

S. 931/P.L. 105–82

Marjory Stoneman Douglas Wilderness and Ernest F. Coe Visitor Center Designation Act (Nov. 13, 1997; 111 Stat. 1540)

H.R. 2107/P.L. 105–83

Department of the Interior and Related Agencies Appropriations Act, 1998 (Nov. 14, 1997; 111 Stat. 1543)

H.J. Res. 106/P.L. 105–84

Making further continuing appropriations for the fiscal year 1998, and for other purposes. (Nov. 14, 1997; 111 Stat. 1628)

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