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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV97–927–1 FIR]

Winter Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which increased the assessment rate established for the Winter Pear Control Committee (Committee) under Marketing Order No. 927 for the 1997–98, and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of winter pears grown in Oregon and Washington. Authorization to assess winter pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997–98 fiscal period began July 1 and ends June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated. The marketing order was amended recently and California was removed from the production area.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440, or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 927, both as amended (7 CFR part 927; 62 FR 60999, November 14, 1997), regulating the handling of winter pears grown in Oregon and Washington, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the ''Act.'' Effective November 17, 1997, the marketing agreement and order were amended by removing the State of California from the production area. The production area now covers the States of Oregon and Washington.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable winter pears beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule continues in effect an assessment rate established for the Committee for the 1997–98, and subsequent fiscal periods of $0.44 per standard box of winter pears.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of winter pears. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 30, 1997, and unanimously recommended 1997–98 expenditures of $8,066,790 and an assessment rate of $0.44 per standard box of winter pears. In comparison, last year's budgeted expenditures were $5,502,979. The assessment rate of $0.44 is $0.035 more than the rate previously in effect. The Committee discussed alternatives to this rule, including alternative expenditure levels, but decided that an assessment rate of less than $0.44 would not generate the income necessary to administer the program with an adequate reserve. An assessment rate of more than $0.44 would have resulted in a reserve that exceeded the level the Committee believes is necessary to administer the program.

The assessment rate recommended by the Committee was derived by dividing

anticipated expenses by expected shipments of winter pears. Applying the $0.44 per standard box rate of assessment to the Committee's 17,310,000 standard box shipment estimate should provide $7,616,400 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (approximately $268,000) will be kept within the maximum permitted by the order (one fiscal period's expenses; § 927.42).

Major expenditures recommended by the Committee for the 1997–98 include $7,010,550 for paid advertising, $346,200 for improvement of winter pears (production research), $161,549 for salaries, and $75,000 for industry development. Budgeted expenses for these items in 1996–97 were $4,674,675, $249,316, $154,387, and $75,000, respectively.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997–98 budget was approved by the Department on August 25, 1997, and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

A final rule amending the order was published in the **Federal Register** on November 14, 1997 (62 FR 60999). One of the amendments removed California from the production area effective November 17, 1997. The removal of California from the order is expected to have minimal effect on the Committee's anticipated revenue from assessments, and on expenses. Shipments of winter pears from California averaged 548,691 standard boxes or approximately four percent of the total winter pear shipments during the prior five year period. Assessments on shipments of winter pears from Oregon and Washington, along with interest income and funds from the Committee's authorized reserve, will be adequate to meet Committee expenses.

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

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

Since the interim final rule was issued, the Department has received new figures on the number of producers and handlers in the production area. There are now approximately 1,700 producers of winter pears in the production area and approximately 93 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of winter pear producers and handlers may be classified as small entities.

This rule continues in effect an increased assessment rate established for the Committee and collected from handlers for the 1997–98, and subsequent fiscal periods. The Committee unanimously recommended 1997–98 expenditures of $8,066,790, and an assessment rate of $0.44 per standard box of winter pears. The assessment rate of $0.44 is $0.035 more than the rate previously in effect. Winter pear shipments for the year are estimated at 17,310,000 standard boxes, which should provide $7,616,400 in assessment income. Income derived from handler assessments on shipments of winter pears from Oregon and Washington, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (approximately $268,000) will be kept within the maximum permitted by the order (one fiscal period's expenses; § 927.42).

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate reserve. An assessment rate of more than $0.44 would have resulted in a reserve that exceeded the level the Committee believes is necessary to administer the program.

Major expenditures recommended by the Committee for the 1997–98 include $7,010,550 for paid advertising, $346,200 for improvement of winter pears (production research), $161,549 for salaries, and $75,000 for industry development. Budgeted expenses for these items in 1996–97 were $4,674,675, $249,316, $154,387, and $75,000, respectively. The increase in paid advertising is needed to help the industry market this season's crop, which is significantly larger than last year's crop. A lower level of funding for paid advertising was ruled out by the Committee because it felt that a more aggressive advertising program was needed this season to market the large crop. The increased level for production research provides funds for current and anticipated research in 1997–98. The increase in salaries provides funds for staff salary adjustments.

Recent price information indicates that the grower price for the 1997–98 season will range between $4.82 and $11.81 per standard box of winter pears. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between 4 and 9 percent.

This action will increase the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 30, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action will not impose any additional reporting or recordkeeping requirements on either small or large

winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The interim final rule concerning this action was published in the **Federal Register** (62 FR 44202) on August 20, 1997, and requested comments to be received by September 21, 1997. A copy of the interim final rule was also made available on the Internet by the U.S. Government Printing Office. No comments were received.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 927 which was published at 62 FR 44202 on August 20, 1997, is adopted as a final rule without change.

Dated: December 15, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33168 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV97–948–1 FIR]

Irish Potatoes Grown in Colorado; Change in Handling Regulation for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which changed the size requirement from a 2 inch minimum diameter or 4 ounce minimum weight to a 1⅞ inch minimum diameter for Centennial Russet variety potatoes grown in Area No. 2 of Colorado. The size requirement for Centennial Russets had been larger than the requirement for similar long varieties. The change recognized the similarity among all long varieties and provided potato handlers with more marketing flexibility, growers with increased returns, and consumers with a greater supply of potatoes.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440, or Anne M. Dec, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 (7 CFR part 948), both as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

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

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

The interim rule relaxed the size requirement for Centennial Russet variety potatoes grown in Area No. 2 from the current 2 inch minimum diameter or 4-ounce minimum weight to a 1⅞ inch minimum diameter with no minimum weight option. This change enabled handlers to market a larger portion of the crop in fresh market outlets and improved the marketing of Colorado potatoes. Further, all Russet varieties are now required to meet the same size specifications.

Section 948.22 (7 CFR 948.22) authorizes the issuance of regulations for grade, size, quality, maturity, and pack for any variety or varieties of potatoes grown in different portions of the production area during any period.

Section 948.4 of the order defines the counties included in Area No. 2, which is commonly known as the San Luis Valley. The Colorado Potato Administrative Committee, San Luis Valley Office (Area No. 2) (Committee), is the agency responsible for local administration of the Federal marketing order in Area No. 2.

Size regulations for potatoes grown in Area No. 2 are currently in effect under § 948.386. Centennial Russet variety potatoes had to be 2 inches minimum diameter or 4 ounces minimum weight. Other long varieties, which include other Russet varieties, had to be 1⅞ inch minimum diameter with no minimum weight option. The interim final rule amended that section by removing the weight requirement option for Centennial Russets and reducing the minimum diameter requirement for Centennial Russets to 1⅞ inches. Thus, all Russet varieties are now required to meet the same minimum diameter. The Committee unanimously recommended this change at its August 21, 1997, meeting.

When the previous size regulations were established, the Centennial Russet was the dominant variety in the San Luis Valley (Area No. 2), accounting for approximately 65–75 percent of the crop. The other major Russet variety grown in the San Luis Valley was the Russet Burbank, a slimmer potato which was required to meet the 1⅞ inch minimum diameter. Today, the Russet

Burbank has been phased out completely and the Centennial Russet accounts for less than 10 percent of the crop. The Burbank and the Centennial have been replaced by other varieties, including new Russet varieties which have the same bulky features as the Centennial.

The new varieties, however, were required only to meet the 1⅞ inch minimum diameter, not the 2 inch minimum diameter or 4 ounce minimum weight requirements that Centennial Russets were required to meet. The industry was concerned that Centennial Russets could be misrepresented as one of the new Russet varieties, so as to comply only with the smaller size requirement. The interim final rule, by establishing the same size requirements for all Russet varieties, eliminated that possibility.

Reducing the size requirement allowed handlers to market a larger portion of the Centennial Russet crop in fresh outlets. That change improved the marketing of Colorado potatoes and increased returns to producers.

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

There are approximately 118 handlers of Colorado Area 2 potatoes who are subject to regulation under the marketing order and approximately 280 producers of Colorado potatoes in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of potato producers and handlers regulated under the marketing agreement and order may be classified as small entities.

Section 948.22 of the order authorizes the issuance of handling regulations for potatoes grown in Colorado. The interim final rule relaxed the size requirement for Centennial Russet variety potatoes grown in Area No. 2 from a 2 inch minimum diameter or 4-ounce minimum weight to a 1⅞ minimum diameter with no weight option. This change enabled handlers to market a larger portion of the crop in fresh market outlets and improved the marketing of Colorado potatoes. There is no available information detailing how many potatoes this relaxation allowed to be marketed which could not have been marketed prior to this action.

The rule also eliminated a potential compliance problem, as all Russet varieties are now required to meet the same size specifications. Other Russet varieties were required only to meet the smaller size regulation of 1⅞ inch diameter. Because some of the new Russet varieties with characteristics very similar to Centennials faced the smaller size requirement and have surpassed Centennials in popularity, there was a possibility that Centennials could have been misrepresented as one of the new Russet varieties.

The only viable alternative to reducing the size requirement for Centennials was to increase the size requirement for all other long potatoes, including all other Russets. The Committee surveyed 270 growers from Area No. 2 concerning the grade and size regulation. Both options for equalizing the size regulations for all long potatoes were included in the survey. The participating growers rejected increasing the size requirements for all other long potatoes, which would have reduced the number of Colorado potatoes on the market, in favor of the size requirement reduction established by the interim final rule.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 21, 1997, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 12 members, of which 5 are handlers and 7 are producers, the majority of whom are small entities.

Also, the Committee surveyed 270 producers in Area No. 2, the majority of whom are small entities, concerning regulation during the 1997–98 potato shipping season. This rule reflects the outcome of that survey of predominantly small growers.

An interim final rule concerning this action was published in the **Federal Register** on September 26, 1997 (62 FR 50479). Copies of the rule were mailed or sent via facsimile to all Committee members and Area 2 potato producers and handlers. Finally, the rule was made available through the Internet by the Office of the **Federal Register**. A 60-day comment period was provided. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 948—IRISH POTATOES GROWN IN COLORADO

Accordingly, the interim final rule amending 7 CFR part 948 which was published at 62 FR 50479 on September 26, 1997, is adopted as a final rule without change.

Dated: December 15, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33167 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–13–AD; Amendment 39–10258; AD 97–26–15]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes (formerly referred to as Beech Models 1900, 1900C, and 1900D airplanes). This AD requires lubricating the main landing gear actuator rod ends and eventually replacing these rod ends with Teflon-lined rod ends. The AD results from reports of in-flight separations of the rod end that attaches the actuator to the arm of the main landing gear drag brace assembly on two of the affected airplanes caused by excessive friction in the rod end bearing. The actions

specified by this AD are intended to prevent actuator rod end failure caused by excessive friction in the rod end bearing, which could result in the inability to lower the main landing gear or result in landing gear collapse during landing.

DATES: Effective January 25, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 25, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–13–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4124; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Models 1900, 1900C, and 1900D airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 23, 1997 (62 FR 39492). The NPRM proposed to require lubricating the actuator rod ends of the P/N 114–380041–11 (or FAA-approved equivalent part number) main landing gear actuators in accordance with Raytheon Safety Communiqué 1900–128, dated October 25, 1996. The proposed AD would also require eventually replacing the rod ends of the P/N 114–380041–11 (or FAA-approved equivalent part number) main landing gear actuators with Teflon-lined rod ends, P/N M81935/1–8K (or FAA-approved equivalent part number). Accomplishment of this proposed replacement would be in accordance with Raytheon Mandatory Service Bulletin No. 2730, Issued: November, 1996.

Raytheon Models 1900, 1900C, and 1900D airplanes could have main landing gear actuators installed that have Parts Manufacturer Approval (PMA). For those airplanes having PMA parts that are equivalent (PMA by equivalency) to those referenced in the proposed AD, the phrase ''or FAA-approved equivalent part number'' means that the proposed actions, if followed by a final rule, would also apply to airplanes with PMA by equivalency actuators installed.

The NPRM resulted from reports of in-flight separations of the rod end that attaches the actuator to the arm of the main landing gear drag brace assembly on two of the affected airplanes caused by excessive friction in the rod end bearing.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received from one commenter. No comments have been received regarding the FAA's estimate of the cost impact upon the public.

Comment No. 1: Language Change in the AD

The commenter requests that the FAA add the following language to paragraph (b) of the proposed AD:

> Installation of P/N M81935/1–8K (or FAA-approved equivalent part) rod end constitutes terminating action to the lubricating requirements of provision (a) of this AD.

The commenter feels that adding this language to paragraph (b) of this AD will eliminate the need for the language in paragraph (a)(1) and (a)(2) of this AD.

The FAA partially agrees. The FAA believes that language similar to that proposed by the commenter could replace paragraph (a)(1) of the proposed AD, which currently reads:

> This lubrication is not needed on airplanes that have P/N M81935/1–8K (or FAA-approved equivalent part number) main landing gear actuator rod ends installed, as required by paragraph (b) of this AD.

However, paragraph (a)(2) states that the operator may accomplish the installation at any time prior to 600 hours time-in-service (TIS). The FAA feels that this paragraph is necessary as it provides information and clarification necessary for persons who might want to accomplish the installation at a regular maintenance interval, and would prefer to accomplish the installation and not accomplish the lubrication requirements of the AD. The FAA will replace the language of paragraph (a)(1) with language similar to that requested by the commenter. Paragraph (a)(1) of the final rule has been changed accordingly.

Comment No. 2: Wrong reference to Raytheon Safety Communiqué 1900–128

The commenter states that Raytheon Safety Communiqué 1900–128 was incorrectly referenced in the proposed AD as Raytheon Safety Communiqué 1900–28. The commenter requests that the proposed AD be changed to reflect the correct reference to this service information.

The FAA concurs and will change the final rule accordingly.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the changes described above and minor editorial corrections. The FAA has determined that these changes and minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 507 airplanes in the U.S. registry would be affected by this AD, that it would take approximately 4 workhours per airplane (2 workhours per actuator with 2 actuators per airplane) to accomplish the required installation, and that the average labor rate is approximately $60 an hour. Parts cost approximately $233 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $239,811, or $473 per airplane. These figures are based on the presumption that no owner/operator of the affected airplanes has incorporated the required installation.

Raytheon has informed the FAA that approximately 609 actuator rod ends have been shipped from the Raytheon Aircraft Authorized Service Center. This is enough to equip approximately 300 of the affected airplanes (two main landing gear actuators per airplane). Presuming that these actuator rod ends were incorporated on the affected airplanes (two per airplane), this would reduce the cost impact of this AD by $141,900 from $239,811 to $97,911.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 a new airworthiness directive (AD) to read as follows:

97–26–15 Raytheon Aircraft Company: Amendment 39–10258; Docket No. 97–CE–13–AD.

Applicability: The following model and serial number airplanes, certificated in any category, that are equipped with at least one part number (P/N) 114–380041–11 (or FAA-approved equivalent part number) main landing gear actuator:

Model	Serial numbers
1900	UA–2 and UA–3.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J).	UD–1 through UD–6.
1900D	UE–1 through UE–249 and UE–252.

Note 1: The airplanes affected by this AD could have main landing gear actuators installed that have Parts Manufacturer Approval (PMA). For those airplanes having PMA parts that are equivalent (PMA by equivalency) to those referenced in this AD, the phrase ''or FAA-approved equivalent part number'' means that this AD applies to airplanes with PMA by equivalency main landing gear actuators installed.

Note 2: This AD applies to each airplane 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 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 (e) of this AD. The request should include an assessment of the effect of the installation, 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 in the body of this AD, unless already accomplished.

To prevent actuator rod end failure caused by excessive friction in the rod end bearing, which could result in the inability to lower the main landing gear or result in landing gear collapse during landing, accomplish the following:

(a) Upon accumulating 1,200 hours time-in-service (TIS) on each P/N 114–380041–11 (or FAA-approved equivalent part number) main landing gear actuator or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, lubricate the actuator rod ends in accordance with Raytheon Safety Communiqué 1900–128, dated October 25, 1996.

(1) Installation of P/N M81935/1–8K (or FAA-approved equivalent part number) main landing gear actuator rod ends constitutes terminating action to the lubricating requirements of paragraph (a) of this AD.

(2) Installing the P/N M81935/1–8K (or FAA-approved equivalent part number) main landing gear actuator rod ends may be accomplished at any time prior to the next 600 hours TIS, at which time they must be installed (see paragraph (b) of this AD).

(b) Within the next 600 hours TIS after the effective date of this AD, install Teflon-lined main landing gear actuator rod ends, P/N M81935/1–8K (or FAA-approved equivalent part number), in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Raytheon Mandatory Service Bulletin No. 2730, Issued: November, 1996.

(c) As of the effective date of this AD, no person may install a P/N 114–380041–11 (or FAA-approved equivalent part number) main landing gear actuator without replacing the rod ends with P/N M81935/1–8K (or FAA-approved equivalent part number). Installing these Teflon-lined rod ends re-identifies the main landing gear actuator as P/N 114–380041–13.

(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) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) The lubrication required by this AD shall be done in accordance with Raytheon Safety Communiqué 1900–128, dated October 25, 1996. The installation required by this AD shall be done in accordance with Raytheon Mandatory Service Bulletin No. 2730, Issued: November, 1996. 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 the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment (39–10258) becomes effective on January 25, 1998.

Issued in Kansas City, Missouri, on December 10, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32994 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–140–AD; Amendment 39–10254; AD 97–26–11]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, and –320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200, –300, and –320 series airplanes, that requires an inspection to detect corrosion of the rear spars of the wings, and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are

intended to detect and correct possible corrosion on the rear spars of the wings, which could result in reduced structural integrity of the wings.

DATES: Effective January 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, –320 series airplanes was published in the Federal Register on October 01, 1997 (62 FR 51388). That action proposed to require an inspection to detect corrosion of the rear spars of the wings, and corrective actions, if necessary.

Comments

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

Request to Withdraw the Proposal

The Direction Générale de l'Aviation Civile (DGAC) has no technical objection to the proposal, but requests that the FAA withdraw it because French airworthiness directive 95–127–062(B) was issued against a target set of airplanes, and was intended to evaluate and quantify the problems with corrosion in the area of the wing spars. The results of the inspection enabled the manufacturer to define long term actions and revise the airplane maintenance program (known as the Maintenance Review Board or MRB), to include the necessary inspections and corrective actions. The commenter further states that the revised MRB has been implemented by U.S. operators, and that an AD mandating these same actions is not required.

The FAA does not concur with the commenter's request to withdraw the proposal. The MRB document referenced by the commenter is not mandatory for U.S. operators. Therefore, the issuance of this AD is the only means available to the FAA to require changes in the maintenance of the airplane which are related to an unsafe condition. The ''Compliance'' provision of this AD states that compliance is required as indicated, ''unless accomplished previously.'' Therefore, if an operator has adopted and complied with MRB provisions that describe the inspection required by this AD, it may take credit for prior accomplishment of those actions.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 16 Model ATR42–200, –300, and –320 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 24 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $23,040, or $1,440 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–26–11 Aerospatiale: Amendment 39–10254. Docket 95–NM–140–AD.

Applicability: Model ATR42–200, -300, and -320 series airplanes, as listed in Aerospatiale Service Bulletin ATR42–57–0044, dated May 30, 1995, or Revision 1, dated June 28, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion on the rear spars of the wings, which could result in reduced structural integrity of the wing, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time detailed visual inspection to detect corrosion of the rear spars of the wings, in accordance with Aerospatiale Service Bulletin ATR42–57–0044, dated May 30, 1995, or Revision 1, dated June 28, 1995.

(1) If no corrosion is detected, prior to further flight, apply a protective compound to the areas specified in the service bulletin, in accordance with the service bulletin.

(2) If any corrosion is detected, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. 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.

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

(d) The actions shall be done in accordance with Aerospatiale Service Bulletin ATR42–57–0044, dated May 30, 1995; or Aerospatiale Service Bulletin ATR42–57–0044, Revision 1, dated June 28, 1995; which contain the specified effective pages.

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
ATR42–57–0044, May 30, 1995	1–17	Original	May 30, 1995.
ATR42–57–0044, Revision 1, June 28, 1995	1, 4, 6–8, 15–16	1	June 28, 1995.
	2, 3, 5, 9–14, 17	Original	May 30, 1995.

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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. 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.

Note 3: The subject of this AD is addressed in French airworthiness directive 95–127–063(B), dated August 2, 1995.

(e) This amendment becomes effective on January 23, 1998.

Issued in Renton, Washington, on December 11, 1997.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32999 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–ANE–08; Amendment 39–10260; AD 97–26–17]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors IO–360, TSIO–360, LTSIO–360, IO–520, LIO–520, TSIO–520, LTSIO–520 Series, and Rolls-Royce plc IO–360 and TSIO–360 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Teledyne Continental Motors (TCM) IO–520 and TSIO–520 series reciprocating engines, that currently requires ultrasonic inspection for subsurface fatigue cracks in crankshafts installed in TCM IO–520 and TSIO–520 series engines and replacement of the crankshaft if a crack is found. This amendment adds a requirement to remove crankshafts manufactured using the airmelt process and replace them with crankshafts manufactured using the vacuum arc remelt (VAR) process, incorporates new ultrasonic inspection criteria in the AD, adds engine series TCM IO–360, TSIO–360, LTSIO–360, IO–520, LIO–520, TSIO–520, LTSIO–520 and Rolls-Royce, plc IO–360 and TSIO–360 to the applicability, and revises the economic impact analysis. This amendment is prompted by reports of crankshaft failures due to subsurface fatigue cracking on engines that had been inspected in accordance with the current AD. The actions specified by this AD are intended to prevent crankshaft failure and subsequent engine failure.

DATES: Effective January 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (334) 438–3411. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, Campus Building, 1701 Columbia Ave., Suite 2–160, College Park, GA 30337–2748; telephone (404) 305–7371, fax (404) 305–7348.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Teledyne Continental Motors (TCM) IO–360, TSIO–360, LTSIO–360, IO–520 and TSIO–520 series reciprocating engines was published as a supplemental notice of proposed rulemaking (SNPRM) in the **Federal Register** on August 24, 1995 (60 FR 43995). That proposal would have superseded AD 87–23–08, Amendment 39–5735 (52 FR 41937, October 30, 1987), which currently requires ultrasonic inspection of TCM IO–520 and TSIO–520 series engines for subsurface fatigue cracks in the crankshaft and replacement of the crankshaft, if a crack is found. The proposed AD would have retained the ultrasonic inspection, but would have required the removal of crankshafts manufactured using the airmelt process and required replacement with crankshafts that were manufactured using the vacuum arc remelt (VAR) process. The proposed AD would have also expanded the affected population of engines to add the TCM IO–360, TSIO–360 and LTSIO–360 series engines to the IO–520 and TSIO–520 series engines affected by AD 87–23–08. That proposal was prompted by reports of crankshaft failures due to subsurface fatigue cracking on engines that had been inspected in accordance with AD 87–23–08. That condition, if

not corrected, could result in crankshaft failure and subsequent engine failure.

Since the issuance of that SNPRM, TCM has revised and improved the ultrasonic test procedure and the Federal Aviation Administration (FAA) determined that the proposed AD should reference this new procedure. In addition, the FAA has also determined that TCM LIO–520 and LTSIO–520 and Rolls-Royce, plc IO–360 and TSIO–360 series engines are affected and should be included in this proposal as they are identical in design and manufacturing process. The number of Rolls-Royce, plc engines that were added was small, estimated to be 500 worldwide. The added TCM engines were affected only by the repetitive ultrasonic inspection requirements, as they already have VAR crankshafts.

Since those changes expanded the scope of the originally proposed rule, the FAA determined that it was necessary to reopen the comment period to provide additional opportunity for public comment. On March 12, 1997, the FAA issued a second SNPRM (62 FR 15133, March 31, 1997).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received from these three notices: 41 to the original NPRM, 26 to the SNPRM, and 4 to the second SNPRM.

One group of commenters state that the AD should be withdrawn, since the listed price of the replacement part is not believed to be accurate nor will it be available for a sustained period of time. The FAA concurs in part. Since the original issuance of the NPRM, the cost of the exchange crankshaft has increased from $2,222 to $2,599 and the cost analysis has been corrected to reflect this new price. This price assumes the customer exchanges an airmelt crankshaft for a VAR crankshaft. However, some commenters have stated that the price of the crankshaft is $7,000 or higher, but this is based on the outright purchase price without an exchange crankshaft (actual TCM List Outright prices currently range from $7,407 to $8,979). The cost analysis is based on the exchange price because the applicability of this action is limited to registered owners of the specified TCM engine models, and it is assumed these owners have crankshafts installed in their engines.

One group of commenters state that the AD should be withdrawn, since the data used for the NPRM is invalid and the handling of the data is not statistically correct. The FAA does not concur. The data used to justify the AD is valid; as stated previously, it is derived from crankshaft failures where the failure mode was determined by engineering evaluation of numerous failure events, which included reviews of engine operating histories, analytical engine teardowns, and laboratory analyses of the failed crankshafts. The FAA participated in many of these investigative activities.

One commenter (ARSA) presented data from repair stations which they insist is the only valid data. Their data is derived from ultrasonic inspection of airmelt and VAR crankshafts and shows 29 airmelt removals out of 3,821 crankshafts inspected and 3 VAR removals out of 488 crankshafts inspected. They then conclude that statistically there is no difference in the two types of crankshafts. Their statistical comparison of the number they found to the number they inspected is invalid. The comparison must be made to the total population.

A better comparison is to combine their inspection data with the FAA/TCM failure data. This is still not completely accurate but it includes all the data currently available. When this is done, there are 77 airmelt ''events'' out of an initial population of 23,000 and 7 VAR ''events'' out of an initial population of 35,800; this comparison showed an airmelt to VAR ''event'' rate of 17 to 1. An ''event'' is either crankshaft removal per ARSA data or crankshaft failure per FAA/TCM data. When the one set of ARSA data is combined with the latest FAA/TCM data (the latest data includes failures for 1993 through 1996), there are 89 airmelt ''events''. There were no VAR subsurface fatigue failures for 1993 through 1996. The population of the engines has changed since this process was initiated and continues to change, literally each day, which makes failure rate comparisons extremely difficult, if not impossible, to accurately calculate; the airmelt population is now estimated at 10,100. The FAA has determined that the failure rate is high enough to warrant an AD.

One group of commenters state that the AD should be withdrawn, since they operate 10–12 of these engines with no failures to date. The commenters' justification is that in complying with the AD there is no increase in aviation safety but expenses and operating costs will increase. The FAA does not concur. These five comments were all identical but with different signatures. No technical justification was given for not publishing the AD. The FAA is aware of the costs this AD will impose on operators, but has determined that an unsafe condition exists which must be addressed by performing the actions required by this AD. These actions are necessary to return the affected engines to the level of safety established at the time the engine design was type certified by the FAA.

One group of commenters state that the AD should be withdrawn, since unreported propeller strikes have contaminated the data and cannot be eliminated; therefore, the data is invalid. The FAA does not concur. The history of the engines for each data point was evaluated to eliminate any data from propeller strikes and improper operation; however, there is the remote possibility that some of the failures were due to a propeller strike or improper operation. There is no way to be 100% sure that all failures due to propeller strikes and improper operation were eliminated from the data. The data, however, is reliable enough that the FAA feels that the AD is warranted.

One group of commenters state that the AD should be withdrawn, since the FAA did not use the service difficulty reports (SDR) database to validate the findings of the AD; therefore, the data is not valid. The FAA does not concur. As stated in the SNPRM, the SDR database does not identify cracks as being subsurface fatigue cracks or originating from some other source, nor does it easily identify airmelt versus VAR. This information may not have been available at the time the ''M'' or ''D'' report was submitted. The FAA requires the submission of ''M'' or ''D'' reports in certain cases and certainly encourages submittal of all pertinent findings. The SDR database may be used to determine if a particular part/engine is experiencing a problem; however, it may not be possible to determine the exact nature of the problem. Using data sources other than the SDR database does not invalidate the FAA's determination that an AD is warranted.

One commenter states that the AD should be made applicable to engines installed on single-engine aircraft only, since with twin-engine aircraft the second engine is available. The FAA does not concur. Although the second engine is available, the accident/incident data shows that a high percentage of engine out incidents involving twin-engine aircraft result in off airport landings/crashes. For this reason, engines installed on twins should remain in the AD.

One commenter states that TCM should identify VAR crankshafts on the propeller flange instead of on the cheek, as this would allow the identification of VAR crankshafts without separating the case halves. The FAA does not concur.

If the crankshaft has had an ultrasonic inspection in accordance with TCM Service Bulletin M87–5, Revision 1, or AD 87–23–08, the heat code, the letter ''V'' (only if it is a VAR crankshaft) and the letter ''U'' will be vibroetched on the propeller flange. If the ''V'' is missing then it is an airmelt crankshaft. In addition, this AD requires compliance at overhaul or whenever the crankshaft is removed from the engine so that the internal marking will be visible. Of course, any new crankshaft purchased from TCM will be VAR, and even if TCM started to mark them now there is still over a decade of production which have no marking on the exterior.

One commenter states that the IO–360 series engines should be removed from the AD's applicability, as verbal contact with their members (800 total, 225 using the IO–360 engine) indicate no problems. The commenter believes that the failures are associated with ground strikes and improper operation of engines with under 1,200 hours total time. The FAA does not concur. The issue of propeller strikes and improper operation has been previously addressed. The FAA data shows that 5 of the 8 IO/TSIO–360 airmelt crankshaft failures occurred on IO–360 engines (the data from ARSA does not differentiate between 360 and 520 series engines). Of the five IO–360 failures, two had more than 1,200 hours total time.

One group of commenters state that the AD should be withdrawn, since the time in service of the engines are not accurately represented in FAA data because TCM rebuilt engines are included in data. Engines with serial numbers (S/Ns) lower than 300000 are reserved by TCM for rebuilt engines. The FAA does not concur. The FAA agrees that many of the engines listed are rebuilt by TCM, where the time in service of the crankshaft cannot be accurately determined, but the crankshaft would be considered high time. However, there are other engines listed which are ''first run'' with low time in service failures. The data supports the FAA's position that the failures are random and time in service is not the determining factor.

One group of commenters state that the AD should be withdrawn, since there will be a loss of revenue to the repair stations, overhaulers, etc. Some commenters state that TCM is replacing the crankshafts in rebuilt engines at no charge to the customer, thereby reducing the potential for overhauls. The commenters state that they have lost numerous overhauls because their customers have elected to buy a TCM rebuilt engine instead of paying for an overhaul. The commenters consider this an unfair business practice and feel that the FAA is furthering this scheme by issuing an AD.

The FAA disagrees. The commenters ignore the FAA's determination that an unsafe condition is likely to exist or develop on engines of this type design. The FAA recognizes that competition affects the profitability of entities engaged in the aviation industry, but denies any scheme to aid one competitor over another. That the original manufacturer of these engines has elected to compete in the overhaul market does not affect the FAA's determination that an unsafe condition exists or the need for this AD to address that safety issue.

One commenter states that the cost is shown as an annual amount but should have been shown as a total amount. The commenter believes this economic analysis is unprecedented and irregular and undermines the confidence of the aviation general public in the rulemaking process. The FAA does not concur. The FAA normally shows costs on an annual basis when compliance with an AD will be extended over a long time frame. The total costs are generally shown, but in this case, as stated in the SNPRM, ''The FAA estimates that approximately 10% of the affected engines will be overhauled each year''; thus it should be clear that it will take approximately 10 years before all the affected engines are in compliance. The total cost is easily derived by multiplying the annual cost estimate by 10. This issue was avoided in the second SNPRM by showing both annual and total costs.

Two commenters state that the cost estimate is too low, as a big cost in procuring a new crankshaft is not stated; i.e., the shipping/freight cost, which should be included in the cost estimate for this AD. The FAA concurs. Since the FAA's cost estimate of a replacement crankshaft is based on an ''exchange'' part, the FAA concurs that the costs of shipping are appropriately included as direct cost of the replacement part. Shipping costs will vary widely however, and the FAA has no reasonable means to estimate those costs. Therefore, the FAA will use the commenters' estimate of $100 for shipping costs and adjust the cost analysis accordingly.

One commenter states that the AD should be withdrawn, since the economic impact does not include the cost to remove the engine and propeller from the airplane and to reinstall them. The FAA does not concur. The AD is to be accomplished at overhaul or whenever the crankcase is separated. Since the engine and propeller, in either case, must be removed anyway, there will be no additional expense to remove/reinstall the engine and propeller in order to comply with the AD.

One commenter states that the FAA should acquire more data about the currently required ultrasonic inspection before issuing the AD. The commenter questions whether any of the engines that failed that were listed in the TCM data had undergone the required ultrasonic inspection. The FAA does not concur. Of the failures listed in the FAA/TCM data, 22 airmelt and 1 VAR had been inspected one or more times in accordance with AD 87–23–08 and/or TCM SB M87–5, or M87–5, Revision 1. All of the crankshafts in the data provided by ARSA (29 airmelt and 3 VAR) were removed from service because they failed the ultrasonic inspection.

One group of commenters state that the AD should be withdrawn, since the data on which the FAA's determination that an unsafe condition exists was not available to the commenter for review. The FAA does not concur. The commenters have filed a number of comments with the AD docket file that indicate a careful review of available data from a number of sources, including the docket file. The FAA denies that the information available in the docket file is inadequate to warrant AD action. While some information cannot be included in the public docket file due to the proprietary nature of the information, the FAA has placed in the docket a summary of the data on which it bases its determination that an unsafe condition exists, that the unsafe condition is likely to exist or develop on other products of the same type design, and that this AD is necessary to address this safety concern.

One commenter states that in Note 2 of the proposed AD, reference was made to the term magnaflux; the commenter correctly points out that magnaflux is a registered trademark and should not be used in this context. The generic terminology magnetic particle inspection should be used instead. The FAA concurs and has revised this final rule accordingly.

Two commenters state that the AD should be withdrawn, since the FAA has failed to address comments made to the previous NPRM and SNPRM. The FAA does not concur. The purpose of the SNPRM is to continue the fact gathering process. For clarity, certain comments were partially addressed in the SNPRMs; however, all comments have been addressed in the processing of this final rule.

One commenter states that the AD should be withdrawn, since the FAA has not substantiated the inclusion of the Rolls-Royce, plc engines which are not US type certificated. The FAA does not concur. The FAA stated in the second SNPRM that the Rolls-Royce, plc engines are identical in design and manufacturing process, which substantiates their inclusion. It is true that there is no US type certificate for these engines; however, these engines are accepted for use on US type certificated airplanes, and several are installed on US registered aircraft. Therefore, TCM service information and FAA ADs apply to these engines.

One commenter states that the AD should be withdrawn, since a number of alternatives to AD action already exist and they have been shown to be as effective as an AD. The alternatives include the current TCM service information, special TCM pricing, strong sales of TCM rebuilt engines and attrition of older airmelt crankshafts. The FAA does not concur. There was TCM service information prior to the initial issuance of the original NPRM and that did not affect the failure rate. The special TCM pricing has helped but is not enough to warrant no AD action. Strong sales of TCM rebuilt engines and attrition of older crankshafts certainly help the situation, but, again, are not sufficient to warrant no AD action. The data reflects the need for the AD and does not show that the alternatives presented are as effective as an AD.

One commenter states that the AD should be withdrawn since the SNPRM mandates a standard maintenance practice which is in conflict with FAA internal guidance on the issuance of ADs. The FAA does not concur. The problem here is not a maintenance procedure, but a manufacturing process, and it affects all the affected engines regardless of who is performing the maintenance, or the quality of maintenance. The FAA has determined that an unsafe condition exists or can develop on these crankshafts. It is therefore incumbent on the FAA to issue an AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will not increase the scope of the AD.

The FAA estimates that 10,100 engines are installed on aircraft of U. S. registry and will need to have the crankshaft replaced, that it will take approximately 1 work hour per engine to determine the type of crankshaft installed and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,599 and shipping will cost approximately $100. Based on these figures, the cost impact of replacing crankshafts on U. S. operators is estimated to be $27,865,900 over a 10-year period or $2,786,590 annually.

The FAA further estimates that 59,300 engines with VAR crankshafts installed would require ultrasonic inspections and the estimated cost of performing an ultrasonic inspection is $200. The FAA estimates that approximately 10%, or 5,930 engines, would need to be overhauled annually, so the estimated total cost impact for ultrasonic inspections is $1,186,000 annually.

Therefore, the FAA estimates the total cost impact of the AD to be $27,865,900 over a 10-year period, plus an additional $1,186,000 annually for the repetitive ultrasonic inspections.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–5735 (52 FR 41937, October 30, 1987) and by adding a new airworthiness directive, Amendment 39–10260, to read as follows:

97–26–17 **Teledyne Continental Motors and Rolls-Royce, plc:** Amendment 39–10260. Docket 93–ANE–08. Supersedes AD 87–23–08, Amendment 39–5735.

Applicability: Teledyne Continental Motors (TCM) IO–360, LTSIO–360, TSIO–360, IO–520, LIO–520, LTSIO–520 and TSIO–520 series reciprocating engines built on or prior to December 31, 1980; rebuilt TCM IO–360, LTSIO–360, TSIO–360, IO–520, LIO–520, LTSIO–520 and TSIO–520 series reciprocating engines with serial numbers lower than those listed in TCM Critical Service Bulletin (SB) No. CSB96–8, dated June 25, 1996; TCM factory overhauled IO–360, LTSIO–360, TSIO–360, IO–520, LIO–520, LTSIO–520 and TSIO–520 series reciprocating engines with serial number of 901203H and lower; and Rolls-Royce, plc IO–360 and TSIO–360 series reciprocating engines with any serial number. These engines are installed on but not limited to the following aircraft: Raytheon (formerly Beech) models 95–C55, 95–C55A, D55, D55A, E55, E55A, 58, 58A, 58P, 58PA, 58TC, 58TCA, S35, V35, V35A, V35B, E33A, E33C, 35–C33A, 36, A36, F33A, F33C and A36TC; Bellanca model 17–30A; Cessna models 172XP, A185, A188, T188C, 206, T206, 207, T207, 210, T210, P210, 310R, T310P, T310Q, T310R, 320D, 320E, 320F, 336, 337, T337, P337, 340, 401, 402, 414 and T41B/C; Colemill conversion of Commander 500A; Goodyear Airship Blimp 22; Maule Model M–4–210, M–4–210C, M–4–210S, M–4–210T, and M–5–210C; Mooney model M20–K; Navion model H; Pierre Robin HR 100; The New Piper Aircraft, Inc. (formerly Piper Aircraft Company) models PA28–201T, PA28R–201T, PA28RT–201T, PA34–200T and PA34–220T; Prinair Dehavilland Heron; Reims models FR172, F337 and FT337; and Swift Museum Foundation, Inc. models GC–1A and GC–1B equipped with the IO–360 engine.

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 crankshaft failure and subsequent engine failure, accomplish the following:

(a) At the next engine overhaul, or whenever the crankshaft is next removed from the engine, after the effective date of this AD, whichever occurs first, determine if the crankshaft was manufactured using the airmelt or vacuum arc remelt (VAR) process in accordance with the identification procedure described in TCM Critical SB No. CSB96–8, dated June 25, 1996. If the crankshaft was manufactured using the airmelt process or if the manufacturing process is unknown, remove the crankshaft from service and replace with a serviceable crankshaft manufactured using the VAR process.

(b) For all TCM IO–360, LTSIO–360, TSIO–360, IO–520, IO–520, LTSIO–520 and TSIO–520 and Rolls-Royce, plc IO–360 and TSIO–360 engine models that have VAR crankshafts installed, regardless of serial number; at the next and every subsequent crankshaft removal from the engine case or installation of a replacement crankshaft, prior to crankshaft installation in the engine, conduct an ultrasonic inspection of the crankshaft in accordance with the procedures specified in TCM Mandatory SB No. MSB96–10, dated August 15, 1996, and, if necessary, replace with a serviceable part.

Note 2: Accomplishment of the ultrasonic inspection required by this AD does not fulfill any requirements for magnetic particle inspection or any other inspections specified in TCM or Rolls-Royce, plc overhaul manuals.

(c) The ultrasonic inspection of the crankshaft must be performed by a non-destructive test (NDT) ultrasonic (UT) Level II inspector who is qualified under the guidelines established by the American Society of Nondestructive Testing or MIL–STD–410 or FAA-approved equivalent, or must be trained by TCM personnel or their designated representative on how to accomplish and conduct this inspection procedure. The person approving the engine for return to service is required to verify that the UT inspection was accomplished in accordance with the requirements of this paragraph.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Atlanta 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 TCM service documents:

Document No.	Pages	Date
CSB96–8 ..... Total pages: 6.	1–6	June 25, 1996.
MSB96–10 ..... Total pages: 3.	1–3	August 15, 1996.

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 Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (334) 438–3411. 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.

(g) This amendment becomes effective on January 23, 1998.

Issued in Burlington, Massachusetts, on December 12, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–33142 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–50–AD; Amendment 39–10261; AD 97–26–18]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model SA–360C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Eurocopter France Model SA–360C helicopters. This action requires replacement of the main gear box (MGB) input bevel pinion (bevel pinion). This amendment is prompted by service reports of bevel pinion fatigue cracking. This condition, if not corrected, could result in failure of the MGB and a subsequent forced landing.

DATES: Effective January 5, 1998.

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), Office of Regional Counsel, Southwest Region, Attention: Rules Docket No. 97-SW–50-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Direction Generale De L'Aviation (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–360C helicopters with MGB, part number (P/N) 360A32–2000—all dash numbers, installed. The DGAC advises that replacement of the MGB bevel pinion, P/N 360A32–1021–20, is necessary at 1,000 hours time-in-service (TIS) intervals to prevent fatigue cracking of the bevel pinion, failure of the MGB, and a subsequent forced landing.

Eurocopter France has issued Service Bulletin No. 01.35, dated January 14, 1997, which specifies replacement of the MGB bevel pinion at 1,000 hour TIS intervals. The DGAC classified this service bulletin as mandatory and issued DGAC AD 97–027–041(B), dated February 12, 1997, in order to assure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–360C helicopters of the same type design registered in the United States, this AD is being issued to prevent bevel pinion fatigue cracking, failure of the MGB, and a subsequent forced landing. This AD requires replacement of the bevel pinion at specified TIS intervals.

None of the Eurocopter France Model SA–360C helicopters affected by this AD action are on the U.S. Register. All

helicopters included in the applicability of this rule are currently operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject helicopters are imported and placed on the U.S. Register in the future.

Should an affected helicopter be imported and placed on the U.S. Register, it will require approximately 8.5 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts will cost $17,000 per helicopter for each replacement. Based on these figures, the cost impact of this AD will be $17,510 per helicopter for each MGB bevel pinion replacement.

Since this AD action does not affect any helicopter that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97-SW–50-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 notice and prior public comment are unnecessary in promulgating this regulation and therefore, it can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States, 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, 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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

97–26–18 Eurocopter France: Amendment 39–10261. Docket No. 97–SW–50–AD.

Applicability: Model SA–360C helicopters with main gearbox (MGB), part number (P/N) 360A32–2000—all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the MGB bevel pinion, failure of the MGB, and a subsequent forced landing, accomplish the following:

(a) Before further flight, and thereafter at intervals not to exceed 1,000 hours time-in-service (TIS), replace the MGB bevel pinion, P/N 360A32–1021–20, on MGBs that have accumulated 900 or more hours TIS since first installed on any helicopter or since the last MGB overhaul.

(b) On or before the accumulation of 1,000 hours TIS, and thereafter at intervals not to exceed 1,000 hours TIS, replace the bevel pinion, P/N 360A32–1021–20, on MGBs that have accumulated less than 900 hours TIS since first installed on any helicopter or since the last MGB overhaul. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the bevel pinion, P/N 360A32–1021–20, of 1,000 hours TIS.

Note 2: Eurocopter France Mandatory Service Bulletin No. 01.35, dated January 14, 1997, contains additional information concerning the subject of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

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

(e) This amendment becomes effective on January 5, 1998.

Note 4: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) AD 97–027–041(B), dated February 12, 1997.

Issued in Fort Worth, Texas, on December 12, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–33145 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–CE–28–AD; Amendment 39–10259 AD 97–26–16]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 402C and 414A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 85–13–03 R2, which currently requires repetitively inspecting the engine mount beams for cracks on certain Cessna Aircraft Company (Cessna) Models 402C and 414A airplanes, and replacing any cracked beams. This AD requires incorporating engine mount kits that will eliminate the need for the repetitive inspection requirement of AD 85–13–03 R2. This AD results from the Federal Aviation Administration's policy on aging commuter-class aircraft, which is to eliminate or, in certain instances, reduce the number of certain repetitive short-interval inspections when improved parts or modifications are available. The actions specified by this AD are intended to prevent failure of the engine mount beam caused by fatigue cracks, which could result in loss of the engine with consequent loss of the airplane.

DATES: Effective February 2, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 2, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277, telephone (316) 941–7550; facsimile (316) 942–9006. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 90–CE–28–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

AD 85–13–03 R2, Amendment 39–5147, currently requires repetitively inspecting the engine mount beams for cracks on certain Cessna Aircraft Company (Cessna) Models 402C and 414A airplanes, and replacing any cracked beams. On August 9, 1990 (55 FR 32442), a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would supersede AD 85–13–03 R2 was published in the **Federal Register** as a notice of proposed rulemaking (NPRM). This NPRM proposed to supersede AD 85–13–03 R2 with a new AD that would have retained the repetitive inspections initially, and would have required eventual modification of the engine mount beams upon the accumulation of a certain amount of usage time on the airplane, as terminating action for the repetitive inspections.

Interested persons were afforded an opportunity to participate in the making of this amendment. One comment was received regarding the NPRM and no comments were received regarding the FAA's determination of the cost to the public.

Cessna recommended a change to the original NPRM to account for airplanes that may have Cessna Kit SK414–19 incorporated without Cessna Kit SK414–17 ever being incorporated. Cessna stated that, as written, the NPRM would not require the 9,600 hour time-in-service (TIS) repetitive radiographic inspections for these airplanes.

The FAA concurred and determined that any AD action on this issue should require mandatory incorporation of the two appropriate Cessna SK414–19–* kits (five different kits) and then repetitive radiographic inspections at 9,600-hour TIS intervals on all airplanes. This would assure that all airplanes are covered by the repetitive radiographic inspections.

The FAA re-examined this issue and determined that the actions proposed in the original NPRM were still valid safety issues, but that the engine mount beams should be modified at a certain time period for all airplanes instead of relying on repetitive inspections to detect cracks until each airplane accumulates a certain amount of hours TIS.

Since the comment period for the original NPRM had closed and revision of the NPRM to require engine beam modification at a certain period of time for all of the affected Cessna Model 402C and 414A airplanes proposed actions that went beyond the scope of what was already proposed, the FAA issued a supplemental NPRM (62 FR 39490, July 23, 1997) to allow additional time for the public to comment.

Interested persons were again afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received on the supplemental NPRM.

Comment No. 1: Change of Compliance Time

One commenter states that the compliance time of ''within the next 100 hours time-in-service (TIS) after the effective date of this AD'' is unrealistic for airplane owners/operators that have the Cessna Kit SK414–17 incorporated on their airplanes. The commenter states that a more realistic time would be to coincide with the next 1,600-hour engine overhaul.

The FAA concurs that this would be a more realistic compliance time for these owners/operators with these kits incorporated on their airplanes. In addition, the FAA has determined a more realistic compliance time for those owners/operators not having the Cessna Kit SK414–17 incorporated on their airplanes would be at 200 hours TIS to coincide with the inspections currently required by AD 85–13–03 R2. The final rule has been changed accordingly.

Comment No. 2: The Cost Estimate is Too Low

Two commenters state that the FAA's estimate of the cost impact on the public is too low by a factor of two or more. One of these commenters presented an example of the cost impact for a specific design configuration, which includes adding multiple kits to both engines. This example also includes 30 hours of labor for engine removal. The commenters request that the FAA re-examine the cost estimate and then

change it to more accurately reflect the actual costs of accomplishing the AD.

The FAA has re-examined the cost impact upon the public and has determined that the proposed cost impact in the NPRM is low. The FAA will change the cost impact estimate to reflect the configuration of incorporating multiple kits on each engine. Since the FAA is changing the compliance time to coincide with the next engine overhaul or scheduled inspection, the 30 workhours necessary to remove the engines will not be part of the cost impact estimate.

Comment No. 3: Parts Availability

One commenter questions whether parts are available for all of the affected airplanes. According to the commenter's research, only 10 owners/operators of the affected airplanes could comply with the proposed AD. The commenter states that a large portion of the 583 affected airplanes that haven't already incorporated the kits would be grounded waiting on parts if the AD would become effective as proposed. With this in mind, the commenter recommends that the FAA allow the owners/operators of the affected airplanes to continue to repetitively inspect their airplanes until cracks are found.

The FAA concurs that parts availability for all airplanes could initially be a problem. If parts are not available, Cessna will manufacture these parts as ordered. With this in mind, the FAA has determined that repetitive inspections may continue if parts are not available provided the parts have been ordered from the manufacturer and any cracked engine mount beam is either repaired or replaced, as applicable. The final rule will be changed to provide for repetitive inspections in the event parts are not available.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the AD as proposed in the supplemental NPRM, except for the changes described above and minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA's Aging Commuter Aircraft Policy

The actions of this AD are consistent with the FAA's aging commuter aircraft policy, which briefly states that, when a modification exists that could eliminate or reduce the number of required critical inspections, the modification should be incorporated. This policy is based on the FAA's determination that reliance on critical repetitive inspections on airplanes utilized in commuter service carries an unnecessary safety risk when a design change exists that could eliminate or, in certain instances, reduce the number of those critical inspections. In determining what inspections are critical, the FAA considers (1) the safety consequences of the airplane if the known problem is not detected by the inspection; (2) the reliability of the inspection such as the probability of not detecting the known problem; (3) whether the inspection area is difficult to access; and (4) the possibility of damage to an adjacent structure as a result of the problem.

Cost Impact

The FAA estimates that 681 airplanes in the U.S. registry will be affected by this AD. The initial radiographic inspection will take approximately 10 workhours per airplane to accomplish at an average labor rate of $60 per hour. Based on these figures, the total cost impact of this initial radiographic inspection on U.S. operators is estimated to be $408,600, or $600 per airplane. These figures do not take into account the cost of repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator will incur over the life of the airplane.

Labor and parts vary per affected airplane. The following cost estimate would be for airplanes needing one SK414–19–1A and one SK414–19–3A kit per engine. The FAA estimates 17 workhours per airplane to install these kits at $60 per hour. Parts would cost approximately $2,250 per airplane (two SK414–19–1A kits at $474 each; and two SK414–19–3A kits at $651 each). Based on these figures (using the above kit configurations on every affected airplane), the total cost impact of the modification on U.S. operators is estimated to be $2,226,870, or $3,270 per airplane. This figure is based on the presumption that no affected airplane owner/operator has incorporated the modification. Costs for removing the engines are not included in the cost since the FAA is adjusting the compliance times to coincide with regularly scheduled engine overhauls or already required inspections.

Cessna has informed the FAA that kits have been sold to accommodate approximately 98 of the affected airplanes. Presuming that each set of parts is incorporated on the affected airplanes, the cost impact of the modification would be reduced $320,460 from $2,226,870 to $1,906,410.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Airworthiness Directive (AD) 85–13–03 R2, Amendment 39–5147, and by adding a new AD to read as follows:

97–26–16 Cessna Aircraft Company: Amendment 39–10259; Docket No. 90–CE–28–AD.

Applicability: Airplanes with the following model and serial number designations, certificated in any category:

Model	Serial Nos.
402C	402C0001 through 402C0808.
414A	414A0001 through 414A1206.

Note 1: This AD applies to each airplane 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 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 (g) 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 in the body of this AD, unless already accomplished.

To prevent failure of the engine mount beam caused by fatigue cracks, which could result in loss of the engine with consequent loss of the airplane, accomplish the following:

(a) For airplanes with Cessna Kit SK414–17 incorporated, within the next 1,600 hours time-in-service (TIS) after the effective date of this AD (to coincide with the next engine overhaul), incorporate Cessna Kit SK414–19–1, and one of the following, as applicable, in accordance with the instructions to Service Kit SK414–19B, Revised: March 4, 1986:

(1) Cessna Kit SK414–19–2: All of the affected Models 402C and 414A airplanes that are equipped with propeller unfeathering accumulators;

(2) Cessna Kit SK414–19–3: Model 402C airplanes, serial numbers 402C0001 through 402C0468; and Model 414A airplanes, serial numbers 414A0001 through 414A0646;

(3) Cessna Kit SK414–19–5: Model 402C airplanes, serial numbers 402C0469 through 402C0808; and Model 414A airplanes, serial numbers 414A0647 through 414A1206.

(b) For airplanes without Cessna Kit SK414–17 incorporated, within the next 200 hours time-in-service (TIS) after the effective date of this AD (to coincide with the next inspection that would have been required by AD 85–13–03 R2, which is superseded by this AD), incorporate Cessna Kit SK414–19–1, and one of the following, as applicable, in accordance with the instructions to Service Kit SK414-19B, Revised: March 4, 1986:

(1) Cessna Kit SK414–19–2: All of the affected Models 402C and 414A airplanes that are equipped with propeller unfeathering accumulators;

(2) Cessna Kit SK414–19–4: Model 402C airplanes, serial numbers 402C0001 through 402C0468; and Model 414A airplanes, serial numbers 414A0001 through 414A0646;

(3) Cessna Kit SK414–19–5: Model 402C airplanes, serial numbers 402C0469 through 402C0808; and Model 414A airplanes, serial numbers 414A0647 through 414A1206.

(c) Within 9,600 hours TIS after the modification required by paragraph (a) or (b) of this AD, as applicable, and thereafter at intervals not to exceed 9,600 hours TIS, inspect, using radiographic methods, the engine mount beams for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Attachment to Service Bulletin MEB85–3, Revised—August 23, 1985, as referenced in Cessna Service Bulletin MEB85–3, Revision 2, dated October 23, 1987.

(1) If any crack is found in the left side (vertical portion) of the left engine beam of either nacelle, prior to further flight, obtain a repair scheme from the manufacturer through the FAA, Wichita Aircraft Certification Office (ACO), at the address specified in paragraph (g) of this AD, and then incorporate this repair scheme.

(2) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is less than 1.75 inches, prior to further flight, stop drill each end of each crack using a 0.098-inch drill bit.

(3) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is equal to or greater than 1.75 inches, but less than 2.75 inches, prior to further flight, obtain a repair scheme from the manufacturer through the FAA, Wichita Aircraft Certification Office (ACO), at the address specified in paragraph (g) of this AD, and then incorporate this repair scheme.

(4) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is equal to or greater than 2.75 inches, prior to further flight, replace the engine beam with a part number specified in the instructions to Service Kit SK414–19B, Revised: March 4, 1986.

(d) If parts for any of the engine beam modifications required by paragraphs (a) and (b) of this AD have been ordered from the manufacturer but are not available, accomplish the following in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Attachment to Service Bulletin MEB85–3, Revised—August 23, 1985, as referenced in Cessna Service Bulletin MEB85–3, Revision 2, dated October 23, 1987:

(1) For airplanes with Cessna Kit SK414–17 incorporated, within the next 1,600 hours time-in-service (TIS) after the effective date of this AD (to coincide with the next engine overhaul); and thereafter at intervals not to exceed 1,600 hours TIS; provided no provision specified in paragraph (e) of this AD occurs, inspect the engine mount beams using radiographic methods.

(2) For airplanes without Cessna Kit SK414–17 incorporated, within the next 200 hours time-in-service (TIS) after the effective date of this AD (to coincide with next inspection that would have been required by AD 85–13–03 R2, which is superseded by this AD); and thereafter at intervals not to exceed 200 hours TIS; provided no provision specified in paragraph (e) of this AD occurs, fluorescent penetrant inspect the engine mount beams.

(e) If any one of the following occurs during any of the inspections required by paragraph (d) of this AD, prior to further flight, accomplish the specified actions:

(1) If parts become available, terminate the repetitive inspections specified in paragraph (d) of this AD, incorporate the modification kits as required by paragraph (a) or (b) of this AD, and inspect the engine mount beams as specified in paragraph (c) of this AD;

(2) If any crack is found in the left side (vertical portion) of the left engine beam of either nacelle, obtain a repair scheme from the manufacturer through the FAA, Wichita ACO, at the address specified in paragraph (g) of this AD, incorporate this repair scheme, and continue the repetitive inspections required by paragraph (d) of this AD;

(3) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is less than 1.75 inches, stop drill each end of each crack using a 0.098-inch drill bit, and continue the repetitive inspections required by paragraph (d) of this AD;

(4) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is equal to or greater than 1.75 inches, but less than 2.75 inches, obtain a repair scheme from the manufacturer through the FAA, Wichita ACO, at the address specified in paragraph (g) of this AD, incorporate this repair scheme, and continue the repetitive inspections required by paragraph (d) of this AD; or

(5) If cracks are found in the top (horizontal portion) of the engine beam and the total length of the cracks is equal to or greater than 2.75 inches, replace the engine beam with a part number specified in the instructions to Service Kit SK414–19B, Revised: March 4, 1986, and inspect the engine mount beams as specified in paragraph (c) of this AD.

(f) 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.

(g) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita ACO, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 85–13–03 R2 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

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

(h) The modifications required by this AD shall be done in accordance with Service Kit SK414–19B, Revised: March 4, 1986. The inspections required by this AD shall be done in accordance with Attachment to Service Bulletin MEB85–3, Revised—August 23, 1985, as referenced in Cessna Service Bulletin MEB85–3, Revision 2, dated October 23, 1987. 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 the Cessna Aircraft Company, Product

Support, P.O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment (39–10259) becomes effective on February 2, 1998.

Issued in Kansas City, Missouri, on December 10, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32993 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–140–AD; Amendment 39–10253; AD 97–26–10]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 1000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model Hawker 1000 series airplanes, that requires modifying the aft core cowl nozzles of the engine nacelles. This amendment is prompted by a report indicating that the sealant on the core cowl nozzles may extend higher than the forward flange of the core cowl nozzles, which could result in contact between the cowl sealant surface and the lever of the engine mechanical over-speed control system. The actions specified by this AD are intended to prevent such contact, which could cause the over-speed system to function improperly and consequent engine structural failure.

DATES: Effective January 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager, Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Randy Griffith, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4145; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 1000 series airplanes was published in the **Federal Register** on October 1, 1997 (62 FR 51385). That action proposed to require modifying the aft core cowl nozzles of the engine nacelles.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal.

Change to Cost Impact Information

The FAA has determined that 48 airplanes, rather than 14 airplanes (as stated in the cost impact paragraph of the proposal), will be affected by this AD. The FAA has revised the cost impact information, below, to reflect this change.

Conclusion

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

Cost Impact

There are approximately 52 Model Hawker 1000 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 48 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,520, or $240 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–26–10 Raytheon Aircraft Company (Formerly Raytheon Aircraft Corporation; Beech Aircraft Corporation; Raytheon Corporate Jets, Inc.; British Aerospace, PLC; deHavilland; Hawker Siddeley): Amendment 39–10253. Docket 97–NM–140–AD.

Applicability: Model Hawker 1000 series airplanes; serial numbers 258151, 258159, and 259003 through 259052 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

To prevent contact between the cowl sealant surface and the lever of the engine mechanical over-speed control system, which could cause the over-speed system to function improperly and consequent engine structural failure; accomplish the following:

(a) Within 150 flight hours or 3 months after the effective date of this AD, whichever occurs first, modify the aft core cowl nozzles of the left- and right-hand engine nacelles in accordance with Raytheon Service Bulletin SB.71–48–25F021B, dated May 20, 1997.

Note 2: The Raytheon service bulletin references Nordam Hawker 1000 Service Bulletin PW300 71–9, dated April 29, 1995, as the appropriate source of service information for accomplishment of the modification.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

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

(d) The modification shall be done in accordance with Raytheon Service Bulletin SB.71–48–25F021B, dated May 20, 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 Raytheon Aircraft Company, Manager, Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 23, 1998.

Issued in Renton, Washington, on December 11, 1997.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–32998 Filed 12–18–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–46–AD; Amendment 39–10249; AD 97–26–06]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all EMBRAER Model EMB–120 series airplanes, that requires revising the Airplane Flight Manual (AFM) to include requirements for activation of the ice protection systems, and to add information regarding operation in icing conditions. This amendment also requires installing an ice detector system and revising the AFM to include procedures for testing system integrity. This amendment is prompted by reports indicating that flightcrews experienced difficulties controlling the airplane during (or following) flight in normal icing conditions, when the ice protection system either was not activated when ice began to accumulate on the airplane, or the ice protection system was never activated. These difficulties may have occurred because the flightcrews did not recognize that a significant enough amount of ice had formed on the airplane to require activation of the deicing equipment. The actions specified by this AD are intended to ensure that the flightcrew is able to recognize the formation of significant ice accretion and take appropriate action; such formation of ice could result in reduced controllability of the airplane in normal icing conditions.

DATES: Effective January 23, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 23, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from EMBRAER, Empresa Brasileira De Aeronautica S/A, Sao Jose Dos Campos, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carla Worthey, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2–160, College Park, Georgia 30337–2748; telephone (770) 703–6062; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all EMBRAER Model EMB–120 series airplanes was published in the **Federal Register** on May 13, 1997 (62 FR 26258). That action proposed to require revising the Airplane Flight Manual (AFM) to include requirements for activation of the ice protection systems, and to add information regarding operation in icing conditions. That action also proposed to require installing an ice detector system and revising the AFM to include procedures for testing system integrity.

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

Support for the Proposal

Several commenters support the FAA's intent to revise the FAA-approved AFM procedures for flight in

icing conditions and/or to require installation of an ice detector system.

Compliance Time To Install Ice Detector

Two commenters request additional time to install the ice detector system. One of the commenters states that the manufacturers of the ice detector installations (Grimes for the cockpit indications, and Rosemount Aerospace for the ice detector) will not have kits available for all U.S. operators until the end of January 1998, although at least 120 kits were available on October 31, 1997. The other commenter states that 6 months is an unreasonable schedule for retrofitting their fleet of aircraft and requests a 24-month compliance time. Another commenter requests additional time to provide operators the opportunity to consider other options of ice detection and flightcrew response to such conditions, as proposed under the FAA's Inflight Aircraft Icing Plan. The commenter did not request a specific period of time for the extension.

The FAA concurs that the compliance time can be extended somewhat, since parts will not be available for all aircraft early enough to allow completion within 6 months. The FAA finds that, once parts are available, operators must comply with the AD prior to the next icing season. Therefore, paragraph (b) of the final rule has been revised to specify a compliance time of 10 months after the effective date of the AD. The FAA does not consider that this extension will adversely affect safety. If an operator obtains FAA design and installation approval for an alternative to the ice detector, the operator may request approval of an alternative method of compliance in accordance with paragraph (c) of the final rule.

Master Minimum Equipment List (MMEL) Requirements

One commenter requests that any ice detection equipment installed on an aircraft must be operational prior to dispatch into known or forecasted icing conditions. Two other commenters request that the MMEL grant relief for dispatch with inoperative ice detector equipment.

The FAA acknowledges the commenters' requests. However, MMEL requirements are determined by the FAA Flight Operations Evaluation Board (FOEB). The FOEB has determined that it is permissible to dispatch with an inoperative ice detection system provided that all ice protection systems are turned on (except leading edge deicing during takeoff) and AFM limitations and normal procedures for operating in icing conditions are complied with whenever operating in visible moisture at temperatures below 10 degrees Centigrade (50 degrees Fahrenheit). Revision 5c of the MMEL for EMBRAER Model EMB–120 series airplanes, dated October 9, 1997, incorporated this relief.

Additional Analysis

One commenter states that flight control difficulties of the airplanes in icing conditions were reported and known as far back as 1989, but action is only being taken now. The commenter requests that additional analysis be conducted on the previous icing events, and the proposal be revised based on the results of that analysis. The commenter believes that the proposed AD tends to fall short of what is required to preclude subsequent reports of aircraft control problems on Model EMB–120 series airplanes.

The FAA does not concur that additional analysis is required. The initial certification test data for flight into known icing approval indicate that Model EMB–120 series airplanes meet all of the certification requirements specified in Appendix C of part 25 (''Airworthiness Standards: Transport Category Airplanes'') of the Federal Aviation Regulations (14 CFR part 25), provided the ice protection systems are activated properly. In addition, available information concerning the roll upset event history of the EMB–120 has been analyzed thoroughly by the FAA; the Centro Tecnico Aeroespacial (CTA), which is the airworthiness authority for Brazil; and the airplane manufacturer. That analysis indicates that the flightcrews did not activate the de-ice boots prior to the roll upset events. Based on this analysis, the FAA has determined that sufficient data exist to require that an AD be issued to ensure that the flightcrew is able to recognize the formation of significant ice accretion and take appropriate action.

Another commenter requests that roll upset, tailplane icing, and uncommanded roll and/or pitch studies be completed prior to issuing the final rule. The commenter also suggests that additional research should be done regarding the location of ice detectors on the airframe.

The FAA does not concur that additional research is needed. Roll upset, tailplane icing, and uncommanded roll and/or pitch studies have been completed, as suggested by the commenter.

Further review of the event history revealed occurrences of controllable departures from normal flight in icing conditions after loss in airspeed when the ice protection systems of the lifting and control surfaces were not activated. Additionally, operational experience and flight testing conducted by the manufacturer indicate that maintaining proper airspeeds and the additional action of activating the ice protection system at the first detection of airframe icing will eliminate future occurrences of roll upset events.

The FAA finds that supplementing appropriate visual cues for icing with dependable detection and annunciation of encountering icing conditions by an ice detector will ensure flightcrew recognition of icing conditions. In addition, the revision of the FAA-approved AFM, as required by this final rule, will help to ensure activation of the ice protection system, regardless of whether detection of icing is from visual cues or the ice detector, and will require appropriate minimum operating speeds.

The FAA finds that additional research need not be done regarding the location of ice detectors. The FAA and CTA have already conducted a thorough review of that issue, including analysis of flight test data that show that the proposed location of the ice detector will provide early and consistent indication of ice accretion on the airframe.

''Bridging'' Phenomenon

Several commenters express concern that the FAA proposal to mandate use of the deicing equipment at the first sign of ice accretion, rather than delaying until ¼- to ½-inch ice has accumulated, could result in ice forming the shape of an inflated boot, which would make further attempts to de-ice difficult. These commenters request that this phenomenon, commonly referred to as ''bridging,'' be addressed in terms of its validity prior to mandating the change to the AFM procedures. Another commenter noted that, even though the manufacturer already issued Revision 43, dated April 23, 1996, of the AFM to indicate the ice protection systems should be activated with the first sign of ice accretion, some operators continue to caution pilots about ''prematurely'' activating the de-ice boots because of the ''bridging'' concern.

The FAA does not concur that it is necessary to withdraw the proposal until ''bridging'' is addressed further. The FAA is aware that the ''bridging'' condition continues to influence the attitudes of many pilots and operators with respect to the use of de-ice boots. However, prior to approving Revision 43 of the AFM, the FAA and CTA, along with the manufacturer, investigated activating the de-ice boots at the first sign of ice to determine whether

''bridging'' of the de-ice boots was a concern. It was noted that the de-ice system is controlled by a timer that inflates the de-ice boots in a three-minute cycle in ''light'' mode and in a one-minute cycle in ''heavy'' mode. Since there are approximately three minutes when the boots are deflated in the ''light'' cycle, it is likely that inflation cycles have already been occurring in service with less than the earlier recommended ¼- to ½-inch ice accumulation, with no documented indication of ''bridging.''

The FAA was not able to find documented evidence of ''bridging'' occurring on the airplane. The National Transportation Safety Board (NTSB) also noted in its response to the proposed rule that it ''* * * knows of no documented evidence of 'bridging' occurring on current generation turbopropeller airplanes.'' Moreover, de-icing system technology has improved over the years by using higher pressures, smaller chambers, more rapid inflation and deflation, and greater coverage of the leading edge, which have increased the system's ability to shed smaller accretions.

Unsafe Condition

Two commenters state that the Model EMB–120 series airplane has completed extensive testing in icing conditions and was found to have no adverse flight characteristics associated with ice accreted on the aircraft. Additionally, it was found to perform well within established safety parameters. This testing included natural icing tests within icing conditions specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25) as part of the original icing certification, testing of ice contaminated tailplane stall characteristics, and subsequent investigations of susceptibility to roll control anomalies following flight in supercooled large droplet icing conditions. One commenter states that the airplane was properly certified for flight into known or forecast icing conditions in 1985, and remains in complete compliance with current icing requirements and all FAA policies, practices, and procedures.

Two commenters state that all turbo-prop aircraft are tested to the same criteria, and that if the EMB–120 requires an ice detector, then all turbo-prop aircraft should be required to install a detector. Another commenter states that the justification given for the AD to ''enable the flight crew to more accurately determine the need to activate the ice protection systems on the airplane and to take appropriate action'' is insufficient reason to distinguish Model EMB–120 series airplanes from other airplane models.

Another commenter notes that another aircraft type with an ice detector system installed experienced a recent accident (Roselawn, Indiana) where icing conditions were determined to be a contributing cause. The commenter states that after the Roselawn accident, the FAA, in conjunction with the Brazilian aviation certification authorities, conducted an extensive review of the Model EMB–120 series airplanes and concluded that the aircraft was safe to fly in inadvertent icing environments without adverse handling or flight characteristics.

The FAA infers that these commenters request the FAA withdraw the notice of proposed rulemaking (NPRM), since they believe that an unsafe condition has not been established. The FAA acknowledges the previous testing and results. However, a review of the service history of Model EMB–120 series airplanes reveals that there have been several roll upset events in icing conditions, that the flightcrews did not activate the de-ice system prior to the events, and that they did not maintain proper airspeed. This indicates the flightcrews were either unaware of the ice accretion or underestimated the depth of ice accreted and the resultant loss in airplane performance, and delayed activation of the de-ice system too long. As stated in the NPRM, it is this lack of recognition of icing conditions, and the consequent failure to deploy the ice protection systems, rather than the performance of the airplane once this system is activated, that constitute the unsafe condition addressed by this AD. In this regard, the service history of the Model EMB–120 is significantly different from that of other turbo-prop aircraft. The requirements of the final rule will increase the level of pilot awareness, ensure appropriate flightcrew actions, and increase the operational level of safety over that which currently exists.

As further information is obtained, the FAA may consider addressing the question of requiring an ice detector to supplement visual icing cues for all commercial air transports as a part of future rulemaking actions.

Flightcrew Training

Several commenters request that crew training be instituted to increase pilot awareness of the criticality of aircraft performance degradation during an icing encounter, in lieu of the proposed rule to mandate installation of an ice detector.

One of these commenters states that the installation of an ice detector is not necessary, is overly burdensome, and that proper training of the flightcrews to the visual cues associated with ice formation on the propeller spinner is the best solution.

Another commenter, the manufacturer, states that the FAA's review of the icing related incidents cited in the proposed rule revealed that pilot indecision (as to when to activate the aircraft's de-ice system), and the lack of appreciation of the criticality of aircraft performance degradation during an icing encounter were the basic causes of the reported icing occurrences. The manufacturer concludes that, in addition to mandating immediate activation of the de-ice system, improved pilot training and recurrent training is needed to ensure that the information gained in recent years about icing is passed along to line pilots.

A third commenter agrees with the proposed requirement to install an ice detection system, but notes that pilots have been trained for years to operate the de-ice boots only after ¼- to ½-inch of ice has accumulated on the wings. The commenter states that the pilots need to be provided training to unlearn old habits and to emphasize the new icing procedures.

The FAA does not concur that substituting training for installation of an ice detector is an adequate solution to address the unsafe condition. However, the FAA supports the development of advisory materials and periodic training to increase awareness of the potential for aircraft performance degradation during an icing encounter, including ensuring that flightcrews are aware of the visual icing cues available to determine if the aircraft is in severe icing conditions. The FAA acknowledges that pilot indecision as to when to activate the de-ice system may have been a factor in the roll upset events. Training to ensure that flightcrews activate the ice protection systems at the first sign of ice accumulation will help address this issue. Part 121 (''Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft'') of the Federal Aviation Regulations (14 CFR part 121), and part 135 (''Air Taxi Operators and Commercial Operators,'') of the Federal Aviation Regulations (14 CFR part 135), require that appropriate training concerning limitations such as those contained in this AD are incorporated into air carriers' training programs.

However, based on the roll upset event history of Model EMB–120 series airplanes, the FAA considers that the use of advisory materials and training

alone are not adequate to address the subject unsafe condition. Therefore, the FAA has determined that installation of an ice detection system is necessary to achieve an acceptable operational level of safety.

Availability of Adequate Visual Cues

Several commenters request that the requirement for an ice detection system be removed from the proposal because the visual cues of ice accumulation already provide notification of icing conditions. One of the commenters further states that the ice detector is simply another indicator of the presence of ice, and that it does not have the ability to measure ice or alert the crews to icing environments beyond the capability of the de-ice system.

The manufacturer states that the FAA's brief discussion of the icing related incidents in the NPRM indicates that the natural visual cues of icing accretions are unsatisfactory or insufficient, thus necessitating the installation of the additional means of ice detection. The manufacturer disagrees with this conclusion because a review of the icing related incidents cited in the NPRM indicates that the common contributing factor to the icing related incidents was a lack of crew attentiveness, rather than a lack of availability of visual cues.

One commenter wrote that there is a definite difference in the visual pattern of ice buildup on the propeller spinner between supercooled large droplet (SLD) and ''normal'' ice buildup. The commenter concludes that the installation of an ice detector system is not the best option for dealing with ice on the aircraft.

Another commenter states that the visual cues for detecting icing conditions and operating de-icing equipment are inadequate and must be researched further.

The FAA does not concur with the request to remove the requirement for an ice detection system. The FAA acknowledges that natural icing testing conducted during the initial certification indicated that the visual cues for ice detection were adequate. Later testing revealed that the visual cues in freezing drizzle were adequate to provide identification of possible severe icing conditions. Nevertheless, a review of service history reveals that in several roll upset events in icing conditions, the flightcrew did not activate the de-ice system, and subsequently allowed the airspeed to decrease prior to the roll upset event. The fact that the flightcrews did not activate the de-ice system indicates that the flightcrews were either unaware of the ice accretion or underestimated the depth of ice accreted, and delayed activation of the de-ice system too long.

The FAA acknowledges the fact that the ice detector system does not have the ability to measure the amount of ice or to alert crews when icing environments are beyond the capability of the de-ice system. The FAA concurs that the visual cues associated with the SLD icing conditions, including ice on the propeller spinner farther aft than normally observed, are adequate to indicate severe icing conditions. Additionally, the FAA finds that the roll control characteristics testing in SLD conditions has shown that once the flightcrews are alerted that they are in icing conditions and activate the de-ice system, the handling characteristics are adequate to allow the crews to safely exit the severe icing conditions. Therefore, an adequate level of safety will be provided by alerting the crew that they are in icing conditions and requiring them to immediately activate the de-ice system. (Since the crew will be alerted to the presence of icing conditions, they will be able to monitor the aircraft for the visual cues associated with severe icing conditions, in accordance with the procedures currently provided in the FAA-approved AFM, and take appropriate action.)

The FAA does not concur that further research is warranted before issuance of the final rule. The visual cues available for detecting ice accumulation have already been defined for both Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), and SLD icing conditions; further research is unlikely to improve these available cues. However, the roll upset events indicate that flightcrews relying on these visual cues are not consistently activating the de-ice system at the proper time. Therefore, installation of an ice detection system which provides early and active annunciation to the flightcrew that they are in icing conditions, in conjunction with continuous flightcrew monitoring of the visual cues available, is necessary to provide an acceptable level of safety.

Installation of Ice Evidence Probe

One commenter indicates that it disagrees with the need to install an ice detection system. However, if the FAA requires some additional means other than visual cues to assist the crews in identifying icing conditions, the commenter suggests installing an ice evidence probe similar to the probe installed on Aerospatiale Model ATR series airplanes instead of an ice detector. Such a probe would indicate the first sign of ice on the airframe and would also be the last location to have ice sublimate from the airframe. The commenter states that the installation of this type of probe would require a minimum amount of time to install, and would take less time to train flightcrews in its operation than the proposed ice detection system.

The FAA does not concur that an ice evidence probe should be required to be installed in lieu of an ice detector. The FAA finds that the service histories of Model EMB–120 series airplanes and Aerospatiale Model ATR series airplanes warrant different approaches to satisfy an acceptable level of safety. An ice evidence probe is a passive device that would provide another visual indication of ice accretion, but would require the flightcrew to monitor and assess the appearance of the probe in order to be effective. Conversely, the ice detection system is an active system that provides an amber light on the multiple alarm panel, an aural warning system chime, and illumination of the master caution light. These multiple indications provide early and active notification to the flightcrew that they are in icing conditions. The ice detection system also provides a high level of pilot awareness without constant monitoring, and will increase the level of safety over the installation of a passive system such as an ice evidence probe. Consequently, the FAA has determined that the service history of Model EMB–120 series airplanes warrants installation of an ice detector to meet an acceptable level of safety.

Proposed Ice Detection System

One commenter states that ice detection equipment installed on an aircraft must have the capability of detecting all types and severity of ice accretions, as specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25), as well as those types and severities of ice accretions outside the scope of Appendix C. The commenter further states that such a system must also have the capability to differentiate between the two conditions and annunciate to the flightcrew which condition is being encountered. Additionally, the commenter states that monitoring of icing conditions should be conducted at all times during a flight. The commenter also states that any ice detection equipment installed on an aircraft should be considered an aid to flightcrew recognition and should not be considered a primary ice detection method.

The FAA does not concur with the commenter's suggestion that ice

detection equipment must have the capability to differentiate between the severity and types of ice accretion. The intent of this AD is to ensure that the flightcrew is able to recognize the formation of ice accretion and to take appropriate action. It is unnecessary to provide an ice detector that is capable of distinguishing between icing conditions that are defined in Appendix C and those icing conditions that are not defined in Appendix C in order to accomplish this intent.

The FAA has determined that the combination of early ice detection and the additional visual cues associated with severe icing conditions are adequate to determine if severe icing conditions have been encountered and should be exited. Additionally, the roll control characteristics testing of the Model EMB–120 series airplane in SLD conditions conducted in early 1996 has shown that once the flightcrew activates the de-ice system, the handling characteristics are adequate to allow the airplane to safely exit the severe icing conditions. The installation of an ice detection system, as required by the final rule, will provide a clear annunication of the presence of ice that will alert the flightcrew to monitor the aircraft for ice accumulation. The flightcrew will then be responsible for determining whether the visual cues associated with severe icing conditions are present and for taking appropriate action in accordance with procedures currently provided in the FAA-approved AFM. The FAA finds that reliance on the flightcrew to make this determination, in conjunction with the installation of an ice detection system, will provide an adequate level of safety.

The FAA concurs that the flightcrew has the primary responsibility for monitoring the icing conditions and for taking appropriate action. The FAA also concurs that the ice detection system required by the final rule is an aid to the flightcrew for early recognition of icing conditions. The FAA considers the definition of a ''primary'' ice detection system as one that is sufficiently reliable to serve as the sole source of information for flightcrew recognition of icing conditions. Primary systems do not require the flightcrew to monitor the icing conditions to determine if the ice protection equipment should be activated; the FAA does not consider the ice detection system required by the final rule as a ''primary'' system. Ice accumulation is signaled by either illumination of the ''ICE CONDITION'' light on the multiple alarm panel, or by flightcrew observation of other visual cues.

Installation of Ice Detector

One commenter states that compliance with § 25.1419 of the Federal Aviation Regulations (14 CFR 25.1419) concerning ice protection requirements is optional. The commenter also states that the FAA can only mandate operational limitations on the aircraft based on whether or not these requirements have been met. The commenter further states that such limitations could be so stringent that it would not be economical to operate the airplane in scheduled operations. Additionally, the commenter states that the need to install ice detection systems on the aircraft should be determined solely by the operator.

The FAA does not concur. As described in the NPRM, this AD is based on the FAA's finding that an unsafe condition exists on Model EMB–120 series airplanes, not that the type design does not comply with 14 CFR 25.1419. The FAA has determined that the operating limitations prescribed in this AD are necessary to address the identified unsafe condition. Therefore, the FAA is fully authorized under 49 U.S.C. 44701 and 14 CFR part 39 to impose these limitations by AD. The FAA considers these limitations to be highly cost effective, and the commenter has provided no information to the contrary.

Regarding the applicability of 14 CFR 25.1419, although the commenter is correct that compliance with this section is optional, the decision to comply is made only by applicants for type certificates (in this case, EMBRAER), and changes to those certificates, rather than by individual operators. EMBRAER chose to show compliance with 14 CFR 25.1419, and the Model EMB–120 is therefore permitted to operate in icing conditions.

Any operator that does not wish approval to operate into known or forecast icing conditions may request approval of an alternative method of compliance with the requirements of this AD in accordance with the provisions stated in paragraph (c) of the final rule.

Conflict With FAA's Inflight Aircraft Icing Plan

One commenter requests that the proposed rule be withdrawn because the FAA's Inflight Aircraft Icing Plan contains a task to consider a regulation to install ice detectors, aerodynamic performance monitors, or other means to warn flightcrews of ice accumulation on critical surfaces. Therefore, the commenter concludes that the proposed rule is in conflict with the FAA's Inflight Aircraft Icing Plan.

The FAA does not concur that the proposed rule conflicts with the FAA's Inflight Aircraft Icing Plan. As the commenter stated, the icing plan does identify a task to consider a regulation to require ice detectors. However, in the case of Model EMB–120 series airplanes, the FAA has identified an unsafe condition and has determined that installation of an ice detector is warranted. The potential for future adoption of a regulation to require an ice detector neither negates nor conflicts with the need to correct the existing unsafe condition.

AFM Procedures

One commenter requests that the FAA revise paragraph (a)(2) of the NPRM which currently requires revision of the ''. . . Normal Procedures Section of the AFM by removing any icing procedures that contradict the procedures specified in (a)(1) and (a)(3) of this AD. . . .'' The commenter requests that the FAA specify which portions of the Normal Procedures Section of the AFM should be revised rather than leaving this open to interpretation by individual operators.

One commenter requests that the FAA compare the recently proposed AFM changes in NPRM Docket Number 97–NM–46–AD to those AFM changes mandated by AD 96–09–24, amendment 39–9600 (61 FR 20677, May 7, 1996), as some of the procedures appear to conflict with one another. In particular, the commenter is concerned that the procedure in AD 96–09–24 indicates that flaps should be left wherever they are, whereas the current proposed rule indicates that flaps must be left up.

One commenter states that there is presently no guidance to many flightcrews to operate their deicing equipment at the first sign of ice accretions. The commenter further states that this guidance must first be evaluated for its validity and subsequently generated for flightcrew use.

Another commenter states that all temperature references and limitations specified in the proposed rule should be referenced in terms of Indicated Outside Air Temperature.

Two commenters request that the FAA review the language of the proposed AD specified in paragraph (a)(1) to validate whether continuous ignition should be used for extended periods of time. The current proposal is for a new limitation to require ''Turn on . . . Ignition Switches . . . When atmospheric or ground icing conditions exist.'' One of the commenters states

that operation of the ignition system on the ground while taxiing may mask other engine or fuel control problems. In addition, one commenter requests that the FAA review the language of the proposed AD to validate whether deicing equipment should be operated on the ground for extended periods of time.

One commenter notes that there is currently no guidance provided in the AFM concerning when to use the heavy or light modes of operation of the ice protection system.

One commenter questioned paragraph (a)(3) of the proposed AD, which states: ''Daily Checks of the Ice Protection System, add the following: Ice Detector System Test Button (if installed) * * * Press. Check normal test sequence.'' The commenter states that system reliability on similar aircraft do not require daily tests of this system, and that the system should be checked prior to dispatch into known or forecast icing conditions.

The FAA concurs that clarification is necessary to specify which portions of the Normal Procedures Section of the AFM should be revised. Since the issuance of the NPRM, the manufacturer has advised the FAA of new, revised procedures of the AFM. Therefore, the FAA has clarified and combined the requirements of paragraphs (a)(2) and (a)(3) of the proposal into a new paragraph (a)(2) of this final rule. The new paragraph (a)(2) of the final rule includes complete information to be incorporated into the AFM under the Normal Procedures Section for ''Operation in Icing Conditions for Flying into Icing Conditions.'' However, it should be noted that this information does not replace or revise any of the current AFM information provided under the subsequent section of the AFM regarding severe icing conditions.

The FAA does not concur that procedures specified in AD 96–09–24 conflict with the procedure of this final rule. AD 96–09–24 required revising the AFM to provide the flightcrew with recognition cues for severe icing conditions and procedures for exiting from severe icing conditions, and to limit or prohibit the use of various flight control devices, including flaps, in those severe icing conditions. The Limitations and Normal Procedures changes included in this final rule ensure that the flightcrew will be advised of when to operate the ice protection system during any icing condition. Therefore, the FAA finds that the change to AFM procedures do not conflict with the earlier AD requirements.

The FAA does not concur that operators (flightcrews) have not been provided guidance to operate the deicing equipment at the first sign of ice accretion. The FAA has approved Revision 43 of the AFM, dated April 23, 1996. This revision included a change in the Normal Procedures section for flight in icing conditions to indicate that wing and tail leading edges, engine air inlet, and windshield ice protection systems should be turned on at the first sign of ice formation. The originally approved AFM suggested a delay in activation of the wing and tail de-ice boots until ¼- to ½-inch ice had accumulated. However, the FAA recognizes that not all EMB–120 operators incorporated this change in procedures into their Operators Manuals. Therefore, the final rule requires that this procedure be added to the Limitations Section of the FAA-approved AFM, as well as in the Normal Procedures Section. As previously stated, Federal Aviation Regulations require that all operating limitations such as those specified in this AD be incorporated into air carriers' training programs and operators' manuals. In addition, as explained previously, the FAA has already determined the validity of the revised procedure to activate the ice protection systems at the first sign of ice accumulation, and has determined that this change is required in order to provide an adequate level of safety.

The FAA concurs that the temperature references specified in the final rule should be Indicated Outside Air Temperature, and has revised the final rule accordingly.

The FAA does not concur that continuous ignition should not be used for extended periods of time or that the operation of the ignition system on the ground while taxiing may mask other engine or fuel control problems. The FAA has reviewed information indicating that CTA, EMBRAER, and Pratt & Whitney have reviewed operation of continuous ignition, and the results indicate that extended use of continuous ignition does not have a detrimental effect on the operation of the engine, although it may decrease the life of the igniters. That information also indicated that engine or fuel control problems are diagnosed by monitoring other parameters available for the flightcrew. In addition, the FAA has reviewed the language of the AD concerning the extended operation of deicing equipment on the ground. The FAA has determined that operation of the deicing equipment for extended periods on the ground will not result in any adverse operating characteristics of the deicing equipment.

The FAA concurs that there is currently no guidance in the AFM regarding when, or under what conditions, to use the light or heavy modes of the ice protection system. However, the EMBRAER Operators Manual recommends that the pilot assess the severity and rate of accretion of ice and select the appropriate mode using pilot judgment. Paragraph (a)(2) of the final rule has been revised to provide that guidance by adding the following procedures in the Normal Procedures Section of the FAA-approved AFM under Operation in Icing Conditions for Flying into Normal Icing Conditions: ''Visually evaluate the severity of the ice encounter and the rate of accretion and select light or heavy mode (1 minute or 3 minute cycle) based on this evaluation.''

The FAA concurs that the ice protection system is required to be checked only once a day prior to dispatch into known or forecast icing conditions. The AFM change required by paragraph (a) of the final rule adds the ice detection system under ''Daily Checks of the Ice Protection System.'' Both the CTA and the FAA interpret this AFM guidance to mean that the daily checks of the ice protection system must be performed once a day before operation into known or forecast icing conditions, rather than before every flight into icing. To further clarify this procedure, the final rule has been revised to add the following procedures of the AFM under ''Daily Checks of the Ice Protection System:'' ''The following tests must be performed prior to the first flight of the day for which known or forecast icing conditions are anticipated.''

Minimum Airspeed in Icing Conditions

A number of commenters question the validity of the minimum airspeed specified in paragraph (a)(3) of the proposed AD that would require addition of the following: ''Operation in Icing Conditions for Flying Into Normal Icing Conditions: Airspeed * * * 160 KIAS Minimum. If buffet onset occurs, increase airspeed.''

One commenter states that buffet onset is dangerously close to the recommended minimum operating speed in icing conditions and should not be considered a prerequisite for speed additives. The commenter further states that the recommended minimum speed in icing lacks empirical data to substantiate its usage, and that any recommended minimum speeds must be scientifically determined.

Another commenter agrees that setting a clear 160-knot minimum airspeed in icing conditions will provide an immediate improvement in safety and should be implemented. However, the commenter questions whether the language provided in the proposed AD establishes appropriate speeds for all conditions (i.e., all flap settings and phases of flight) as proposed in the National Transportation Safety Board's Safety Recommendation A–97–31. The commenter also notes that further tests may show that a higher minimum airspeed is required to provide an adequate safety margin.

Several commenters also questioned the adequacy of the revised approach procedure specified in paragraph (a)(3) of the proposed AD which states: ''Operation in Icing Conditions for Flying Into Normal Icing Conditions: Approach procedure: Increase approach speeds (according to flap setting) by 10 KIAS until landing is assured.''

One commenter recommends the establishment of minimum operating speeds for each flap configuration to include no flaps, regardless of whether or not the aircraft is operating in icing conditions. With flaps up, the commenter recommends the use of 1.4Vs @ 30° bank; for approach procedures, the commenter recommends the use of 1.3Vs @ 30° bank. The commenter further recommends that climb procedures in the AFM be revised to reflect the higher speeds required with ice accumulation.

Another commenter asks what approach speed should be utilized since an approach speed has not been defined by the manufacturer.

The FAA concurs that clarification of the justification of the minimum airspeed specified in paragraph (a) of the proposal is necessary. The 160-knot minimum speed was defined by EMBRAER as the recommended holding speed for icing conditions during the original icing certification. The simulated ice shapes on unprotected surfaces used for the handling qualities and stall testing prior to icing approval were defined using the leading edge impingement criteria associated with this speed. These tests demonstrated that the aircraft can be maneuvered at this speed (160 KIAS) up to 30° of bank angle, the normal maximum bank angle for holding, with an adequate stall margin to the buffeting boundary, stick shaker, and stick pusher with these ice shapes on the aircraft. In addition, natural icing tests were conducted at this speed and ice shapes accumulated were recorded and compared to the simulated ice shapes to determine their validity. These tests demonstrate that the airplane meets the requirements specified in part 25 of the Federal Aviation Regulations (14 CFR part 25) during flight in icing conditions, provided the ice protection systems are properly activated. The flight tests also demonstrated that there is a minimum airspeed margin of at least 15 knots indicated airspeed (KIAS) in turns and 20 KIAS in level flight between the initial buffeting with ice on the unprotected surfaces, and the minimum recommended airspeed of 160 KIAS. Therefore, the FAA has determined that the recommended minimum speed with flaps up of 160 KIAS in icing conditions has not only been scientifically determined, but also has been validated by certification flight tests and has shown adequate margin to buffet boundary and to stall. Consequently, the FAA has determined that the procedure in the proposed rule that stated ''If buffet onset occurs, increase airspeed'' is not necessary, and has been removed from the final rule.

The FAA concurs that appropriate speeds for flap settings and phases of flight following flight in icing conditions should be provided in the final rule. The proposed AD provided a change to the Normal Procedures Section of the AFM that stated: ''When flying into known or forecast icing conditions, proceed as follows: AIRSPEED * * * 160 KIAS MINIMUM. If buffet onset occurs, increase airspeed.'' The FAA recognizes that this proposed change does not clearly indicate that this is the minimum speed for the flaps up, gear up configuration only. The FAA also acknowledges that, without clarification, some operators may be led to believe this is the minimum speed for all gear and flap configurations, even though additional proposed information states: ''Approach procedure: Increase approach speeds (according to flap setting) by 10 KIAS until landing is assured.''

Therefore, the FAA has revised the wording in paragraph (a) of this AD to clarify the procedures for flying into known or forecast icing conditions, approach and landing procedures, and go-around procedures.

The FAA has determined that this revised information will provide adequate information regarding minimum speeds to be used for all configurations after a continuous maximum icing encounter, which has been determined to provide the most severe ice accumulation on the airplane. The FAA has further determined that no change to the normal takeoff speeds is necessary as ice accumulation during this phase of flight with the ice protection system operating should have no impact on the flight characteristics of the airplane, provided the takeoff is accomplished with a properly de-iced aircraft.

The FAA does not concur with the commenter's recommendations for revision of in-flight minimum operating speeds. Those speeds are established by FAA regulations as V_2 speed for takeoff, a minimum speed of $1.25V_S$ to meet final takeoff climb requirements in the cruise configuration, and a climb speed established in connection with normal landing procedures, but not exceeding $1.5V_S$ to meet approach climb gradient requirements. Landing speed is required to be not less than $1.3V_S$ or the minimum control speed. These speeds, and their associated maneuver margins to stall warning, are in part defined by assuming an engine failure. Consideration is also given to ensuring adequate maneuver and stall warning margins as the wing trailing edge flaps are retracted or extended. Experience has shown these minimum speeds to be acceptable. Increasing the minimum operating speeds to those suggested would improve maneuver and stall warning margins beyond accepted levels. Moreover, use of the suggested higher flaps extended minimum operational speeds would significantly increase takeoff and landing field length requirements, and unnecessarily adversely affect the operating economics of the airplane. However, under the provisions of paragraph (c) of the final rule, the FAA may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

The FAA concurs that the recommended approach speeds for operations in non-icing conditions are not clearly defined in the current FAA-approved AFM. Consequently, the final rule has been revised to include the following information in the Approach Checklist for Operation in Non-icing Conditions: ''Minimum Airspeed * * * Appropriate to Flap Position. Gear Up/Flaps 0, Minimum Recommended Airspeed 150 KIAS. Gear Up/Flaps 15, Minimum Recommended Airspeed 130 KIAS.'' The requirements of the final rule to increase approach speeds by 10 KIAS following flight in icing conditions would, therefore, give minimum approach speeds of 160 KIAS and 140 KIAS for flaps 0 and 15, respectively.

Incorporation of AFM Changes Into Operators Manuals

Several commenters expressed concern that the NPRM does not specify

how the changes to the Normal Procedures Section of the FAA-approved AFM will be implemented in operator flight manuals and training programs. This concern stems from the fact that although EMBRAER issued revision number 43 to the Normal Procedures Section of its AFM in April 1996 to require activating the de-ice boots ''at the first sign of ice formation,'' this new icing procedure has not yet been implemented by several operators.

The FAA acknowledges that the final rule does not specify how changes to the Normal Procedures Section of the AFM should be implemented in operator flight manuals and training programs. FAA Order 8400.10 recognizes that operators may rewrite these AFM procedures to tailor them to the operators' operation and to make them more suitable for flightcrew use in operation under parts 121 and 135 of the Federal Aviation Regulations (14 CFR parts 121 and 135). However, the FAA has chartered a team to review the process being used to transfer information in the manufacturer's flightcrew operating documents, including AFM's, to operators' documents. The team will make recommendations to revise the current process, which could lead to a higher level of safety. However, this issue is beyond the scope of this rulemaking, and no change has been made to the final rule.

Cost Impact Information

Two commenters state that the cost of retrofit will be substantially higher than the estimated cost in the NPRM if aircraft down time and canceled/rescheduled equipment are considered.

One commenter requests an explanation as to why a complete cost-benefit analysis is unnecessary and redundant. This commenter states that the explanation given in the NPRM relates to FAA's position not to consider additional costs of accomplishment of the AD after a determination has been made by the FAA that an unsafe condition exists in a product. Nevertheless, the commenter believes a cost-benefit analysis should be used to determine if a rule should be adopted in the first place.

The FAA acknowledges the concerns of the commenters of the cost of retrofit required by this final rule. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur other costs in addition to the ''direct'' costs that are estimated in the cost impact. However, the FAA makes every effort to consider all other costs (such as downtime and canceled/rescheduled equipment, etc.) to operators in establishing the terms of compliance in a AD. For example, the FAA generally establishes AD compliance times that coincide with most operators' maintenance schedules, unless safety considerations dictate more urgent corrective action. The FAA also frequently revises AD's when commenters identify less costly alternatives to address the unsafe condition.

Finally, since the issuance of the NPRM, EMBRAER has issued Service Bulletin No. 120–30–0027, dated May 9, 1997, which describes procedures for installation of an ice detector that will enable the flightcrew to more accurately determine the need to activate the ice protection systems on the airplane and to take appropriate action. The service bulletin includes specific costs for the installation of the ice detector. Those figures have enabled the FAA to provide a more realistic estimate in the cost impact section of the final rule.

The FAA does not concur that further discussion is necessary to explain why a complete cost-benefit analysis is unnecessary and redundant, since those reasons were stated in the NPRM. Further, the FAA does not concur that a cost-benefit analysis should be used to determine if a rule should be adopted in the first place. Once an unsafe condition is identified, as in this case, it must be corrected regardless of cost. When the FAA has determined what actions are necessary to correct an unsafe condition, the FAA is obligated to require that those actions be accomplished. This obligation arises from the statutory requirement that the FAA, not aircraft operators, determines the minimum required safety standards for civil aircraft. Therefore, it would be inappropriate in issuing AD's for the FAA to engage in the same kind of balancing of costs and benefits as when it is considering regulations to improve an already high level of safety. If an operator has an alternative method of compliance that would ease the economic burden for the operator, as well as provide an acceptable level of safety, the operator may request approval of that alternative method of compliance, as provided by paragraph (c) of the final rule.

Conclusion

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

Cost Impact

There are approximately 282 EMBRAER Model EMB–120 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 220 airplanes of U.S. registry will be affected by this AD.

The FAA estimates that it will take approximately 1 work hour per airplane to accomplish the AFM revisions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $13,200, or $60 per airplane.

The FAA estimates that it will take approximately 47 work hours per airplane to accomplish the proposed installation, and that the average labor rate is $60 per work hour. Required parts will cost approximately $13,054 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,492,280, or $15,874 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–26–06 Empresa Brasileira de Aeronautica, S.A., (EMBRAER): Amendment 39–10249. Docket 97–NM–46–AD.

Applicability: All Model EMB–120 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 (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 ensure that the flightcrew is able to recognize the formation of significant ice accretion, which could result in reduced controllability of the airplane in normal icing conditions, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. This may be accomplished by inserting a copy of this AD in the AFM.

''TURN ON ICE PROTECTION SYSTEM and IGNITION SWITCHES AS FOLLOWS:

• AOA, TAT, SLIP, ENGINE AIR INLET, and IGNITION SWITCHES:

—When atmospheric or ground icing conditions exist.

• PROPELLER:

—When atmospheric or ground icing conditions exist, OR

—At the first sign of ice formation anywhere on the aircraft.

WING and TAIL LEADING EDGES, and WINDSHIELD:

—At the first sign of ice formation anywhere on the aircraft.

Note: On takeoff, delay activation of the wing and tail leading edge de-ice systems until reaching the final segment speed.

Note: Atmospheric icing conditions exist when:

—Indicated Outside Air Temperature (OAT) during ground operations or Total Air Temperature (TAT) in flight is 10 degrees C or below; and

—Visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, or ice crystals).

Note: Ground icing conditions exist when:

—Indicated OAT during ground operations is 10 degrees C or below; and

—Surface snow, standing water, or slush is present on the ramps, taxiways, or runways.

Note: For Operation in Atmospheric Icing Conditions:

—Follow the procedures in the Normal Procedures Section under Operation in Icing Conditions.''

(2) Revise the Normal Procedures Section of the FAA-approved Airplane Flight Manual (AFM) to include the following additional and revised information regarding operation in icing conditions. This may be accomplished by inserting a copy of this AD in the AFM.

''Under DAILY CHECKS of the Ice Protection System, add the following:

The following tests must be performed prior to the first flight of the day for which known or forecast icing conditions are anticipated.

Ice Detector System TEST Button (if installed).....PRESS

Check normal test sequence.

Under APPROACH Checklist, add the following:

Minimum Airspeed.....APPROPRIATE TO FLAP POSITION (See Table Below)

Gear/Flap	Minimum Recommended Airspeed
UP/0°	150 KIAS
UP/15°	130 KIAS

Under OPERATION IN ICING CONDITIONS for FLYING INTO ICING CONDITION, *replace* the current AFM section information for normal icing conditions with the following:

—During flight, monitoring for icing conditions should start whenever the indicated outside air temperature is near or below freezing or when operating into icing conditions, as specified in the Limitations Section of this manual.

—When operating in icing conditions, the front windwhield corners (unheated areas), propeller spinners, and wing leading edges will provide good visual cues of ice accretion.

—For airplanes equipped with an ice between system, icing conditions will also be indicated by the illumination of the ICE CONDITION light on the multiple alarm panel.

—When atmospheric or ground icing conditions exist, proceed as follows:

AOA, TAT, SLIP, and ENGINE AIR INLET .....ON

IGNITION Switches .....ON

AIRSPEED (Flaps and Gear UP) .....160 KIAS MINIMUM

—When atmospheric or ground icing conditions exist, OR

—At the first sing of ice formation any where on the aircraft, proceed as follows:

PROPELLER Deicing Switch.....ON

Select NORM mode if indicated OAT is above −10° C (14° F) or COLD mode if indicated OAT is below −10° C (14° F).

—At the first sign of ice formation anywhere on the aircraft, proceed as follows:

WINDSHIELD .....ON

WING and TAIL LEADING EDGE.....ON

Visually evaluate the severity of the ice encounter and the rate of accretion and select light or heavy mode (1 minute or 3 minute cycle) based on this evaluation.

Note: On takeoff, delay activation of the wing and tail leading edge de-ice systems until reaching the final segment speed.

Note: The minimum NH required for proper operation of the pneumatic deicing system is 80%. At lower NH values, the pneumatic deicing system may not totally inflate, and the associated failure lights on the overhead panel may illuminate. If this occurs, increase NH.

Holding configuration:

Landing Gear Lever.....UP

Flap Selector Lever .....UP

N_p .....85% MINIMUM

Increase N_p as required to eliminate propeller vibrations.

Approach and Landing procedure:

Increase approach and landing speeds, according to the following flap settings, until landing is assured. Reduce airspeed to cross runway threshold (50 ft) at V_{REF}.

Flaps 15—Increase Speed by 10 KIAS (130+10)

Flaps 25—Increase Speed by 10 KIAS (V_{REF25}+10)

Flaps 45—Increase Speed by 5 KIAS (V_{REF45}+5)

Go-Around procedure:

Reduce values from Maximum Landing Weight Approach Climb Limited charts by:

1500 lbs. for PW 118 Engines

1544 lbs. for PW 118A and 118B Engines

Flaps 15—Increase approach climb speed by 10 KIAS (V_2+10); Decrease approach climb gradient by:

3.0% for PW 118 Engines

2.9% for PW 118A and 118B Engines

Flaps 25—Increase landing climb speed by 10 KIAS (V_{REF25}+10)

Flaps 45—Increase landing climb speed by 5 KIAS (V_{REF}+5)

CAUTION: The ice protection systems must be turned on immediately (except leading edge de-icers during takeoff) when the ICE CONDITION light illuminates on the multiple alarm panel or when any ice accretion is detected by visual observation or other cues.

CAUTION: Do not interrupt the automatic sequence of operation of the leading edge de-ice boots once it is turned ON. The system should be turned OFF only after leaving the icing conditions and after the protected surfaces of the wing are free of ice.

(b) Within 10 months after the effective date of this AD, install an ice detector in accordance with EMBRAER Service Bulletin No.: 120–30–0027, dated May 9, 1997.

(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, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta 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 installation of the ice detector shall be done in accordance with EMBRAER Service Bulletin No. 120–30–0027, dated May 9, 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 EMBRAER, Empresa Brasileira De Aeronautica S/A, Sao Jose Dos Campos, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 23, 1998.

Issued in Renton, Washington, on December 11, 1997.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33000 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 98–3]

RIN 1515—AC27

Addition of Hong Kong to the List of Nations Entitled to Special Tonnage Tax Exemption

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to information provided by the Department of State, the United States Customs Service has found that Hong Kong does not impose or levy any discriminating duties of tonnage or imposts upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in these vessels from the United States or any foreign country and that, accordingly, vessels of Hong Kong are exempt from the payment of special tonnage taxes and light money in ports of the United States. This document amends the Customs Regulations by adding Hong Kong to the list of nations whose vessels are exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

EFFECTIVE DATE: The amendment to the 19 CFR 4.22 is effective on December 19, 1997. The exemption from special tonnage tax and light money for vessels registered in Hong Kong became effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Clark, Entry and Carrier Rulings Branch (202) 927–2320.

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton denominated ''light money'', on all foreign vessels which enter United States ports (46 U.S.C. App. 121 and 128). Vessels of a foreign nation, however, may be exempted from the payment of such special tonnage taxes and light money upon presentation of satisfactory proof that no discriminatory duties of tonnage or impost are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. App. 141). The list of nations whose vessels have been found to be reciprocally exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money is found at § 4.22, Customs Regulations (19 CFR 4.22). Nations granted these commercial privileges that subsequently impose discriminatory duties are subject to retaliatory suspension of the commercial privileges (46 U.S.C. App. 141 and 142).

Treatment of Hong Kong

On July 1, 1997, Hong Kong became a Special Administrative Region of the People's Republic of China. Before that date, vessels from Hong Kong had an exemption from special tonnage tax by virtue of Hong Kong's status as a British colony.

The Department of State has requested that Customs add Hong Kong to the list of nations under § 4.22 in order that vessels from Hong Kong receive the same treatment as they did prior to July 1, 1997. In addition, the Department of State has submitted information regarding the absence of discriminatory duties of tonnage or impost imposed on U.S. vessels in the ports of Hong Kong.

The Department of State's request is consistent with the terms of section 2 of the Act of October 5, 1992, referred to as the United States-Hong Kong Policy Act (Pub. L. 102–383, 106 Stat. 1448) codified in title 22, United States Code, section 5701, *et seq.*, which embodies the policy of the United States applicable to dealing with Hong Kong following reversion, including trade and commerce matters. That law demonstrates that dealings with Hong Kong after June 30, 1997, are to be conducted without change until and unless the Administration (the President) makes a determination that different treatment is warranted.

Finding

Based on the request and information submitted by the Department of State, and based on 22 U.S.C. 5701, *et seq.*, in order that vessels from Hong Kong remain exempt from the payment of special tonnage tax following reversion, the Customs Service has determined that Hong Kong should be added to the list of nations contained in 19 CFR 4.22, effective July 1, 1997. The Customs Regulations are amended accordingly.

Inapplicability of Public Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because this amendment merely implements a statutory requirement and confers a benefit upon the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary; further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Furthermore, this amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

List of Subjects in 19 CFR Part 4

Cargo vessels, Customs duties and inspection, Maritime carriers, Vessels.

Amendment to the Regulations

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority for Part 4 and relevant specific authority continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

* * * * *

Section 4.22 also issued under 46 U.S.C. App. 121, 128, 141;

* * * * *

§ 4.22 [Amended]

2. Section 4.22 is amended by adding ''Hong Kong'' in appropriate alphabetical order.

Dated: December 15, 1997

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 97–33169 Filed 12–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 211

[Docket No. 94N–0421]

Revocation of Regulation on Positron Emission Tomography Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; revocation.

SUMMARY: The Food and Drug Administration (FDA) is revoking a regulation on positron emission tomography (PET) radiopharmaceutical drug products. The regulation permits FDA to approve requests from manufacturers of PET drugs for exceptions or alternatives to provisions of the current good manufacturing practice (CGMP) regulations. FDA is taking this action in accordance with provisions of the Food and Drug Administration Modernization Act of 1997 (Modernization Act). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice revoking two notices concerning certain guidance documents on PET drugs and the guidance documents to which the notices relate.

EFFECTIVE DATE: December 21, 1997.

FOR FURTHER INFORMATION CONTACT: Brian L. Pendleton, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5649.

SUPPLEMENTARY INFORMATION: On November 21, 1997, President Clinton signed into law the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115). Section 121(c)(1)(A) of the Modernization Act directs FDA to develop appropriate procedures for the approval of PET drugs as well as CGMP requirements for such drugs, taking into account any relevant differences between not-for-profit institutions that compound PET drugs and commercial manufacturers. FDA is to establish these procedures and requirements not later than 2 years after the date of enactment. In doing so, the agency must consult with patient advocacy groups, professional associations, manufacturers, and persons licensed to make or use PET drugs.

Under section 121(c)(2) of the Modernization Act, FDA cannot require the submission of new drug applications or abbreviated new drug applications for compounded PET drugs that are not adulterated under section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) for a period of 4 years after the date of enactment, or 2 years after the date that the agency adopts special approval procedures and CGMP requirements for PET drugs, whichever is longer.

Section 121(d) of the Modernization Act requires FDA, within 30 days of enactment, to publish in the **Federal Register** a notice terminating the application of FDA's final rule, published in the **Federal Register** of April 22, 1997 (62 FR 19493), permitting the agency to approve requests from manufacturers of PET drug products for exceptions or alternatives to provisions of FDA's CGMP regulations (21 CFR 211.1(d)). FDA already has received one such request for an exception or alternative to the CGMP requirements for PET drugs in the form of a citizen petition submitted by Case Western Reserve University (CWRU) (Docket No. 97P–0198/CP1). As required by the Modernization Act, the final rule on exceptions and alternatives is hereby revoked, which also renders the CWRU citizen petition moot. The information and views presented in the CWRU citizen petition will be considered as a part of the rulemaking proceeding to establish appropriate CGMP requirements for PET drugs under section 121(c)(1)(A)(ii) of the Modernization Act.

Section 121(d) of the Modernization Act also directs FDA to terminate the application of two notices concerning certain guidance documents on PET drugs. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice revoking these two notices and the guidance documents to which the notices relate.

The revocation of the final rule on CGMP exceptions or alternatives for PET drugs is effective December 21, 1997.

In accordance with section 121(c)(1)(A) of the Modernization Act, FDA intends to begin the development of new PET drug approval procedures and CGMP requirements immediately and will obtain appropriate public input during this process.

List of Subjects in 21 CFR Part 211

Drugs, Labeling, Laboratories, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 211 is amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. The authority citation for 21 CFR part 211 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 355, 356, 357, 360b, 371, 374.

§ 211.1 [Amended]

2. Section 211.1 *Scope* is amended by removing paragraph (d).

Dated: December 16, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–33187 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Decoquinate and Bacitracin Zinc

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Alpharma Inc. The ANADA provides for using approved decoquinate and bacitracin zinc Type A medicated

articles to make Type C medicated broiler chicken feeds used for prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Gilbert, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1602.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of ANADA 200–213 that provides for combining approved decoquinate and bacitracin zinc Type A medicated articles to make Type C medicated feeds for broilers containing decoquinate 27.2 grams per ton (g/t) and bacitracin zinc 10 to 50 g/t. The Type C medicated feed is used as an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; and for increased rate of weight gain; and improved feed efficiency.

ANADA 200–213, filed by Alpharma Inc., is approved as a generic copy of Rhone Poulenc's NADA 45–348. The ANADA is approved as of September 19, 1997, and the regulations are amended in the table in 21 CFR 558.195(d) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) 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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.195 [Amended]

2. Section 558.195 *Decoquinate* is amended in the table in paragraph (d), in the entry for ''27.2 (0.003 pct)'', in the second column, in the entry for ''Bacitracin 10 to 50'', under the column ''Limitations'' by removing ''No. 000061'' and adding in its place ''Nos. 046573 and 011716''.

Dated: December 8, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–33095 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 175

[DoD Instruction 4165.67]

RIN 0790–AF62

Revitalizing Base Closure Communities and Community Assistance

AGENCY: Department of Defense, Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

ACTION: Final rule.

SUMMARY: This rule establishes procedures for implementing section 2837 of the National Defense Authorization Act for FY96 concerning the Federal Agency leaseback of property transferred to Local Redevelopment Authorities (LRAs) at installations approved for closure or realignment, and informs communities affected by base closure of these procedures.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Atkin, Base Closure and Community Reinvestment Office, 400 Army-Navy Drive, Suite 200, Arlington, VA 22202, telephone (703) 604–2400.

SUPPLEMENTARY INFORMATION:

Regulatory History and Background Information

DoD published a proposed rule on February 21, 1997 (62 FR 7966) implementing section 2837 of the National Defense Authorization Act for FY96 (Pub. L. 104–106). Public comments were accepted until April 22, 1997. This final rule addresses the comments received on the proposed rule.

Discussion of Public Comments

During the public comment period, the Department received over 40 public comments from 14 sources, including numerous LRAs. The comments are summarized generically below. Changes that have been made to the rule in response to public comments are noted. The comments fall into eight broad categories including:

Federal Tenant Procurement Authority

Many comments requested that the rule revise the provisions regarding what services a Federal tenant may pay for and how the services can be obtained. Examples include: (1) The rule should authorize LRAs to charge Federal leaseback tenants a Common Area Maintenance Fee; (2) the rule should authorize Federal tenants to sole source for ''landlord'' services; and, (3) the rule should require Federal tenants to pay for services if the Agency paid for the services when it owned the property (note: this would only apply to existing Federal tenants rather than agencies relocating to the site).

Response: The Federal Government cannot pay for municipal services that are provided by a locality to its population using tax revenues. Doing so would, in effect, result in a taxing of the Federal Government. But, as evidenced by numerous Supreme Court Cases interpreting the Supremacy Clause of Article VI of the United States Constitution, States cannot tax the Federal Government. With respect to other services, Federal tenants can only pay for those services that are a requirement of the Federal Government. Paying a Common Area Maintenance Fee could result in the Federal tenant paying for services that are above and beyond what is needed to use the property being leased. For those services that are necessary, the leaseback authority does not remove the Federal Government's responsibility to abide by existing procurement laws. As a result, such services must be acquired using existing procurement laws and regulations. In some circumstances, a sole source contract may be allowable.

Leaseback Transfer Approval/Rejection Authority

Out of concern that prospective Federal tenants will reject an LRA's request for a leaseback transfer with virtually no justification, some comments requested that the rule establish criteria that would have to be

met for a Federal Agency to reject a leaseback in favor of property ownership. Other comments suggested that an arbitration or grievance process be established or that the General Services Administration (GSA) should be assigned the task of approving leaseback requests.

Response: The Federal Property and Administrative Services Act of 1949 gives Federal Departments and Agencies priority on the use of base closure and realignment property. This ''right of first refusal'' to obtain ownership of property is unchanged by the leaseback authority. As a result, DoD does not have the legal authority to require a Federal Department or Agency to give up the right of ownership in favor of a leasehold interest. However, if a leaseback is requested by an LRA, the Department urges Federal Agencies to give serious consideration to leasing the property from the LRA instead of pursuing ownership through a Federal-to-Federal transfer.

Process For Securing Another Federal Tenant

The proposed rule specified that if the Federal Tenant no longer requires use of the property before the expiration of the lease term, the remainder of the term may be satisfied by the same or another Federal Agency for a similar use. The rule stated that GSA would assist in identifying interest in the property. Comments raised by the public requested that this process be clarified to include how GSA will screen for another user and how long GSA will have to secure another tenant.

Response: Section 175.7(k)(10(vi) has been amended to provide more guidance on how a replacement tenant would be identified by GSA. The rule also stipulates that GSA would have only 60 days in which to find a new tenant.

Valuation and Consideration

Numerous public comments addressed the issue of determining value for the leaseback property and setting the level of consideration. The comments included: (1) The value of leaseback property should be set at zero; (2) consideration for the leaseback property should not be due until after the Federal tenant vacates; (3) consideration for leaseback property should be set at zero; and, (4) the rule should define how value will be determined for a stand-alone leaseback.

Response: The leaseback authority requires the Department to determine the fair market value of the property before transfer. As a result, the value of the leaseback property cannot be preset through regulation. The rule does allow, however, for flexibility with respect to payment terms. Consideration can be in cash or in kind, and can be paid up front, over time, or when the Federal tenant vacates the property, as long as the amount of consideration (or formula for determining the amount of consideration) and the schedule for payment are agreed upon before the property is transferred. The value of leaseback property being transferred under an Economic Development Conveyance (EDC) will be determined in accordance with existing EDC valuation procedures. Property being conveyed as a stand-alone leaseback will be valued based on the proposed reuse.

Federal Tenant Improvements

Several LRAs expressed concern that the proposed rule allows a Federal tenant to repair, improve, and maintain the property at its expense without the approval of the LRA. The comments stated that without requiring a Federal tenant to consult with the LRA, alterations made to the property could be inconsistent with the community's plans for ultimate use of the property.

Response: The Department agrees with the comments that were submitted and has revised the rule to require Federal tenants to consult with the LRA before making repairs and improvements.

Insurance

A few comments requested that the rule require Federal tenants to obtain insurance for property leased back from an LRA in the same way that LRAs are required to have insurance for property leased from DoD.

Response: Requiring Federal tenants to obtain insurance is unnecessary because the Federal Government is self insured.

Leaseback Compatibility With Other Conveyance Regulations

Comments received from another Federal Agency raised concerns that a leaseback transfer may be incompatible with a public benefit transfer (PBT) when the leaseback property is located within the PBT property. For example, for leaseback property located within or adjacent to property being conveyed via a PBT, the public benefit grantee may not be the LRA—the recipient of the leaseback property. In addition, if leaseback property is located within or adjacent to PBT property, the Federal Agency's use of the property may be incompatible with the public benefit use (e.g. obstructing airspace near a public airport). The comment recommended that the rule require the Military Departments to consult with the Federal sponsoring Agency if the property to be transferred under the leaseback authority is within or adjacent to PBT property.

Response: Property needed by another Federal Department or Agency is either transferred using the Federal-to-Federal transfer process or it is transferred to an LRA and then leased back to the Federal entity under the leaseback authority. The use of the property is the same regardless of the transfer method. The Department does not consult with Federal sponsoring Agencies when using a Federal-to-Federal transfer, so the rule has not been changed to require consultation when using a leaseback. In some cases use of a leaseback transfer rather than a Federal-to-Federal transfer could actually be more beneficial if the property is located within or adjacent to PBT property because the leaseback rule allows the property to be transferred to another entity (e.g. an airport authority) and provides a guarantee on the future use of the property.

Legality of a Lease/Leaseback Arrangement

One comment stated that, contrary to the provisions of § 175.7(k)(7) of the proposed rule, it is legally impossible to have a leaseback without first deeding the property to the LRA. The letter stated that if a Federal Agency needs access to the property before a deed can be issued, the Military Department can allow the Agency access without first going through a leasback transaction. The letter also stated that non-DoD Federal agencies would refuse to enter into lease/leaseback arrangement.

Response: The Department's legal counsel indicates that a lease in furtherance of conveyance/leaseback transaction is allowable if a deed transfer cannot yet be accomplished. But, the Department acknowledges that in some circumstances other options may be available to provide a Federal Agency access to the property including the use of a permit.

Statement of Determination and Certifications

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that this rule is not a significant regulatory action as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Public Law 95–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been determined that this rule will not have a significant economic

impact on a substantial number of small entities.

Public Law 104–13, ''Paperwork Reduction Act of 1995'' (44 U.S.C. Chapter 35)

It has been certified that this rule does not impose any reporting or recordkeeping requirements.

List of Subjects in 32 CFR Part 175

Community development, Government employees, Military personnel, Surplus Government property.

Accordingly, 32 CFR part 175 is amended to read as follows:

PART 175—[AMENDED]

1. The authority citation for 32 CFR part 175 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

2. Section 175.3 is amended by adding a new paragraph (l) to read as follows:

§ 175.3 Definitions.

* * * * *

(l) *Similar use.* A use that is comparable to or essentially the same as the use under the original lease.

3. Section 175.4, § 175.5, and § 175.6 are revised to read as follows:

§ 175.4 Policy.

It is DoD policy to help communities impacted by base closures and realignments achieve rapid economic recovery through effective reuse of the assets of closing and realigning bases-more quickly, more efficiently, and in ways based on local market conditions and locally developed reuse plans. This will be accomplished by quickly ensuring that communities and the Military Departments communicate effectively and work together to accomplish mutual goals of quick property disposal and rapid job generation. This regulation does not create any rights of remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Title XXIX of Public Law 103–160, Public Law 103–421, or Title XXVII of Public Law 104–106.

§ 175.5 Responsibilities.

(a) The Deputy Under Secretary of Defense (Industrial Affairs and Installations), after coordination with the General Counsel of the Department of Defense and other officials as appropriate, may issue guidance through the publication of a Manual or other such document necessary to implement laws, Directives and Instructions on the retention or disposal of real and personal property at closing or realigning bases.

(b) The Heads of the DoD Components shall ensure compliance with this part and guidance issued by the Assistant Secretary of Defense for Economic Security and the Deputy Under Secretary of Defense (Industrial Affairs and Installations) on revitalizing base closure communities.

§ 175.6 Delegations of authority.

(a) The authority provided by sections 202 and 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483 and 484) for the utilization and disposal of excess and surplus property at closing and realigning bases has been delegated by the Administrator, GSA, to the Secretary of Defense by delegations dated March 1, 1989; October 9, 1990; September 13, 1991; and, September 1, 1995.[1] Authority under these delegations has been previously delegated to the Secretaries of the Military Departments, who may delegate this authority further.

(b) Authorities delegated to the Deputy Under Secretary of Defense (Industrial Affairs and Installations) [2] by § 174.5 of this chapter are hereby redelegated to the Secretaries of the Military Departments, unless otherwise provided within this part or other DoD Directive, Instruction, Manual, or Regulation. These authorities may be delegated further.

4. Section 175.7 is amended by revising paragraph (a)(13)(i) and paragraph (d)(3)(i), by reserving paragraph (j) and by adding paragraph (k) to read as follows:

§ 175.7 Procedures.

(a) * * *

(13) * * *

(i) In unusual circumstances, extensions beyond six months can be granted by the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

* * * * *

(d) * * *

(3) * * *

(i) In the event there is no LRA recognized by DoD and/or if a redevelopment plan is not received from the LRA within 15 months from the determination of surplus under paragraph (a)(13) of this section, (unless an extension of time has been granted by the Deputy Under Secretary of Defense (Industrial Affairs and Installations)), the applicable Military Department shall proceed with the disposal of property under applicable property disposal and environmental laws and regulations.

* * * * *

(k) *Leaseback of real property at base closure and realignment sites.* (1) Section 2905(b)(4)(c) of Public Law 101–510, 10 U.S.C. 2687 note (BRAC 1990), as added by section 2837 of Public Law 104–106, gives the Secretary of Defense the authority to transfer real property that is still needed by a Federal Department or Agency to an LRA provided the LRA agrees to lease the property back to the Federal Department or Agency in accordance with all statutory and regulatory guidance. The purpose of this authority, hereinafter referred to as a ''leaseback,'' is to enable the LRA to obtain ownership of the property pursuant to the BRAC process while still ensuring that the Federal need for use of the property is accommodated.

(2) Subject to BRAC 1990 and this part, the decision whether to transfer property pursuant to a leaseback rests with the relevant military department. However, a military department may only transfer property via a leaseback if the Federal entity that needs the property agrees to the leaseback arrangement.

(3) If for any reason property cannot be transferred pursuant to a leaseback (e.g., the relevant Federal Agency prefers ownership, the LRA and the Federal entity cannot agree on terms of the lease, or the military department determines that a leaseback would not be in the Federal interest), such property shall remain in Federal ownership unless and until the relevant landholding entity determines that it is surplus pursuant to the Federal Property Management Regulations.

(4) If a building or structure is proposed for transfer under this authority, that which is leased back to the Federal Department or Agency may be all or a portion of that building or structure.

(5) The leaseback authority may be used at all installations approved for closure or realignment under BRAC 1990.

(6) Transfers under this authority must be to an LRA.

(7) Transfers under this authority may be by lease in furtherance of conveyance or deed. A lease in furtherance of conveyance is appropriate only in those circumstances where deed transfer cannot be accomplished because the requirements of the Comprehensive Environmental Response,

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[1] Available from the Base Closure and Community Reinvestment Office, 400 Army Navy Drive, Suite 200, Arlington, VA 22202, email: ''base_reuse@acq.osd.mil''

[2] A Deputy Secretary of Defense memorandum of May 15, 1996, ''OUSD (Acquisition and Technology) Reorganization'' disestablished the office of the Assistant Secretary of Defense for Economic Security and established the office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations). Copies are available from the Base Closure and Community Reinvestment Office, 400 Army Navy Drive, Suite 200, Arlington, VA 22202, email: ''base_reuse@acq.osd.mil''

Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601, *et seq.*) for such transfer have not been met. The lease in furtherance of conveyance or accompanying contract shall include a provision stating that the LRA agrees to take title to the property when requirements for the transfer have been satisfied.

(8) The leaseback authority can be used to transfer property that is needed either by existing Federal tenants or by Federal Departments or Agencies desiring to locate onto the property after operational closure. The Military Department that is closing or realigning the installation may not transfer property to an LRA under this authority and lease it back unless:

(i) The Military Department is acting in an Executive Agent capacity on behalf of a Defense Agency that certifies that a leaseback is in the interest of that Defense Agency; or,

(ii) The Secretary of the Military Department certifies that a leaseback is in the best interest of the Military Department and that use of the property by the Military Department is consistent with the obligation to close or realign the installation in accordance with the recommendations of the Defense Base Closure and Realignment Commission.

(9) Property eligible for a leaseback is not surplus because it is still needed by a Federal entity. However, notwithstanding that the property is not surplus and that the LRA would not otherwise have to include such property in its redevelopment plan, the LRA should include the proposed leaseback of property in its redevelopment plan, taking into account the planned Federal use of such property.

(10) The terms of the LRA's lease to the Federal entity should afford the Federal Department or Agency rights as close to those associated with ownership of the property as is practicable. The requirements of the General Services Acquisition Regulation (GSAR) (48 CFR Part 570) are not applicable to the lease, but provisions in the GSAR may be used to the extent they are consistent with this part. The terms of the lease are negotiable subject to the following:

(i) The lease shall be for a term of no more than 50 years, but may provide for options for renewal or extension of the term at the request of the Federal Department or Agency concerned. The lease term should be based on the needs of the Federal entity.

(ii) The lease, or any renewals or extensions thereof, shall not require rental payments.

(iii) The lease shall not require the Federal Government to pay the LRA or other local government entity for municipal services including fire and police protection.

(iv) The Federal Department or Agency concerned may be responsible for services such as janitorial, grounds keeping, utilities, capital maintenance, and other services normally provided by a landlord. Acquisition of such services by the Federal Department or Agency is to be accomplished through the use of Federal Acquisition Regulation procedures or otherwise in accordance with applicable statutory and regulatory requirements.

(v) The lease shall include a provision prohibiting the LRA from transferring fee title to another entity during the term of the lease, other than one of the political jurisdictions that comprise the LRA, without the written consent of the Federal Department or Agency occupying the leaseback property.

(vi) The lease shall include a provision specifying that if the Federal Department or Agency concerned no longer needs the property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another Federal Department or Agency that needs property for a similar use.

(A) Prior to exercising this option, the Federal tenant shall consult with the LRA concerned or other property owner if the property has been conveyed by the LRA to another entity in accordance with § 175.7(k)(10)(v) of this part.

(B) If the Federal tenant decides to exercise this option after consulting with the LRA or other property owner, it shall notify the appropriate General Services Administration regional office that the property is available for use by a Federal Department or Agency. The General Services Administration regional office shall have 60 days from the date of notification in which to identify a Federal Department or Agency to serve out the term of the lease and to notify the LRA or other property owner of the new tenant. If the regional office does not notify the LRA or other property owner of a new tenant within 60 days from the date of notification, the property is available for use by the LRA or other property owner.

(C) If the Federal tenant decides not to exercise this option after consulting with the LRA or other property owner, the property is available for use by the LRA or other property owner.

(vii) The terms of the lease shall provide that the Federal Department or Agency may repair and improve the property at its expense after consultation with the LRA.

(11) Conveyance to an LRA under this authority shall be in one of the following ways:

(i) Lease back property that will be conveyed under an Economic Development Conveyance (EDC) shall be conveyed as part of the EDC in accordance with the existing EDC procedures and § 175.7(k)(11)(ii)(B)(*4*). The LRA shall submit the following in addition to the application requirements outlined in § 175.7(e)(5):

(A) A description of the parcel or parcels the LRA proposes to have transferred to it and then to lease back to a Federal Department or Agency;

(B) A written statement signed by an authorized representative of the Federal entity that it agrees to accept a leaseback of the property; and,

(C) A statement explaining why a leaseback is necessary for the long-term economic redevelopment of the installation property.

(ii) Leaseback property not associated with property to be conveyed under an EDC shall be conveyed in accordance with the following procedures:

(A) As soon as possible after the LRA's submission of its redevelopment plan to the DoD and HUD, the LRA shall submit a request for a leaseback to the Military department. The Military Department may impose additional requirements as necessary, but at a minimum, the request shall contain the following:

(*1*) A description of the parcel or parcels the LRA proposes to have transferred to it and then to lease back to a Federal Department or Agency;

(*2*) A written statement signed by an authorized representative of the Federal entity that it agrees to accept a leaseback of the property; and,

(*3*) A statement explaining why a leaseback is necessary for the long-term economic redevelopment of the installation property.

(B) The transfer may be for consideration at or below the estimated present fair market value. In those instances in which the property is conveyed for consideration below the estimated present fair market value, the Military Department shall prepare a written explanation of why the estimated present fair market value was not obtained.

(*1*) In a rural area, the transfer shall comply with § 175.7(f)(5).

(*2*) Payment may be in cash or in-kind.

(*3*) The Military Department shall determine the estimated present fair market value of the property before transfer under this authority.

(*4*) The exact amount of consideration, or the formula to be used

to determine that consideration, as well as the schedule for payment of consideration must be agreed upon in writing before transfer under this authority.

Dated: December 15, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–33109 Filed 12–18–97; 8:45 am]

BILLING CODE 5000–04–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51–2, 51–4, and 51–6

Miscellaneous Amendments to Committee Regulations

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Final rule.

SUMMARY: The Committee is changing five sections of its regulations to clarify them and improve the efficiency of operation of the Committee's Javits-Wagner-O'Day (JWOD) Program. The changes are necessary to clarify and expand earlier regulation changes and to eliminate unnecessary regulatory language.

EFFECTIVE DATE: January 20, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603–0665. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: The Committee is amending § 51–2.4 of its regulations to clarify further that its authorizing statute, the JWOD Act, 41 U.S.C. 46—48c, treats addition of commodities and services to the Procurement List and the establishment by the Committee of a fair market price as two separate functions and applies the requirement for notice and comment rulemaking only to the addition function. This area was first addressed in 1994 (59 FR 59338, Nov. 16, 1994) with the removal of fair market price from the list of suitability criteria for Procurement List additions, in accordance with a 1992 court decision, *McGregor Printing Corporation* v. *Kemp*, 802 F. Supp. 519, 527 (D.D.C), *rev'd on other grounds*, 20 F.3d 1188 (D.C. Cir. 1994). The amendment states that the Committee does not consider comments on proposed fair market prices for commodities and services proposed for addition to the Procurement List to be pertinent to a suitability determination. Accordingly, they will not be addressed when the Committee makes an addition decision. This amendment will not affect the ability of Government and other appropriate parties to comment on proposed fair market prices and price changes in connection with the Committee's fair market pricing process. The Committee is also removing paragraph 51–2.4(a)(4)(C) of its regulations to eliminate one of two essentially redundant statements in § 51–2.4 to the effect that the Committee considers pertinent comments when making its addition decisions.

The Committee also amended paragraphs (b)(6) and (c)(1) of § 51–4.3 of its regulations in 1994 (59 FR 59343) to allow the acceptance of State certifications of blindness or other severe disabilities as documentation of disability, in addition to reports by individual health professionals. Many of these certifications, however, are done by health professionals at local governmental bodies, such as public schools. The new amendment to this section will allow acceptance of these certifications.

Paragraph (c) of § 51–4.4 of the Committee's regulations permits nonprofit agencies participating in the JWOD Program to subcontract a portion of the process for providing a commodity on the Procurement List. The amendment will extend this permission to services on the Procurement List, and would specify how the Committee will oversee routine subcontracting of a part of the production process.

Paragraph (c) of § 51–6.12 of the Committee's regulations requires Government contracting activities to provide a 90-day notice when changing the scope of work of a service on the Procurement List. The amendment will make it clear that this notice requirement also applies to situations where the contracting activity converts a service to performance by Government personnel.

Prior to the 1991 revision of the Committee's regulations (56 FR 48974, Sept. 26, 1991), the matters contained in current parts 51–5 and 51–6 were in a single part 51–5, which had a disputes provision applicable to the entire part of the Committee's regulations. The amendment clarifies the disputes provision, § 51–6.14, to state its applicability to both parts 51–5 and 51–6.

Public Comments on the Proposed Rule

The Committee published the proposed rule in the **Federal Register** of September 26, 1997 (62 FR 50547). One comment was received, from counsel for a manufacturer which is objecting to a recently proposed addition to the Procurement List. The comment addressed only the proposed changes to 41 CFR 51–2.4, which contains the Committee's criteria for making additions to the Procurement List. No comments were received on the other proposed regulatory changes announced by the Committee at that time.

As noted above, the changes to 41 CFR 51–2.4 were intended to emphasize the Committee's conclusion that its authorizing statute treats the Committee's addition of commodities and services to the Procurement List and its establishment of fair market prices for these commodities and services as two separate Committee functions. The statutory requirement for notice and comment rulemaking, in the Committee's view, applies only to the first of these functions.

The commenter challenged the Committee's conclusion that the holding cited from the 1992 *McGregor* decision in support of the Committee's view was not reversed by the 1994 appeals court decision. While unable to point to specific language in the later decision reversing the lower court's holding, the commenter indicated that the holding was reversed ''by implication'' because the later decision discussed the Committee's shortcomings on its fair market price determination in the rulemaking at issue. If the appeals court did not intend to reverse the lower court's holding, the commenter argued, this discussion would be a mere waste of space in the appeals court's opinion.

The *McGregor* appellate decision set aside the Committee's rulemaking, and reversed the lower court, because the appellate court concluded that the Committee's rulemaking record did not support the Committee's conclusions and the Committee did not adequately explain the basis for its conclusions. The regulation stating the Committee's criteria for Procurement List additions which was in effect when the contested rulemaking took place included fair market price among the criteria. Accordingly, the discussion cited by the commenter from the appellate court opinion noted the shortcomings in the Committee's administrative record and **Federal Register** notice which pertained to the Committee's explanation of its rationale for deciding that the pricing criterion had been met, as a part of its longer discussion of the Committee's

shortcomings in documenting and explaining its conclusions on all the addition criteria. Because the regulation made fair market price an addition criterion, and thus subject to the rulemaking requirement, the appellate court did not have to address the lower court's holding that pricing determinations are reserved to the Committee alone because the JWOD Act makes price determinations a separate function from additions to the Procurement List.

The Committee's 1994 regulatory change (59 FR 59338, Nov. 16, 1994) removed fair market price from the addition criteria to restore the separation of functions established by the JWOD Act. The current revisions to 41 CFR 51–2.4 merely make the separation clearer, in light of subsequent failures by commenting parties, notably this commenter, to see the distinction. The Committee does not believe that the current revision to this regulation, and the 1994 revision, which the commenter also challenged, are legally improper, as the commenter claimed.

The commenter also objected to the Committee's reliance on the lower court opinion in *McGregor* on the grounds that the *McGregor* decisions did not address a situation in which a commenter made specific allegations about information supporting proposed prices submitted for Committee consideration by central nonprofit agencies. Because *McGregor* did not address this situation, the commenter claims that it cannot be used as a basis for excluding comments on a proposed addition merely because they concern pricing issues.

The Committee does not believe that the commenter's claim on this point is relevant to the Committee's legal authority to revise 41 CFR 51–2.4 as it did in 1994 and is doing now. As noted below, the Committee does not intend to ignore significant comments on its fair market prices. It will consider them in connection with the process for establishing a fair market price, not in connection with the rulemaking process required for a Procurement List addition.

The commenter also advanced several legal and policy arguments for his position that comments on a fair market price must be addressed in connection with a Procurement List addition. The commenter claimed that a fair market price is set before the corresponding addition decision is made, so if the price is incorrect, the addition would be legally defective unless the price is corrected. The commenter also claimed that a correct fair market price is the only restraint on addition to the Procurement List of commodities and services on which little direct labor is performed by people with severe disabilities, and that it would do no good for a commenter to question a fair market price after the decision is made, because the Government would contract for the commodity or service and the price could not be corrected. The commenter indicated that resolving these price questions at the time of addition would not be unduly burdensome for the Committee staff.

The Committee does not agree with the commenter's contention that a fair market price is established before a commodity or service is added to the Procurement List. While a proposed fair market price is calculated in accordance with the Committee's pricing policies, and the nonprofit agency agrees to produce at that price, before the proposal is sent to the Committee for an addition decision, the Committee must make the actual pricing decision once it has made its addition decision. The Committee may exercise its discretion to reject the proposed price and set another which falls within its pricing guidelines. The addition decision function, including the rulemaking requirement, precedes the pricing function in the JWOD Act, and the Committee's decision format was revised in 1994 to be consistent with the statute.

The Committee also disagrees with the commenter's contention that a fair market price ensures that sufficient qualifying direct labor is being performed by the nonprofit agency. Direct labor was a separate addition criterion from fair market price before the 1994 regulatory revision, and the two had to be independently satisfied before a commodity or service could be added to the Procurement List. Direct labor remains an addition criterion since the removal of fair market price from the criteria list.

The commenter's contention that fair market price cannot be changed after a Procurement List addition is made is not consistent with either the Committee's pricing policy or its practice in the pricing area. The Committee has a long history of making price changes as appropriate, including changes made as a result of informed comments. The very document in which the commenter made his comments on this rulemaking also contains information submitted to demonstrate to the Committee that some of its prices are not correct, and this document supplements earlier and more detailed information on that same subject which the Committee staff is analyzing with a view toward correcting the prices at issue if appropriate.

The burden on the Committee staff of reviewing comments on prices as part of an addition would not greatly exceed the burden of considering them as part of the pricing process. The Committee believes, however, that it would not be appropriate to burden the addition process with a matter more logically belonging to the pricing process. As indicated above, there is now no statutory or regulatory requirement to confuse these two processes as the commenter would have the Committee do.

Finally, the commenter claimed that the Committee must allow comments on fair market price ''at some point in the process.'' That point is the pricing process, which includes both the establishment of an initial fair market price and changes in the price. As indicated above, the Committee will entertain significant comments on specific prices from affected parties in connection with that process. The Committee will not, however, allow commenters to use the addition process to raise issues not covered by the addition criteria, or to delay the addition process with larger policy questions such as the nature of a fair market price, as has occurred in the past.

Regulatory Flexibility Act

I certify that this revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this rule because it contains no new information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, the rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects

41 CFR Part 51–2

Organization and functions (Government agencies).

41 CFR Part 51–4

Reporting and recordkeeping requirements.

41 CFR Part 51–6

Government procurement, Handicapped.

For the reasons set out in the preamble, Parts 51–2, 51–4, and 51–6 of Title 41, Chapter 51 of the Code of Federal Regulations are amended as follows:

1. The authority citation for Parts 51–2, 51–4, and 51–6 continues to read as follows:

Authority: 41 U.S.C. 46–48c.

PART 51–2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

2. Section 51–2.4 is amended by removing paragraph (a)(4)(C) and adding a sentence to paragraph (b), to read as follows:

§ 51–2.4 Determination of suitability.

* * * * *

(b) * * * Because the Committee's authority to establish fair market prices is separate from its authority to determine the suitability of a commodity or service for addition to the Procurement List, the Committee does not consider comments on proposed fair market prices for commodities and services proposed for addition to the Procurement List to be pertinent to a suitability determination.

PART 51–4—NONPROFIT AGENCIES

3. Section 51–4.3 is amended by revising paragraphs (b)(6) and (c)(1), to read as follows:

§ 51–4.3 Maintaining qualification.

* * * * *

(b) * * *

(6) Maintain a file for each blind individual performing direct labor which contains a written report reflecting visual acuity and field of vision of each eye, with best correction, signed by a person licensed to make such an evaluation, or a certification of blindness by a State or local governmental entity.

* * * * *

(c) * * *

(1) A written report signed by a licensed physician, psychiatrist, or qualified psychologist, reflecting the nature and extent of the disability or disabilities that cause such person to qualify as a person with a severe disability, or a certification of the disability or disabilities by a State or local governmental entity.

* * * * *

4. Section 51–4.4 is amended by revising paragraph (c), to read as follows:

§ 51–4.4 Subcontracting.

* * * * *

(c) Nonprofit agencies may subcontract a portion of the process for producing a commodity or providing a service on the Procurement List provided that the portion of the process retained by the prime nonprofit agency generates employment for persons who are blind or have other severe disabilities. Subcontracting intended to be a routine part of the production of a commodity or provision of a service shall be identified to the Committee at the time the commodity or service is proposed for addition to the Procurement List and any significant changes in the extent of subcontracting must be approved in advance by the Committee.

* * * * *

PART 51–6—PROCUREMENT PROCEDURES

5. Section 51–6.12 is amended by revising paragraph (c), to read as follows:

§ 51–6.12 Specification changes and similar actions.

* * * * *

(c) For services on the Procurement List, the contracting activity shall notify the nonprofit agency furnishing the service and the central nonprofit agency concerned at least 90 days prior to the date that any changes in the statement of work or other conditions of performance will be required, including assumption of performance of the service by the contracting activity.

* * * * *

6. Section 51–6.14 is revised to read as follows:

§ 51–6.14 Disputes.

Disputes between a nonprofit agency and a contracting activity arising out of matters covered by parts 51–5 and 51–6 of this chapter shall be resolved, where possible, by the contracting activity and the nonprofit agency, with assistance from the appropriate central nonprofit agency. Disputes which cannot be resolved by these parties shall be referred to the Committee for resolution.

Dated: December 16, 1997.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–33200 Filed 12–18–97; 8:45 am]

BILLING CODE 6353–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

45 CFR Chapter XI, Subchapter E

Change of Code of Federal Regulations Subchapter Heading To Reflect New Name of Institute

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Final rule.

SUMMARY: This final rule implements The Museum and Library Services Act of 1996, which expanded the functions of the existing Institute of Museum Services to create The Institute of Museum and Library Services (the ''Institute''), by amending the title of the Institute of Museum Services regulations to reflect the new name of the agency.

DATES: This final rule is effective December 19, 1997.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Bittner, Director of Legislative and Public Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20405. Telephone: (202) 606–8536.

SUPPLEMENTARY INFORMATION: The Museum and Library Services Act of 1996 (the ''Act''), set forth at 20 U.S.C. 961 *et seq.*, expanded the functions of the existing Institute of Museum Services to create The Institute of Museum and Library Services. This rule implements the Act, by amending the title of the Institute of Museum Services regulations to reflect the new name of the agency.

The Institute of Museum and Library Services considers this rule to be a technical amendment which is exempt from notice-and-comment under 5 U.S.C. 533(b)(3)(A). This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, the Institute certifies that these regulatory amendments will not have a significant impact on small business entities.

For the reasons stated in the preamble and under the authority of 20 U.S.C. 961 et seq., the Institute of Museum and Library Services amends 45 CFR, Chapter XI, Subchapter E as follows:

1. Revise the heading for Subchapter E to read as follows:

SUBCHAPTER E—INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Dated: December 16, 1997.

Mary Ann Bittner,

Federal Register Officer.

[FR Doc. 97–33214 Filed 12–18–97; 8:45 am]

BILLING CODE 7036–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–218; RM–8912]

Radio Broadcasting Services; Windsor, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vixon Valley Broadcasting, allots Channel 294A to Windsor, NY, as the community's first local aural transmission service. See 61 FR 58361, November 14, 1996. Channel 294A can be allotted to Windsor with a site restriction of 11.6 kilometers (7.2 miles) east, at coordinates 42–03–04 North Latitude and 75–30–18 West Longitude, to avoid a short-spacing to Station WHCD, Channel 295B, Auburn, NY. Canadian concurrence in the allotment has been received since Windsor is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 26, 1998. A filing window for Channel 294A at Windsor, NY, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–218, adopted December 3, 1997, and released December 12, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Windsor, Channel 294A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–33184 Filed 12–18–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: December 19, 1997.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted December 3, 1997, and released December 12, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 231C and adding Channel 231C1 at Safford.

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 286C1 and adding Channel 286C2 at Liberal.

4. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 296C2 and adding Channel 296C3 at Durant and by removing Channel 245C1 and adding Channel 245C at Enid.

5. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 266A and adding Channel 266C3 at Sutherlin.

6. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 231C and adding Channel 231C1 at Beaumont, by removing Channel 248C and adding Channel 248C1 at Beaumont, and by removing Channel 283C and adding Channel 283C1 at Orange.

7. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 256A and adding Channel 256C3 at Walla Walla.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–33186 Filed 12–18–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 961030300–7238–04; I.D. 120996A]

RIN 0648–AJ30

Magnuson-Stevens Act Provisions; Essential Fish Habitat (EFH)

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS issues this interim final rule to implement the essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This rule establishes guidelines to assist the Regional Fishery Management Councils (Councils) and the Secretary of Commerce (Secretary) in the description and identification of EFH in fishery management plans (FMPs), including identification of adverse impacts from both fishing and non-fishing activities on EFH, and identification of actions required to conserve and enhance EFH. The regulations also detail procedures the Secretary (acting through NMFS), other Federal agencies, state agencies, and the Councils will use to coordinate, consult, or provide recommendations on Federal and state activities that may adversely affect EFH. The intended effect of the rule is to promote the protection, conservation, and enhancement of EFH.

DATES: Effective on January 20, 1998. Comments must be received no later than February 17, 1998.

ADDRESSES: Requests for copies of the Environmental Assessment (EA) should be sent to the Director, Office of Habitat Conservation, Attention: EFH, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. (see **SUPPLEMENTARY INFORMATION**). These documents are also available via the NMFS Office of Habitat Conservation Internet website at: http://kingfish.ssp.nmfs.gov/rschreib/habitat.html or by contacting one of the regional NMFS Offices:

Northeast Regional Office, Attention: Habitat and Protected Resources Division, One Blackburn Drive, Gloucester, MA 01930–2298; 978/281–9328.

Southeast Regional Office, Attention: Habitat Conservation Division, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; 813/570–5317.

Southwest Regional Office, Attention: Habitat Conservation Division, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; 562/980–4041.

Northwest Regional Office, Attention: Habitat Conservation Branch, 525 N.E. Oregon St., Suite 500, Portland, OR 97232–2737; 503/230–5421.

Alaska Regional Office, Attention: Protected Resources Management Division, 709 West 9th Street, Federal Bldg., Room 461, P.O. Box 21668, Juneau, AK 99802–1668; 907/586–7235.

FOR FURTHER INFORMATION CONTACT: Lee Crockett, NMFS, 301/713–2325.

SUPPLEMENTARY INFORMATION: This rulemaking is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) as reauthorized by the Sustainable Fisheries Act, signed into law on October 11, 1996. Details concerning the justification for and development of this interim final rule were provided in the proposed rule (62 FR 19723, April 23, 1997) and will not be repeated here. In the proposed rule, the guidelines to the Councils for amending FMPs and the regulations outlining the processes for coordinating and consulting with, and providing recommendations to, the appropriate Federal and state agencies were combined within one subpart. For increased clarity and easier access for agencies involved in coordination or consultation, the interim final regulations separate the guidelines from the coordination, consultation, and recommendation procedures. The former is in subpart J and the latter is in subpart K of 50 CFR part 600. Both subparts are being issued together because of the importance for all affected parties to understand the implications of an area being identified as EFH.

Overview of EFH FMP Amendment Guidelines

The themes of sustainability and risk-averse management are prevalent throughout the Magnuson-Stevens Act, both in the management of fishing practices (e.g., reduction of bycatch and overfishing and consideration of ecological factors in determining optimum yield [OY]) and in the protection of habitats (i.e., prevention of direct and indirect losses of habitats, including EFH). Management of fishing practices and habitat protection are both necessary to ensure long-term productivity of our Nation's fisheries. Mitigation of EFH losses and degradation will supplement the traditional management of marine fisheries. Councils and managers will be able to address a broader range of impacts that may be contributing to the reduction of fisheries resources. Habitats that have been severely altered or impacted may be unable to support populations adequately to maintain sustainable fisheries. Councils should recognize that fishery resources are dependent on healthy ecosystems; and that actions that alter the ecological structure and/or functions within the system can disturb the health or integrity of an ecosystem. Excess disturbance, including over-harvesting of key components (e.g., managed species) can alter ecosystems and reduce their productive capacity. Even though traditional fishery management and FMPs have been mostly based on yields of single-species or multi-species stocks, these regulations encourage a broader, ecosystem approach to meet the EFH requirements of the Magnuson-Stevens Act. Councils should strive to understand the ecological roles (e.g., prey, competitors, trophic links within food webs, nutrient transfer between ecosystems, etc.) played by managed species within their ecosystems. They should protect, conserve, and enhance adequate quantities of EFH to support a fish population that is capable of fulfilling all of those other contributions that the managed species makes to maintaining a healthy ecosystem as well as supporting a sustainable fishery.

Councils must identify in FMPs the habitats used by all life history stages of each managed species in their fishery management units (FMUs). Habitats that are necessary to the species for spawning, breeding, feeding, or growth to maturity will be described and identified as EFH. These habitats must be described in narratives (text and tables) and identified geographically (in text and maps) in the FMP. Mapping of EFH maximizes the ease with which the information can be shared with the public, affected parties, and Federal and state agencies to facilitate conservation and consultation. EFH that is judged to be particularly important to the long-term productivity of populations of one or more managed species, or to be particularly vulnerable to degradation, should be identified as ''habitat areas of particular concern'' (HAPC) to help provide additional focus for conservation efforts. After describing and identifying EFH, Councils must assess the potential adverse effects of all fishing-equipment types on EFH and must include management measures that minimize adverse effects, to the extent practicable, in FMPs. Councils

are also directed to examine non-fishing sources of adverse impacts that may affect the quantity or quality of EFH and to consider actions to reduce or eliminate the effects. Councils are directed to identify proactive means to further the conservation and enhancement of EFH.

Overview of Coordination, Consultation, and Recommendation Regulations

This regulation establishes procedures for implementing the coordination, consultation, and recommendation requirements of the Magnuson-Stevens Act. NMFS will coordinate with other Federal and state action agencies by providing them with descriptions and maps of EFH, as well as information on ways to conserve and enhance EFH. The regulations allow Federal agencies to use existing consultation/environmental review procedures or the procedures outlined in the regulation to fulfill their requirement to consult with NMFS on actions that may adversely affect EFH. Consultations may be conducted at a programmatic and/or project-specific level. In cases where effects from an action will be minimal, both individually and cumulatively, a General Concurrence (GC) procedure has been developed to simplify the Federal consultation requirements. Consultation on Federal actions may be conducted under Abbreviated or Expanded Consultation, depending on the severity of the threat to EFH. NMFS anticipates that a majority of Federal actions with the potential for adverse effects on EFH may be addressed through the abbreviated consultation process or the General Concurrence process. Coordination between NMFS and the Councils is encouraged in the identification of threats to EFH and the development of appropriate EFH conservation recommendations to Federal or state agencies. When NMFS or a Council provides EFH conservation recommendations to a Federal agency, that agency must respond in writing within 30 days. If the action agency's decisions differ from NMFS' conservation recommendations, further review of the decision may be continued by the two agencies, as detailed in the regulations.

Related Documents

Other related documents that led to this interim final rule were referenced in the proposed rule. The Technical Assistance Manual that was released for public comment concurrent with the proposed rule received very little public comment. This was in part due to the very technical nature of the document. Therefore, NMFS will maintain this information as internal technical guidance, and as such, is not making it available for public comment again.

Comments and Responses

Six regional public meetings and numerous briefings were held during the comment period to explain the proposed rule and solicit public comments from all interested parties. Fishery and non-fishery representatives attended the public meetings and were included in briefings. Comments were received in writing from 6 Regional Fishery Management Councils, 3 Interstate Marine Fishery Commissions, 8 Federal agencies, 22 state agencies, 13 fishery groups, 49 conservation/environmental groups, 60 non-fishing industry groups, 11 other non-governmental organizations, 11 academicians, 1 local government, and 40 individuals.

1. Comments Asking for Additional Time to Comment

Comments: Several commenters requested that, given the complex nature of the proposed regulations, additional time should be granted for public comment.

Response: NMFS agrees that, because the EFH rule outlines a new program, additional public comment is desirable. However, because it is critical that these guidelines be available to the Councils and to the Secretary as soon as possible so that EFH FMP amendments can be developed and submitted to the Secretary in time to meet the statutory deadline of October 11, 1998, NMFS is issuing this rule as an interim final rule to provide necessary certainty to conduct this work. NMFS will also consider additional comments received during the comment period on this interim final rule before issuing the final rule. NMFS is particularly interested in receiving comments on those sections of the interim final rule that have been changed in response to comments and any new information not previously submitted.

2. Comments in Favor of Protection of Fish Habitats

Comments: Most of the commenters supported the concept of protecting fish habitats as a means to support fisheries, sustain ecosystems, or preserve aesthetics, some in spite of the fact that they were wary of the approach outlined in the proposed rule because of potential adverse impacts on their activities. Numerous groups and individuals expressed concern that the habitat conservation approach set forth in the proposed rule was a dilution of the previously presented ecosystem approach from the Framework for the Description and Identification of EFH (62 FR 1306, January 9, 1997) (Framework) and feared that it would be weakened further in the interim final rule under pressure from non-fishing interests. Many commenters pointed out that marine fisheries belong to all Americans, not just to certain industries.

Response: NMFS believes that EFH must be conserved and enhanced to prevent future depletions of managed species and to restore many presently overfished stocks. Measures detailed in these regulations are necessary to ensure that adverse impacts from both fishing and non-fishing will be adequately addressed in accordance with the requirements of the Magnuson-Stevens Act. The regulations were developed by NMFS to provide the Councils with guidance that is both feasible and scientifically defensible. Although the guidelines vary superficially from the Framework, they are not fundamentally different. Additional input from Councils and the public, and discussions with other Federal agencies, were used to make the program workable. NMFS will continue to work with all parties to protect both quantity and quality of these habitats in a streamlined and efficient manner. NMFS has worked to insure that an ecologically sound approach was developed to protect, conserve, and enhance EFH to support sustainable fisheries and the ecosystems that support them in accordance with the mandate set by Congress.

3. Comments on the Interpretation of EFH

Comments: Some industry groups commented that linking EFH to the amount of habitat necessary to support a healthy ecosystem exceeds the authority granted to NMFS under the Magnuson-Stevens Act. Additionally, they criticized this linkage as vague and overly broad. Some fishing interests expressed concern that ecosystem considerations might interfere with the focus on maintaining fishing production. Other commenters supported the linkage to healthy ecosystems, but asked that a healthy ecosystem be more clearly defined. Some commenters suggested that healthy ecosystems should be defined by species composition and abundance, presence of key interactions, and habitat persistence.

Response: In the proposed rule, NMFS linked EFH to the amount of habitat required to support a sustainable fishery and healthy ecosystem. In the

interim final rule, NMFS clarified this linkage to be the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem.

The Magnuson-Stevens Act provides authority for the link between EFH and the managed species' contribution to a healthy ecosystem in a number of places. Ecosystem themes are common in the definitions of ''fishery resources,'' ''conservation and management,'' and ''optimum.'' These definitions link protection of the marine environment to managing fisheries. Specifying that Councils should address the degradation and loss of EFH from both fishing and through conservation and enhancement measures further reflects support for more ecologically-based management of marine fisheries. In addition to its present emphasis on ecological components of management, the Magnuson-Stevens Act, in section 406, calls for the establishment of an advisory panel to analyze the extent to which ecosystem principles are being applied, and to recommend to the Secretary and Congress ways to expand the application of ecosystem principles in fishery conservation and management in the future.

Although the implementation of ecosystem management varies among the agencies and organizations that have adopted it, there are common elements among the approaches. Ecosystem management encourages sustainable resource use that is achieved through goal setting and the use of ecological precepts and understanding to achieve those goals; recognition that different processes occur at different temporal and spatial scales and must be addressed appropriately; recognition of the complexity and integration of ecosystems; recognition of humans as active components in ecosystems; recognition of the uncertainties inherent in management and the need to make risk-averse decisions; and the need for adaptive management (Christensen *et al.*, 1996; Grumbine, 1997; Hancock, 1993). This regulation embraces those concepts and urges Councils to seek environmental sustainability in fishery management of living marine and anadromous resources, within the current statutorily-prescribed fishery management framework (i.e., management by FMPs).

Linking EFH to healthy ecosystems will improve conserving and enhancing the habitats of all living marine resources which depend on the same marine ecosystem. Applying an ecosystem approach to the conservation and enhancement of EFH will require NMFS and the Councils to consider the inter-relationships between and among species managed under the Magnuson-Stevens Act, the Marine Mammal Protection Act, and the Endangered Species Act (ESA). Carrying out the habitat conservation mandates of these laws independently is inefficient, because the interrelationships between species are not considered. Concerns expressed by fishing interests that focusing on the ecosystem will divert attention from promoting sustainable fisheries are unfounded since sustainable resource use must be grounded in a sustained ecosystem.

In response to comments requesting clarification, this interim final rule provides additional guidance by listing the general attributes of a healthy ecosystem in a definition. The linkage between a healthy ecosystem and EFH has been clarified to mean the habitat required to support a sustainable fishery and the managed species contribution to a healthy ecosystem.

Comments: Many comments, mainly from conservation groups, opposed linking EFH to fisheries in the definition and throughout the proposed rule. In particular, they wanted the quantity of EFH to be linked to the support of fish populations rather than to fisheries production. Conversely, some Councils' comments suggested that NMFS link EFH to a quantifiable fishery term such as maximum sustainable yield (MSY) or OY. One Council urged NMFS to clarify that the term sustainable fishery means the level necessary to maintain at least the current production. Other commenters supported the linkage of EFH to sustainable fisheries, but were unclear about the meaning of target production goal as used in the proposed rule. One asked that the time period over which sustainable should apply be better defined. Some non-fishing commenters criticized the linkage to sustainable fisheries as vague and too broad.

Response: The Magnuson-Stevens Act mandates that EFH requirements be incorporated into FMPs. It also explicitly states that one of its purposes is to provide for the preparation and implementation of FMPs that will achieve and maintain on a continuing basis, the OY from each fishery. The definition of optimum states that the yield from a fishery should provide the greatest national benefit. This benefit includes food production and recreational opportunities, and takes into account protection of marine ecosystems. This is the basis for long-term sustainable fisheries. Therefore, NMFS continues to maintain that linking EFH to sustainable fisheries is appropriate and based on the Magnuson-Stevens Act. Because managed species are integral parts of the ecosystems that support them, consideration of ecosystem processes are equally important, as expressed in the rule.

In managing a fishery under their jurisdiction, Councils limit the quantity of fish that can be harvested by fishers from a population or stock. These limits or yields, usually expressed as MSY or OY, are based on estimates of the total population (or stock) size and the ability of the population to sustain itself when subjected to some level of fishing pressure. When considering the EFH requirements of a managed species, Councils must describe and identify enough habitat to support the total population, not just the individual fish that are removed by fishing (the fisheries production). ''Target production goal'' was intended to portray this concept in the proposed rule; but, because commenters confused biological production with fisheries production, NMFS has modified this wording. The interim final rule states that FMPs should identify enough EFH to support a population adequate to maintain a sustainable fishery and the managed species' contributions to a healthy ecosystem. If the current stock size supports the long-term potential yield of the fishery then EFH should be adequate to support that population and its contribution to a healthy ecosystem. If the current stock size is lower than that (i.e., overfished), then EFH may need to be bigger or annually enlarged to support a larger spawning stock if habitat is limiting.

Comments: Some commenters stated that including ''biological properties'' and ''biological communities'' in the interpretation of ''waters'' and ''substrate'' was an inappropriate expansion of the Magnuson-Stevens Act. Other commenters criticized NMFS for including ''chemical properties'' in the interpretation of ''waters'' because other agencies have greater expertise in, and jurisdiction over, water quality issues.

Response: NMFS disagrees with these comments and did not change the rule. ''Biological properties'' and ''biological communities'' are fundamental aspects of habitat and have long been recognized as such by the scientific and technical communities. The fact that an area is aquatic or contains a specific physical structure may not necessarily make it fish habitat. Fish species require waters with, among other things, appropriate biological properties and chemical properties (e.g., prey, nutrient sources, salinities, dissolved oxygen concentrations, and pH) to meet their

physiological/habitat requirements. Substrata also must often have certain biological communities (typically sessile organisms) before they function as fish habitat. For example, it is the presence of seagrasses (associated biological community) that provides appropriate settlement habitat for post-larval queen conch, not just the underlying coarse grain sand.

NMFS and other NOAA offices have considerable expertise and state-of-the-art scientific facilities to assess and evaluate water quality issues. The fact that NMFS does not have statutory authority for regulation of water quality makes it no less important in the research and management of resources under NMFS' jurisdiction.

Comments: Some commenters objected to the inclusion of ''structures underlying the waters'' in the interpretation of ''substrate.'' Others supported the inclusion of ''structures,'' but questioned whether the owners of structures that are identified as EFH would be required to maintain them as EFH. Several commenters, primarily dive groups, recreational fishers, and oil industry representatives, applauded the inclusion of artificial reefs as structures, and further stressed the importance of offshore oil platforms as artificial reefs and potential EFH. One commenter pointed out that artificial reefs, if inappropriately established, have the potential to adversely impact EFH.

Response: NMFS included ''structures underlying the waters'' in its interpretation of substrate to clarify that structures such as artificial reefs, jetties, and shipwrecks may be considered EFH if they provide essential habitat for a managed species. This should not be interpreted to mean that all such structures are EFH. Only those structures that meet the criteria outlined in these guidelines and identified as such in an FMP are EFH. If a structure is identified as EFH, the Secretary is required to comment on any state or Federal action that may have an adverse impact on such habitat. Activities, such as routine maintenance, that do not require a state or Federal permit or license would not require consultation. If a state or Federal agency is involved in creating or modifying an artificial reef in, or affecting, EFH, NMFS will be required to comment on ways to minimize or mitigate any adverse impacts to the EFH.

Comment: Some commenters were opposed to interpreting ''spawning, breeding, feeding, or growth to maturity'' to cover a species' full life cycle. Other commenters supported it.

Response: The Magnuson-Stevens Act established this definition for EFH. NMFS recognizes that some may interpret spawning, breeding, and growth to maturity to exclude key life stages, (e.g., mature adults). However, all immature life stages grow to maturity and all mature adults feed, spawn, and/or breed. Therefore, it is appropriate to interpret this phrase to cover the entire life cycle.

Comments: Some commenters criticized the definition of EFH in the proposed rule for allowing historic or degraded habitat to be identified as EFH ''if the loss of that habitat has contributed to reduced yields for the species and it is feasible to restore the lost habitat.'' Other commenters criticized NMFS for allowing degraded or inaccessible habitat to be identified as EFH. The commenters argued that these provisions exceed NMFS' statutory authority. Port authorities in particular are concerned that facilities on dry land may be identified as EFH.

Response: These provisions were included in the proposed rule because the restoration of historic, degraded, or inaccessible habitat, where technologically and economically feasible, may be necessary to meet the rule's stated goal of ensuring the production necessary for some species to support a sustainable fishery and contribute to a healthy ecosystem. This interim final rule continues to allow the identification of historic or degraded habitat as EFH but further clarifies that ''historic habitat'' must currently be an aquatic area before it can be identified as EFH and that restoration must be technologically and economically feasible. Therefore, dry land could not be identified as EFH.

4. Comments Requesting Definition of Other Terms in the Interim Final Rule

Comment: Several commenters suggested that the interim final rule contain a definition of ''adverse impact.''

Response: NMFS agrees and has included a definition in the rule.

Comment: Several commenters suggested that a definition for critical habitat'' is necessary.

Response: NMFS disagrees that a definition is necessary but has modified the rule to clarify that ''critical habitat'' relates to species that are listed as threatened or endangered under the ESA.

Comment: Some commenters suggested that the acronym ''FMU'' needs to be defined.

Response: The acronym FMU is already defined in 50 CFR 600.10, which contains the definitions for all of part 600. The EFH provisions contained in this interim final rule will become subparts of part 600 and as such are subject to those definitions.

Comment: Several commenters suggested that the terms ''high value habitat'' and ''ecosystem scale'' need to be defined in the interim final rule.

Response: NMFS disagrees that these terms need to be defined in the rule since they may be interpreted from the contexts in which they are used in the rule.

5. Comments on the Purpose and Scope of the Rule

Comments: Several commenters criticized NMFS for not requiring Councils to describe and identify EFH for all fish species inhabiting the geographic jurisdiction of a Council, and suggested that such a limitation is not supported by the Magnuson-Stevens Act. Other commenters suggested that EFH be described and identified for all major fisheries, even those not in an FMP. They stated that Councils should be able to describe and identify EFH of non-managed species in order to protect habitats that are affected by fishing for a managed species. Others suggested that as soon as EFH is identified in a proposed FMP, management measures and consultations should begin without waiting for final approval of the FMP.

Response: NMFS continues to maintain that the Magnuson-Stevens Act requires Councils to describe and identify EFH for only those species managed under an FMP. According to section 303(a)(7) of the Magnuson-Stevens Act, EFH provisions are required components of an FMP. Therefore, it is appropriate to describe and identify EFH only for those species managed in the FMP. However, the Magnuson-Stevens Act does not preclude Councils from identifying habitat of a fishery resource under its authority. Section 305(b)(3) describes the Councils' commenting responsibilities for activities that may affect such habitat. In the rule, NMFS points out that Councils have the option to describe and identify habitats (not EFH) and institute management measures to protect species (and their habitats) that are not managed under FMPs. This is currently done by some Councils. However, the habitats of species not managed under a Federal FMP would not be considered EFH for the purposes of consultation.

EFH consultation and management measures can not be implemented until FMPs include an EFH provision. Consultation and management measures would have no statutory basis without the EFH provisions in an FMP.

Comments: Several commenters questioned whether EFH would be

identified in state waters. Many commenters urged NMFS to do so; others opposed it. Commenters urged NMFS to clearly state that management actions regarding fishing impacts only apply to species managed by Councils in Federal waters. While some commenters pointed out that NMFS cannot regulate fishing in state waters, others asked that fishing be regulated in state waters as well as Federal waters. Three commenters suggested that the Submerged Lands Act, in combination with the Magnuson-Stevens Act, would allow NMFS to assert jurisdiction over state waters, and that the rule should explain how states' authority over their waters and submerged lands will be affected by this rule. Some suggested that fishing regulations be closely coordinated with state management agencies to ensure consistency in habitat protection. The commenters who stated that EFH should not be identified in state waters, further asserted that NMFS should not provide comments on Federal and state activities that take place in state waters.

Response: The Magnuson-Stevens Act requires Councils to describe and identify EFH based on all life stages of the managed species, with no limitations placed on the geographic location of EFH. Therefore, EFH may be in state or Federal waters depending on the biological requirements of the species. Regarding actions that occur in state waters that may adversely affect EFH, the Magnuson-Stevens Act provides authority for NMFS to provide EFH conservation recommendations, not regulate.

With few exceptions, direct NMFS regulatory authority applies only to Federal waters, the exclusive economic zone (EEZ). Generally, without appropriate preemptive procedures, NMFS can not implement management measures for state waters. However, many species targeted in Federal fisheries spend part of their life cycle in state waters and may be impacted by fishing activities that are managed by a state. Effective management of marine resources that cross jurisdictional boundaries requires coordination between management entities, and NMFS has added additional language to the interim final rule to emphasize such arrangements. Adverse impacts to EFH that result from state-managed fisheries will be addressed through conservation recommendations to the appropriate state agency. Failure to consult or comment on activities adversely affecting all habitats would be a failure to carry out the legislative mandate to protect EFH for all life history stages.

Comments: Several commenters recommended that the EFH mandate should be applied beyond U.S. territorial waters. They argue that many of the species managed under the Magnuson-Stevens Act range beyond U.S. territorial waters, e.g., New England groundfish and Alaska salmon are found in Canadian waters and the high seas. The highly migratory species that are managed under Secretarial FMPs range into international waters and the waters of other nations. The basic question raised in the comments is whether NMFS and the Councils can identify EFH for those species in the territorial waters of another country or in international waters.

Response: The EFH provisions under the Magnuson-Stevens Act do not direct the Councils to include waters beyond the jurisdiction of the U.S. Since provisions in statutes are not presumed to apply extraterritorially, NMFS has determined that waters beyond the United States' EEZ are not to be identified as EFH. Therefore, NMFS will not regulate fishing beyond the EEZ, and Federal consultation will not be required. However, Councils may describe, identify, and promote protection of habitats for managed species in waters beyond the EEZ. The Secretary will use such information in discussions with Federal agencies involved in international actions, including negotiations with foreign nations.

Comment: One Federal agency commented that the Great Lakes should be added to the EFH program. Other commenters suggested that interjurisdictional fisheries be added to the program.

Response: In order for an area, like the Great Lakes, to be identified as EFH, it must provide essential habitat for a species managed under the Magnuson-Stevens Act. Similarly, an interjurisdictional fishery must be at least partially managed under the Magnuson-Stevens Act for the EFH mandate to apply.

Comment: Commenters asked whether EFH would be described and identified in waters under the jurisdiction of tribes or native corporations.

Response: NMFS intends that tribal and native corporation waters be treated the same as state waters for the purposes of describing and identifying EFH (i.e., EFH may be identified in those waters if the habitat is essential for a managed species). However, tribes and native corporations are not required to consult with NMFS on actions that do not require Federal or state authorization or action. Tribal and native corporation actions, including activities carried out through Federal financial assistance and under permits or licenses issued by Federal or state governments, will require the appropriate procedures for consultation and/or recommendations as set forth in subpart K.

Comment: Commenters voiced concern that this regulation would affect the rights of private landowners to manage their own property.

Response: Private landowners have no new responsibilities to consult with NMFS on private land activities as a result of the Magnuson-Stevens Act or this interim final rule. No consultation is required unless an activity may have an adverse impact on EFH and it requires a Federal or state action, such as permitting or licensing. Those Federal or state actions will trigger the consultation and/or recommendation requirements of section 305(b)(2–4) of the Magnuson-Stevens Act. EFH coordination, consultation, and recommendation procedures are detailed in this interim final rule and will be added to part 600 as new subpart, K. Use of existing consultation procedures to minimize adverse impacts to EFH is strongly advocated in the rule.

Comment: One organization suggested that EFH should be expanded beyond aquatic areas to include riparian areas and hydrological basins.

Response: The statutory definition of EFH limits it to ''waters''; therefore, terrestrial areas may not be identified as EFH. However, there is not a similar legal limit on Federal or state activities that may adversely impact EFH. The only criteria is that the activity may have an adverse impact on EFH, with no limits on where the activity is located. An adverse effect on EFH should be reasonably foreseeable for the action to require consultation. Therefore, NMFS may comment on Federal or state actions which take place within riparian areas or hydrological basins if they may have a reasonably foreseeable adverse impact on EFH. In this rule, NMFS has confined EFH to include only aquatic habitat because the Magnuson-Stevens Act definition of EFH limits it to ''waters.'' However, NMFS believes that areas important to a sustainable fishery necessarily include riparian and upland areas, as well as aquatic areas, particularly in the case of anadromous species. Areas that NMFS considers important are illustrated in the critical habitat designation for Snake River chinook.

Comment: One commenter expressed concern that those areas not identified as EFH will be subject to greater threat of disturbance because they will be thought of as expendable.

Response: The Fish and Wildlife Coordination Act (FWCA) provides a directive to Federal agencies to consult with NMFS when waters of the United States may be modified by activities requiring a Federal permit or license. The FWCA will continue to allow the Secretary to comment on Federal activities that may adversely affect living marine resources and their habitat, even if such habitat is not identified as EFH.

6. Comments on Mandatory Contents of Fishery Management Plans

Comments: Some non-fishing industry commenters argued that NMFS has exceeded the authority granted by the Magnuson-Stevens Act by including mandatory provisions in the EFH guidelines. They argue that Congress intended the guidelines to be voluntary. Other commenters argued that proposing discretionary components that ''should'' be included in an FMP will expose the Councils and NMFS to third-party suits. They stated that the guidelines need to be far less prescriptive to guard against such suits. Conversely, other commenters argued that NMFS should change many of the discretionary components of FMPs in the proposed rule to mandatory components in the interim final rule.

Response: The Magnuson-Stevens Act directs the Secretary to ''establish by regulation guidelines to assist Councils'' in carrying out the EFH mandate. The mandatory components specified in the rule reflect requirements of the Magnuson-Stevens Act, or are logical extensions of it. Since receiving these comments, NMFS has reviewed the use of each term (i.e., must, should, may, etc.) to ensure that the requirements of the Magnuson-Stevens Act are reflected in the interim final rule. NMFS will continue to maintain a mixture of voluntary (may), strongly suggested (should), and mandatory (must) components to inform Councils of the elements needed in an EFH amendment to receive Secretarial approval.

7. Comments on Description and Identification of EFH in Fishery Management Plans

Comment: A commenter criticized NMFS for not providing tighter, less vague standards for the description and identification of EFH.

Response: The guidelines contained in this rule apply to all regions of the United States, including the Caribbean and western Pacific territories, and will be used to amend 39 different FMPs covering over 400 species. Because of this diversity of regional needs, the guidelines need to be flexible, while providing consistent guidance to ensure that amendments meet equivalent standards.

Comments: Many commenters suggested other types of information that should be included in describing and identifying EFH. These include: (1) Sensitive life stages; (2) reproductive and dispersal patterns; (3) information generated from spatial, temporal, and fishing gear experiments; (4) historical information for each data level; (5) carrying capacity, habitat availability, quality, and utilization; and (6) spawning structures and structural complexity.

Response: NMFS concurs that this information may be useful. The lists of information types were intended to be instructive, not exhaustive. The interim final rule has been modified to provide more flexibility with regard to the data used.

8. Comments on the Sources and Quality of Information Used

Comment: Several comments, particularly from state agencies, stressed the need to involve states and use state agency data in satisfying the EFH requirements of the Magnuson-Stevens Act. Several commenters urged NMFS to cooperate with states in gathering information, developing FMP amendments, and funding restoration.

Response: NMFS agrees, and is already collaborating with the states in many activities. For example, NMFS is coordinating with the state fisheries agencies and the three interstate fisheries commissions to gather the best available information for use in the EFH amendments. NMFS is also working with state coastal zone programs to coordinate EFH efforts with approved coastal management plans. These interactions with states are facilitated by the fact that Council members represent each state under the Council's jurisdiction, and many resource agency experts also serve on various Council committees and panels, including habitat committees and advisory panels. All Council activities are open to the public, which affords further opportunities for cooperation. Subpart J of the interim final rule has been further modified to emphasize coordination between states, interstate commissions, and Councils in the development of EFH FMP provisions.

Comment: Several commenters suggested that ''best available information'' might preclude NMFS and the Councils from using local knowledge and log books as sources of information to describe and identify EFH.

Response: Section 305(b)(1)(B) of the Magnuson-Stevens Act requires NMFS to consult with participants in the fishery before submitting its recommendations and information to the Councils to assist in the description and identification of EFH. This indicates Congress' intent to use information from fishers. NMFS intends for Councils to use the best available information, including local knowledge and log books, to describe and identify EFH. However, all information should be evaluated with regard to the reliability of the information and its source.

9. Comments on the Four-Level Approach for Gathering and Organizing EFH Data

Comments: Many commenters expressed concern about the four-level approach to gathering and organizing data for the description and identification of EFH. Some expressed concern that there is no incentive for Councils to move beyond level 1 information (i.e., presence/absence information) and that Councils would identify all habitats occupied by managed species as EFH to ensure the greatest amount of protection. Other commenters suggested that there should be a rebuttable presumption that all habitat is EFH if data from levels 2 through 4 are used to refine the identification of EFH. Finally, some commenters criticized NMFS for allowing the identification of EFH to be based on production rates by habitat type, because it restricts the goal of the Magnuson-Stevens Act to promote the protection of EFH.

Response: The four-level approach provides a logical method to gather and organize data for the identification of EFH. There is a natural incentive to gather and use information from progressively higher levels, because this will enable NMFS and the Councils to target their habitat conservation efforts to ensure that the most productive habitats receive greater attention. The rule has been modified to reinforce this intention. Councils are required to demonstrate that the best scientific information available was used in the identification of EFH. NMFS also disagrees with the comment that linking EFH to production will not promote the protection of EFH. Clearly linking EFH to biological production, and advocating research to quantify these relationships, will increase awareness of the importance of habitat to sustainable fisheries and will likely lead to greater emphasis on protecting EFH. NMFS did not create a rebuttable presumption that all habitat identified by levels 2 through

4 information is EFH because it could lead to an overly broad area being identified as EFH without adequate scientific justification. NMFS' use of the four levels of information is a means of organizing the available data for the identification of EFH. This data will be considered in determining the extent of EFH.

Comment: One commenter suggested that NMFS require Councils to submit a schedule detailing when higher levels of information will be developed.

Response: Periodic updates are required for EFH amendments. Amendments should include an assessment of the information needed to improve the description and identification of EFH. The research needs identified in an FMP should include a schedule for meeting those needs.

10. Comments on Criteria for EFH Determinations

Comments: Several commenters questioned the role of Council judgment when there is only level 1 information available. Others asked for additional guidance on how to interpret level 1 information.

Response: The role of Councils is to evaluate information and use the EFH determination criteria in the interim final rule to identify EFH and the measures required to conserve it. Councils will need to evaluate all available information, according to its merit, and use best scientific judgement in arriving at their decisions. Demonstration that this identification is based on the best scientific information available will be necessary to attain Secretarial approval of an EFH amendment. Additional clarification on how to interpret level 1 information to identify EFH has been added to the interim final rule.

Comments: Comments from conservation groups, many fishing groups, and most individual commenters fully supported a ''precautionary approach'' and encouraged expansion of these provisions. A few commenters urged that all habitats be designated EFH and that those people who impact the habitat should be responsible for proving that their activities are not decreasing the habitat's capacity to support fish populations. Many comments, primarily from non-fishing industry interests, criticized NMFS for establishing a ''risk-averse'' process for identifying EFH that they claim will result in most aquatic areas being identified as EFH. Of particular concern is the guidance in the proposed rule that if only species distribution information is available, EFH should be everywhere a species is found. Also of concern is a provision which states that, if a species is overfished, all habitats used by the species, plus certain historic habitats, should be considered EFH. The commenters believed that these provisions will result in most, if not all, habitats being identified as EFH and that this is not the intent of the Magnuson-Stevens Act.

Response: The ''risk-averse'' approach to describing and identifying EFH was advocated in the proposed regulation because of the uncertainty inherent in much of our knowledge of habitat-productivity relationships. Care should be exercised in the face of inadequate information or overfished stocks to guard against habitat losses or alterations that may prove significant to the long-term productivity of the species. The rule continues to endorse these risk-averse approaches, but clarifies that Councils should use information from all available levels to make best scientific judgments on how to describe and identify EFH. Presence/absence data should be used to delineate the geographic range of the species. Habitat-specific information on density, reproduction, and growth should be used to identify EFH within that range. If only presence/absence information are available on a managed species, these data should be evaluated to identify those areas most commonly used by the species as EFH. The rule also clarifies that, for overfished species, all habitats currently used, and certain historic habitats, should be identified as EFH only if habitat loss or degradation may be contributing to the species' being identified as overfished.

11. Comments on the Relationship Between EFH and Critical Habitat

Comments: Some commenters criticized the proposed rule for stating that EFH will always be greater than or equal to ''critical habitat.'' One commenter noted that some critical habitat can include upland habitats and therefore this linkage is not consistent with the statutory definition of EFH. Others stated that EFH should not be described and identified for species listed under the ESA. One commenter questioned why NMFS is allowing fishing on endangered species. Some commenters supported EFH being equal to or greater than critical habitat because it will promote the recovery of endangered species.

Response: NMFS maintains that it is appropriate to state that EFH will always be greater than or equal to critical habitat, as defined under ESA. The interim final rule includes a minor modification to the language that helps distinguish between critical habitat and EFH and to reiterate that EFH is aquatic only. EFH includes habitats for all life history stages of a species, while for some anadromous salmonids listed under ESA, adult marine habitats have not been identified as critical habitat. NMFS does recognize that critical habitat may contain terrestrial areas and has modified the interim final rule to clarify that those areas may not be considered EFH.

NMFS and the Councils do not allow directed fishing on listed species but EFH requirements are still necessary if the species are covered by an FMP. Certain stocks of west coast salmon are currently part of the management unit of an FMP. Specific runs of those stocks are listed as threatened or endangered under the ESA. Even though certain runs of a larger stock are listed under the ESA, the Magnuson-Stevens Act still requires Councils to describe, identify, and consider actions to conserve and enhance EFH for the species. This does not mean that directed fishing will be allowed on the listed runs.

12. Comments on Inclusion of Mariculture and Indirect Fishing Effects

Comments: NMFS received comments suggesting that fishing activities should include all components of the activity (e.g., anchoring, refueling). Some commenters requested that mariculture be considered a fishing activity.

Response: As fishing is defined in section 3(4) of the Magnuson-Stevens Act it includes ''harvesting of fish.'' Commercial fishing, in the same section, means ''fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.'' NMFS agrees that mariculture is included within these definitions because the fish harvested enter commerce. The interim final rule was not changed, because mariculture was already considered to be part of commercial fishing. Under these regulations Councils would be required to assess the impacts of mariculture activities and minimize any adverse effects that impact EFH within their jurisdiction. The indirect effects of fishing activities should also be considered, when evaluating adverse impacts from fishing, as well as when analyzing cumulative impacts on EFH.

In the rule, NMFS has used the term ''fishing equipment'' to replace the term ''fishing gear,'' that was used in the proposed rule. Fishing equipment is used to portray the intention to more broadly consider impacts from fishing-related activities when assessing

adverse impacts on EFH. Councils should assess impacts of different fishing gears, fishing techniques, equipment, and practices used in mariculture, and other factors, as appropriate.

13. Comments on Fishing Gear (Equipment) Assessment

Comments: In addition to completing an assessment of fishing gear, commenters requested that Councils rank gear based on the severity of impacts to specific habitats. Some argued that recreational fishing impacts should be excluded from such assessment.

Response: The effects of fishing practices or gear types is habitat-dependent. NMFS has modified the rule to direct that during the assessment of fishing equipment (gear) impacts, the relative effect of different equipment types or techniques on different habitat types should be assessed. This will help the Councils focus research and management efforts on those habitats that require the most attention. Assessments and subsequent research should be conducted on all types of fishing impacts, including recreational and commercial fishing equipment or practices, however relative impacts should be prioritized and management and research should address needs accordingly.

NMFS also emphasizes in the rule that the fishing equipment assessment should be conducted periodically with subsequent review or revision. As new equipment is developed, techniques are changed, or additional research is conducted, new information on effects on EFH will be developed. Language has been added to the rule to clarify that Councils should assess all new information regarding EFH, including new assessments of fishing equipment impacts, to determine when an amendment needs to be updated. EFH amendments are to be reviewed and revised as appropriate, but at least once every 5 years. New information regarding equipment effects on EFH should be incorporated as available into any updates of EFH amendments.

Comments: Commenters suggested that technology, such as the use of remotely operated vehicles, should be an acceptable alternative to research closure areas in assessing the effects of gear. One Council asked that it be able to base assessments on operational characteristics of gear in their specific area rather than inference from studies in other areas.

Response: The rule recommends ''consideration of the establishment of research closure areas and other measures'' to assess the effects of fishing equipment on EFH. It does not restrict Councils from considering any options. Councils should use the most appropriate measures to assess impacts. Councils, however, should not discount some methods or tools because they may be time-consuming or require management action, if they are the most appropriate method to use. All relevant research should be considered when assessing impacts of fishing gear on EFH, including research that has been conducted in other, biogeographically similar areas.

Comment: Several commenters expressed concern that there is no requirement to conduct a cumulative impacts assessment of fishing impacts, as there is for non-fishing impacts.

Response: NMFS assumed that all forms of adverse impacts, including those from fishing, were included as cumulative impacts on EFH. However, NMFS has modified the rule to further clarify this intent. Impacts of fishing and non-fishing activities should be considered when a cumulative impacts analysis is conducted. This may be particularly important where fishing gear of one fishery impacts the habitat of another fishery. Furthermore, cumulative impacts analysis should consider synergistic effects of both fishing and non-fishing impacts on habitat, and should give additional consideration to cumulative impacts affecting HAPC.

Comment: Commenters stated that adverse impacts from fishing should be demonstrated scientifically.

Response: National standard 2 requires that conservation and management measures be based upon the best scientific information available. Councils should, however, take into consideration information available through other valid sources. If scientific information is limited, the best available information should be considered for assessing adverse impacts of fishing equipment on habitats. This information should be weighed, based on the quality of information, and considered appropriately in the development of EFH conservation and management decisions.

14. Comments on the Threshold That Requires Councils To Regulate Fishing Activities That Adversely Impact EFH

Comments: The proposed rule required Councils to act to mitigate or minimize any adverse effect from fishing, to the extent practicable, if there is evidence that a fishing practice is having ''substantial'' adverse effect on EFH. Many comments from environmental and fishing groups criticized the proposed rule for using ''substantial'' to characterize adverse impacts that would require a Council to regulate damaging fishing practices. They claimed this was a higher threshold than intended in the Magnuson-Stevens Act. Under the Magnuson-Stevens Act, Councils are required to ''minimize to the extent practicable adverse effects on such habitat caused by fishing.'' Many of the commenters maintain that this ''higher threshold,'' is so high that Councils will never act to control a damaging fishing practice, nor will research be conducted to assess less understood impacts from fishing. Commenters, additionally, suggested that the burden to prove they are in fact causing no impact should be placed on those wishing to exploit the public resource.

Response: The language of the proposed rule was not meant to raise the threshold of damage from fishing impacts higher than that intended in the statute. The language was intended to provide guidance to assist Councils in determining when they are required to take action on a fishing impact. NMFS believes that the intent of the Magnuson-Stevens Act is to regulate fishing gears or techniques that reduce an essential habitat's capacity to support marine resources, not practices that produce inconsequential changes in the habitat. Therefore, NMFS continues to support this concept but has deleted the word ''substantial'' from the rule and added new language to clarify this concept. Impacts from fishing practices that justify the implementation of management actions should be ''identifiable'' (i.e., both more than minimal and not temporary in nature).

Comments: Commenters stated that the inclusion of a formal cost-benefit analysis to determine whether it is practicable to impose management restrictions on a damaging fishing activity goes beyond the statute. Costs to industry and costs to the environment cannot be directly compared because they are measured differently. Commenters pointed out that the legislative history indicates that while the term ''to the extent practicable'' was intended to allow for the consideration of costs; it was not a requirement that the benefits justify the costs. Commenters suggested that the long-term costs to the ecosystem and long-term benefits to the fishery and all potential users (since this is a public resource) must be weighed and that short-term cost to the fishers is only one of many factors that must be considered.

Response: NMFS agrees that the Magnuson-Stevens Act does not require a formal cost/benefit analysis or a

demonstration that the benefits of minimizing adverse impacts justifies the costs to fishers. In considering management measures, Councils should evaluate the long-term benefits to the habitat and the managed species (including long-term benefits to the fishery), as well as short-term economic consequences to the fishery. This provision is intended to simply focus Council attention on costs and benefits consistent with national standard 7, which requires consideration of costs and benefits in the development of conservation and management measures. Further, Executive Order (E.O.) 12866 requires NMFS to regulate in the most cost effective manner to achieve the regulatory objective. The rule has additional clarifying language to avoid the interpretation that a formal cost/benefit analysis must be completed before taking action.

Comment: Several commenters urged that immediate management measures should be taken as precautionary measures against further EFH degradation, rather than waiting for Councils to identify and describe EFH, and assess gear impacts on EFH. Many commenters identified specific gear types that should be immediately banned or restricted.

Response: Councils must know what types and locations of habitats constitute EFH before they will be able to act to prevent, minimize, or mitigate adverse impacts from either fishing or non-fishing activities on EFH. Banning a gear type to protect EFH before it is identified, in an FMP and without assessment of adverse impacts, is contrary to the Magnuson-Stevens Act. The interim final rule presents a logical progression for description and identification of EFH, identification of adverse impacts to EFH, and development of management, conservation, or enhancement measures, as appropriate.

15. Comments Objecting to Listing of Specific Fishing Gears/Diving as Fishing Impacts

Comment: Commenters opposed the listing of diving or specific fishing gears as potentially causing adverse impacts that would require fishing restrictions. Dive groups commented that commercial diving should be distinguished from recreational diving, or that diving should not be listed at all. Commenters suggested that anchoring on artificial reefs was as damaging as the other examples listed and that it should also be included in the list of potential restrictions.

Response: The intent of this language was to provide the Councils with some examples of typical activities that have the potential to adversely affect diverse types of EFH (e.g., careless divers and snorkelers have been widely documented to cause adverse effects on coral reef habitats). However, NMFS agrees that it is more appropriate to address these considerations in a broader manner. As a result, the language in the interim final rule was modified to present general options that Councils should consider in determining appropriate management measures. These general options are illustrative only, many activities may result in habitat-specific impacts. Councils should examine all practices that may contribute to EFH degradation and act to minimize the impacts as appropriate.

16. Comments on Marine Fishery Reserves as Options for Managing Adverse Effects From Fishing

Comment: Many commenters, primarily individuals, fishing groups, and conservation groups, requested that language be added to the interim final rule to clarify that Councils are not restricted from considering closed areas (Marine Protected Areas, Marine Fishery Reserves, No-Take Zones, or Research Closure Areas) as management tools for protection of habitats and habitat functions and for enhancing recovery of overfished species, as well as for conducting research. Commenters felt that a statement in the preamble of the proposed rule which stated, ''NMFS has clarified that the intent [of the regulation] is not to preclude fishing in areas identified as EFH,'' could be interpreted to mean that fishing or specific fishing gears would never be restricted in any area. Commenters indicated that establishment of such zones is supportive of a precautionary approach to habitat conservation where there is uncertainty on the extent and degree of impacts that occur from fishing. They suggested that early establishment of such zones could protect areas and stocks from further impacts while additional information is gathered. Additional commenters suggested that NOAA's National Marine Sanctuaries and National Estuarine Research Reserves and the Environmental Protection Agency's National Estuary Program provide sites that should be utilized for research areas. These areas are the focus of current research efforts and many have extensive databases on habitat types and usage within the reserve areas.

Response: The interim final rule continues to advocate research closures areas and other measures, as appropriate, to evaluate the impact of fishing equipment and techniques on EFH. The regulations continue to encourage Councils to consider time/area closures as management tools for minimizing impacts of fishing gears on EFH. The language in the preamble of the proposed rule, ''* * * that the intent [of the regulation] is not to preclude fishing in areas identified as EFH,'' was intended to confirm that identification of an area as EFH did not automatically bring restrictions on fishing in the area. NMFS altered the language in the interim final rule to clarify that Councils are encouraged to consider marine protected areas as management tools for habitat conservation as well as management of fishing practices. Currently established Federal and state research areas (e.g., National Marine Sanctuaries or Estuarine Research Reserves) should be evaluated as logical locations for additional studies.

17. Comments on the Statutory Authority To Address Adverse Impacts on EFH From Non-Fishing Activities

Comments: Many commenters, primarily non-fishing industry groups, did not agree that the Magnuson-Stevens Act provided NMFS or the Councils the statutory authority to comment and make recommendations on non-fishing activities. They proposed that the sections regarding identification of adverse impacts from non-fishing activities and consultation be deleted in their entirety.

Response: NMFS disagrees for a number of reasons. First, one of the stated purposes of the Magnuson-Stevens Act is to promote the protection of EFH through the review of projects conducted under Federal permits, licenses, or other authorities that affect, or have the potential to affect, such habitat. These projects would include non-fishing activities. Second, the Magnuson-Stevens Act, in section 303(a)(7), requires that FMPs identify conservation and enhancement measures for EFH. These measures are not limited by statute to addressing only fishing activities. A necessary first step to identifying conservation and enhancement measures is to identify adverse impacts that will require conservation and enhancement measures to adequately promote the protection of EFH. Therefore, a logical extension of the Magnuson-Stevens Act requirement to identify conservation and enhancement measures is the consideration of adverse impacts from non-fishing activities that would necessitate the use of such measures. Third, the requirements for coordination, consultation, and

recommendations relate directly to non-fishing actions. The Magnuson-Stevens Act requires that other Federal agencies consult with the Secretary and then consider and respond in writing to the Secretary's EFH conservation recommendations regarding actions that may adversely impact EFH. These actions will be non-fishing actions. Therefore, the EFH amendments must include consideration of adverse impacts from non-fishing activities to aid NMFS and the Councils when they are consulting/commenting on actions that may adversely impact EFH.

18. Comments on Different Levels of Scrutiny of Non-Fishing Impacts

Comment: Many non-fishing interests commented that their impacts on EFH were being held to a higher standard than adverse impacts from fishing, because NMFS does not have to determine whether it is practicable to minimize or mitigate the adverse impact before providing a recommendation. The commenters were also concerned that too much emphasis is placed on non-fishing adverse impacts on EFH.

Response: Non-fishing and fishing impacts are held to two different levels of scrutiny because of legal differences in how the impacts are addressed. Fishing impacts, as required by the Magnuson-Stevens Act, must be minimized to the extent practicable by implementing conservation and management measures. For non-fishing activities, NMFS is required to provide EFH conservation recommendations to action agencies for all actions that may have an adverse impact on EFH. NMFS and the Councils control fishing activities through regulation, whereas recommendations by NMFS and the Councils on non-fishing activities are advisory. The action agency then considers NMFS' recommendations according to its statutory requirements. The emphasis placed on non-fishing in the coordination, consultation, and recommendation process will depend on the level of impact from each.

19. Comments on the Identification of Specific Industries With Potential Adverse Effects on EFH

Comments: Many commenters objected to their particular industries or activities being highlighted in the proposed rule as having potential adverse effects on EFH. Many pointed out that non-fishing activities do not always adversely impact fish habitat. Some forest industry groups pointed out that they are involved in restoration of anadromous fish habitats. Oil and gas industry commenters pointed out that oil platforms have been documented as artificial reefs that support fish populations and therefore produce positive effects on fisheries, not adverse effects.

Response: NMFS acknowledges that many industries take certain actions specifically to improve fish habitat even if other activities conducted by the industry may adversely affect fish habitat. Therefore, NMFS agrees that the language of the rule should be more generic and that the types of activities that have been demonstrated to have potentially adverse effects on EFH should be highlighted for the Councils in the interim final rule rather than identifying the industries that may engage in these activities. NMFS revised this section to clarify that its intent is to avoid, minimize, or compensate for adverse impacts on EFH. The rule avoids singling out specific industries just because they have the potential to adversely impact EFH.

20. Comments on Cumulative Impacts Analysis

Comments: Several commenters were concerned that the relationship between the required analysis of cumulative impacts and EFH was not clearly specified. Many cited an ecological risk assessment as a lengthy, expensive procedure that would tell little about EFH. Some commenters asked NMFS to provide criteria for conducting an ecological risk assessment.

Response: NMFS has clarified the cumulative impacts analysis requirements in the rule. Cumulative impacts analysis is intended to monitor the effect on EFH of the incremental impacts, occurring within a watershed or marine ecosystem context, that may result from individually minor but collectively significant actions. The assessment of ecological risks is intended in a generic sense to examine actions occurring within the watershed or marine ecosystem that adversely affect the ecological structure or function of EFH. The assessment should specifically consider the habitat variables, previously noted while describing and identifying EFH, that control or limit a managed species' use of a habitat. It should consider the effects of all impacts that affect either the quantity or quality of EFH. The term ''ecological risk assessment'' was not meant to be interpreted in the stricter toxicological sense. NMFS will continue to develop further criteria for conducting an ecological risk assessment.

21. Comments on Mapping of Cumulative Impacts Analysis

Comments: Some commenters thought the requirement to map adverse impacts should be discretionary. Others thought it should be deleted altogether.

Response: NMFS disagrees and considers mapping of the impacts to be one of the most important ways to analyze the data and to easily share the information with other resource management agencies and the public. It is also an efficient way to track cumulative effects over time and detect when effects are reaching threshold limits. The rule has been revised to clarify that the mapping requirements are strongly encouraged.

22. Comments on the Options for Conservation and Enhancement of EFH

Comments: Several commenters were concerned about the broad examples given in this section. They recommended that FMPs address site-specific activities because an activity might adversely impact EFH under certain conditions and not under others. Other commenters expressed concern that statements suggesting that certain activities (such as diversion of fresh water) always produce adverse effects did not reflect their regional perspective. There were many comments about the examples used and questions over whether these were the best or even proper examples. There were many suggestions of different examples to include in the rule. Several commenters were concerned that NMFS was mandating best management practices for non-fishing activities.

Response: NMFS recognizes that this section did not provide the clarity that it intended, and that the listing of examples, while not meant to be exhaustive, needs modification. The section has been revised in the interim final rule to clarify that the intent of the section is to provide examples of proactive and reactive measures to conserve and enhance EFH. The revisions focus on avoiding, minimizing, or compensating for impacts on EFH derived from activities both inside and outside of EFH and the need for Councils to provide recommendations to address those impacts. The management measures listed in this section are intended to be optional. Certain actions may have positive or negative impacts on EFH depending on the location and the purpose of the action. The effect of actions should be judged within the context of watershed planning and/or by ecosystem considerations.

Comment: One commenter expressed concern that habitat creation was listed as an option to conserve and enhance EFH.

Response: The Magnuson-Stevens Act requires NMFS and the Councils to conserve and enhance EFH. NMFS believes that, under certain circumstances, habitat creation is a viable means to enhance EFH on a watershed basis.

Comment: One commenter criticized NMFS for not encouraging proactive measures to conserve and enhance EFH.

Response: NMFS modified the rule to include language stating that the Councils and NMFS will provide information on ways to improve ongoing Federal operations.

23. Comments on the Treatment of Prey Species Under the Proposed Rule

Comments: Several commenters asked that the proposed rule be modified to require that EFH be described and identified for all prey species. Numerous commenters stated that habitat for forage species should be included in an ecosystem approach, and mapped as well. Other commenters, against the inclusion of prey, stated that loss of prey should not categorically be considered an adverse impact because the fishery decline could be due to other factors such as overfishing, rather than loss of prey. Inclusion of threats to prey, they commented, exceeds the scope of the statute. Commenters concerned with anadromous species stated that predators should be considered if prey are included. They stated that this reflects more of an ecosystem approach and could take into consideration the effects of pinniped predation on the fishery. One Council asked NMFS to clarify that Councils may not place harvest limits on prey species unless the prey species is managed under an FMP.

Response: NMFS continues to maintain that describing and identifying separate EFH for prey species not included in an FMU is beyond the scope of the Magnuson-Stevens Act. However, NMFS recognizes the importance of prey to the managed species. The statutory definition of EFH includes ''feeding'' as an ecological function of EFH necessary to a species. Therefore, presence of adequate prey is one of the biological properties that can make a habitat essential. It is appropriate to consider loss of prey as an adverse impact to a managed species' EFH because the species would not be able to use the habitat for feeding. Therefore, the rule requires Councils to identify prey species for managed species in the FMU and the habitats of major prey species. Councils must address threats to the prey species and its habitat if there is evidence that such adverse effects may lead to a decline in the prey species population and by extension reduce the quality of a managed species' EFH. These threats should be covered under the adverse effects section of the EFH amendment.

A requirement to describe and identify EFH for predators is not authorized by statute, and therefore, not included in the rule. In identifying EFH through an ecosystem approach, however, NMFS does suggest that Councils consider the extent to which the managed species is prey for other managed and non-managed species or marine mammals in determining the habitat necessary to support a sustainable fishery and the managed species' contribution to a healthy ecosystem. Predators of managed species need to be considered a source of natural mortality inherent in the ecosystem. The MMPA does include provisions which address the interactions between marine mammals and other species. NMFS is able to address these interactions through that statute.

24. Comments on Vulnerable Habitats (Habitat Areas of Particular Concern)

Comment: Some commenters asked for a definition of ''vulnerable habitat'' and wanted to know how broad this category may be. Other commenters supported the identification of vulnerable habitats or prioritizing actions in ''areas of special concern'' and suggested that important habitats be ranked. Some commenters asked for guidance in determining whether a habitat type is vulnerable. They asked that impacts analyses consider both fishing and non-fishing impacts as human-induced degradation in vulnerable habitats. Some commenters thought that an additional level of habitat delineation, as envisioned with the identification of vulnerable habitats would add confusion, and thought that this was beyond the scope of the statute.

Response: Comments on the Framework indicated a need for prioritizing the habitats and determining which should be given greatest attention in the coordination and consultation process when little is known about a species' distribution. The vulnerable habitat provision was added to the proposed rule to address these concerns. After consideration of comments on the proposed rule, NMFS has refined this concept to include ecological function of the habitat along with considerations of vulnerability. In the rule, NMFS renamed vulnerable habitats as ''habitat areas of particular concern'' (HAPC). In determining HAPCs, Councils should consider ecological value of a type or area of EFH, its susceptibility to perturbation from both anthropogenic (human-caused) sources and natural stressors, and whether it is currently stressed or rare. HAPC criteria are outlined in the interim final rule. NMFS will elaborate on these criteria in internal technical guidance.

These HAPCs can be used to focus the conservation, enhancement, management, and research efforts of NMFS and the Councils, as well as the consultation requirements of the Federal action agencies and EFH conservation recommendations. These areas should be a primary focus to provide insight into relationships between key habitat characteristics and ecological productivity or sustainability and the ways in which human activity adversely affects such habitat and its contribution to population productivity.

25. Comments on Research Needs and FMP Amendments and Updates

Comment: Commenters suggested annual reviews of research needs and assessments of progress towards meeting those needs. Other commenters were concerned that reviewing EFH sections of FMPs at least once every 5 years is too long.

Response: The proposed rule states that reviews of EFH sections of FMPs must be completed as recommended by the Secretary, at least once every 5 years. NMFS considers this amount of time appropriate and has maintained it in the rule. Councils are strongly encouraged to include interim reviews of EFH information needs during annual reviews of Stock Assessment and Fishery Evaluation (SAFE) reports. NMFS will work to develop an appropriate format for future SAFE reports to address the requirements under the Magnuson-Stevens Act EFH mandate.

Comment: One Council commented that Councils should have the option of including a framework adjustment mechanism in the EFH amendment to allow for more timely changes in management measures.

Response: NMFS agrees that framework amendments may be an appropriate way to institute management measures to conserve and enhance EFH.

Comments: Commenters called for incentives to encourage research to address gear effects and management measures to minimize adverse impacts. They suggested that a schedule be established under which the Councils or industry will be obliged to conduct the

necessary research that will indicate the extent, if any, of impacts caused by fishing sectors. As written, there is no incentive to conduct further research. They feel there is a disincentive, because findings of impacts could be used to restrict a fishery.

Response: To address this concern the interim final rule specifies that, as part of a Council's assessment of impacts caused by fishing, a schedule should be developed detailing the Council's plan to collect any missing information. Regular reporting of progress toward meeting these research goals will provide added incentive for Councils to conduct added research. A standardized schedule for all FMPs would not be useful since existing data and research needs regarding each fishery's impacts to different habitats vary greatly both within and among regions.

Comments: Some commenters asked that research needs be categorized and that cost estimates be included in FMPs. Many commenters stressed that gear effects research is needed.

Response: In developing research recommendations in FMPs, the interim final rule encourages Councils to prioritize research needs. The interim final rule does not require cost estimates; however, Councils may include budget information if they choose. Fishing gear-effects research should be considered, along with research on habitat utilization, habitat availability, and adverse impacts from non-fishing activities. Research should be conducted on all types of fishing impacts, including recreational and commercial fishing equipment or practices, however relative impacts should be prioritized and research should address needs accordingly.

26. Comments on Development and Review of NMFS EFH Recommendations to Councils

Comments: Many commenters stated that a public process must be available for participation in the development and review of EFH recommendations. They sought participation outside of the Council process. They want all stakeholders to be involved in the development of recommendations. Some state resource agencies commented that, prior to approval of recommendations, public meetings should be held in each state. Some commenters suggested that conservation groups should be specifically listed as interested parties, and some commenters suggested that any potentially impacted party should be contacted so that they could review the recommendations.

Response: The proposed rule stated that the NMFS draft recommendation will be made available for public review. The interim final rule continues to suggest that the public review process be coordinated with Council meetings in order to accommodate those user groups most closely associated with the regulation. Stakeholders that have not previously been involved in the Council process are not precluded from participating. Where appropriate, additional meetings outside the Council process may be held. Individual meetings in every state may not be practicable, but where feasible, should be considered, as is standard practice with many Council proceedings. Contacting individual stakeholders to extend the review process is not practicable. It is incumbent upon stakeholders to take the initiative and become involved in the EFH process.

Comment: One commenter criticized NMFS for establishing a standard of ''best available scientific information'' for NMFS EFH conservation recommendations to Councils. The commenter pointed out that this standard is stricter than that established in § 600.815(a)(2)(i).

Response: NMFS agrees and has modified the rule to allow other appropriate information to be used. However, NMFS will evaluate the quality of information in determining if it is appropriate to use.

27. Comments on Authority To Issue the Coordination, Consultation, and Recommendation Section

Comment: Many non-fishing industry representatives doubted the Agency's legal authority to issue regulations for the consultation process, including the requirements that Federal action agencies prepare EFH Assessments or participate in a dispute resolution process.

Response: First, NMFS does have authority to issue the coordination, consultation, and recommendation regulations. Section 305(d) of the Magnuson-Stevens Act gives the Secretary the authority to issue regulations to carry out any provision of the Act. This rulemaking authority applies directly to the EFH coordination, consultation, and recommendation provisions of the Magnuson-Stevens Act.

The provision calling for dispute resolution has been retitled ''further review'' in the interim final rule to clarify that a formal dispute resolution is not envisioned. Further review is not required each time agencies disagree. It is an option available to reach agreement only if both agencies so choose. Information in an EFH Assessment is needed to allow NMFS to fulfill its requirement to provide EFH conservation recommendations to a Federal or state action agency. Thus, the requirements calling for EFH Assessments and further review are mechanisms to improve the efficiency of the consultative process.

28. Comments on the Inclusion of Coordination, Consultation, and Recommendation Procedures

Comments: Many comments from non-fishing industries suggested that NMFS develop the consultation regulations at a later time. Some suggested that the EFH guidelines to Councils and the regulations detailing the coordination, consultation, and recommendation procedures should be published separately.

Response: Within section 305(b), the Magnuson-Stevens Act requires Councils to amend FMPs in order to describe, identify, conserve, and enhance EFH, and requires Federal action agencies to consult with NMFS if their actions may adversely affect EFH identified in FMPs. Developing the consultation regulations at a later date would be neither efficient for implementing the Magnuson-Stevens Act, nor clear to the public. Including the consultation provisions in this rulemaking allows the public and affected parties to fully understand the significance and effect of an area being identified as EFH in an FMP. Description and identification of EFH does not automatically require increased management measures (for fishing) or consultation (for non-fishing) except when Federal or state actions may adversely impact the quality or quantity of EFH. In those cases, it is important for the Councils and the action agency to understand completely the procedures involved. Therefore, NMFS considers it necessary for the development of the two sections to proceed in parallel. Moreover, between completion of this interim final rule and before the first required consultations, NMFS and the Councils will need to develop memoranda or other agreements with Federal and state agencies on how to work within or modify existing consultation procedures and in developing general concurrences, consistent with the rule. The Councils and NMFS will also need to establish procedures to coordinate sharing of information, tracking of projects, and development of conservation recommendations. NMFS does acknowledge that the coordination, consultation, and recommendation provisions for action agencies and

guidelines to the Councils may be clearer and better presented by assigning them to separate subparts (J and K) of 50 CFR part 600.

29. Comments on Use of Existing Consultation/Environmental Review Procedures

Comments: Many non-fishing groups and one government agency commented that the proposed consultation process was burdensome and duplicative because it did not recognize existing procedures that may fulfill the Magnuson-Stevens Act mandate that Federal action agencies must consult with NMFS on actions that may adversely impact EFH.

Response: The coordination, consultation, and recommendation procedures in the proposed and interim final rules reflect the Magnuson-Stevens Act's mandate. The proposed rule included a provision that EFH consultation may be consolidated with other existing consultation and environmental review processes. To clarify that it is NMFS' intention to use existing processes whenever appropriate, the interim final rule contains language strongly encouraging the use of existing consultation and environmental review processes to fulfill the EFH consultation requirements. The procedures will not be duplicative because only one review process will be used.

Existing Federal statutes such as the FWCA, ESA, and National Environmental Policy Act (NEPA) already require consultation or coordination between NMFS and other Federal agencies. Therefore, the need for Federal agencies to evaluate the effects of their actions on fish and fish habitat is not a new requirement imposed by the Magnuson-Stevens Act. As required by section 305(b)(1)(D) of the Magnuson-Stevens Act, NMFS will coordinate with, and provide information to, other Federal agencies on conservation and enhancement of EFH. This will include distribution of maps, tables and narrative descriptions of EFH. The EFH FMP amendments, which will be widely available at all NMFS Regional offices (see **ADDRESSES**), the NMFS Office of Habitat Conservation, Council offices, and other locations such as the World Wide Web, will provide additional information to assist Federal agencies in the assessment of their actions. FMPs will describe EFH and identify those characteristics of EFH that control or limit the habitat's use by a managed species. Action agencies can use this information to determine if, and how, an action will affect EFH. Thus, EFH consultation should not be burdensome, since it will use readily available information that may be incorporated into the same processes that are currently invoked to satisfy existing review requirements.

Comments: Several industry groups commented that the EFH coordination, consultation, and recommendation process will mean additional restrictions on non-fishing industry activities and will not result in any benefit to EFH.

Response: The coordination, consultation, and recommendation process itself will not automatically impose additional restrictions, because NMFS' and the Councils' EFH conservation recommendations are non-binding. However, one of the purposes of the Magnuson-Stevens Act is to promote the protection of EFH in the review of projects that require Federal or state action. Accordingly, Federal and state action agencies must give NMFS' and the Councils' comments and EFH conservation recommendations due weight in their decision-making process. After consideration, Federal or state action agencies may recommend modifications of any actions with adverse effects on EFH, in order to conserve EFH. Benefits to EFH will depend on the extent to which these recommendations are followed.

Comments: Many environmental groups commented that NMFS' recommendations should be mandatory and that NMFS should be able to either stop a project based on adverse effects on EFH or postpone it pending completion of consultation.

Response: The Magnuson-Stevens Act does not provide such authority. Therefore, NMFS' EFH conservation recommendations are not mandatory, and NMFS has no authority to stop a project based on adverse effects on EFH.

Comment: One environmental group suggested that NMFS EFH conservation recommendations contain performance criteria.

Response: Where appropriate, NMFS EFH conservation recommendations will contain performance criteria.

Comments: Several agencies and many industry representatives commented that actions covered by other consultation procedures should be exempt from EFH consultation or covered by a General Concurrence. Many industry groups or resource management programs requested a blanket exemption for their activities.

Response: A purpose of the Magnuson-Stevens Act is ''to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.'' The Magnuson-Stevens Act does not provide exemptions from its consultation requirements in section 305(b)(2). Therefore, NMFS has no authority to exempt any actions from the consultation requirement. Existing environmental consultation procedures do not necessarily ''promote'' the protection of EFH. The rule is sufficiently flexible to consolidate EFH requirements with those environmental review procedures that do promote EFH, or that are modified to conform to the EFH consultation requirements. To address programs or groups of actions that have minimal adverse effects on EFH, the interim final rule allows NMFS to issue a General Concurrence rather than review each of these actions separately.

Comment: One Council commented that the Coastal Zone Management Act (CZMA) consistency process be cited as an existing environmental review that may be used to evaluate adverse impacts from Federal activities.

Response: The CZMA consistency process is a state-run program which would not be appropriate for NMFS to use to evaluate Federal actions. However, NMFS recognizes that state CZM programs may be helpful in learning of, and providing recommendations on, state actions that may adversely impact EFH, and has included this in the rule. Moreover, through joint permitting processes used by many Federal agencies, NMFS attends monthly permit review meetings along with state CZM representatives. NMFS encourages exchanges of this type.

Comment: Four commenters would prefer that the consultation procedures focus on only those activities with the potential for the most significant impacts.

Response: NMFS agrees that effective coordination, consultation, and recommendation will require prioritization of efforts. The three-tiered consultation process (GCs, abbreviated consultation, and expanded consultation) is intended to focus effort on those activities with the greatest potential to adversely affect EFH. If HAPCs are identified in an FMP, NMFS and the appropriate Council may use these as areas to further focus the consultation procedures.

Comments: Several environmental groups commented that states should be subject to the same consultation requirement as Federal agencies. Those commenters also asked for more details on state roles in the consultation process.

Response: The Magnuson-Stevens Act does not require that states consult with the Secretary. NMFS and the Councils are required to provide EFH conservation recommendations to states on activities that may adversely affect EFH. This is why the rule suggests establishing formal agreements with states to inform NMFS and the Councils of such activities. The Secretary and the state may also enter into agreements to promote the protection of EFH.

Comment: One Council commented that NMFS should keep a record of Federal and state actions for which it provides recommendations.

Response: NMFS agrees and plans to establish a system to track the disposition of its recommendations.

Comment: One commenter asked whether it was NMFS' responsibility to develop agreements with states to facilitate providing recommendations on state actions that may adversely impact EFH.

Response: It is NMFS' responsibility to develop such agreements.

Comment: One commenter stated that NMFS should separate the consultation functions from the recommendation functions.

Response: The requirement in the Magnuson-Stevens Act for Federal agencies to consult with NMFS is immediately followed by the provisions that Councils and NMFS provide recommendations to Federal action agencies. The two are also linked because consultation is the main way NMFS receives information about actions that may adversely affect EFH. NMFS must provide EFH conservation recommendations for these actions. Congress clearly intended that these activities be linked; therefore, NMFS continues to link the requirements in the rule.

30. Comments Regarding Federal Actions Requiring Consultation

Comment: Many state and Federal agencies and several non-fishing industries questioned when EFH consultations would begin, whether ongoing or delegated Federal actions require consultation, and to what extent Federal funding may trigger consultation.

Response: No consultation is required until the Secretary has approved an FMP amendment identifying EFH. The Councils are required to submit these amendments to the Secretary by October 11, 1998. Once EFH is identified, completed actions such as issued permits do not require consultation. Permit renewals, modifications, or reviews are a Federal action that could result in further consultation. Delegated programs will require consultation at the time of delegation or renewal of delegation. All Federal funding for programs that may have an adverse effect on EFH will trigger consultation. NMFS encourages agencies funding programs that may adversely affect EFH to initiate programmatic consultation to evaluate their programs. Once funds are dispersed to a non-Federal entity, they are no longer considered Federal funds. Therefore, non-Federal entities receiving Federal funds for certain actions are not required to consult on these actions.

Comments: Several commenters expressed concern about requiring EFH consultation for actions not actually occurring in EFH.

Response: The Magnuson-Stevens Act requires consultation for all actions that may adversely affect EFH, and it does not distinguish between actions in EFH and actions outside EFH. Any reasonable attempt to encourage the conservation of EFH must take into account actions that occur outside of EFH when those actions may have an adverse effect on EFH. Therefore, EFH consultation is required on any Federal action that may adversely affect EFH, regardless of its location. An adverse effect on EFH must be reasonably foreseeable before consultation is required.

31. Comments Regarding Participation in the Consultation Process

Comments: Several individuals and non-fishing interests expressed concern that the rule allowed no clear role for applicants, private landowners, or the conservation community in the consultation process. Those commenters urged more opportunities for public participation.

Response: NMFS' coordination, consultation, and recommendation procedures include opportunities for public involvement, and all Council meetings are open to the public. Most existing environmental review processes, which can be used to satisfy the EFH consultation requirements, already include opportunities for applicants and the public to participate, (e.g., permit reviews under the Clean Water Act section 404 program). Additionally, § 600.905(c)(2) of the rule allows a designated non-Federal representative of a Federal action agency to participate in consultation or preparation of an EFH Assessment. This non-Federal representative could be an applicant or landowner.

Comment: A few commenters requested that the rule clarify the role of Councils in the EFH coordination, consultation, and recommendation process.

Response: The Magnuson-Stevens Act does not require Federal action agencies to consult with Councils on actions that may adversely affect EFH. However, the Act authorizes Councils to provide comments and recommendations on Federal or state activities that may affect fish habitat, including EFH, and requires Councils to comment and provide recommendations if the activity may affect anadromous fish habitat. NMFS included a specific section on coordination between the Councils and NMFS in the interim final rule. The Councils are viewed as integral partners in the entire EFH process. Councils will have a significant role in describing and identifying EFH, in considering threats to EFH, and in selecting conservation measures to enhance EFH. The rule encourages the establishment of agreements between the Secretary and appropriate Council(s) to facilitate provision of Council EFH conservation recommendations to Federal and state agencies.

Comment: Several non-fishing industry groups were concerned that the Councils might institute their own, completely different consultation process. Those commenters urged that NMFS should be the only point of contact.

Response: The Magnuson-Stevens Act does not require Federal agencies to consult with the Councils, although Federal agencies are required to respond to Council comments and recommendations. NMFS and the Councils will be developing agreements to minimize duplication when dealing with action agencies, but Councils will have the ability to act on their own.

32. Comments on the Determination of Adverse Impact

Comments: Several commenters asked that the rule clarify who determines adverse effects.

Response: The action agency is responsible for making an initial determination of whether its activity is going to have an adverse effect on EFH. If NMFS becomes aware of an action that appears to have an adverse effect, and the action agency has not initiated consultation, NMFS may advise the action agency of its concerns and request the initiation of consultation. If the action agency does not initiate consultation, NMFS still has the responsibility to provide EFH conservation recommendations to which the action agency must respond within 30 days of receipt. The rule contains additional language to clarify this process.

33. Comments on the Use or Development of General Concurrences (GCs)

Comments: Several commenters felt the criteria for GCs were ambiguous.

Response: The wide range of actions that may affect EFH makes it impossible to implement more specific criteria for GCs. GCs, established for actions that cause no greater than minimal adverse impact on EFH, will be developed on a case-by-case basis in response to specific programs, activities, habitats, species, and areas. GCs developed for actions that affect HAPCs should be subject to a higher level of scrutiny. GCs will be developed through a public process to allow participation by all interested parties.

Comment: Several Councils believe that GCs should not restrict them from commenting on activities.

Response: GCs are agreements between Federal action agencies and NMFS. Each GC will be developed in coordination with the Councils to improve agreement on which activities have minimal impacts both individually and cumulatively. The informal Council role in developing each GC is separate from the Councils' authority to provide comments and recommendations to Federal and state action agencies and will not restrict Councils from commenting on any action that may affect EFH.

Comments: Several commenters suggested that NMFS should track all activities covered by GCs.

Response: NMFS will ask each Federal action agency to track activities they authorize that are covered by a GC. Tracking and providing information to NMFS may be a GC requirement. NMFS may maintain its own tracking system for specific issues that warrant special attention based on geography, habitat types, species, or other factors.

Comment: An interstate commission commented that the rule should require that GCs be reviewed every 5 years. The commission also suggested that NMFS clarify that GCs it initiates will be subject to public review before issuance.

Response: The rule states that NMFS will periodically review and revise its findings of general concurrence, as appropriate. It is NMFS' intent to conduct this review at least once every 5 years. The rule also requires that GC tracking information be made available to the public annually. Such information will allow the public to review GCs prior to NMFS' review and revision. Additionally, the rule states that NMFS will provide an opportunity for public review prior to the issuance of a GC, even those initiated by NMFS.

34. Comments on the Use of Appropriate Level of Consultation

Comment: Several Federal agencies requested clarification on what triggers the expanded consultation. They sought guidance on whether the action agency or NMFS can initiate expanded consultation.

Response: The rule has been clarified to address this comment. Expanded consultation is appropriate when a proposed action may have substantial adverse impacts on EFH. The action agency determines the appropriate level of consultation. However, if NMFS feels that a proposed action will have substantial effects on EFH and its concerns are not receiving proper consideration, NMFS may request expanded consultation.

35. Comments on EFH Assessments

Comments: Some commenters supported the standard of ''best scientific information'' that is mandated in the Federal consultation and EFH Assessment section of the rule. They felt that all portions of the EFH rule should specify the same standard.

Response: NMFS applies the best scientific information standard throughout the rule. When describing and identifying EFH, Councils should seek the broadest possible information base, since the data are widely scattered among various state and Federal agencies, university or private researchers, and diverse fishery participants. Best professional judgment will be required to properly weigh all data collected regarding habitat usage for the various life history stages of the managed species. With respect to assessing the effects of both fishing and non-fishing activities on EFH, the rule states that the best scientific information available should be used, but that other appropriate sources of information may also be considered. This standard is appropriate and consistent with national standard 2 that requires all FMP conservation and management measures to be based on the best scientific information available. EFH Assessments during Federal consultation should also be based on best scientific information available. An action agency's conclusions regarding the potential adverse impact of an action on EFH should be well supported by relevant research, when available. Conclusions that are contrary to the readily available information will not be considered adequate assessment of adverse effects.

Comment: One commenter was concerned that an EFH Assessment would be required for actions with any adverse impact on EFH and suggested that NMFS establish a threshold level of adverse impact, preferably the NEPA significance threshold, for when such an assessment would be required.

Response: The Magnuson-Stevens Act requires Federal action agencies to consult with NMFS on any action that may adversely affect EFH. The requirement for an EFH Assessment is a mechanism to improve the efficiency of the consultation process. The level of detail in the EFH Assessment should be commensurate with the potential impact. If the action's impacts will be minimal, then it may qualify for a GC and no EFH Assessment would be required.

Comment: One commenter criticized NMFS for allowing the use of a completed EFH Assessment for other similar actions because of temporal and spatial differences in adverse impacts on EFH.

Response: The rule states that completed EFH Assessments may be used for other actions only if the proposed action involves similar impacts to EFH in the same geographic area or a similar ecological setting.

36. Comments on the Establishment of Timelines in the Consultation, Recommendation, and Response Processes

Comment: Several commenters sought clarification on timelines for NMFS action in consultation process. Some commenters were concerned that the consultation process would slow projects. Others expressed concern that NMFS would delay projects while preparing their recommendations.

Response: The timelines presented in the proposed rule have been clarified in this rule. If an existing process is used to meet the EFH consultation requirement, NMFS will work within that procedure's specified timelines, assuming that NMFS receives timely notification of the action. NMFS has clearly established timelines for preparation and submission of its recommendations during consultation. For example, the interim final rule requires NMFS to respond to Federal action agencies within 30 days during abbreviated consultation and within 60 days during expanded consultation. Those timelines may be adjusted based on mutual agreement between the action agency and NMFS (e.g., a compressed schedule for special situations).

Comment: Several commenters suggested that NMFS should not extend the time for the consultation process without concurrence from the Federal action agency.

Response: That has always been NMFS's intent and the rule has been modified to clarify that intent.

Comment: One commenter suggested that NMFS extend the time required for a Federal action agency to respond to a NMFS recommendation from 30 to 90 days.

Response: The deadline for Federal agency response is established in the Magnuson-Stevens Act and can not be extended by regulation.

Comment: One commenter stated that the rule should clarify that if NMFS does not respond to a Federal action agency's request for consultation, the action agency may proceed with the action.

Response: The rule states that Federal action agencies will have fulfilled their consultation requirement after submittal of a complete EFH Assessment to NMFS. The Magnuson-Stevens Act requires Federal agencies to consult with NMFS and NMFS is required to provide recommendations as part of that consultation. Federal agencies and NMFS will follow the requirements of the statute and the rule.

37. Comments on Supplemental Consultation

Comment: Three commenters want supplemental consultation deleted from the interim final rule.

Response: NMFS reconsidered the entire consultation process during its analysis of comments received on the proposed rule. The Agency concluded that supplemental consultation is an important element of the EFH rule. A Federal action agency must reinitiate consultation with NMFS if the agency substantially revises its plans for an action in a manner that may adversely affect EFH or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations. This rule clarifies the language on supplemental consultation.

38. Comments on NMFS' EFH Conservation and Enhancement Recommendations

Comments: Comments from several industry interests and one Federal agency urged NMFS not to recommend measures that are impracticable, too costly, or beyond the action agency's authority.

Response: NMFS will use scientific assessments of impacts on EFH as the basis for conservation recommendations. NMFS agrees that its recommendations should be practical and cost-effective, but it is not NMFS' statutory responsibility to conduct a benefit/cost analysis or to do a public interest test. NMFS expects that action agencies will make their own decisions about the practicality and economic aspects of the EFH conservation recommendations as part of their review of proposed actions. NMFS will not make recommendations that are beyond the action agency's authority.

39. Comment on Federal Action Agency Response to NMFS EFH Recommendations

Comment: One commenter stated that NMFS has no statutory authority to require Federal action agencies to provide the scientific justification for disagreeing with a NMFS EFH conservation recommendation.

Response: As stated previously, section 305(d) of the Magnuson-Stevens Act gives the Secretary authority to issue regulations to carry out any provision of this Act. Therefore, NMFS has the authority to issue regulations detailing how Federal action agencies should respond to NMFS' EFH recommendations. The requirement to provide scientific justification applies to disagreements over the anticipated adverse effects of the proposed action and elaborates on the requirements of section 305(b)(4)(B) of the Magnuson-Stevens Act that a Federal agency explain its reasons for disagreeing with the NMFS EFH conservation recommendation. Federal action agencies may also include discussions of non-scientific issues (e.g., lack of legal authority to carry out the recommendation or economic in feasibility) in their response.

40. Comments Regarding the Interpretation of Anadromous

Comments: Several commenters were confused by the use of the term ''anadromous fishery resource'' in the rule and how such species and their habitat are covered by the EFH mandate.

Response: NMFS included this section in the rule to clarify the meaning of the term ''anadromous fishery resource under a Council's authority,'' as it applies to a Council's commenting responsibilities under section 305(b)(3)(B) of the Magnuson-Stevens Act. Anadromous fish are treated differently from other fishery resources in the Magnuson-Stevens Act. Section 3 of the Magnuson-Stevens Act defines ''anadromous species'' as ''fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.'' It further defines ''fishery resources'' as ''any fishery, any stock of fish, any species of fish, and any habitat of fish.'' In § 600.930(c)(4) of this interim final rule, ''an anadromous fishery resource under a Council's authority'' is described as an anadromous species that inhabits waters under the Council's authority at some time during its life. Although EFH is identified only for species managed under an FMP, the Magnuson-Stevens Act requires Councils to comment on any activity that is likely to substantially affect the habitat of an anadromous fishery resource under its authority.

41. Comments on Extending the Deadline for Councils To Submit FMP Amendments to the Secretary

Comments: Several commenters asked NMFS to extend the deadline for Councils to submit EFH FMP amendments to the Secretary one year beyond the October 11, 1998 deadline.

Response: The Sustainable Fisheries Act, Pub. L. 104–297, requires that each Council submit to the Secretary amendments to each of their FMPs to comply with the amendments of the Act by October 11, 1998. The Secretary does not have the authority to extend this statutory deadline through regulation.

42. Comment on How the NMFS National Habitat Plan Relates to Implementation of the EFH Mandate

Comment: One Council commented that the rule should discuss the relationship between the NMFS National Habitat Plan (NHP) and the EFH mandate of the Magnuson-Stevens Act.

Response: The major themes of the NHP: better integrate habitat and fishery management; promote habitat restoration as a routine part of fisheries and habitat management; expand habitat conservation to assess and manage habitat degradation on a watershed scale; expand understanding of the interrelationships between habitat quality and quantity and the healthy of fisheries, are woven throughout the rule.

43. Comments on Consistency With Coastal Zone Management Plans

Comments: Several state agencies commented concerning consistency with their states' federally approved Coastal Zone Management Programs (CZMP). There was general agreement that the intent of the rule was consistent with CZMPs. Several of the state agencies cautioned that the FMP amendments and their site-specific actions that result from compliance with these regulations would require further review for consistency.

Response: NMFS agrees with this analysis. These regulations guide the Councils in amending FMPs, and detail procedures for NMFS, the Councils, and Federal and state action agencies to use in meeting the EFH requirements of the

Magnuson-Stevens Act. Analysis of the effects of specific EFH amendments to FMPs at this time would be purely speculative; they are not reasonably foreseeable. EFH amendments to FMPs will be submitted to state coastal zone agencies. CZMP consistency will be determined for each FMP EFH section, as is required for all Federal FMPs.

44. Comments on the EA Prepared for the Rulemaking

Comments: Some non-fishing industry commenters questioned the preparation of an EA, rather than an Environmental Impact Statement (EIS), and the finding of no significant impact.

Response: In compliance with NEPA, NMFS prepared an EA for the regulations implementing EFH requirements of the Magnuson-Stevens Act. The environmental review process led to the conclusion that this action will not have a significant effect on the human environment. The rule provides guidelines to the Councils to assist them in developing EFH sections in FMPs. The rule itself does not establish any new regulatory jurisdiction for NMFS or the Councils over these habitats, but it does provide procedures for NMFS, the Councils, and Federal and state action agencies to use in coordinating, consulting, and providing recommendations on actions that may adversely affect EFH. NEPA documentation will be undertaken for each EFH FMP amendment, as is currently done, to fully address FMP-specific effects of EFH implementation. Therefore, an EIS is not required by section 102(2)(C) of NEPA or its implementing regulations.

45. Comments on NMFS' Determination of Significance for the Purposes of E.O. 12866

Comments: One commenter disagreed with NMFS's determination that the rule is not significant for purposes of E.O. 12866 because NMFS did not consider whether the proposed rule was duplicative or inconsistent with existing regulations, and interfered with actions by other agencies. Another commenter did not give the basis for its disagreement.

Response: NMFS continues to believe that the rule does not meet any of the criteria for a significant regulatory action established in E.O. 12866, including those mentioned in the comment. This rule establishes procedures for coordination, consultation, and recommendations to other agencies on actions that may adversely affect EFH. The consultations will be fit into existing procedures whenever possible, and when this is not possible, will be fit into the other agency's time frame for decision-making. The EFH conservation recommendations are not mandatory, but will be part of the action agency's decision-making process. Therefore, the rule does not meet E.O. 12866's requirements for significance.

46. Comments on NMFS' Regulatory Flexibility Act Determination

Comments: One commenter agreed with NMFS that no regulatory flexibility analysis needs to be prepared now, but that regulations affecting EFH will be subject to the analysis. Other commenters disagreed with NMFS' conclusion that the rule would not have a significant economic impact on a substantial number of small entities engaged in non-fishing activities and requested that NMFS prepare a regulatory flexibility analysis.

Response: NMFS does not have mandatory authority over non-fishing interests. NMFS provides EFH conservation recommendations to a Federal or state action agency if their action may adversely affect EFH. The action agency considers the recommendation in its decision-making process and decides for itself whether it will impose any requirements on the entity seeking a permit or license and assess any economic impact on small entities. Additionally, the consultation process itself should not impose any additional burdens on small businesses engaged in non-fishing activities because the Federal action agency will most likely use existing consultation/environmental review procedures. If there are no existing consultation procedures, then the procedures in the rule must be used by the Federal agency. The information requested in the rule is material that the action agency already will need to make its decision on issuing a permit or license. Therefore, there will be no additional burden on small businesses engaged in non-fishing activities.

47. Comments on NMFS' determination That a Federalism Assessment is not Required

Comments: Commenters expressed the opinion that NMFS' determination is incorrect that this rule does not include policies with federalism implications requiring preparation of a Federalism Assessment. This rule does not contain policies that have a substantial direct effect on the states, on the relationship between the National government and the states, or on the distribution of power or responsibilities among the various levels of government. Some commenters stated that while EFH conservation recommendations are not mandatory, the states will be pressured to comply with the recommendations. One commenter stated that the process to guide the agencies is mandatory and therefore raises federalism issues. Other commenters raised the concern that because EFH may be identified in state waters, and many adverse impacts may occur there, a federalism assessment should be prepared.

Response: NMFS disagrees with the commenters and continues to take the position that the rule does not contain policies that have federalism implications sufficient to warrant preparation of a Federalism Assessment. States are not required to consult with NMFS on their actions that may adversely affect EFH. As stated in the Classification section of the rule, NMFS EFH conservation recommendations are not mandatory, and states are not required to undertake action in any way not of their own choosing.

48. Comments on NMFS Compliance With the Paperwork Reduction Act

Comments: Two commenters expressed their opinion that NMFS has not complied with the Paperwork Reduction Act (PRA) because the rule neither displays an Office of Management and Budget (OMB) control number nor states that the rule is not subject to OMB review. They stated that the proposed rule is clearly a collection of information subject to the PRA. They claim that this will be a big burden on many entities.

Response: Commenters correctly state that the PRA requires OMB approval before NMFS may require a collection of information. However, they overlook the regulatory definition of information in 5 CFR 1320.3(h)(4) stating that information does not generally include ''facts or opinions submitted in response to general solicitations of comments from the public published in the **Federal Register** * * * regardless of the form * * *''. The rule clearly fits the regulatory exemption for information and therefore is not subject to OMB approval. As such, it does not need either an OMB control number or a statement that the rule is not a collection of information.

49. Comments on Compliance With the ESA

Comments: Two commenters stated they think that promulgation of the rule is an action that may affect listed species, requiring consultation under section 7(a)(2) of the ESA.

Response: NMFS complied with the ESA by requesting the U.S. Fish and Wildlife Service (FWS) and NMFS'

office that handles ESA issues to concur with its determination that the proposed activity is not likely to adversely affect listed species. Both responded to NMFS stating their concurrence that the EFH rule is not likely to adversely affect listed species.

Changes From the Proposed Rule

The proposed rule contained guidelines to the Councils and procedures addressing the requirements to coordinate, consult, and recommend under the EFH provisions of the Magnuson-Stevens Act. The guidelines to the Councils will be in part 600 subpart J, but NMFS has determined that the regulations on coordination, consultation, and recommendation should be moved to a separate subpart, K. This provides easier access to the regulations, clarification of purpose, and still maintains their proximity to subpart J so that the implications of EFH designation are readily apparent. This is not a substantive change from the proposed rule.

NMFS reorganized parts of the coordination, consultation, and recommendation procedures by addressing use of existing procedures before the regulatory requirements for GCs, and abbreviated and expanded consultation. The use of existing procedures section includes more detail. NMFS reordered this section and expanded it in response to commenter's concerns that consultation could be duplicative with existing consultation/environmental review procedures.

Changes made are technical or administrative in nature and clarify intent or otherwise enhance administration of the EFH process. These changes are listed in the order that they appear in the regulations; grammatical or other minor changes are not detailed. Unless otherwise discussed, the rationale for why changes were made from the proposed rule is contained in the Comments and Response section.

In § 600.10, ''aquatic'' was added to the interpretation of historically used areas of EFH.

In § 600.10, ''the managed species' contribution to'' was added to denote that the healthy ecosystem is the local ecosystem in which the managed species participates.

In § 600.805, references to the consultation procedures required by the Magnuson-Stevens Act have been removed since these regulations have been separated into a new subpart as noted above.

In § 600.805, a new paragraph was added to describe the geographic scope of EFH and clarify the relationship of the regulations to Federal waters, state waters, and extraterritorial waters.

Section § 600.810 was changed to add ''Definitions and Word Usage'' for terms specific to this subpart; subsequent sections were renumbered.

Section 600.815 was renumbered from § 600.810.

In § 600.815, paragraph (a)(2)(i)(B), the phrase ''the habitat requirements by life stage, and the distribution and characteristics of those habitats'' was added to be consistent with later sections regarding information on the habitat; the phase ''but not limited to'' was added to emphasize that this list is intended to be illustrative not exhaustive; ''or formerly occupied'' was added to correct the language to agree with the definition of EFH.

In § 600.815, paragraph (a)(2)(i)(C), ''should'' was substituted for ''will be'' to emphasize that Councils should use information from all levels that are available.

In § 600.815, paragraph (a)(2)(i)(C)(*2*), ''relative densities'' was changed to ''density or relative abundance'' as more scientifically acceptable language; ''gear'' was changed to ''methods'' to include different techniques using the same gear.

In § 600.815, paragraph (a)(2)(ii)(A), the phrase ''erring on the side of inclusiveness'' was deleted because it is redundant with the concept of identifying EFH in a ''risk-averse fashion.'' Wording has been changed to clarify that Level 1 information ''should be used to identify the geographic range'' of a species, Levels 2–4 information should be used to identify EFH within that range. If only Level 1 data exist, appropriate analyses should be used to identify EFH based on utilization of habitats. The sentence, ''Councils must demonstrate that the identification of EFH is based on the best scientific information available, consistent with national standard 2'' was added to clarify that Councils must use all available information to focus their identification of EFH.

In § 600.815, paragraph (a)(2)(ii)(B), references to populations recovering from ''declines'' were removed in favor of the terms ''overfished'' or ''rebuilding the fishery,'' which are more commonly used fishery management terms. NMFS added the phase ''and habitat loss or degradation may be contributing to the species being identified as overfished'' to clarify that habitat limitations should be considered when identifying historic habitat as EFH. ''Once the fishery is no longer considered overfished, the EFH identification should be reviewed, and the FMP amended, as appropriate'' was added to clarify the dynamic nature of EFH identification.

In § 600.815, paragraph (a)(2)(ii)(C), ''aquatic areas'' has been added to clarify that the statutory definition limits EFH to aquatic portions of ''critical habitat.''

In § 600.815, paragraphs (a)(2)(ii)(D) and (E), the phrase ''a sustainable fishery and the managed species' contribution to a healthy ecosystem'' replaced ''target production goal.''

In § 600.815, paragraph (a)(2)(ii)(E), the listing of ecological roles to be considered in determining EFH has been removed, these ecological factors are considered broadly in the national standards. Councils should address these needs on a case-by-case basis.

In § 600.815, paragraph (a)(2)(ii)(F), ''aquatic'' is added to qualify ''degraded or inaccessible habitat'' to clarify that this is not intended to be dry land.

In § 600.815, paragraphs (a)(3), (a)(4), and (a)(5), have been reordered to strengthen the connections between EFH identification and description and the management of fishing activities that may adversely affect EFH as suggested by commenters. Non-fishing activities are addressed under § 600.815(a)(5).

In § 600.815, paragraph (a)(3)(ii), the phrase ''fishing equipment'' has replaced ''fishing gear'' to encompass all sources of fishing-related adverse impacts to EFH; the wording clarifies that ''best scientific data'' should be used but that other ''appropriate information sources'' should be considered. The wording also clarifies for the Councils that gear assessments should include effects on all EFH types potentially impacted (especially HAPC) and Councils should evaluate relative impacts.

In § 600.815, paragraph (a)(3)(iii), ''identifiable'' replaces ''substantial.'' The phrase ''and cumulative impacts analysis'' clarifies that fishing impacts should be included in an analysis of cumulative impacts on EFH.

In § 600.815, paragraph (a)(3)(iv) clarifies that consideration should be given to long- and short-term benefits and costs to both EFH and the fishery when assessing management actions. ''EFH'' is substituted for ''the marine ecosystem'' to improve consistency with the Magnuson-Stevens Act.

In § 600.815, paragraph (a)(4)(i) is retitled ''Fishing equipment restrictions.'' NMFS replaced the list of mixed general and specific examples of fishing types with more general examples of potential gear restrictions.

In § 600.815, paragraph (a)(4)(ii), wording was added to clarify that ''marine protected areas'' can be used for management of adverse effects on

EFH, as well as research on fishing equipment impacts; especially in HAPC.

In § 600.815, paragraph (a)(5) is a consolidation of § 600.810 (a)(3) paragraphs (i) and (ii) from the proposed rule.

In § 600.815, paragraph (a)(5), illustrative examples of ''activities which can adversely affect EFH'' were made more consistent so that broad actions, not industries potentially causing those actions, were highlighted. The phrases, ''actions that contribute to non-point source pollution and sedimentation'' and ''introduction of potentially hazardous materials'' were added for clarity in place of ''runoff'' and ''placement of contaminated material.'' The mapping provisions specific to this section were moved from the Cumulative Impacts Analysis section of the proposed rule.

Section 600.815, paragraph (a)(6)(i), clarifies that fishing effects as well as non-fishing impacts on EFH should be subject to cumulative impacts analysis, separately and in concert. NMFS added the term ''feasible'' to emphasize that a cumulative impacts analysis may not be possible because of technological or other limitations. NMFS replaced the phrase ''natural stresses'' with ''natural adverse impacts''. NMFS changed the wording to avoid misinterpretation of ''ecological risk assessment'' as a formalized toxicological test.

In § 600.815, paragraph (a)(6)(ii) was split out from the cumulative impacts section to emphasize cumulative impacts from fishing and to highlight that HAPCs should be examined for cumulative effects.

In § 600.815, paragraph (a)(6)(iii) splits the mapping of cumulative impacts into a separate paragraph.

In § 600.815, paragraph (a)(6)(iv) ''*Research needs,*'' was added to emphasize that Councils should pursue research efforts geared to understand ecosystem and watershed effects on fish populations and incorporate them into their protection of EFH if they are unable to conduct cumulative impacts analyses.

In § 600.815, paragraph (a)(7) was renumbered from paragraph (a)(3)(iv) and reordered. NMFS modified the language to emphasize that the preferred approach to EFH conservation should be to avoid, minimize, or compensate for adverse effects on EFH from specific actions to focus EFH conservation efforts. NMFS added ''especially in habitat areas of particular concern.''

In § 600.815, paragraphs (a)(7)(ii)(A), (B), (C), and (D) have been renumbered from paragraphs (a)(3)(iv)(A–F) of the proposed rule reflecting the incorporation of the wording from paragraph (a)(7)(ii)(A) (proposed rule) into the previous paragraph mentioned, and titles were generally modified for grammatical consistency. Language was added to clarify that conservation measures presented in these paragraphs are illustrative of measures that Councils may consider to proactively or reactively address past or present adverse effects to conserve and enhance EFH.

In § 600.815, paragraph (a)(7)(iii)(A) has been retitled ''Enhancement of rivers, streams, and coastal areas.'' Paragraph (a)(3)(iv)(C) from the proposed rule has been incorporated into this paragraph. The phrase ''modification of operating procedures for dikes and levees'' was added to clarify that removal is not always the preferred option for providing fish passage. The final sentence in the paragraph was added to emphasize governmental planning in watershed management.

In § 600.815, paragraph (a)(7)(iii)(B), ''and quantity'' has been added to the title; and ''providing appropriate in-stream flow'' has been added to reflect general options to apply to all regions.

In § 600.815, paragraph (a)(7)(iii)(C), ''subsequent watershed'' was deleted from the title. Specific examples have been replaced by more general examples of watershed-scale conservation and enhancement options.

In § 600.815, paragraph (a)(7)(iii)(D), the example has been deleted since it may be only regionally applicable; ''(converting non-EFH to EFH)'' was added for clarity; ''and degraded'' has been added to clarify that such areas may be appropriate for enhancement through habitat creation; ''conversion'' was included as a synonym for ''creation;'' ''within an ecosystem context'' has been added for clarity.

In § 600.815, paragraph (a)(8), ''and their habitat'' has been added to better explain how prey species should be addressed. Language was added to explain why adverse impacts to prey and prey habitat may be adverse impacts to EFH.

In § 600.815, paragraph (a)(9) has been renumbered from paragraph (a)(7) of the proposed rule and retitled ''Identification of habitat areas of particular concern;'' language has been included to denote that HAPC might include not only those areas especially vulnerable to degradation, but those that provide important ecological functions for one or more managed species; the paragraphs have been renumbered after the inclusion of paragraph (i), The importance of the ecological function provided by the habitat.

In § 600.815, paragraph (a)(10) has been renumbered from paragraph (a)(8) of the proposed rule; ''cumulative impacts from fishing,'' ''priority,'' ''and a schedule for obtaining that information'' have been added; ''equipment'' replaced ''gear;'' ''maintaining a sustainable fishery and the managed species' contribution to a healthy ecosystem'' replaces ''reaching target long-term production levels.'' All of these changes were made to ensure that this section is consistent with other parts of the rule.

In § 600.815, paragraph (a)(11) has been renumbered from paragraph (a)(9) of the proposed rule; ''including an update of the equipment assessment originally conducted pursuant to paragraph (a)(3)(ii) of this section'' has been added, as has been ''This information should be reviewed as part of the annual Stock Assessment and Fishery Evaluation (SAFE) report prepared pursuant to § 600.315(e)'' and ''complete.''

In § 600.815, paragraph (c), language has been added to clarify that NMFS EFH FMP recommendations may include ''other appropriate information.'' Language was added to acknowledge differences between Council procedures in preparing FMPs and to assure the flexibility to work within each process.

In § 600.815, paragraph (d) has been added to encourage coordination with other fishery management authorities.

The consultation, coordination, and recommendation provisions in the proposed rule have been separated out into a new subpart K of part 600.

Sections 600.905, 600.915, 600.920, 600.925, and 600.930 have been reorganized from the proposed rule's § 600.815 to provide better access and understanding to the provisions. Each of the provisions that applies to a different part of the Magnuson-Stevens Act has been separated into a different section to highlight the different requirements in response to many commenters who failed to recognize the distinctions between coordination, consultation, and commenting (or providing recommendations) and the entities involved in each process.

Section 600.905 has been added to clarify the intent of these provisions in promoting the protection of EFH in the review of Federal and state actions that may adversely affect EFH.

Section 600.905(c) has been revised adding language to emphasize cooperation between Councils and NMFS in all phases of EFH implementation. The clarification that ''NMFS and the Councils also have the

authority to act independently.'' has been added.

Section 600.910 has been added for definitions and word usage that apply to this subpart.

Section 600.915 has been renumbered and expanded to provide the details of the coordination between NMFS and other action agencies and to indicate that NMFS will take a proactive approach in promoting the conservation of EFH.

Section 600.920 has been revised to combine all sections of the Federal agency consultation provisions in a more organized fashion. The proposed rule recommended incorporation of EFH consultations with other existing environmental reviews, but this was overlooked by some commenters. These sections clarify the details of appropriate consultation and emphasize that NMFS' preference is for consultations to occur within existing consultation/environmental review procedures, whenever possible.

Section 600.920, paragraphs (a) (1) and (2) were added to provide specific information on which Federal actions require consultation, and the use of programmatic consultation.

In § 600.920, paragraph (d), language has been added to clarify that ''other appropriate sources of information may also be considered'' when evaluating the effects of a proposed action on EFH.

In § 600.920, paragraph (f)(1), ''minimal'' has been changed to ''no more'' than minimal.

Section 600.920, paragraph (f)(2)(ii) clarifies the requirements for tracking actions included in General Concurrences.

Section 600.920, paragraph (f)(2)(iv) explains that in HAPC, activities will be held to a greater level of scrutiny before being granted a General Concurrence.

In § 600.920, paragraph (f)(4), ''if appropriate'' has been added.

Section 600.920, paragraph (g)(1) has been rewritten to improve clarity.

Section § 600.920, paragraph (g)(2)(iv), has been moved from the Additional information section.

In § 600.920, paragraph (g)(3)(iv), ''particularly when an action is non-water dependent'' has been added to emphasize alternatives when an action is not water dependent.

In § 600.920, paragraph (h)(1) contains additional criteria to determine when abbreviated consultation is appropriate.

In § 600.920, paragraph (h)(2), ''must'' was changed to ''should'' and language was added to clarify when notification should be sent to a Council.

In § 600.920, paragraph (h)(5), language on combining EFH Assessments with other environmental reviews was deleted because the same concept is included in § 600.920(e)(2).

In § 600.920, paragraph (i)(1) contains additional explanation of the intent of expanded consultation and criteria to determine when expanded consultation is appropriate.

In § 600.920, paragraph (i)(3) provides additional clarification regarding NMFS' response to Federal agencies during expanded consultation.

In § 600.920, paragraph (i)(4) clarifies that there is flexibility in the schedules for consultation; ''or emergency situation'' has been added, and the NMFS deadline has been changed from 90 to 60 days.

In § 600.920, paragraph (i)(5), ''must'' has been changed to ''should.''

Section 600.920, paragraph (j)(2) has been retitled ''Further review of decisions inconsistent with NMFS or Council recommendations'' from ''Dispute resolution;'' language has been added to describe actions available in the case when an action agency's decision is inconsistent with NMFS or the Council's EFH conservation recommendations.

Section 600.920, paragraph (j)(1) has been rewritten to improve clarity.

In § 600.925, paragraph (c), ''use existing coordination procedures under statutes such as the Coastal Zone Management Act or establish new'' and other language has been added to further encourage the use of existing procedures to coordinate with state agencies, and to encourage sharing information with states.

In § 600.925, paragraph (a), language has been added stating that NMFS will not make recommendations beyond a Federal agency's authority.

In § 600.925, paragraph (b) has been added to clarify the relationship between Federal consultation and providing EFH conservation recommendation to Federal agencies.

Classification

The Assistant Administrator for Fisheries (AA), NMFS, has determined that this interim final rule is consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS prepared an EA for this interim final rule, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. The regulations contain guidelines to the Councils for amending FMPs in accordance with the EFH requirements of the Magnuson-Stevens Act, and procedures to be used by NMFS, the Councils, and Federal and state action agencies to satisfy the coordination, consultation, and recommendation requirements of the Magnuson-Stevens Act. Any specific effects on the human environment will be addressed in NEPA documents prepared for individual FMP provisions that are prepared pursuant to this rule. A copy of the EA is available from NMFS (see **ADDRESSES**).

This interim final rule has been determined to be not significant for the purposes of E.O. 12866. Each EFH amendment to an existing FMP and all new FMPs will contain detailed analyses of the benefits and costs of the management programs under consideration, to ensure compliance with E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. NMFS received comments regarding this certification. As addressed earlier, NMFS' consideration of these comments did not cause it to change its determination regarding the certification. This rule establishes guidelines for Councils to identify and describe EFH, including adverse impacts, and conservation and enhancement measures. The regulations require that the Councils conduct assessments of the effects of fishing on EFH within their jurisdiction. The Magnuson-Stevens Act requires the Councils to examine their existing FMPs and all future FMPs and amend them as required to comply with the EFH guidelines in this rule. These guidelines are intended to provide direction on compliance with the EFH provisions and in themselves, do not have the force of law. Should Councils establish regulations on fishing as a result of the guidelines and the assessment of fishing equipment, that action may affect small entities and could be subject to the requirement to prepare a Regulatory Flexibility analysis at the time they are proposed. Any future effects on small entities that may eventually result from amendments to FMPs to bring them into compliance with the Magnuson-Stevens Act would be speculative at this time. Finally, the consultation procedures establish a process for NMFS to provide conservation recommendations to Federal and state action agencies. However, because compliance with NMFS recommendations is not mandatory, any effects on small businesses would be speculative. As a result, a regulatory flexibility analysis was not prepared.

For the purposes of E.O. 12612, the AA has determined that this interim

final rule does not include policies that have federalism implications sufficient to warrant preparation of a Federalism Assessment. This rule establishes procedures for coordination between the states and NMFS or the Councils in situations where state action may adversely impact EFH. The rule states that, in such circumstances, NMFS or the Councils would furnish the state with EFH recommendations. NMFS EFH conservation recommendations are not mandatory, and the states are not required to expend funds in a way not of their own choosing.

References

Christensen, N.L., A.M. Bartuska, J.H. Brown, S. Carpenter, C. D'Antonio, R. Francis, J.F. Franklin, J.A. MacMahon, R.F. Noss, D.J. Parsons, C.H. Peterson, M.G. Turner, and R.G. Woodmansee. 1996. The report of the Ecological Society of America committee on the scientific basis for ecosystem management. Ecological Applications, 6(3): 665–691.

Grumbine, R.E. 1997. Reflections on ''What is Ecosystem Management?'' Conservation Biology 11(1): 41–47.

Hancock, D.A. (ed.) 1993. Sustainable Fisheries through Sustaining Fish Habitat, Australian Society for Fish Biology Workshop, Victor Harbor, SA, 12–13 August, Bureau of Resource Sciences Proceedings, AGPS, Canberra.

List of Subjects in 50 CFR Part 600

Administrative practice and procedures, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations.

Dated: December 15, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, the National Marine Fisheries Service amends 50 CFR part 600 as follows:

PART 600—[AMENDED]

1. The authority citation for part 600 continues to read as follows:

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

2. Section 600.10 is amended by adding the definition for ''Essential fish habitat'', in alphabetical order, to read as follows:

§ 600.10 Definitions.

* * * * *

Essential fish habitat (EFH) means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of essential fish habitat: *Waters* include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; *substrate* includes sediment, hard bottom, structures underlying the waters, and associated biological communities; *necessary* means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and ''spawning, breeding, feeding, or growth to maturity'' covers a species' full life cycle.

* * * * *

3. New subparts J and K are added to part 600 to read as follows:

* * * * *

Subpart J—Essential Fish Habitat (EFH)

Subpart K—EFH Coordination, Consultation, and Recommendations

Subpart J—Essential Fish Habitat (EFH)

§ 600.805 Purpose and scope.

(a) *Purpose.* This subpart provides guidelines for Councils and the Secretary to use in adding the required provision on EFH to an FMP, i.e., description and identification of essential fish habitat (EFH), adverse impacts on EFH (including minimizing, to the extent practicable, adverse impacts from fishing), and actions to conserve and enhance EFH.

(b) *Scope*—(1) *Species covered.* An EFH provision in an FMP must include all fish species in the FMU. A Council may describe, identify, and protect the habitat of species not in an FMU; however, such habitat may not be considered EFH for the purposes of sections 303(a)(7) and 305(b) of the Magnuson-Stevens Act.

(2) *Geographic.* EFH may be described and identified in waters of the United States, as defined in 33 CFR 328.3 and the exclusive economic zone, as defined in § 600.10. Councils may describe, identify, and protect habitats of managed species beyond the exclusive economic zone; however, such habitat may not be considered EFH for the purposes of section 303(a)(7) and 305(b) of the Magnuson-Stevens Act. Activities that may adversely impact such habitat can be addressed through any process conducted in accordance with international agreements between the United States and the foreign nation(s) undertaking or authorizing the action.

§ 600.810 Definitions and word usage.

(a) *Definitions.* In addition to the definitions in the Magnuson-Stevens Act and § 600.10, the terms in this subpart have the following meanings:

Adverse effect means any impact which reduces quality and/or quantity of EFH. Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, or reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

Council includes the Secretary, as applicable, when preparing Secretarial FMPs or amendments under sections 304(c) and (g) of the Magnuson-Stevens Act.

Ecosystem means communities of organisms interacting with one another and with the chemical and physical factors making up their environment.

Habitat areas of particular concern means those areas of EFH identified pursuant to § 600.815(a)(9).

Healthy ecosystem means an ecosystem where ecological productive capacity is maintained, diversity of the flora and fauna is preserved, and the ecosystem retains the ability to regulate itself. Such an ecosystem should be similar to comparable, undisturbed, ecosystems with regard to standing crop, productivity, nutrient dynamics, trophic structure, species richness, stability, resilience, contamination levels, and the frequency of diseased organisms.

Overfished means any stock or stock complex, the status of which is reported as overfished by the Secretary pursuant to § 304(e)(1) of the Magnuson-Stevens Act.

(b) *Word usage.* The terms ''must'', ''shall'', ''should'', ''may'', ''may not'', ''will'', ''could'', and ''can'', are used in the same manner as in § 600.305(c).

§ 600.815 Contents of Fishery Management Plans.

(a) *Mandatory contents*—(1) *Habitat requirements by life history stage.* FMPs must describe EFH in text and with tables that provide information on the biological requirements for each life

history stage of the species. These tables should summarize all available information on environmental and habitat variables that control or limit distribution, abundance, reproduction, growth, survival, and productivity of the managed species. Information in the tables should be supported with citations.

(2) *Description and identification of EFH*—(i) *Information requirements.* (A) An initial inventory of available environmental and fisheries data sources relevant to the managed species should be used in describing and identifying EFH. This inventory should also help to identify major species-specific habitat data gaps. Deficits in data availability (i.e., accessibility and application of the data) and in data quality (including considerations of scale and resolution; relevance; and potential biases in collection and interpretation) should be identified.

(B) To identify EFH, basic information is needed on current and historic stock size, the geographic range of the managed species, the habitat requirements by life history stage, and the distribution and characteristics of those habitats. Information is also required on the temporal and spatial distribution of each major life history stage (defined by developmental and functional shifts). Since EFH should be identified for each major life history stage, data should be collected on, but not limited to, the distribution, density, growth, mortality, and production of each stage within all habitats occupied, or formerly occupied, by the species. These data should be obtained from the best available information, including peer-reviewed literature, data reports and ''gray'' literature, data files of government resource agencies, and any other sources of quality information.

(C) The following approach should be used to gather and organize the data necessary for identifying EFH. Information from all levels should be used to identify EFH. The goal of this procedure is to include as many levels of analysis as possible within the constraints of the available data. Councils should strive to obtain data sufficient to describe habitat at the highest level of detail (i.e., Level 4).

(*1*) *Level 1: Presence/absence distribution data are available for some or all portions of the geographic range of the species.* At this level, only presence/absence data are available to describe the distribution of a species (or life history stage) in relation to potential habitats. Care should be taken to ensure that all potential habitats have been sampled adequately. In the event that distribution data are available for only portions of the geographic area occupied by a particular life history stage of a species, EFH can be inferred on the basis of distributions among habitats where the species has been found and on information about its habitat requirements and behavior.

(*2*) *Level 2: Habitat-related densities of the species are available.* At this level, quantitative data (i.e., density or relative abundance) are available for the habitats occupied by a species or life history stage. Because the efficiency of sampling methods is often affected by habitat characteristics, strict quality assurance criteria should be used to ensure that density estimates are comparable among methods and habitats. Density data should reflect habitat utilization, and the degree that a habitat is utilized is assumed to be indicative of habitat value. When assessing habitat value on the basis of fish densities in this manner, temporal changes in habitat availability and utilization should be considered.

(*3*) *Level 3: Growth, reproduction, or survival rates within habitats are available.* At this level, data are available on habitat-related growth, reproduction, and/or survival by life history stage. The habitats contributing the most to productivity should be those that support the highest growth, reproduction, and survival of the species (or life history stage).

(*4*) *Level 4: Production rates by habitat are available.* At this level, data are available that directly relate the production rates of a species or life history stage to habitat type, quantity, quality, and location. Essential habitats are those necessary to maintain fish production consistent with a sustainable fishery and the managed species' contribution to a healthy ecosystem.

(ii) *EFH determination.* (A) The information obtained through the analysis in paragraph (a)(2)(i) of this section will allow Councils to assess the relative value of habitats. Councils should interpret this information in a risk-averse fashion, to ensure adequate areas are protected as EFH of managed species. Level 1 information, if available, should be used to identify the geographic range of the species. Level 2 through 4 information, if available, should be used to identify the habitats valued most highly within the geographic range of the species. If only Level 1 information is available, presence/absence data should be evaluated (e.g., using a frequency of occurrence or other appropriate analysis) to identify those habitat areas most commonly used by the species. Areas so identified should be considered essential for the species. However, habitats of intermediate and low value may also be essential, depending on the health of the fish population and the ecosystem. Councils must demonstrate that the best scientific information available was used in the identification of EFH, consistent with national standard 2, but other data may also be used for the identification.

(B) If a species is overfished, and habitat loss or degradation may be contributing to the species being identified as overfished, all habitats currently used by the species should be considered essential in addition to certain historic habitats that are necessary to support rebuilding the fishery and for which restoration is technologically and economically feasible. Once the fishery is no longer considered overfished, the EFH identification should be reviewed, and the FMP amended, if appropriate.

(C) EFH will always be greater than or equal to aquatic areas that have been identified as ''critical habitat'' for any managed species listed as threatened or endangered under the Endangered Species Act.

(D) Where a stock of a species is considered to be healthy, then EFH for the species should be a subset of all existing habitat for the species.

(E) Ecological relationships among species and between the species and their habitat require, where possible, that an ecosystem approach be used in determining the EFH of a managed species or species assemblage. The extent of the EFH should be based on the judgment of the Secretary and the appropriate Council(s) regarding the quantity and quality of habitat that is necessary to maintain a sustainable fishery and the managed species' contribution to a healthy ecosystem.

(F) If degraded or inaccessible aquatic habitat has contributed to the reduced yields of a species or assemblage, and in the judgment of the Secretary and the appropriate Council(s), the degraded conditions can be reversed through such actions as improved fish passage techniques (for fish blockages), improved water quality or quantity measures (removal of contaminants or increasing flows), and similar measures that are technologically and economically feasible, then EFH should include those habitats that would be essential to the species to obtain increased yields.

(iii) *EFH Mapping Requirements.* The general distribution and geographic limits of EFH for each life history stage should be presented in FMPs in the form of maps. Ultimately, these data should be incorporated into a geographic information system (GIS) to

facilitate analysis and presentation. These maps may be presented as fixed in time and space, but they should encompass all appropriate temporal and spatial variability in the distribution of EFH. If the geographic boundaries of EFH change seasonally, annually, or decadally, these changing distributions need to be represented in the maps. Different types of EFH should be identified on maps along with areas used by different life history stages of the species. The type of information used to identify EFH should be included in map legends, and more detailed and informative maps should be produced as more complete information about population responses (e.g., growth, survival, or reproductive rates) to habitat characteristics becomes available. Where the present distribution or stock size of a species or life history stage is different from the historical distribution or stock size, then maps of historical habitat boundaries should be included in the FMP, if known. The EFH maps are a means to visually present the EFH described in the FMP. If the maps identifying EFH and the information in the description of EFH differ, the description is ultimately determinative of the limits of EFH.

(3) *Fishing activities that may adversely affect EFH.* (i) Adverse effects from fishing may include physical, chemical, or biological alterations of the substrate, and loss of, or injury to, benthic organisms, prey species and their habitat, and other components of the ecosystem.

(ii) FMPs must include management measures that minimize adverse effects on EFH from fishing, to the extent practicable, and identify conservation and enhancement measures. The FMP must contain an assessment of the potential adverse effects of all fishing equipment types used in waters described as EFH. This assessment should consider the relative impacts of all fishing equipment types used in EFH on different types of habitat found within EFH. Special consideration should be given to equipment types that will affect habitat areas of particular concern. In completing this assessment, Councils should use the best scientific information available, as well as other appropriate information sources, as available. Included in this assessment should be consideration of the establishment of research closure areas and other measures to evaluate the impact of any fishing activity that physically alters EFH.

(iii) Councils must act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing practice is having an identifiable adverse effect on EFH, based on the assessment conducted pursuant to paragraph (a)(3)(ii) of this section and/or the cumulative impacts analysis conducted pursuant to paragraph (a)(6)(ii) of this section.

(iv) In determining whether it is practicable to minimize an adverse effect from fishing, Councils should consider whether, and to what extent, the fishing activity is adversely impacting EFH, including the fishery; the nature and extent of the adverse effect on EFH; and whether the management measures are practicable, taking into consideration the long and short-term costs as well as benefits to the fishery and its EFH, along with other appropriate factors, consistent with national standard 7.

(4) *Options for managing adverse effects from fishing.* Fishery management options may include, but are not limited to:

(i) *Fishing equipment restrictions.* These options may include, but are not limited to: Seasonal and area restrictions on the use of specified equipment; equipment modifications to allow escapement of particular species or particular life stages (e.g., juveniles); prohibitions on the use of explosives and chemicals; prohibitions on anchoring or setting equipment in sensitive areas; and prohibitions on fishing activities that cause significant physical damage in EFH.

(ii) *Time/area closures.* These actions may include, but are not limited to: Closing areas to all fishing or specific equipment types during spawning, migration, foraging, and nursery activities; and designating zones for use as marine protected areas to limit adverse effects of fishing practices on certain vulnerable or rare areas/species/life history stages, such as those areas designated as habitat areas of particular concern.

(iii) *Harvest limits.* These actions may include, but are not limited to, limits on the take of species that provide structural habitat for other species assemblages or communities, and limits on the take of prey species.

(5) *Identification of Non-fishing related activities that may adversely affect EFH.* FMPs must identify activities that have the potential to adversely affect EFH quantity or quality, or both. Broad categories of activities which can adversely affect EFH include, but are not limited to: Dredging, fill, excavation, mining, impoundment, discharge, water diversions, thermal additions, actions that contribute to non-point source pollution and sedimentation, introduction of potentially hazardous materials, introduction of exotic species, and the conversion of aquatic habitat that may eliminate, diminish, or disrupt the functions of EFH. An FMP should describe the EFH most likely to be adversely affected by these or other activities. For each activity, the FMP should describe known and potential adverse impacts to EFH. The descriptions should explain the mechanisms or processes that may cause the adverse effects and how these may affect habitat function. A GIS or other mapping system should be used to support analyses of data. Maps geographically depicting impacts identified in this paragraph should be included in an FMP.

(6) *Cumulative impacts analysis*—(i) *Analysis.* To the extent feasible and practicable, FMPs should analyze how fishing and non-fishing activities influence habitat function on an ecosystem or watershed scale. This analysis should describe the ecosystem or watershed, the dependence of the managed species on the ecosystem or watershed, especially EFH; and how fishing and non-fishing activities, individually or in combination, impact EFH and the managed species, and how the loss of EFH may affect the ecosystem. An assessment of the cumulative and synergistic effects of multiple threats, including the effects of natural stresses (such as storm damage or climate-based environmental shifts), and an assessment of the ecological risks resulting from the impact of those threats on the managed species' habitat should also be included. For the purposes of this analysis, cumulative impacts are impacts on the environment that result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of who undertakes such actions. Cumulative impacts can result from individually minor, but collectively significant actions taking place over a period of time.

(ii) *Cumulative impacts from fishing.* In addressing the impacts of fishing on EFH, Councils should also consider the cumulative impacts of multiple fishing practices and non-fishing activities on EFH, especially, on habitat areas of particular concern. Habitats that are particularly vulnerable to specific fishing equipment types should be identified for possible designation as habitat areas of particular concern.

(iii) *Mapping cumulative impacts.* A GIS or other mapping system should be used to support analyses of data. Maps depicting data documenting cumulative

impacts identified in this paragraph should be included in an FMP.

(iv) *Research needs.* If completion of these analyses is not feasible or practicable for every ecosystem or watershed within an area identified as EFH, Councils should, in consultation with NMFS, identify in the FMP priority research areas to allow these analyses to be completed. Councils should include a schedule for completing such research. Such schedule of priority research areas should be combined with the research needs identified pursuant to paragraph (a)(10) of this section.

(7) *Conservation and enhancement*—(i) *Contents of FMPs.* FMPs must describe options to avoid, minimize, or compensate for the adverse effects identified pursuant to paragraphs (a) (5) and (6) of this section and promote the conservation and enhancement of EFH, especially in habitat areas of particular concern.

(ii) *General conservation and enhancement recommendations.* Generally, non-water dependent actions should not be located in EFH if such actions may have adverse impacts on EFH. Activities that may result in significant adverse affects on EFH, should be avoided where less environmentally harmful alternatives are available. If there are no alternatives, the impacts of these actions should be minimized. Environmentally sound engineering and management practices should be employed for all actions which may adversely affect EFH. Disposal or spillage of any material (dredge material, sludge, industrial waste, or other potentially harmful materials) which would destroy or degrade EFH should be avoided. If avoidance or minimization is not possible, or will not adequately protect EFH, compensatory mitigation to conserve and enhance EFH should be recommended. FMPs may recommend proactive measures to conserve or enhance EFH. When developing proactive measures, Councils may develop a priority ranking of the recommendations to assist Federal and state agencies undertaking such measures.

(iii) *Conservation and enhancement options.* FMPs should provide a variety of options to conserve or enhance EFH, which may include, but are not limited to:

(A) *Enhancement of rivers, streams, and coastal areas.* EFH located in, or influenced by, rivers, streams, and coastal areas may be enhanced by reestablishing endemic trees or other appropriate native vegetation on adjacent riparian areas; restoring natural bottom characteristics; removing unsuitable material from areas affected by human activities; or adding gravel or substrate to stream areas to promote spawning. Adverse effects stemming from upland areas that influence EFH may be avoided or minimized by employing measures such as, but not limited to, erosion control, road stabilization, upgrading culverts, removal or modification of operating procedures of dikes or levees to allow for fish passage, structural and operation measures at dams for fish passage and habitat protection, or improvement of watershed management. Initiation of Federal, state, or local government planning processes to restore watersheds associated with such rivers, streams, or coastal areas may also be recommended.

(B) *Water quality and quantity.* This category of options may include use of best land management practices for ensuring compliance with water quality standards at state and Federal levels, improved treatment of sewage, proper disposal of waste materials, and providing appropriate in-stream flow.

(C) *Watershed analysis and planning.* This may include encouraging local and state efforts to minimize destruction/degradation of wetlands, restore and maintain the ecological health of watersheds, and encourage restoration of native species. Any analysis of options should consider natural variability in weather or climatic conditions.

(D) *Habitat creation.* Under appropriate conditions, habitat creation (converting non-EFH to EFH) may be considered as a means of replacing lost or degraded EFH. However, habitat conversion at the expense of other naturally functioning systems must be justified within an ecosystem context.

(8) *Prey species.* Loss of prey is an adverse effect on EFH and a managed species, because one component of EFH is that it be necessary for feeding. Therefore, actions that reduce the availability of a major prey species, either through direct harm or capture, or through adverse impacts to the prey species' habitat that are known to cause a reduction in the population of the prey species may be considered adverse effects on a managed species and its EFH. FMPs should identify the major prey species for the species in the FMU and generally describe the location of prey species' habitat. Actions that cause a reduction of the prey species population, including where there exists evidence that adverse effects to habitat of prey species is causing a decline in the availability of the prey species, should also be described and identified. Adverse effects on prey species and their habitats may result from fishing and non-fishing activities.

(9) *Identification of habitat areas of particular concern.* FMPs should identify habitat areas of particular concern within EFH. In determining whether a type, or area of EFH is a habitat area of particular concern, one or more of the following criteria must be met:

(i) The importance of the ecological function provided by the habitat.

(ii) The extent to which the habitat is sensitive to human-induced environmental degradation.

(iii) Whether, and to what extent, development activities are, or will be, stressing the habitat type.

(iv) The rarity of the habitat type.

(10) *Research and information needs.* Each FMP should contain recommendations, preferably in priority order, for research efforts that the Councils and NMFS view as necessary for carrying out their EFH management mandate. The need for additional research is to make available sufficient information to support a higher level of description and identification of EFH under paragraph (a)(2)(i) of this section. Additional research may also be necessary to identify and evaluate actual and potential adverse effects on EFH, including, but not limited to, direct physical alteration; impaired habitat quality/functions; cumulative impacts from fishing; or indirect adverse effects such as sea level rise, global warming and climate shifts; and non-equipment related fishery impacts. The Magnuson-Stevens Act specifically identifies the effects of fishing as a concern. The need for additional research on the effects of fishing equipment on EFH and a schedule for obtaining that information should be included in this section of the FMP. If an adverse effect on EFH is identified and determined to be an impediment to maintaining a sustainable fishery and the managed species' contribution to a healthy ecosystem, then the research needed to quantify and mitigate that effect should be identified in this section.

(11) *Review and revision of EFH components of FMPs.* Councils and NMFS should periodically review the EFH components of FMPs, including an update of the equipment assessment originally conducted pursuant to paragraph (a)(3)(ii) of this section. Each EFH FMP amendment should include a provision requiring review and update of EFH information and preparation of a revised FMP amendment if new information becomes available. The schedule for this review should be based on an assessment of both the existing data and expectations when

new data will become available. This information should be reviewed as part of the annual Stock Assessment and Fishery Evaluation (SAFE) report prepared pursuant to § 600.315(e). A complete review of information should be conducted as recommended by the Secretary, but at least once every 5 years.

(b) *Optional components.* An FMP may include a description and identification of the habitat of species under the authority of the Council, even if not contained in the FMU. However, such habitat may not be EFH. This subpart does not change a Council's ability to implement management measures for a managed species for the protection of another species.

(c) *Development of EFH recommendations.* After reviewing the best available scientific information, as well as other appropriate information, and in consultation with the Councils, participants in the fishery, interstate commissions, Federal agencies, state agencies, and other interested parties, NMFS will develop written recommendations for the identification of EFH for each FMP. In recognition of the different approaches to FMP development taken by each Council, the NMFS EFH recommendations may constitute a review of a draft EFH document developed by a Council, or may include suggestions for a draft EFH FMP amendment and may precede the Council's development of such documents, as appropriate. In both cases, prior to submitting a written EFH identification recommendation to a Council for an FMP, the draft recommendation will be made available for public review and at least one public meeting will be held. NMFS will work with the affected Council(s) to conduct this review in association with scheduled public Council meetings whenever possible. The review may be conducted at a meeting of the Council committee responsible for habitat issues or as a part of a full Council meeting. After receiving public comment, NMFS will revise its draft recommendations, as appropriate, and forward a final written recommendation and comments to the Council(s).

(d) *Relationship to other fishery management authorities.* Councils are encouraged to coordinate with state and interstate fishery management agencies where Federal fisheries affect state and interstate managed fisheries or where state or interstate fishery regulations affect the management of Federal fisheries. Where a state or interstate fishing activity adversely impacts EFH, NMFS will consider that action to be an adverse effect on EFH pursuant to paragraph (a)(5) of this section and will provide EFH conservation recommendations to the appropriate state or interstate fishery management agency on that activity.

Subpart K—EFH Coordination, Consultation, and Recommendations

§ 600.905 Purpose and scope and NMFS/Council cooperation.

(a) *Purpose.* These procedures address the coordination, consultation, and recommendation requirements of sections 305(b)(1)(D) and 305(b)(2–4) of the Magnuson-Stevens Act. The purpose of these procedures is to promote the protection of EFH in the review of Federal and state actions that may adversely affect EFH.

(b) *Scope.* Section 305(b)(1)(D) of the Magnuson-Stevens Act requires the Secretary to coordinate with, and provide information to, other Federal agencies regarding the conservation and enhancement of EFH. Section 305(b)(2) requires all Federal agencies to consult with the Secretary on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH. Sections 305(b) (3) and (4) direct the Secretary and the Councils to provide comments and EFH conservation recommendations to Federal or state agencies on actions that affect EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. Section 305(b)(4)(B) requires Federal agencies to respond in writing to such comments. The following procedures for coordination, consultation, and recommendations allow all parties involved to understand and implement the requirements of the Magnuson-Stevens Act.

(c) *Cooperation between Councils and NMFS.* The Councils and NMFS should cooperate as closely as possible to identify actions that may adversely affect EFH, to develop comments and EFH conservation recommendations to Federal and state agencies, and to provide EFH information to Federal or state agencies. The Secretary will seek to develop agreements with each Council to facilitate sharing information on actions that may adversely affect EFH and in coordinating Council and NMFS comments and recommendations on those actions. However, NMFS and the Councils also have the authority to act independently.

§ 600.910 Definitions and word usage.

(a) *Definitions.* In addition to the definitions in the Magnuson-Stevens Act and § 600.10, the terms in this subpart have the following meanings:

Adverse effect means any impact which reduces quality and/or quantity of EFH. Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitatwide impacts, including individual, cumulative, or synergistic consequences of actions.

Council includes the Secretary, as applicable, when preparing FMPs or amendments under section 304 (c) and (g) of the Magnuson-Stevens Act; and when commenting and making recommendations under the authority of section 305(b)(3) of the Magnuson-Stevens Act to any Federal or state agency on actions that may affect the habitat of fishery resources managed under such FMPs.

Federal action means any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken by a Federal agency.

Habitat areas of particular concern means those areas of EFH identified pursuant to § 600.815(a)(9).

State action means any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken by a state agency.

(b) *Word usage.* The terms ''must'', ''shall'', ''should'', ''may'', ''may not'', ''will'', ''could'', and ''can'', are used in the same manner as in § 600.305(c).

§ 600.915 Coordination for the conservation and enhancement of EFH.

To further the conservation and enhancement of EFH in accordance with section 305(b)(1)(D) of the Magnuson-Stevens Act, NMFS will compile and make available to other Federal and state agencies, information on the locations of EFH, including maps and/or narrative descriptions. NMFS will also provide information on ways to improve ongoing Federal operations to promote the conservation and enhancement of EFH. Federal and state agencies empowered to authorize, fund, or undertake actions that may adversely affect EFH are encouraged to contact NMFS and the Councils to become familiar with areas designated as EFH, and potential threats to EFH, as well as opportunities to promote the conservation and enhancement of such habitat.

§ 600.920 Federal agency consultation with the Secretary.

(a) *Consultation generally*—(1) *Actions requiring consultation.* Pursuant

to section 305(b)(2) of the Magnuson-Stevens Act, Federal agencies must consult with NMFS regarding any of their actions authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken that may adversely affect EFH. EFH consultation is not required for completed actions, e.g., issued permits. Consultation is required for renewals, reviews, or substantial revisions of actions. Consultation on Federal programs delegated to non-Federal entities is required at the time of delegation, review, and renewal of the delegation. EFH consultation is required for any Federal funding of actions that may adversely affect EFH. NMFS and Federal agencies responsible for funding actions that may adversely affect EFH should consult on a programmatic level, if appropriate, with respect to these actions.

(2) *Appropriate level of consultation.* (i) NMFS and other Federal agencies may conduct consultation at either a programmatic or project-specific level. Federal actions may be evaluated at a programmatic level if sufficient information is available to develop EFH conservation recommendations and address all reasonably foreseeable adverse effects to EFH. Project-specific consultations are more appropriate when critical decisions are made at the project implementation stage, or when sufficiently detailed information for the development of EFH conservation recommendations does not exist at the programmatic level.

(ii) If, after a Federal agency requests programmatic consultation, NMFS determines that all concerns about adverse effects on EFH can be addressed at a programmatic level, NMFS will develop EFH conservation recommendations that cover all projects implemented under that program, and no further EFH consultation will be required. Alternatively, NMFS may determine that project-specific consultation is needed for part or all of the program's activities, in which case NMFS may develop some EFH conservation recommendations at a programmatic level, but will also recommend that project-specific consultation will be needed to complete the EFH consultation requirements. NMFS may also determine that programmatic consultation is not appropriate, in which case all EFH conservation recommendations will be deferred to project-specific consultations.

(b) *Designation of lead agency.* If more than one Federal agency is responsible for a Federal action, the consultation requirements of sections 305(b)(2–4) of the Magnuson-Stevens Act may be fulfilled through a lead agency. The lead agency must notify NMFS in writing that it is representing one or more additional agencies.

(c) *Designation of non-Federal representative.* A Federal agency may designate a non-Federal representative to conduct an abbreviated consultation or prepare an EFH Assessment by giving written notice of such designation to NMFS. If a non-Federal representative is used, the Federal action agency remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act.

(d) *Best available information.* The Federal action agency and NMFS must use the best scientific information available regarding the effects of the proposed action on EFH. Other appropriate sources of information may also be considered.

(e) *Use of existing consultation/environmental review procedures*—(1) *Criteria.* Consultation and commenting under sections 305(b)(2) and 305(b)(4) of the Magnuson-Stevens Act should be consolidated, where appropriate, with interagency consultation, coordination, and environmental review procedures required by other statutes, such as the National Environmental Policy Act (NEPA), Fish and Wildlife Coordination Act, Clean Water Act, Endangered Species Act (ESA), and Federal Power Act. The consultation requirements of section 305(b)(2) of the Magnuson-Stevens Act can be satisfied using existing or modified procedures required by other statutes if such processes meet the following criteria:

(i) The existing process must provide NMFS with timely notification of actions that may adversely affect EFH. The Federal action agency should notify NMFS according to the same timeframes for notification (or for public comment) as in the existing process. However, NMFS should have at least 60 days notice prior to a final decision on an action, or at least 90 days if the action would result in substantial adverse impacts. NMFS and the action agency may agree to use shorter timeframes if they allow sufficient time for NMFS to develop EFH conservation recommendations.

(ii) Notification must include an assessment of the impacts of the proposed action on EFH that meets the requirements for EFH Assessments contained in paragraph (g) of this section. If the EFH Assessment is contained in another document, that section of the document must be clearly identified as the EFH Assessment.

(iii) NMFS must have made a finding pursuant to paragraph (e)(3) of this section that the existing process satisfies the requirements of section 305(b)(2) of the Magnuson-Stevens Act.

(2) *EFH conservation recommendation requirements.* If an existing consultation process is used to fulfill the EFH consultation requirements, then the comment deadline for that process should apply to the submittal of NMFS conservation recommendations under section 305(b)(4)(A) of the Magnuson-Stevens Act, unless a different deadline is agreed to by NMFS and the Federal agency. The Federal agency must respond to these recommendations within 30 days pursuant to section 305(b)(4)(B) of the Magnuson-Stevens Act. NMFS may request the further review of any Federal agency decision that is inconsistent with a NMFS EFH recommendation, in accordance with paragraph (j)(2) of this section. If NMFS EFH conservation recommendations are combined with other NMFS or NOAA comments on a Federal action, such as NOAA comments on a draft Environmental Impact Statement, the EFH conservation recommendations shall be clearly identified as such (e.g., a section in the comment letter entitled ''EFH conservation recommendations'') and a response pursuant to section 305(b)(4)(B) of the Magnuson-Stevens Act is required for only the identified portion of the comments.

(3) *NMFS finding.* A Federal agency with an existing consultation process should contact NMFS at the appropriate level (regional offices for regional processes, headquarters office for national processes) to discuss how the existing process, with or without modifications, can be used to satisfy the EFH consultation requirements. If, at the conclusion of these discussions, NMFS determines that the existing process meets the criteria of paragraph (e)(1) of this section, NMFS will make a finding that the existing or modified process can satisfy the EFH consultation requirements of the Magnuson-Stevens Act. If NMFS does not make such a finding, or if there are no existing consultation processes relevant to the Federal agency's actions, the action agency and NMFS should follow the consultation process in the following sections.

(f) *General Concurrence*—(1) *Purpose.* The General Concurrence process identifies specific types of Federal actions that may adversely affect EFH, but for which no further consultation is generally required because NMFS has determined, through an analysis of that type of action, that it will likely result in no more than minimal adverse effects individually and cumulatively. General

Concurrences may be national or regional in scope.

(2) *Criteria.* (i) For Federal actions to qualify for General Concurrence, NMFS must determine, after consultation with the appropriate Council(s), that the actions meet all of the following criteria:

(A) The actions must be similar in nature and similar in their impact on EFH.

(B) The actions must not cause greater than minimal adverse effects on EFH when implemented individually.

(C) The actions must not cause greater than minimal cumulative adverse effects on EFH.

(ii) Actions qualifying for General Concurrence must be tracked to ensure that their cumulative effects are no more than minimal. In most cases, tracking will be the responsibility of the Federal action agency, but NMFS also may agree to track actions for which General Concurrence has been authorized. Tracking should include numbers of actions, amount of habitat adversely affected, type of habitat adversely affected, and the baseline against which the action will be tracked. The agency responsible for tracking such actions should make the information available to NMFS, the Councils, and to the public on an annual basis.

(iii) Categories of Federal actions may also qualify for General Concurrence if they are modified by appropriate conditions that ensure the actions will meet the criteria in paragraph (f)(2)(i) of this section. For example, NMFS may provide General Concurrence for additional actions contingent upon project size limitations, seasonal restrictions, or other conditions.

(iv) If a General Concurrence is developed for actions affecting habitat areas of particular concern, the General Concurrence should be subject to a higher level of scrutiny than a General Concurrence not involving a habitat area of particular concern.

(3) *General Concurrence development.* A Federal agency may request a General Concurrence for a category of its actions by providing NMFS with a written description of the nature and approximate number of the proposed actions, an analysis of the effects of the actions on EFH and associated species and their life history stages, including cumulative effects, and the Federal agency's conclusions regarding the magnitude of such effects. If NMFS agrees that the actions fit the criteria in paragraph (f)(2) of this section, NMFS, after consultation with the appropriate Council(s), will provide the Federal agency with a written statement of General Concurrence that further consultation is not required, and that preparation of EFH Assessments for individual actions subject to the General Concurrence is not necessary. If NMFS does not agree that the actions fit the criteria in paragraph (f)(2) of this section, NMFS will notify the Federal agency that a General Concurrence will not be issued and that abbreviated or expanded consultation will be required. If NMFS identifies specific types of Federal actions that may meet the requirements for a General Concurrence, NMFS may initiate and complete a General Concurrence.

(4) *Notification and further consultation.* NMFS may request notification for actions covered under a General Concurrence if NMFS concludes there are circumstances under which such actions could result in more than a minimal impact on EFH, or if it determines that there is not a process in place to adequately assess the cumulative impacts of actions covered under the General Concurrence. NMFS may require further consultation for these actions on a case-by case basis. Each General Concurrence should establish specific procedures for further consultation, if appropriate.

(5) *Public review.* Prior to providing any Federal agency with a written statement of General Concurrence for a category of Federal actions, NMFS will provide an opportunity for public review through the appropriate Council(s), or other reasonable opportunity for public review.

(6) *Revisions.* NMFS will periodically review and revise its findings of General Concurrence, as appropriate.

(g) *EFH Assessments*—(1) *Preparation requirement.* For any Federal action that may adversely affect EFH, except for those activities covered by a General Concurrence, Federal agencies must provide NMFS with a written assessment of the effects of that action on EFH. Federal agencies may incorporate an EFH Assessment into documents prepared for other purposes such as ESA Biological Assessments pursuant to 50 CFR part 402 or NEPA documents and public notices pursuant to 40 CFR part 1500. If an EFH Assessment is contained in another document, it must include all of the information required in paragraph (g)(2) of this section and be clearly identified as an EFH Assessment. The procedure for combining an EFH consultation with other consultation of environmental reviews is set forth in paragraph (e) of this section.

(2) *Mandatory contents.* The assessment must contain:

(i) A description of the proposed action.

(ii) An analysis of the effects, including cumulative effects, of the proposed action on EFH, the managed species, and associated species, such as major prey species, including affected life history stages.

(iii) The Federal agency's views regarding the effects of the action on EFH.

(iv) Proposed mitigation, if applicable.

(3) *Additional information.* If appropriate, the assessment should also include:

(i) The results of an on-site inspection to evaluate the habitat and the site-specific effects of the project.

(ii) The views of recognized experts on the habitat or species that may be affected.

(iii) A review of pertinent literature and related information.

(iv) An analysis of alternatives to the proposed action. Such analysis should include alternatives that could avoid or minimize adverse effects on EFH, particularly when an action is non-water dependent.

(v) Other relevant information.

(4) *Incorporation by reference.* The assessment may incorporate by reference a completed EFH Assessment prepared for a similar action, supplemented with any relevant new project specific information, provided the proposed action involves similar impacts to EFH in the same geographic area or a similar ecological setting. It may also incorporate by reference other relevant environmental assessment documents. These documents must be provided to NMFS with an EFH Assessment.

(h) *Abbreviated consultation procedures*—(1) *Purpose and criteria.* Abbreviated consultation allows NMFS to quickly determine whether, and to what degree, a Federal action may adversely affect EFH. Federal actions that may adversely affect EFH should be addressed through the abbreviated consultation procedures when those actions do not qualify for a General Concurrence, but do not have the potential to cause substantial adverse effects on EFH. For example, the abbreviated consultation procedures should be used when the adverse effect(s) of an action or proposed action could be alleviated through minor modifications.

(2) *Notification by agency.* The Federal agency should notify NMFS and, if NMFS so requests, the appropriate Council(s), in writing as early as practicable regarding proposed actions that may adversely affect EFH. Notification will facilitate discussion of measures to conserve the habitat. Such early consultation should occur during

pre-application planning for projects subject to a Federal permit or license, and during preliminary planning for projects to be funded or undertaken directly by a Federal agency.

(3) *Submittal of EFH Assessment.* The Federal agency must submit a completed EFH Assessment, prepared in accordance with paragraph (g) of this section, to NMFS for review. Federal agencies will have fulfilled their consultation requirement under paragraph (a) of this section after notification and submittal of a complete EFH Assessment.

(4) *NMFS response to Federal agency.* NMFS must respond in writing as to whether it concurs with the findings of the EFH Assessment. If NMFS believes that the proposed action may result in substantial adverse effects on EFH, or that additional analysis is needed to accurately assess the effects of the proposed action, NMFS will request that the Federal agency initiate expanded consultation. Such request will explain why NMFS believes expanded consultation is needed and will specify any new information needed. If additional consultation is not necessary, NMFS will respond by commenting and recommending measures that may be taken to conserve EFH, pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act. NMFS will send a copy of its response to the appropriate Council.

(5) *Timing.* The Federal action agency must submit its complete EFH Assessment to NMFS as soon as practicable, but NMFS must receive it at least 60 days prior to a final decision on the action. NMFS must respond in writing within 30 days. NMFS and the Federal action agency may agree to use a compressed schedule in cases where regulatory approvals or emergency situations cannot accommodate 30 days for consultation, or to conduct consultation earlier in the planning cycle for proposed actions with lengthy approval processes.

(i) *Expanded consultation procedures*—(1) *Purpose and criteria.* Expanded consultation allows maximum opportunity for NMFS and the Federal agency to work together in the review of the action's impacts on EFH and the development of EFH conservation recommendations. Expanded consultation procedures must be used for Federal actions that would result in substantial adverse effects to EFH. Federal agencies are encouraged to contact NMFS at the earliest opportunity to discuss whether the adverse effect of a proposed action makes expanded consultation appropriate.

(2) *Initiation.* Expanded consultation begins when NMFS receives from the Federal agency an EFH Assessment completed in accordance with paragraph (g) of this section and a written request for expanded consultation. Federal action agencies are encouraged to provide in the EFH Assessment the additional information identified under paragraph (g)(3) of this section. Subject to NMFS's approval, any request for expanded consultation may encompass a number of similar individual actions within a given geographic area.

(3) *NMFS response to Federal agency.* NMFS will:

(i) Review the EFH Assessment, any additional information furnished by the Federal agency, and other relevant information.

(ii) Conduct a site visit, if appropriate, to assess the quality of the habitat and to clarify the impacts of the Federal agency action. Such a site visit should be coordinated with the Federal agency and appropriate Council(s), if feasible.

(iii) Coordinate its review of the proposed action with the appropriate Council(s).

(iv) Discuss EFH conservation recommendations with the Federal agency and provide recommendations to the Federal action agency, pursuant to section 305(b)(4)(A) of the Magnuson-Stevens Act. NMFS will also provide a copy of the recommendations to the appropriate Council(s).

(4) *Timing.* The Federal action agency must submit its complete EFH Assessment to NMFS as soon as practicable, but at least 90 days prior to a final decision on the action. NMFS must respond within 60 days of submittal of a complete EFH Assessment unless consultation is extended by agreement between NMFS and the Federal action agency. NMFS and Federal action agencies may agree to use a compressed schedule in cases where regulatory approvals or emergency situations cannot accommodate a 60-day consultation period.

(5) *Extension of consultation.* If NMFS determines that additional data or analysis would provide better information for development of EFH conservation recommendations, NMFS may request additional time for expanded consultation. If NMFS and the Federal action agency agree to an extension, the Federal action agency should provide the additional information to NMFS, to the extent practicable. If NMFS and the Federal action agency do not agree to extend consultation, NMFS must provide EFH conservation recommendations to the Federal action agency using the best scientific information available to NMFS.

(j) *Responsibilities of Federal action agency following receipt of EFH conservation recommendations*—(1) *Federal action agency response.* As required by section 305(b)(4)(B) of the Magnuson-Stevens Act, the Federal action agency must provide a detailed response in writing to NMFS and the appropriate Council within 30 days after receiving an EFH conservation recommendation. Such a response must be provided at least 10 days prior to final approval of the action, if a decision by the Federal agency is required in fewer than 30 days. The response must include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH. In the case of a response that is inconsistent with NMFS conservation recommendations, the Federal action agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects.

(2) *Further review of decisions inconsistent with NMFS or Council recommendations.* If a Federal action agency decision is inconsistent with a NMFS EFH conservation recommendation, the Assistant Administrator for Fisheries may request a meeting with the head of the Federal action agency, as well as any other agencies involved, to discuss the proposed action and opportunities for resolving any disagreements. If a Federal action agency decision is also inconsistent with a Council recommendation made pursuant to section 305(b)(3) of the Magnuson-Stevens Act, the Council may request that the Assistant Administrator initiate further review of the Federal agency's decision and involve the Council in any interagency discussion to resolve disagreements with the Federal agency. The Assistant Administrator will make every effort to accommodate such a request. Memoranda of agreement or other written procedures will be developed to further define such review processes with Federal action agencies.

(k) *Supplemental consultation.* A Federal action agency must reinitiate consultation with NMFS if the agency substantially revises its plans for an action in a manner that may adversely affect EFH or if new information becomes available that affects the basis

for NMFS' EFH conservation recommendations.

§ 600.925 NMFS EFH conservation recommendations to Federal and state agencies.

(a) *General.* Under section 305(b)(4) of the Magnuson-Stevens Act, NMFS is required to provide EFH conservation recommendations to Federal and state agencies for actions that would adversely affect EFH. NMFS EFH conservation recommendations will not suggest that state or Federal agencies take actions beyond their statutory authority.

(b) *Recommendations to Federal agencies.* For Federal actions, EFH conservation recommendations will be provided to Federal action agencies as part of EFH consultations conducted pursuant to § 600.920. These recommendations fulfill the requirements of section 305(b)(4)(A) of the Magnuson-Stevens Act. If NMFS becomes aware of a Federal action that would adversely affect EFH, but for which a Federal agency has not completed an EFH consultation, NMFS may request that the Federal agency initiate EFH consultation or NMFS will provide EFH conservation recommendations based on the information available. NMFS will provide a copy of such recommendation to the appropriate Council(s).

(c) *Recommendations to state agencies*—(1) *Establishment of procedures.* Each NMFS Region should use existing coordination procedures under statutes such as the Coastal Zone Management Act or establish new procedures to identify state actions that may adversely affect EFH, and for determining the most appropriate method for providing EFH conservation recommendations to the state agency. NMFS will provide a copy of such recommendation to the appropriate Council(s).

(2) *Coordination with states on recommendations to Federal agencies.* When an action that would adversely affect EFH requires authorization or funding by both Federal and state agencies, NMFS will provide the appropriate state agencies with copies of EFH conservation recommendations developed as part of the Federal consultation procedures in § 600.920. NMFS will also seek agreements on sharing information and copies of recommendations with Federal or state agencies conducting similar consultation and recommendation processes to ensure coordination of such efforts.

§ 600.930 Council comments and recommendations to Federal and state agencies.

(a) *Establishment of procedures.* Each Council should establish procedures for reviewing Federal or state actions that may adversely affect the EFH of a species managed under its authority. Each Council may receive information on actions of concern by methods such as: Directing Council staff to track proposed actions; recommending that the Council's habitat committee identify actions of concern; or entering into an agreement with NMFS to have the appropriate Regional Administrator notify the Council of actions that may adversely impact EFH. Federal and state actions often follow specific timetables which may not coincide with Council meetings. Therefore, Councils should consider establishing abbreviated procedures for the development of Council recommendations.

(b) *Early involvement.* Councils should provide comments and recommendations on proposed state and Federal actions of concern as early as practicable in project planning to ensure thorough consideration of Council concerns by the action agency. Copies of Council comments and recommendations should be provided to NMFS.

(c) *Anadromous fishery resources.* For the purposes of the commenting requirement of section 305(b)(3)(B) of the Magnuson-Stevens Act, an ''anadromous fishery resource under a Council's authority'' is an anadromous species that inhabits waters under the Council's authority at some time during its life cycle.

[FR Doc. 97–33133 Filed 12–15–97; 4:58 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 244
Friday, December 19, 1997

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–107–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK–21 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASK–21 sailplanes. The proposed AD would require replacing any tow release cable assembly that does not have a swivel-type end with a cable assembly that does have a swivel-type end. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent the inability to release the tow rope because of the design of the cable assembly, which could result in loss of control of the sailplane during towing operations.

DATES: Comments must be received on or before January 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–107–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–107–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–107–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Alexander Schleicher Model ASK–21 sailplanes. The LBA reports that service difficulty reports indicate that the tow release cable creates loops over time. The loops are relatively short and lead to strong bending loads on the cable, mainly at the binding clamp. The original design of the tow release cable does not consist of a swivel-type end.

This condition, if not corrected, could result in the inability to release the tow rope with consequent loss of control of the sailplane during towing operations.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 10, dated October 10, 1983, which specifies procedures for replacing any tow release cable assembly that does not have a swivel-type end with a tow release cable assembly that does have a swivel-type end.

The LBA classified this service bulletin as mandatory and issued German AD No. 84–2, dated January 13, 1984, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of § 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, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Alexander Schleicher Model ASK–21 sailplanes of the same type design registered in the United

States, the FAA is proposing AD action. The proposed AD would require replacing any tow release cable assembly that does not have a swivel-type end with a tow release cable assembly that does have a swivel-type end. Accomplishment of the proposed installation would be in accordance with the technical note previously referenced.

Cost Impact

The FAA estimates that 30 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per sailplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $20 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,200, or $140 per sailplane.

Compliance Time of the Proposed AD

Although the loops that form in the cable assembly would only occur during flight over time and the bending loads are related to sailplane operation, the FAA has no basis to determine the approximate number of hours time-in-service (TIS) when the unsafe condition is likely to occur. For example, the loops could form in the tow release cable assembly on a sailplane with 10 hours TIS, but not form until 500 hours TIS on another sailplane. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Alexander Schleicher Segelflugzeugbau: Docket No. 97–CE–107–AD.

Applicability: Model ASK–21 sailplanes, serial numbers 21–001 through 21–196, certificated in any category, that are equipped with a tow release cable assembly that does not have a swivel-type end.

Note 1: This AD applies to each sailplane 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 sailplanes 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 within the next 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent the inability to release the tow rope because of the design of the cable assembly, which could result in loss of control of the sailplane during towing operations, accomplish the following:

(a) Replace any tow release cable assembly that does not have a swivel-type end with a tow release cable assembly that does have a swivel-type end in accordance with Alexander Schleicher Technical Note No. 10, dated October 10, 1983.

(b) 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 sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Alexander Schleicher Technical Note No. 10, dated October 10, 1983, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City.

Note 3: The subject of this AD is addressed in German AD No. 84–2, dated January 13, 1984.

Issued in Kansas City, Missouri, on December 11, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33144 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–46–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed action would require installing aluminum bonding bushings over certain screws in certain fuel tank underwing access panels. Several reports from the field revealing fuel tank access panels insufficiently electrically bonded to the airframe prompted this proposed AD. The actions specified by

the proposed AD are intended to prevent electrical arcing in the fuel tanks and detonation of the fuel-air mixture, which can be created by poor electrical bonding of fuel tank underwing access panels, and if not corrected, could result in a fire on the airplane.

DATES: Comments must be received on or before February 20, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland; telephone +41–41–6196–233; facsimile +41–41–6103–351. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman Gabrys, Project Officer, FAA, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–46–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC–12 and PC–12/45 airplanes. FOCA reports that during routine inspections of some of these airplanes, the inspectors found that the underwing access panels to the fuel tank were not sufficiently electrically bonded to the airframe. These conditions, if not corrected, could result in detonation of the airplane's fuel tanks by electrical arcing through the fuel-air mixture.

Relevant Service Information

Pilatus Aircraft Ltd. has issued service bulletin (SB) No. 57–001, dated February 28, 1997 which specifies procedures for installing aluminum bonded bushings over the screws to the underwing fuel tank access panels to assure a positive electrical bonding to the airframe structure.

The FAA's Determination

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus Models PC–12 and PC–12/45 airplanes of the same type design registered in the United States, the proposed AD would require installing aluminum bonding bushes over the screws in the fuel tank underwing access panels. Accomplishment of the proposed action would be in accordance with Pilatus Service Bulletin No. 57–001, dated February 28, 1997.

Cost Impact

The FAA estimates that 40 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts would be provided at no cost by the manufacturer. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,400, or $360 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft Ltd.: Docket No. 97–CE–46–AD.

Applicability: Model PC–12 and PC–12/45 airplanes (serial numbers MSN 001 through MSN 168), certificated in any category.

Note 1: This AD applies to each airplane 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 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 within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent electrical arcing in the fuel tanks and detonation of the fuel-air mixture, which can be created by poor electrical bonding of fuel tank underwing access panels, and if not corrected, could result in a fire on the airplane, accomplish the following:

(a) Install aluminum bonding bushings onto the screws for certain fuel tank underwing access panels in accordance with Part A and Part B of the Accomplishment Instructions in Pilatus Aircraft LTD PC12 Service Bulletin No. 57–001, dated February 28, 1997.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Pilatus Aircraft Ltd., CH–6370 Stans, Switzerland; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 11, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33143 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–101–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASW–19 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASW–19 sailplanes. The proposed AD would require modifying the inspection hole cover in the fuselage area. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent loss of aileron and flap control caused by an inspection hole cover entering the fuselage, which could result in loss of control of the sailplane.

DATES: Comments must be received on or before January 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–101–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–101–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–101–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Alexander Schleicher Model ASW–19 sailplanes. The LBA reports that an inspection hole cover entered the fuselage area on a Model ASW–20 sailplane and jammed the aileron and flap controls.

The Model ASW–19 sailplanes are of a similar design to that of the ASW–20 sailplanes, so the condition is likely to exist or develop on certain Model ASW–19 sailplanes. The Model ASW–20 sailplanes are not type certificated for operation in the United States.

This condition, if not corrected, could result in loss of aileron and flap control with consequent loss of control of the sailplane.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 7, September 11, 1978, which specifies procedures for modifying the inspection hole cover in the fuselage area. This service bulletin also specifies taping the inspection hole cover before the modification to assure that it doesn't enter the fuselage, and taping the inspection hole after the modification to reduce noise and rattle and improve the aerodynamics.

The LBA classified this service bulletin as mandatory and issued German AD No. 78–303, dated November 13, 1978, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane 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, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in certain Alexander Schleicher Models ASW–19 sailplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require modifying the inspection hole cover in the fuselage area. Accomplishment of the proposed installation would be in accordance with the technical note previously referenced.

Cost Impact

The FAA estimates that 30 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per sailplane to accomplish the proposed modification, and that the average labor rate is approximately $60 an hour. Parts cost approximately $40 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,600, or $220 per sailplane.

Differences Between German AD, the Technical Note, and This Proposed AD

Alexander Schleicher Technical Note No. 7 specifies taping the inspection hole cover prior to each flight before the modification to assure that it doesn't enter the fuselage, and taping the inspection hole after the modification to reduce noise and rattle and improve the aerodynamics.

German AD No. 78–303, dated November 13, 1978, requires taping the inspection hole cover prior to each flight until the modification is accomplished at the next annual inspection.

The FAA does not have service history to require taping the inspection hole cover prior to each flight before accomplishment of the modification. Instead the FAA has determined that 6 calendar months is a reasonable time period for the affected sailplane owners/operators to have the inspection hole cover modified. In addition, although the FAA believes that taping the inspection hole cover after the modification to reduce noise and rattle and improve the aerodynamics is a good idea, there is nothing unsafe about the sailplanes if not accomplished. The FAA is including a note in the proposed AD to recommend this action.

Compliance Time of the Proposed AD

Although the inspection hole cover would only enter the fuselage and jam the aileron and flap controls during flight, this unsafe condition is not a result of the number of times the sailplane is operated. The chance of this situation occurring is the same for a sailplane with 10 hours time-in-service (TIS) as it would be for a sailplane with 500 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the unsafe condition is addressed on all sailplanes in a reasonable time period.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Alexander Schleicher Segelflugzeugbau: Docket No. 97–CE–101–AD.

Applicability: Model ASW–19 sailplanes, serial numbers 19001 through 19232, certificated in any category.

Note 1: This AD applies to each sailplane 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 sailplanes 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 within the next 6 calendar months after the effective date of this AD, unless already accomplished.

To prevent loss of aileron and flap control caused by an inspection hole cover entering the fuselage, which could result in loss of control of the sailplane, accomplish the following:

(a) Modify the inspection hole cover in the fuselage area in accordance with the *Instructions:* section of Alexander Schleicher Technical Note No. 7, dated September 11, 1978.

Note 2: Alexander Schleicher Technical Note No. 7 specifies taping the inspection hole cover after the modification to reduce noise and rattle and improve the aerodynamics. Although this action does not address the unsafe condition specified in this AD, the FAA recommends taping the inspection hole cover after accomplishing the modification required by paragraph (a) of this AD.

(b) 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 sailplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(d) Questions or technical information related to Alexander Schleicher Technical Note No. 7, dated September 11, 1978, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City.

Note 4: The subject of this AD is addressed in German AD No. 78–303, dated November 13, 1978.

Issued in Kansas City, Missouri, on December 11, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33141 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–74–AD]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Aerospace Bendix/King Model KSA 470 Autopilot Servo Actuators, Part Numbers 065–0076–10 Through 065–0076–15

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain AlliedSignal Aerospace Bendix/King Model KSA 470 autopilot servo actuators, part numbers 065–0076–10 through 065–0076–15, that are installed on aircraft. The proposed AD would require replacing the autopilot servo actuator with a modified actuator. The proposed AD is the result of two reports of the affected autopilot servo actuators containing loose roll pins within the servo housing. Loose roll pins could fall out, become lodged in the output shaft clutch mechanism, and prevent this mechanism from disengaging. The actions specified by the proposed AD are intended to prevent such an occurrence, which could result in increased effort by the pilot to control the aircraft and possible loss of control of the affected flight control axis.

DATES: Comments must be received on or before February 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–74–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from AlliedSignal Aerospace, Commercial Avionics Systems, 400 N. Rogers Road, Olathe, Kansas 66062–1212. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Ligon, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4138; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–74–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–74–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AlliedSignal Aerospace recently advised the FAA that an unsafe condition may exist on certain Bendix/King Model KSA 470 autopilot servo actuators, part numbers 065–0076–10 through 065–0076–15, that are installed on aircraft. AlliedSignal reports two incidents where the roll pins within the servo housing became loose on the affected autopilot servo actuators. An analysis of the design of the affected servo actuators reveals that the roll pin holes are larger than that recommended by the roll pin specification.

Loose roll pins could fall out and become lodged in the output shaft clutch mechanism, which would prevent this mechanism from disengaging. This condition, if not

corrected in a timely manner, could result in increased effort by the pilot to control the aircraft and possible loss of control of the affected flight control axis.

Relevant Service Information

AlliedSignal Aerospace has issued Bendix/King Service Bulletin No. SB KSA 470–3, dated May 1997. This service bulletin references a factory modification (Mod 3) that, when incorporated, corrects the servo actuator roll pin condition described above. This service bulletin lists the following aircraft that the affected AlliedSignal Aerospace Bendix King Model KSA 470 actuators are installed in:

Aircraft Type	FD/AP System	KSA 470 Part No.	Location
Raytheon 400 series	KFC 400	065–0076–11	Yaw axis.
		065–0076–15	Roll axis.
Raytheon 200 series	KFC 400	065–0076–11	Yaw axis.
Raytheon 300 series	KFC 400	065–0076–15	Yaw axis.
Raytheon 350 series	KFC 400	065–0076–15	Yaw axis.
Dassault Falcon 20	KFC 400	065–0076–15	Pitch axis.
		065–0076–15	Roll axis.
Fairchild C26A/C26B	KFC400	065–0076–11	Yaw axis.
Fairchild SA227–AC/AT/BC/CC/DC	KFC400	065–0076–15	Roll axis.
Learjet 31A	KFC 3100	065–0076–12	Pitch axis.
		065–0076–14	Yaw axis.
		065–0076–15	Roll axis.
Lockheed S–2 Tracker	KFC 325	065–0076–10	Special.
Piper 400LS and PA–42–1000	KFC 400	065–0076–15	Yaw axis.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the service information previously referenced, the FAA has determined that AD action should be taken to prevent the servo actuator roll pins from becoming loose; falling out; becoming lodged in the output shaft clutch mechanism; and preventing this mechanism from disengaging, which could result in increased effort by the pilot to control the aircraft and possible loss of control of the affected flight control axis.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in AlliedSignal Aerospace Bendix/King Model KSA 470 autopilot servo actuators, part numbers 065–0076–10 through 065–0076–15, that are installed on aircraft, the FAA is proposing an AD. The proposed AD would require replacing the autopilot servo actuator with an actuator incorporating Mod 3. Accomplishment of the proposed modifications would be required in accordance with the applicable maintenance manual.

Cost Impact

The FAA estimates that 500 of the affected servo actuators could be installed on aircraft in the U.S. registry. The proposed replacement would take approximately 2 workhours per airplane to accomplish, at an average labor rate of approximately $60 an hour. Servo actuators with Mod 3 incorporated cost $2,350. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,235,000, or $2,470 per aircraft. These figures are based on the presumption that no owner/operator of the affected aircraft has accomplished the proposed replacement.

AlliedSignal has informed the FAA that costs of the required labor and modification of the servo actuators on affected aircraft may be recovered under an AlliedSignal conditional warranty program. Information regarding warranty claims associated with this action can be obtained directly from AlliedSignal at the address included in the **ADDRESSES** section of the proposed AD.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Alliedsignal Aerospace: Docket No. 97–CE–74–AD.

Applicability: Bendix/King Model KSA 470 Autopilot Servo Actuators; part numbers 065–0076–10 through 065–0076–15; serial numbers 0001 through 3081; that are installed on, but not limited to, the following aircraft, certificated in any category:

Note 1: This subject is addressed in AlliedSignal Bendix/King Service Bulletin No. SB KSA 470–3, dated May 1997. This service bulletin references serial number 3082. Regardless of this reference, serial number 3082 is not affected by this AD.

Aircraft type	FD/AP system	KSA 470 Part No.	Location
Raytheon 400 Series	KFC 400	065–0076–11	Yaw axis.
		065–0076–15	Roll axis.
Raytheon 200 Series	KFC 400	065–0076–11	Yaw axis.
Raytheon 300 Series	KFC 400	065–0076–15	Yaw axis.
Raytheon 350 Series	KFC 400	065–0076–15	Yaw axis.
Dassault Falcon 20	KFC 400	065–0076–15	Pitch axis.
		065–0076–15	Roll axis.
Fairchild C26A/C26B	KFC 400	065–0076–11	Yaw axis.
Fairchild SA227–AC/AT/BC/CC/DC	KFC 400	065–0076–15	Roll axis.
Learjet 31A	KFC 3100	065–0076–12	Pitch axis.
		065–0076–14	Yaw axis.
		065–0076–15	Roll axis.
Lockheed S–2 Tracker	KFC 325	065–0076–10	Special.
Piper 400LS and PA–42–1000	KFC 400	065–0076–15	Yaw axis.

Note 2: This AD applies to each aircraft identified in the preceding applicability provision that incorporates one of the affected actuators, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft 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 within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the servo actuator roll pins from becoming loose; falling out; becoming lodged in the output shaft clutch mechanism; and preventing this mechanism from disengaging, which could result in increased effort by the pilot to control the aircraft and possible loss of control of the affected flight control axis, accomplish the following:

(a) Replace the autopilot servo actuator with an actuator that incorporates Mod 3 in accordance with the applicable maintenance manual. This modification changes the size of the servo actuator roll pin holes to assure that the pins do not become loose and fall out.

(b) As of the effective date of this AD, no person may install, on aircraft, one of the affected servo actuators that does not incorporate Mod 3.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to AlliedSignal Aerospace, Technical Publications, Department 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 10, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33146 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–109–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK–21 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASK–21 sailplanes that do not have a certain automatic elevator connection installed. The proposed AD would require drilling a drainage hole in the elevator pushrod, inspecting the elevator pushrod for corrosion damage, and replacing any elevator pushrod if a certain amount of corrosion damage is found. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the elevator pushrod caused by corrosion damage, which could result in loss of control of the sailplane.

DATES: Comments must be received on or before January 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–109–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–109–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–109–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on certain Alexander Schleicher Model ASK–21 sailplanes that do not have an automatic elevator connection installed in accordance with Alexander Schleicher Technical Note No. 11, dated December 20, 1983. The LBA reports several cases where the elevator pushrods are heavily corroded.

This condition, if not corrected, could cause corrosion damage to the elevator pushrod and result in failure of the elevator pushrod with consequent loss of control of the sailplane.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 26, dated July 1, 1993, which specifies procedures for the following:

—Drilling a drainage hole in the elevator pushrod; and

—Inspecting the elevator pushrod for corrosion damage.

The LBA classified this service bulletin as mandatory and issued German AD No. 93–186, dated September 15, 1993, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane 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, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Alexander Schleicher Model ASK–21 sailplanes of the same type design registered in the United States sailplanes that do not have a certain automatic elevator connection installed, the FAA is proposing AD action. The proposed AD would require drilling a drainage hole in the elevator pushrod, inspecting the elevator pushrod for corrosion damage, and replacing any elevator pushrod if a certain amount of corrosion damage is found. Accomplishment of the proposed installation would be in accordance with the service bulletin previously referenced.

Cost Impact

The FAA estimates that 30 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per sailplane to accomplish the proposed elevator pushrod drainage hole drilling and elevator pushrod inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,800, or $60 per sailplane.

Compliance Time of the Proposed AD

The unsafe condition specified by the proposed AD is caused by corrosion. Corrosion can occur regardless of whether the sailplane is in operation or is in storage. Therefore, to assure that the unsafe condition specified in the proposed AD does not go undetected for a long period of time, the compliance time is presented in calendar time instead of hours time-in-service (TIS).

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Alexander Schleicher Segelflugzeugbau: Docket No. 97–CE–109–AD.

Applicability: Model ASK–21 sailplanes, serial numbers 21–001 through 21–205, certificated in any category, that do not have an automatic elevator connection installed in accordance with Alexander Schleicher Technical Note No. 11, dated December 20, 1983.

Note 1: This AD applies to each sailplane 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 sailplanes 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 in the body of this AD, unless already accomplished.

To prevent failure of the elevator pushrod caused by corrosion damage, which could result in loss of control of the sailplane, accomplish the following:

(a) Within the next 3 calendar months after the effective date of this AD, drill a drainage hole in the elevator pushrod in accordance with Alexander Schleicher Technical Note No. 26, dated July 1, 1993.

(b) Within the next 3 calendar months after the effective date of this AD, inspect the elevator pushrod for corrosion damage in accordance with Alexander Schleicher Technical Note No. 26, dated July 1, 1993.

(1) If no corrosion damage is found or corrosion damage is found that does not exceed the amount specified in the service bulletin, prior to further flight after the inspection required by paragraph (b) of this AD, apply a corrosion agent as described in the service bulletin.

(2) If corrosion damage is found that exceeds the amount specified in the service bulletin, prior to further flight after the inspection required by paragraph (b) of this AD, replace the elevator pushrod in accordance with the maintenance manual, and apply a corrosion agent as described in the service bulletin.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to Alexander Schleicher Technical Note No. 26, dated July 1, 1993, should be directed to Alexander Schleicher Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City.

Note 3: The subject of this AD is addressed in German AD No. 93–186, dated September 15, 1993.

Issued in Kansas City, Missouri, on December 11, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–33147 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 33

Proposed Rulemaking Permitting Future-Style Margining of Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is proposing the repeal of Commission Regulation 33.4(a)(2) which requires the full upfront payment of commodity option premiums. The effect of the repeal would be to permit the futures-style margining of commodity options traded on regulated futures exchanges. Futures-style margining offers several potential benefits over the current margining system, including the possibility for more efficient cash flows across markets. The Commission is publishing notice of the proposed rulemaking and requesting public comment.

DATES: Comments on the proposed rulemaking must be received by February 2, 1998.

ADDRESSES: Comments should be mailed to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to (secretary@cftc.gov).

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418–5495.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission is proposing the repeal of Commission Regulation 33.4(a)(2). Regulation 33.4(a)(2) requires that, when a commodity option is purchased, each clearing member must pay to the clearinghouse, each member must pay to the clearing member, and each option customer must pay to the futures commission merchant (''FCM'') the full option premium.[1] The Commission is considering repealing this regulation in order to permit the ''futures-style margining'' of commodity options.

A futures-style margining system for options would include two components: Original margin, set according to the underlying risk, and variation margin, reflecting the daily change in the value of the option premium. Consistent with the current treatment of futures positions, long and short option positions would be marked-to-market, and gains and losses would be paid and collected daily. Futures-style margining may benefit market participants by improving cash flow in futures and options markets generally, thereby increasing liquidity and efficiency.

II. Background

A. Option Pilot Program

In 1981 the Commission instituted a pilot program for exchange-traded options on non-agricultural futures contracts. 46 FR 54500 (November 3, 1981). Concurrently, the Commission adopted Part 33 of its regulations, including the full-payment-of-premium requirement of Regulation 33.4(a)(2).

In approving the pilot program, the Commission was cognizant of the history of fraudulent practices associated with the offer and sale of commodity options to the general public. In this connection, the Commission proceeded cautiously by, among other things, prohibiting the margining of option premiums. The Commission viewed the full payment of option premiums ''as essential to the protection of option purchasers who otherwise could reasonably expect that an initial payment of margin on an option contract constituted the full

[1] Regulation 33.4 in pertinent part states:

Sec. 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade * * * as a contract market for the trading of options on contracts of sale for future delivery * * * when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these relations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) Such board of trade * * *

(2) Provides that the clearing organization must receive from each of its clearing members, that each clearing member must receive from each other person for whom its clears commodity option transactions, and that each futures commission merchant must receive from each of its option customers, the full amount of each option premium at the time the option is purchased.

extent of their obligations on the option.'' 46 FR 54504.

The pilot program was made permanent effective August 1, 1986. 51 FR 17464 (May 13, 1986). Subsequently, the Commission approved trading of options involving agricultural futures contracts and options involving non-agricultural physicals on designated contract markets. 52 FR 777 (January 9, 1987). The proposed futures-style margining would apply to each of these exchange-traded commodity option categories.

B. Previous Commission Considerations of Futures-Style Margining of Commodity Options

In June 1982 the Coffee, Sugar & Cocoa Exchange, Inc. (''CSCE'') petitioned the Commission to repeal Regulation 33.4(a)(2). The Commission denied CSCE's petition, but resolved to reconsider margining of option premiums ''after the Commission and industry ha[d] gained some experience with the trading of options under the pilot program.'' [2]

The following year, the Commission solicited comments concerning ''[t]he advantages and disadvantages of permitting margining of option premiums paid by floor traders.'' 48 FR 10857, 10858 (March 15, 1983). After considering comments made in response to the **Federal Register** release, the Commission published a ''Notice of Proposed Rulemaking'' in which it proposed to allow contract markets to adopt rules permitting their members to make a deposit with respect to option premium. 49 FR 8937 (March 9, 1984). However, the intervening circumstances of the margin default in the gold futures option market on the Commodity Exchange, Inc. raised concerns about option margining which caused the Commission to defer further consideration of futures-style margining.[3]

In July 1988 the Chicago Board of Trade (''CBT'') and the Chicago Mercantile Exchange filed separate petitions with the Commission requesting repeal of Regulation 33.4(a)(2). The petitioners noted that, as a result of a study of the October 1987 market break, the President's Working Group on Financial Markets recommended that market participants and regulators study the potential for improving liquidity through the use of futures-style margining of options.[4] The petitions were published, and the public was invited to file written comments. 54 FR 11233 (March 17, 1989). The Commission received numerous comments supporting and opposing the proposal. Futures exchanges and futures clearing organizations favored it. Securities exchanges and securities clearing organizations opposed it. FCMs and introducing brokers (''IBs'') expressed varying views, with some in support and some in opposition. With a few exceptions, commenters from the agricultural industry generally opposed the proposal. The Commission took no further action on the petitions.

Since 1988, a great deal of experience has been gained with option trading in numerous products. Industry officials have continued to indicate to the Commission that implementation of futures-style margining might be beneficial. The Commission notes that futures-style margining has been in place at the London International Financial Futures and Options Exchange (''LIFFE'') for over ten years. Moreover, LIFFE contracts executed in Chicago pursuant to the CBT/LIFFE link have been subject to futures-style margining since May 1997 with no adverse consequences.

III. Comparison of Option Margining Systems

Under the current ''stock-style'' option margining system, the option buyer or ''long'' must pay the entire premium when the transaction is initiated. No further payments are required. The premium is credited to the account of the option seller or ''short,'' who must keep it posted as margin. The option seller also must put up risk margin to cover potential adverse market moves in his obligation. If the option increases in value, the short must deposit additional funds into the account. These funds, however, are not transferred to the long, who must exercise or offset the option in order to realize any increase in its value. By contrast, if the option value decreases, the short may withdraw any excess funds from its account.

Under the proposed ''futures-style'' margining system, both the long and short position holders would post risk-based original margin upon entering into their option positions. During the life of the option, the option value would be marked-to-market daily. Any increase in value would result in a credit to the long option holder's account and a corresponding debit against the short's account. Conversely, any decrease in value would result in a credit to the short's account and a corresponding debit to the long's account. Thus the cash flows in option contracts would be symmetric, as is the case for futures. The change in the margin system, however, would not alter the fundamental nature of each party's overall obligation. A long's potential for loss would remain limited to the full option premium and transaction costs. As is the case now, a short's potential for loss would not be so limited.

The difference between the current stock-style margining system and the proposed futures-style margining system are illustrated by the following examples. In each example assume that an at-the-money call option with an exercise price of 270 and sixty days to expiration is purchased for a premium of $5,000. Further assume that the minimum price tick in both the futures and the option is $500.

Example 1: Option Value Decreases

At expiration the futures price has fallen below the exercise price, and the option expires out-of-the-money. Under both stock-style and futures-style margining, the long's loss is limited to the $5,000 option premium. Only the timing of the payments differs.

[2] Letter dated July 2, 1982, from Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, to Bennett J. Corn, President, CSCE.

[3] See Report on Volume Investors Corporation, Division of Trading and Markets, July 1986.

[4] Interim Report of the Working Group on Financial Markets, submitted to the President of the United States, May 1988.

Long	Short
Stock-Style Margining	
Day 1—Pays full premium of $5,000	Day 1—Posts full $5,000 premium received from long plus initial margin.
Day 2–59—Pays no additional funds	Day 2–59—May withdraw amount equal to decrease in value of option position since day of purchase. Total amount withdrawn may not exceed $5,000 premium.
Day 60—Option expires valueless. Nothing is returned	Day 60—Option expires valueless. Initial margin is returned.
Futures-Style Margining	
Day 1—Posts initial margin	Day 1—Posts initial margin.
Day 2–59—Pays aggregate variation of $5,000	Day 2–59—Collects aggregate settlement variation settlement of $5,000.
Day 60—Option expires valueless. Initial margin is returned	Day 60—Option expires valueless. Initial margin is returned.

Example 2: Option Value Increases

By expiration the futures price has risen above the exercise price to 285. The option is in the money by 15 points, and the premium is $7,500 ($500 X 15 points) per contract. Under both systems, the long's profits are the same. Again, only the timing of the payments differs.

Long	Short
Stock-Style Margining	
Day 1—Pays full premium of $5,000	Day 1—Posts full $5,000 premium received from long plus initial margin.
Day 2–59—Collects nothing over life of option	Day 2–59—Posts additional funds equal to the increase in value of option position over the life of the option.
Day 60—Liquidates position by selling the option for $7,500 for a gain of $2,500.	Day 60—Liquidates position by buying the option for $7,500 for a loss of $2,500. Total margin payments are returned.
Futures-Style Margining	
Day 1—Posts initial margin	Day 1—Posts initial margin.
Day 2–59—Over life of option collects pays aggregate settlement variation of $2,500..	Day 2–59—Over life of option pays aggregate settlement variation of $2,500.
Day 60—Liquidates position. Initial margin is returned.	Day 60—Liquidates position. Initial margin is returned.

The long also may choose to exercise the in-the-money call instead of liquidating the option position. Exercising a futures-style option is analogous to taking delivery on a futures position. In order to receive a cash commodity by taking delivery on a futures contract, the long must pay the settlement price of the futures contract prevailing at the time of delivery. Similarly, in order to obtain a futures position by exercising an option, the long must pay the settlement of the option prevailing at the time of exercise. In other words, the long must pay the full premium marked-to-market on the day of exercise. Under a futures-style margining system, this payment is offset by the variation payments received by the long during the life of the option. The difference between this procedure and the exercise of stock-style options are demonstrated in a final example.

Example 3: Exercise of In-The-Money Option.

As in Example 2, the futures price has risen to 285 by expiration. The long option holder decides to exercise the call.

Long	Short
Stock-Style Margining	
Exercises option	Option is exercised.
Receives long futures position at strike price of 270. Futures position is marked-to-market by the clearinghouse, and the long is credited $7,500 ((285–270)X $500.	Receives short futures position at strike price of 270. Futures position is marked-to-market market by the clearinghouse, and short is debited $7,500.
Futures-Style Margining	
Exercises option	Option is exercised.
Clearinghouse debits account for premium settlement price of $7,500 ..	Clearinghouse credits short with $7,500 settlement of premium.
Receives long futures position at option strike price of 270. Futures position is marked-to-market by the clearinghouse, and the long is credited with $7,500 ((285–270)X $500.	Receives short futures position at option price of 270. Futures position is marked-to-market by the clearinghouse, and the short is debited $7,500.
Option position is closed through exercise, but risk margin is retained until the futures position is offset.	Option position is closed through exercise, but risk marign is retained until the futures position is offset.

IV. Potential Benefits and Costs of Futures-Style Margining

A. Potential Benefits

Futures-style margining of options could enhance financial integrity and market liquidity by providing for more efficient cash flows across markets. Currently, certain spread or risk neutral positions can give rise to substantial funds requirements due to asymmetrical cash flows. The problem arises, for example, where a short futures position is hedged with a long call option. If the price of the futures position increases, the value of the call also increases. However, the trader cannot apply the increased option value toward the

corresponding loss in the futures position.[5] Instead, the trader must put up funds to pay the futures variation requirement. Similar cash flow shortages can arise for traders holding arbitrage positions such as conversions, reverse conversions, and box spreads. Such problems may be particularly acute when there are major market moves.

With futures-style margining of options, these asymmetrical cash flows could be reduced. Each increase in an option position's value (long or short) would result in a related variation payment which would be accessible to the option trader. The trader could in turn use the option gains to contribute to margin payments on other positions with losses.

Futures-style margining also may reduce financing requirements for market participants and, thus, financing risk for FCMs and clearinghouses. Under the current margining system, financing risk is created because long option equity cannot be used to make variation margin payments on short option or futures positions. Moreover, financing based on option equity may not be readily available to market participants because banks may be reluctant to provide such financing. Futures-style margining of options, with its variation pay and collect feature, would reduce the need for market participants to borrow against their long option equity. Thus, FCMs no longer would be exposed to the resulting credit risk beyond their control.

Market liquidity may increase under a futures-style margining system for two reasons. First, the ability of traders to participate in option markets could be less dependent on their ability to obtain financing. Second, the incentive for early exercise of options could be reduced. Under the present system, an option purchaser can realize increases in the value of an option only by offsetting or exercising that option. Thus, some long option holders may choose to exercise their options early in order to obtain the option profits. This possibility of early exercise may act as a disincentive to writing options due to the uncertainty it creates. The daily pay and collect feature of the futures-style system could reduce the incentive for early exercise.

[5] Of course, the trader may obtain the excess funds by exercising or offsetting the option, but this would eliminate the original hedge strategy or require reestablishing the option with the potential for a less favorable price and additional transaction costs.

B. Potential Costs

Futures-style margining would increase leverage in the option markets. A long would be required to put up a smaller initial payment to purchase a given option than he or she would under the current system. This would introduce a risk of default that does not exist today. The Commission notes, however, that futures and short options currently may be margined. It is anomalous that long options, which entail less risk, are subject to a more stringent standard. Under futures-style margining, the total risk of a long option would still be fixed at the time of purchase. Moreover, FCMs would remain free to require an initial payment equal to the value of the option premium.

Over the years, the Commission has brought enforcement actions involving the fraudulent offer and sale of options on exchange-traded futures contracts to unsophisticated retail customers. Futures-style margining may provide unscrupulous individuals with an additional opportunity to mislead unsophisticated option customers. Such customers may not fully understand that they are liable for the full premium payment if the market moves against their option position. In addition, less well-capitalized customers could be persuaded to invest since the initial margin would be lower than currently required. Institution of futures-style margining would require efforts to educate market participants. Of course, consistent with Commission Regulation 1.55, full and accurate disclosure of potential liability also would be necessary at the time an option position was entered in order to ensure investor protection. The Commission welcomes comments on what measures might be appropriate to address these concerns.

Implementation of futures-style margining would alter option pricing which could adversely affect certain market participants. Option premiums potentially would be higher under a futures-style margining system because shorts likely would demand a higher price to compensate for the loss of interest income on the full premium and longs would be willing to pay a higher price because they would be gaining such interest income. Some market participants believe that this could affect various trading strategies by potentially diminishing the usefulness of certain option writing strategies.

Implementation of futures-style margining might also create issues for participants in the securities markets. To the extent the latter retained the current system, customer confusion could result.[6] In addition, certain intermarket strategies such as ''buy-write'' might be less useful because option grantors would not receive the full option premium upfront.

Finally, there could be costs to the industry in making a transition to futures-style margining. FCMs would have to adjust their risk management systems to address the increased leverage and altered cash flow features. Moreover, insofar as small retail firms currently only handle long option positions, such firms would have to install risk management systems if they planned to allow margining of premiums. In addition, if all exchanges were not ready or willing to switch from stock-style option margining to futures-style margining at the same time, FCMs might incur operational costs in order to maintain multiple option margining systems and to comply with different disclosure requirements for different exchanges. Furthermore, even if all exchanges introduced futures-style margining simultaneously, there would be a necessary transition period during which exchanges and market participants would be required to deal with both margining systems.

In addition, because of the impact of the futures-style margining on option pricing, only a newly-issued option series could be margined in the proposed manner. Any previously issued option series would require margining under the existing stock-style system. Thus, a change to futures-style margining would necessitate the maintenance of a two-tiered margining system for a period of time.

VI. Proposed Regulatory Changes

A. Repeal of Commission Regulation 33.4(a)(2)

The Commission believes that futures-style margining could provide substantial benefits to the marketplace and that steps are available to minimize the potential costs. Accordingly, the Commission is proposing to delete Regulation 33.4(a)(2) which requires full payment of the option premium at the time of purchase. This would not impose future-style margining on the industry but would merely make it available. Any exchange or clearinghouse that wished to implement it would be required to submit appropriate rule changes to the Commission pursuant to Section

[6] In May 1996 the Board of Governors of the Federal Reserve amended Regulation T to allow securities exchanges to adopt, pursuant to Securities and Exchange Commission approval, rules permitting the margining of options on securities. 61 FR 20386 (May 6, 1996). To date, no exchange has submitted such a rule.

5a(a)(12)(A) of the Act and Commission Regulation 1.41. The Commission would review any such proposal to ensure that adequate safeguards were in place. In particular, the Commission would reemphasize the need to use systems and procedures that took into account the unique risk characteristics of options. Moreover, as previously mentioned, exchange margin requirements are minimums. Any FCM would remain free to collect the full premium at the time of purchase just as it is currently free to collect more than the exchange minimum margin on futures positions.

B. Amendment of Commission Regulations 1.55 and 33.7

The Commission is proposing several amendments to the language of the generic futures and option risk disclosure statement set forth in Appendix A of Commission Regulation 1.55(c) and the more detailed domestic exchange-traded option disclosure statement set forth in Regulation 33.7. The proposed amendments would inform potential investors that option transactions may be subject to either a stock-style or futures-style margining system. The proposed amendments would not relieve an FCM or IB from any other disclosure obligation it may have under applicable law.

C. Technical Amendments

Implementation of futures-style margining will require changes to other Commission requirements to provide for appropriate accounting treatment of options. See, Financial and Segregation Interpretation No. 8, Comm. Fut. L. Rep., (CCH) ¶ 7118 (August 12, 1982), relating to the proper accounting, segregation and net capital treatment of options, and Commission Regulation 1.17 relating to minimum financial requirements for FCMs and IBs. The Commission requests comments on the appropriate technical amendments to these provisions. The Commission also request comments on any other technical changes to its regulatory requirements.

VII. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact on small businesses. The rules discussed herein will affect FCMs and IBs. The Commission has already established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA. FCMs have been determined not to be small entities under the RFA.

With respect to IBs, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all IBs should be considered to be small entities and, if so, to analyze that economic impact on such entities at that time. The proposed rule amendments would not require any IB to alter its current method of doing business as FCMS have the responsibility of administering customer funds. Further, these rule amendments, as proposed should, impose no additional burden or requirements on IBs and, thus, if adopted would not have a significant economic impact on a substantial number of IBs.

Therefore, the Chairperson, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b), that the action taken herein would not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any person or entity which believes that the proposal would have a significant impact on its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 [7] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act.

While proposed Rule 1.55 has no burden, the group of rules (3038–0024), which Rule 1.55 is a part, has the following burden:

Average burden hours per response: 128.

Number of Respondents: 3,148.

Frequency of responses: 36.

While proposed Rule 33.7 has no burden, the group of rules (3038–0007), which Rule 33.7 is a part, has the following burden:

Average burden hours per response: 50.57.

Number of Respondents: 190,422.

Frequency of responses: 1,111.

Copies of the OMB approved information collection package associated with these rules may be obtained from Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington DC 20503, (202) 395–7340.

[7] Pub. L. 104–13 (May 13, 1995).

List of Subjects

17 CFR Part 1

Commodity Futures, Domestic exchange-traded commodity option transactions.

17 CFR Part 33

Commodity Futures, Domestic exchange-traded commodity option transactions.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4b, 4c, and 8a thereof, 7 U.S.C. 2a, 6b, 6c, and 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 9, 12, 12a, 12c, 13a, 13a–-, 16, 16a, 19, 21, 23, 24.

2. Section 1.55(c) is amended by revising section 3 of Appendix A to read as follows: [8]

Appendix A to CFTC Rule 1.55(c)—Generic Risk Disclosure Statement

Risk Disclosure Statement for Futures and Options

* * * * *

Options

3. Variable degree of risk.

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e. put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin (see the section on Futures above). If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

[8] The Commission will republish the entire appendix in the final rule.

Selling (''writing'' or ''granting'') an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option, and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a future, the seller will acquire a position in a future with associated liabilities for margin (see the section on Futures above). If the position is ''covered'' by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges, domestic and foreign, permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

* * * * *

PART 33—REGULATION OF DOMESTIC EXCHANGE TRADED COMMODITY OPTION TRANSACTIONS

3. The authority citation for Part 33 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 12c, 13a, 13a–1, 13b, 19, and 21.

§ 33.4 [Amended]

4. Section 33.4 is amended by removing and reserving paragraphs (a)(2).

5. The disclosure statement in paragraph (b) of § 33.7 is amended by revising the text preceding paragraph (1) and paragraph (2)(v), (4) and (5) to read as follows:

§ 33.7 Disclosure.

* * * * *

(b) The disclosure statement must read as follows:

OPTION DISCLOSURE STATEMENT

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE AND GRANTING OF COMMODITY OPTIONS INVOLVE A HIGH DEGREE OF RISK. COMMODITY OPTION TRANSACTIONS ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO HAVE READ AND UNDERSTOOD THIS DISCLOSURE STATEMENT AND WHO UNDERSTAND THE NATURE AND EXTENT OF THEIR RIGHTS AND OBLIGATIONS AND OF THE RISKS INVOLVED IN THE OPTION TRANSACTIONS COVERED BY THIS DISCLOSURE STATEMENT.

BOTH THE PURCHASER AND THE GRANTOR SHOULD KNOW WHETHER THE PARTICULAR OPTION IN WHICH THEY CONTEMPLATE TRADING IS AN OPTION WHICH, IF EXERCISED, RESULTS IN THE ESTABLISHMENT OF A FUTURES CONTRACT (AN ''OPTION ON A FUTURES CONTRACT'') OR RESULTS IN THE MAKING OR TAKING OF DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION (AN ''OPTION ON A PHYSICAL COMMODITY''). BOTH THE PURCHASER AND THE GRANTOR OF AN OPTION ON A PHYSICAL COMMODITY SHOULD BE AWARE THAT, IN CERTAIN CASES, THE DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION MAY NOT BE REQUIRED AND THAT, IF THE OPTION IS EXERCISED, THE OBLIGATIONS OF THE PURCHASER AND GRANTOR WILL BE SETTLED IN CASH.

BOTH THE PURCHASER AND THE GRANTOR SHOULD KNOW WHETHER THE PARTICULAR OPTION IN WHICH THEY CONTEMPLATE TRADING IS SUBJECT TO A ''STOCK-STYLE'' OR ''FUTURES-STYLE'' SYSTEM OF MARGINING. UNDER A STOCK-STYLE MARGINING SYSTEM, A PURCHASER IS REQUIRED TO PAY THE FULL PURCHASE PRICE OF THE OPTION AT THE INITIATION OF THE TRANSACTION. THE PURCHASER HAS NO FURTHER OBLIGATION ON THE OPTION POSITION. UNDER A FUTURES-STYLE MARGINING SYSTEM, THE PURCHASER DEPOSITS INITIAL MARGIN AND MAY BE REQUIRED TO DEPOSIT ADDITIONAL MARGIN IF THE MARKET MOVES AGAINST THE OPTION POSITION. THE PURCHASER'S TOTAL MARGIN OBLIGATION, HOWEVER, WILL NOT EXCEED THE ORIGINAL OPTION PREMIUM. IF THE PURCHASER OR GRANTOR DOES NOT UNDERSTAND HOW OPTIONS ARE MARGINED UNDER A STOCK-STYLE OR FUTURES-STYLE MARGINING SYSTEM, HE OR SHE SHOULD REQUEST AN EXPLANATION FROM THE FUTURES COMMISSION MERCHANT (''FCM'') OR INTRODUCING BROKER (''IB'').

A PERSON SHOULD NOT PURCHASE ANY COMMODITY OPTION UNLESS HE OR SHE IS ABLE TO SUSTAIN A TOTAL LOSS OF THE PREMIUM AND TRANSACTION COSTS OF PURCHASING THE OPTION. A PERSON SHOULD NOT GRANT ANY COMMODITY OPTION UNLESS HE OR SHE IS ABLE TO MEET ADDITIONAL CALLS FOR MARGIN WHEN THE MARKET MOVES AGAINST HIS OR HER POSITION AND, IN SUCH CIRCUMSTANCES, TO SUSTAIN A VERY LARGE FINANCIAL LOSS.

A PERSON WHO PURCHASES AN OPTION SUBJECT TO STOCK-STYLE MARGINING SHOULD BE AWARE THAT, IN ORDER TO REALIZE ANY VALUE FROM THE OPTION, IT WILL BE NECESSARY EITHER TO OFFSET THE OPTION POSITION OR TO EXERCISE THE OPTION. OPTIONS SUBJECT TO FUTURES-STYLE MARGINING ARE MARKED-TO-MARKET, AND GAINS AND LOSSES ARE PAID AND COLLECTED DAILY. IF AN OPTION PURCHASER DOES NOT UNDERSTAND HOW TO OFFSET OR EXERCISE AN OPTION, THE PURCHASER SHOULD REQUEST AN EXPLANATION FROM THE FCM OR IB. CUSTOMERS SHOULD BE AWARE THAT IN A NUMBER OF CIRCUMSTANCES, SOME OF WHICH WILL BE DESCRIBED IN THIS DISCLOSURE STATEMENT, IT MAY BE DIFFICULT OR IMPOSSIBLE TO OFFSET AN EXISTING OPTION POSITION ON AN EXCHANGE.

THE GRANTOR OF AN OPTION SHOULD BE AWARE THAT, IN MOST CASES, A COMMODITY OPTION MAY BE EXERCISED AT ANY TIME FROM THE TIME IT IS GRANTED UNTIL IT EXPIRES. THE PURCHASER OF AN OPTION SHOULD BE AWARE THAT SOME OPTION CONTRACTS MAY PROVIDE ONLY A LIMITED PERIOD OF TIME FOR EXERCISE OF THE OPTION.

THE PURCHASER OF A PUT OR CALL SUBJECT TO STOCK-STYLE OR FUTURES-STYLE MARGINING IS SUBJECT TO THE RISK OF LOSING THE ENTIRE PURCHASE PRICE OF THE OPTION—THAT IS, THE PREMIUM CHARGED FOR THE OPTION PLUS ALL TRANSACTION COSTS.

THE COMMODITY FUTURES TRADING COMMISSION REQUIRES THAT ALL CUSTOMERS RECEIVE AND ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT BUT DOES NOT INTEND THIS STATEMENT AS A RECOMMENDATION OR ENDORSEMENT OF EXCHANGE-TRADED COMMODITY OPTIONS.

* * * * *

(2) * * *

(v) An explanation and understanding of the option margining system.

* * * * *

(4) Margin requirements. An individual should know and understand whether the option he or she is contemplating trading is subject to a stock-style or futures-style system of margining. Stock-style margining requires the purchaser to pay the full option premium at the time of purchase. The purchaser has no further financial obligations, and the risk of loss is limited to the purchase price and transaction costs. Futures-style margining requires the purchaser to pay initial margin only at the time of purchase. The option position is marked-to-market, and gains and losses are collected and paid daily. The purchaser's risk of loss is limited to the initial option premium and transaction costs.

An individual granting options under either a stock-style or futures-style system of margining should understand that he or she may be required to pay additional margin in the case of adverse market movements.

(5) Profit potential of an option position. An option customer should carefully calculate the price which the underlying futures contract or underlying physical commodity would have to reach for the option position to become profitable. Under a stock-style margining system, this price would include the amount by which the underlying futures contract or underlying physical commodity would have to rise above or fall below the strike price to cover the sum of the premium and all other costs incurred in entering into and exercising or closing (offsetting) the commodity option position. Under a future-style margining

system, option positions would be marked-to-market, and gains and losses would be paid and collected daily, and an option position would become profitable once the variation margin collected exceeded the cost of entering the contract position.

Also, an option customer should be aware of the risk that the futures price prevailing at the opening of the next trading day may be substantially different from the futures price which prevailed when the option was exercised. Similarly, for options on physicals that are cash settled, the physicals price prevailing at the time the option is exercised may differ substantially from the cash settlement price that is determined at a later time. Thus, if a customer does not cover the position against the possibility of underlying commodity price change, the realized price upon option exercise may differ substantially from that which existed at the time of exercise.

* * * * *

Issued in Washington, D.C., on this 15th day of December, 1997, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–33125 Filed 12–18–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105163–97]

RIN 1545–AV15

Certain Investment Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the treatment of certain investment income under the qualifying income provisions of section 7704(d) and the application of the passive activity loss rules to publicly traded partnerships. The regulations would affect the classification of certain partnerships for federal tax purposes and would also affect the passive activity loss limitations with respect to items attributable to publicly traded partnerships. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by March 19, 1998. Requests to speak (with outlines of oral comments) at a public hearing scheduled for April 28, 1998, at 10 a.m., must be received by April 7, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–105163–97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–105163–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in Room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Christopher Kelley, (202) 622–3080; concerning submissions and the hearing, Evangelista Lee, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to add § 1.7704–3 to the Income Tax Regulations (26 CFR part 1) relating to the definition of qualifying income for publicly traded partnerships under section 7704(d) of the Internal Revenue Code (Code). This document also proposes to amend § 1.469–10 of the Income Tax Regulations relating to the application of section 469 of the Code to publicly traded partnerships.

Explanation of Provisions

Qualifying Income

Section 7704 of the Code provides that a publicly traded partnership is generally treated as a corporation for federal tax purposes unless 90 percent or more of the gross income of the partnership consists of qualifying income. Section 7704(d) defines qualifying income to include certain types of passive investment income, such as interest, dividends, real property rents, and income that would qualify under the regulated investment company provisions in section 851(b)(2) or the real estate investment trust provisions in section 856(c)(2). Since section 7704 was enacted, however, several new types of financial instruments have been developed that generate passive-type investment income similar to interest and dividends. The preamble to the regulations under § 1.7704–1, issued December 4, 1995, (regarding the definition of public trading) requested comments from the public on the definition of qualifying income for investment partnerships and other partnerships engaged in various types of securities transactions.

In response to comments received, the proposed regulations provide that qualifying income for purposes of section 7704(c) includes income from holding annuities, income from notional principal contracts (as defined in § 1.446–3), and other substantially similar income from ordinary and routine investments to the extent determined by the Commissioner. Qualifying income, however, includes income from a notional principal contract only if the property, income, or cash flow that measures the amounts to which the partnership is entitled under the contract would give rise to qualifying income if held or received directly by the partnership. The proposed regulations also confirm that capital gain from the sale of stock is qualifying income, regardless of whether the stock pays dividends. The proposed regulations also provide that qualifying income (as defined in the proposed regulations) does not include income derived in the ordinary course of a trade or business by a broker, dealer, or market maker. Income derived by traders and investors can be qualifying income under the proposed regulations. The proposed regulations, including the trade or business restriction, are consistent with the legislative history of section 7704, which indicates that the exception for passive investment income was intended to distinguish between partnerships engaged in investment activities and those partnerships engaged in active business activities that are more typically conducted in corporate form. See H.R. Rep. No. 391 (Part 2), 100th Cong., 1st Sess. 1066–69 (House Report). The IRS also requests comments on the appropriate way to determine how gains should be measured for purposes of determining whether 90 percent or more of the partnership's gross income is qualifying income when a partnership makes a mixed straddle account election under § 1.1092(b)–4T. The IRS believes that use of the daily mark-to-market method provided for by § 1.1092(b)–4T would be inconsistent with the congressional purpose behind section 7704.

Passive Activity Loss Rules

Section 469(a) generally provides that if for any taxable year the taxpayer is an individual, estate, trust, closely held C corporation, or personal service corporation, neither the passive activity loss nor the passive activity credit for the taxable year is allowed. Section

469(k) provides that section 469 applies separately with respect to items attributable to each publicly traded partnership. Section 469(k)(2) defines a publicly traded partnership in the same manner as section 7704(b). The legislative history of section 469(k) indicates that the term publicly traded partnership has the same meaning for purposes of section 469(k) as it does for purposes of section 7704. See H.R. Rep. No. 495, 100th Cong., 1st Sess. 952–53 (1987) (Conference Report). In addition, Notice 88–75 (1988–2 C.B. 386) provided the same guidance on the definition of a publicly traded partnership for purposes of both sections 469(k) and 7704.

The recently issued regulations under § 1.7704–1, however, define a publicly traded partnership only for purposes of section 7704. The proposed regulations implement the legislative history of section 469(k) by providing that the definition of a publicly traded partnership for purposes of section 469(k) is the same as the definition of publicly traded partnership under section 7704.

Proposed Effective Date

These regulations are proposed to apply for taxable years of a partnership beginning on or after the date the final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, April 28, 1998, at 10 a.m., in Room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons that wish to present oral comments at the hearing must submit timely written comments (preferably a signed original and eight (8) copies) by March 19, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic by April 7, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information: The principal author of these regulations is Christopher Kelley, Office of Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.469–10 is revised to read as follows:

§ 1.469–10 Application of section 469 to publicly traded partnerships.

(a) [Reserved].

(b) *Publicly traded partnership*—(1) *In general.* For purposes of section 469(k), a partnership is a publicly traded partnership only if the partnership is a publicly traded partnership as defined in § 1.7704–1.

(2) *Effective date.* This section applies for taxable years of a partnership beginning on or after the date final regulations are published in the **Federal Register**.

Par. 3. Section 1.7704–3 is added to read as follows:

§ 1.7704–3 Qualifying income.

(a) *Certain investment income*—(1) *In general.* For purposes of section 7704(d)(1), qualifying income includes capital gain from the sale of stock, income from holding annuities, income from notional principal contracts (as defined in § 1.446–3), and other substantially similar income from ordinary and routine investments to the extent determined by the Commissioner. Income from a notional principal contract is included in qualifying income only if the property, income, or cash flow that measures the amounts to which the partnership is entitled under the contract would give rise to qualifying income if held or received directly by the partnership.

(2) *Limitations.* Qualifying income as defined in paragraph (a)(1) of this section does not include income derived in the ordinary course of a trade or business. For purposes of the preceding sentence, income derived from an asset with respect to which the partnership is a broker, market maker, or dealer is treated as income derived in the ordinary course of a trade or business; income derived from an asset with respect to which the taxpayer is a trader or investor is not treated as income derived in the ordinary course of a trade or business.

(b) *Effective date.* This section applies for taxable years of a partnership beginning on or after the date final regulations are published in the **Federal Register**.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97–33105 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX 61–1–7270: FRL–5937–4]

Approval and Promulgation of State Implementation Plans (SIP) for Texas: Accelerated Vehicle Retirement (AVR) Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove the SIP revision submitted by the State of Texas for the Accelerated Vehicle Retirement (AVR) program which allows stationary sources to purchase Emission Reduction Credits (ERCs) through a vehicle scrappage program. For areas which face relatively high stationary source control costs, Mobile Emission Reduction Credits

(MERCs) offer stationary sources another option to achieve required emission reductions through early retirement and scrappage of motor vehicles which fail mandated emissions testing. The EPA is proposing disapproval because the State's AVR SIP revision uses a vehicle emission testing method from a vehicle Inspection and Maintenance (I/M) program that has changed since the ARV SIP was submitted. This action is being taken under sections 110 and 182 of the Clean Air Act, as amended in 1990 (the Act).

DATES: Comments must be received on or before January 20, 1998.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Region 6 Office listed. Copies of the documents relevant to this action area available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7367.

SUPPLEMENTARY INFORMATION:

I. Background

The Act broadly encourages, and in Title I of the Act, mandates, States to develop and facilitate market-based approaches for achieving the environmental goals of the Act for attainment and maintenance of the National Ambient Air Quality Standards, and to meet associated emission reduction milestones. The Agency has developed comprehensive guidance and rules (as required by the Act) for States and individual sources to follow in designing and adopting such programs for inclusion in SIPs. The Economic Incentive Program (EIP) Rules (April 7, 1994, 59 FR 16690–16717) provide a broad framework for the development and use of a wide variety of incentive strategies for stationary, area, and/or mobile sources. One such approach is the generation and trading of ERCs, which historically have been allowed under guidance provided in the 1986 Emission Trading Policy Statement. In certain areas where emission control costs for stationary sources may be high relative to mobile source control costs, creating EIPs which allow for the trading of emission reduction credits from mobile sources to stationary sources can be beneficial.

On October 31, 1994, the State of Texas submitted revisions to the SIP making changes to the Texas Administrative Code (30 TAC), Chapter 114: Control of Air Pollution from Motor Vehicles. In this revision, section 114.29, Accelerated Vehicle Retirement Program, was added to the Code. The new section provides specific requirements for the purchase, screening, and processing of scrappage vehicles, so that all emission reductions generated through AVR are creditable, enforceable, surplus, quantifiable, and permanent. The scrappage program requires all potential vehicles to get an ''IM240'' emission test at an I/M testing facility.

The AVR program was planned when the State was intending to implement an I/M program which utilized the IM240 emission test in a centralized, test-only setting. The I/M program was designed, developed, and began operation in January 1995, before being halted by the Governor and the Texas Legislature.

However, various states, including Texas, desired greater flexibility in implementing their I/M programs. On September 18, 1995, EPA revised and finalized I/M rules that gave states much greater flexibility in implementing I/M programs. One element of the I/M flexibility amendments included a provision for a new low enhanced performance standard that would allow for less stringent I/M programs if overall air quality goals were met. In addition, on November 28, 1995, President Clinton signed the National Highway System Designation Act of 1995 (NHSDA) which allowed even greater flexibility in I/M programs for states, especially in the area of emission reduction estimates.

In response to this additional flexibility, the State of Texas, in a letter dated March 12, 1996, submitted its revised I/M program to the Region 6 office within the submission deadlines contained in the NHSDA. The EPA granted conditional interim approval (July 11, 1997, 62 FR 37138) of the revised Texas I/M plan. As a result, the State has implemented a decentralized testing network which allows for both test-and-repair and test-only stations, and includes remote sensing. Testing stations administer a two-speed idle test. This program is referred to as the Texas Motorist Choice Program. With the IM240 test no longer available, the tailpipe emission measurements needed for AVR calculations as outlined in section 114.29 of 30 TAC 114 cannot be obtained. The EPA believes this is a significant deficiency which prohibits approval of the SIP under section 110 of the Act.

II. Evaluation of Accelerated Vehicle Retriement (AVR) SIP

Several key program elements in EIP rules must generally be included in any MERC program to ensure that the EIP principles and requirements are met. One of the elements calls for credible, workable, replicable procedures for quantifying emissions and/or emission-related parameters.

In the State's submittal, emission reductions in grams/vehicle/year for each vehicle are calculated using tailpipe emissions, evaporative emissions, vehicle replacement emissions, and vehicle miles traveled. Tailpipe emissions are measured by using the IM240 test. The MERCs are calculated in tons/year from the emission reductions from all vehicles in a scrappage program.

The owner of a scrappage vehicle must obtain an IM240 vehicle emission certificate at a testing facility showing that the vehicle has failed the mandated emissions test prior to the sale of the vehicle to a scrappage program. A motorist must submit the vehicle to an emissions test according to specific procedures outlined in the SIP. In the Texas Motorist Choice I/M program, which is in operation, the test stations offer only the idle test. The IM240 test is not an option. Consequently, tailpipe emissions can no longer be quantified according to the procedure outlined in the SIP. This prevents the State from satisfying the program element for obtaining credible emissions data.

In summary, the Texas AVR SIP submittal does not reflect current programs which are necessary to implement the scrappage program as designed. Based on the analysis, EPA cannot approve the Texas AVR SIP.

III. Proposed Action

The EPA proposes to disapprove the Texas AVR SIP under sections 110 and 182 since the State failed to update elements of the AVR SIP submitted October 31, 1994. The AVR SIP submittal represents vehicle emission testing for vehicle scrappage using an I/M loaded mode transient emission test (IM240). The Texas Legislature halted the operation of that particular program, and has since chosen to implement a different I/M program, the Texas Motorist Choice Program, which requires a two-speed idle test. This test has not been shown to be equivalent to

the IM240 test. Consequently, the AVR SIP is not applicable to current programs as submitted.

This revision is not required by the Act. Therefore, this proposed disapproval action does not impose sanctions for failure to meet Act requirements.

The EPA is soliciting public comment on the proposed action discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rule making procedure by submitting written comments to the EPA Regional office listed in the **Addresses** section of this document.

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

The Regional Administrator's decision to approve or disapprove the AVR SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and part D of the Act, as amended, and EPA regulations in 40 CFR part 51.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

The EPA's proposed disapproval of the State request under sections 110 and 301, and subchapter I, part D of the Act does not affect any existing requirements applicable to small entities. Any preexisting Federal requirements remain in place after this proposed disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, the EPA certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements, nor does it impose any new Federal requirements.

C. Unfunded Mandates Act

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

The EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action does not impose new requirements. Accordingly, no additional costs to State, local, or tribal governments, or private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Volatile organic compounds.

Dated: December 10, 1997.

Lynda F. Carroll,

Acting Deputy Regional Administrator, Region VI.

[FR Doc. 97–33222 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–004–BU; FRL–5937–5]

Designation of Areas for Air Quality Planning Purposes; State of California; Redesignation of the San Francisco Bay Area to Nonattainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 22, 1995, EPA redesignated the San Francisco Bay Area (Bay Area) from moderate nonattainment for the federal 1-hour ozone standard to attainment (60 FR 27028). The redesignation became effective on June 21, 1995. Two days later, the Bay Area experienced its first violation of the federal 1-hour ozone standard as an attainment area. There have been a total of 43 exceedances and 17 violations of the standard since redesignation. The Clean Air Act (CAA or Act) provides that EPA may at any time notify the Governor that available air quality information indicates that the designation of an area within the State should be revised. EPA must consider the response from the Governor as well as public comment on the proposed redesignation before finalizing its action.

On August 21, 1997, EPA sent a letter to the Governor of California notifying him of the Agency's intent to redesignate the Bay Area from attainment to nonattainment of the federal 1-hour ozone standard. In today's action, EPA is proposing to redesignate the Bay Area as a nonattainment area for ozone.

DATES: Comments on this proposed action must be received in writing by February 17, 1998. Comments should be addressed to the contact listed below.

ADDRESSES: EPA's technical support document and other supporting documentation for the proposal are contained in the docket for this rulemaking. A copy of this document and the technical support document are also available in the air programs section of EPA Region IX's website, http://www.epa.gov/region09. The docket is available for inspection during normal business hours at EPA Region IX, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. (415) 744-1288.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Planning Office (AIR–2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1288.

SUPPLEMENTARY INFORMATION:

I. Background

A. Original Designation

The Bay Area was originally designated under section 107 of the 1977 CAA as nonattainment for ozone on March 3, 1978 (40 CFR 81.305). The Bay Area consists of the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano (part), and Sonoma (part). Following the 1990 amendments to the Act, the area was classified by operation

of law, under section 181(a), as a ''moderate'' nonattainment area. (56 FR 56694, November 6, 1991).

B. Redesignation to Attainment

On November 12, 1993, after three years without any violations of the federal ozone standard according to quality assured ambient air quality data from the official monitoring network [1] of the Bay Area Air Quality Management District (Bay Area, District, or BAAQMD), the California Air Resources Board (CARB) submitted to EPA for approval a maintenance plan and a request to redesignate the Bay Area ozone nonattainment area to attainment. On September 28, 1994, EPA proposed to approve the State of California's submittal (59 FR 49361). On May 22, 1995, EPA published the final rule redesignating the Bay Area to attainment for ozone (60 FR 27028). The redesignation to attainment became effective on June 21, 1995.

C. Violations of the Ozone Standard After Redesignation

Despite implementation of most of the measures in the Bay Area's maintenance plan, the Bay Area's monitoring network [2] has recorded 46 exceedances (43 since the redesignation to attainment in June 1995) and 17 violations of the federal 1-hour ozone standard over the 3-year period 1994–1996.[3]

An exceedance of the 1-hour ozone standard occurs when the hourly average ozone concentration at a given monitoring site is greater than or equal to .125 ppm. A violation of the standard occurs when the expected number of days per calendar year with maximum hourly average ozone concentrations above 0.12 ppm is greater than one. 40 CFR part 50.9. The average number of days is calculated for a 3-year period. 40 CFR part 50, appendix H. This 3-year period was established to reduce the impact of yearly fluctuations in ozone levels. Table 1 lists both the exceedances and the 3-year average number of days over the 1-hour ozone standard for each SLAMS monitoring site in the Bay Area for the period 1994–1996.

TABLE 1.—AVERAGE NUMBER OF EXCEEDANCES FOR THE OZONE SLAMS NETWORK 1994–1996

Monitoring site	Observed values greater than standard	Average number of exceedances per year
Livermore	17	5.7
Oakland	0	0.0
San Leandro	3	1.0
Fremont	2	0.7
Hayward	2	0.7
Concord	4	1.3
Richmond	0	0.0
Bethel Island	2	0.7
Pittsburg	0	0.0
San Rafael	0	0.0
Napa	1	0.3
San Francisco	0	0.0
Redwood City	1	0.3
Gilroy	1	0.3
San Jose (4th Street)	1	0.3
Los Gatos	5	1.7
Mountain View	0	0.0
San Jose (W. San Carlos)	0	0.0
San Jose (Piedmont)	3	1.0
San Martin	2	0.7
Fairfield	1	0.3
Vallejo	1	0.3
Santa Rosa	0	0.0
Sonoma	0	0.0

Source: AIRS/AQS.

D. Petitions to the Administrator

EPA has received two petitions requesting that the Administrator redesignate the Bay Area to nonattainment with the federal 1-hour ozone standard. On March 31, 1997, the Sierra Club and Communities for a Better Environment requested that EPA withdraw the 1995 redesignation action, or alternatively redesignate the area to nonattainment. The Sierra Club also requested that EPA issue a section 110(k)(5) SIP call based on the inadequacy of the current SIP.[4] On July 14, 1997, U.S. Congressman Gary Condit and a coalition of federal, state and local elected officials and public interest and industry groups from downwind areas (primarily the San Joaquin Valley) also requested that EPA withdraw the 1995 redesignation to attainment, or alternatively redesignate the area to nonattainment and issue a SIP call.

E. Applicable Statutory Provisions

Section 107(d)(3) of the Act gives the Administrator the authority to redesignate areas. Under this provision, the Administrator may ''(O)n the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, * * * at any time notify the Governor of any State that available information indicates that the designation of any area * * * should be revised.'' Section 107(d)(3)(A). The Governor then has 120 days to submit the redesignation, as the Governor considers appropriate. Section 107(d)(3)(B). The Administrator must promulgate the redesignation within 120 days of the Governor's response. The Administrator may make any modifications to the Governor's redesignation which she deems necessary, but must notify the Governor of such changes 60 days before promulgating a final redesignation. If the Governor does not submit the redesignation, the Administrator shall promulgate the redesignation which she deems appropriate. Section 107(d)(3)(C). EPA notified the Governor of California by letter dated August 21, 1997, that EPA believes that, based on air quality data, the Bay Area should be redesignated to nonattainment.[5] The

[1] There were no monitored violations of the federal ozone standard at the District's official State and Local Air Monitoring Station (SLAMS) network monitors. There were, however, two violations at special purpose monitors (SPMs) that were established for research purposes. EPA was aware of these violations at the time it redesignated the area to attainment. However, EPA excluded these data because the monitors were not part of the official monitoring network and were not intended to monitor ambient air quality for federal compliance purposes. For policy reasons, EPA did not want to discourage the Bay Area, or other areas, from establishing monitors for research purposes. EPA has since determined that all quality assured data that meet the requirements of 40 CFR 58.14, with the exception of fine particulate matter data (PM–2.5), must be considered for any regulatory purpose, including an ozone redesignation action. (August 22, 1997 memorandum entitled, ''Agency Policy on the Use of Special Purpose Monitoring Data,'' from John Seitz, Director of the Office of Air Quality Planning and Standards, to Air Division Directors, EPA Regions I-X) While EPA has determined that the SPMs data should have been considered in the 1995 redesignation action, the Agency is not basing today's proposed action on these data. Today's action is based on the 17 violations recorded during 1995 and 1996.

[2] Air quality in the Bay Area is monitored by the District's State and Local Air Monitoring Station (SLAMS) network, which comprises 24 monitoring stations. All data must be quality assured.

[3] As required by section 175A of the Act, the Bay Area maintenance plan contains contingency measures that should be designed to correct any violation of the standard occurring after redesignation to attainment. The Bay Area maintenance plan contains six equipment-specific NOx controls and several improvements to the federally mandated Basic Inspection and Maintenance Program (I/M). While the District is continuing to implement the contingency measures in its maintenance plan, the remaining emission reductions to be gained from these measures total 1.2 tons per day in NOx reductions and almost no reductions of Volatile Organic Compounds (VOCs).

[4] A SIP call is a determination under section 110(k)(5) of the Clean Air Act that the SIP is inadequate and must be revised.

[5] This letter is available to the public as part of the docket for this rulemaking action. While EPA indicated in this letter that the Bay Area would be classified as ''moderate,'' the Agency has determined that a moderate classification is not necessary under subpart 1 of the Act. (See discussion at II.A.) Furthermore, the planning requirement to prepare a modeling plan for the 8-hour ozone standard will no longer be required as the District is already engaged in such an exercise with the California Air Resources Board and downwind air districts.

Governor must respond to this letter by December 19, 1997.

F. Proposed Action

In today's document, EPA proposes to redesignate the San Francisco Bay Area to nonattainment for the 1-hour ozone NAAQS because ozone levels have violated the federal standard 17 times over the three year period 1994–1996. Today's action further proposes to require the Bay Area to develop and submit a SIP revision designed to demonstrate attainment of the 1-hour ozone NAAQS by November 15, 1999. Finally, today's action proposes an amendment to 40 CFR parts 52 and 81 to reflect the change in designation. These actions are proposed in accordance with sections 107(d), 110, and 172 of the CAA.

II. Applicable Plan Requirements

A. Clean Air Act Provisions

The classifications and attainment dates for areas classified nonattainment under the 1990 amendments to the Act are contained in section 181(a). The provisions for new designations to nonattainment are found in subsection (b)(1). This subsection provides that areas that were attainment or unclassifiable at the time of the 1990 amendments and are subsequently redesignated to nonattainment are to be classified according to the table in section 181(a)(1). This language contains no reference to areas that were designated nonattainment as a result of the 1990 amendments.

For areas that were designated attainment or unclassifiable following the 1990 amendments, this section further provides that such areas are subject to the same requirements of section 110 and subparts 1 and 2 of the Act as areas designated nonattainment pursuant to the 1990 amendments. In addition, these areas are given an extension of all fixed date deadlines equal to the length of time between November 15, 1990, and the date the area is redesignated.

Although section 181(b)(1) deals with designations to nonattainment occurring after the initial round of classifications under the 1990 amendments, it does not address areas, such as the Bay Area, that were designated nonattainment under the amendments, redesignated to attainment, and that subsequently fall out of attainment and are redesignated back to nonattainment. Because this provision does not, on its face, apply to areas like the Bay Area, EPA believes that it has discretion to determine whether such areas should fall under subpart 2 of the Act when they are redesignated to nonattainment, or should only be subject to the more general provisions of subpart 1.

EPA believes the latter is the appropriate result for a number of reasons. First, the plain language of section 181(b)(1) of the statute applies only to areas designated attainment under section 107(d)(4) and excludes areas like the Bay Area. Second, it is logical to grant the generous extension of deadlines to areas that have never been nonattainment and must devise their first nonattainment area SIPs. Conversely, an area that was previously designated as nonattainment has already done much of this work and should not need this lengthy time period to complete its planning process. Moreover, areas such as the Bay Area generally will have already implemented the section 181 requirements applicable to their previous classification (moderate, serious, severe or extreme). Assuming that these requirements continue to be implemented, placing the area back into the section 181 scheme would do little to bring the area back into attainment. On the other hand, placing the area under section 172 provides the flexibility for the area to identify a new mix of measures that, when combined with those already implemented under section 181, will bring the area back into attainment. Finally, sections 172(a)(1) and (2) contain express statements that they do not apply to nonattainment areas that are specifically covered by other provisions of part D of the Act, thereby demonstrating that the Act contemplates that some areas will fall under subpart 1, rather than subpart 2. See sections 172(a)(1)(C) and (a)(2)(D). For these reasons, EPA believes the best interpretation of the Act is that it intentionally excludes areas like the Bay Area from section 181 and places them under section 172.

B. Section 172 Requirements

General nonattainment plan requirements are contained in section 172(c). Section 172(b) requires the Bay Area plan to meet the ''applicable'' requirements of section 172(c). For reasons set forth below, we believe that some of the section 172(c) requirements have already been satisfied and therefore need not be part of the plan revisions the Bay Area would be required to submit under this proposed action. A table containing the proposed submittals and submittal dates is located at the end of section II.D. below.

Section 172(c)(1) requires that the plan provide for implementation of all reasonably available control measures (RACM) as expeditiously as practicable, including emission reductions from existing sources through adoption of reasonably available control technology (RACT). This provision is applicable to the Bay Area only to the extent that it has not already been complied with. EPA believes that the Bay Area implemented all VOC RACT and most, if not all, oxides of nitrogen (NO_X) RACT measures prior to being redesignated to attainment in 1995.[6] 60 FR 27028.

As required by section 172(c)(1), the plan must provide for attainment. Generally, new modeling is required in order to demonstrate that a plan will indeed provide for attainment. During the stakeholder process that preceded the Agency's decision to propose redesignation EPA heard two points made fairly consistently by all those involved. First, all parties agreed on the importance of a new field study and modeling effort in order to better understand the ozone problem in the Bay Area, as well as its effects on downwind areas. Second, the parties agreed that it would be impossible to conduct a new field study and modeling effort for a short term plan, particularly in light of the fact that the Bay Area will be required to undertake such an effort for the new 8-hour standard if designated nonattainment for the 8-hour standard.

In response to public input, EPA is proposing to require an assessment, employing available modeling information, of the level of emission reductions needed to attain the 1-hour ozone NAAQS. The assessment should take into account the meteorological conditions and ambient concentrations associated with the ozone violations in 1995 and 1996, and should be based on likely control measures for reducing VOC and NO_x emissions. This work may include previous photochemical modeling that was based on Bay Area's 1989 field study, the 1990 modeling analysis done for the San Joaquin Valley, modeling conducted for Bay Area's SIP attainment demonstration

[6] The Bay Area requested and received a NO_x waiver pursuant to section 182(f) of the Act. 60 FR 27028, May 22, 1995. The waiver was based on 3 years of clean ambient air quality data showing that ozone attainment was achieved without application of the section 182(f) NO_x control requirements. Since the waivers only apply to nonattainment areas, they remain in effect only during the period before redesignation of the area to attainment under section 107(d)(3). Thus, when the Bay Area's redesignation to attainment became effective on June 21, 1995, precursor emissions, like NO_x, were addressed, as appropriate, under terms of the Bay Area maintenance plan. It is clear, upon final redesignation of the Bay Area to nonattainment based on subsequent violations of the ozone NAAQS, that the basis for granting the original NO_x waiver no longer exists.

that was based on the Empirical Kinetic Modeling Approach [EKMA], and any other work that will lend insight into the nature of the ozone problem in the Bay Area. It may be appropriate to form a committee made up of representatives with technical modeling expertise from the BAAQMD, CARB, and EPA to review the analysis. EPA recommends that the committee also include technical staff from downwind districts. EPA is proposing that this assessment be submitted on May 1, 1998.

Section 172(c)(2) contains the requirement for reasonable further progress (RFP). RFP is defined as ''such annual incremental reductions in emissions * * * as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment * * * by the applicable date.'' Section 171(1). Because EPA is not proposing to require submission of adopted measures until September 1998, the Agency believes that the RFP requirement would be satisfied if all required emission reductions occur by 1999, the proposed attainment year.

Under section 172(c)(3) the Bay Area must submit a comprehensive, accurate, and current inventory of actual emissions from all sources. To address this requirement, EPA proposes that the Bay Area must submit a current and complete baseline annual average and summer weekday and weekend day[7] emissions inventory for VOC, NO_x, and carbon monoxide (CO). This submittal would be due on May 1, 1998.

Section 172(c)(4) requires the area to identify and quantify emissions that will be allowed from new major sources or major modifications in urban enterprise zones identified by the Administrator in consultation with the Secretary of Housing and Urban Development under section 173(a)(1)(B) of the Act. No such zones have been identified in the Bay Area nonattainment area. Thus, no submission is required for this plan. Were such zones to be identified, a growth allowance would have to be included in the SIP to ensure that emission increases from new sources in the urban enterprize zones would not interfere with attainment.

Section 172(c)(5) requires submittal of a new source review (NSR) program consistent with section 173 of the Act. While the Bay Area does have a SIP-approved NSR program, it is out of date and does not meet current statutory requirements.[8] The Bay Area has submitted a revised new source review rule designed to meet the requirements of the 1990 amendments to the Act. EPA will act on this rule and the NSR requirement in separate rulemaking. Based on the Bay Area's design value of .138 ppm, EPA believes that the NSR program should, by analogy, meet the requirements applicable to a moderate area. Thus, we are proposing that the NSR permitting requirements, applicability thresholds, and offset ratios be set at the same levels that apply to moderate ozone nonattainment areas under sections 182(a)(2)(C) and 182(b)(5).

Section 172(c)(6) requires enforceable emission limitations and other control measures, means or techniques, necessary to provide for attainment by the applicable date. We are proposing that the Bay Area submit by September 1, 1998, adopted regulations (and/or enforceable commitments to adopt and implement control measures in regulatory form by specified dates) sufficient to attain the 1-hour ozone NAAQS by November 15, 1999. Section 172(c)(6) allows the Bay Area to identify and adopt a mix of measures that best meets the needs of the area.

Section 172(c)(7) requires that nonattainment plans meet the general SIP requirements of section 110(a)(2).

Section 172(c)(8) allows the District to apply to the Administrator to use equivalent modeling, emission inventory, and planning procedures.

Under section 172(c)(9), a plan must contain contingency measures that go into effect if the area fails to make RFP or fails to attain the standard. The Bay Area plan will need to contain contingency measures that go into effect if the area is unable to attain the 1-hour ozone NAAQS by the attainment date. As discussed above, the short attainment period for the Bay Area means that failure to make RFP and failure to attain are equivalent.

C. Applicable Attainment Date

Section 172(a)(2) governs attainment dates for nonattainment areas that fall under section 172. This section provides that the attainment date for an area designated nonattainment shall be as expeditiously as practicable, but no later than 5 years from the date the area is designated nonattainment. Thus, the Administrator may set the attainment date at any point up to 5 years based on an assessment of what is ''as expeditiously as practicable.''

Because the Bay Area's emissions appear to be on a downward trend based on currently available information,[9] and because the area was attaining the standard as recently as 1994, EPA believes that the Bay Area should be able to identify and implement measures that will bring it back into attainment fairly quickly. Thus, EPA is proposing to set the Bay Area's attainment deadline as November 15, 1999. This is the date by which the area would have had to attain if it had been bumped up to a ''serious'' classification rather than being redesignated to attainment. As discussed above, the Bay Area recorded 43 exceedances and 17 violations of the standard from June 21, 1995 (the date on which the area was redesignated to attainment) and November 15, 1996, the attainment deadline for moderate ozone nonattainment areas. These violations far exceed those recorded during the same time frame by other moderate ozone nonattainment areas which EPA is proposing to bump up to serious for failure to attain by November 15, 1996.

EPA proposes to make the determination as to whether the area has attained based on monitoring data from the years 1997, 1998 and 1999. During this time frame, EPA will be reviewing 1997–1999 monitoring data for the entire country to determine whether areas are violating the new NAAQS. Areas that violate the 8-hour standard but attain the 1-hour standard prior to designation under the new standard will be eligible for classification as a ''transitional'' area when designated nonattainment for the new 8-hour NAAQS.[10] If the Bay Area attains the 1-hour standard by 1999 and meets the requirements for transitional areas, it may take advantage of this status and avoid certain enumerated requirements under the new NAAQS.

In the event that the Bay Area does not meet the 1999 attainment date, it may, in the future, be eligible for up to two 1-year extensions of this date if it were to meet the requirements of section 172(a)(2)(C).

EPA is particularly interested in receiving public comment on the proposed November 15, 1999 attainment deadline. The Agency has received preliminary input from the District indicating that it believes a later date should be chosen. EPA solicits comment from all interested parties on this issue.

D. Schedule for Plan Submissions

The schedule for plan submissions is governed by section 172(b). This section

[7] EPA Guidance Document #EPA–450–4–91–014, entitled ''Preparation of Emissions for CO and Ozone Precursors for Air Quality Modeling,'' Volume II, May 1991.

[8] See 54 FR 11866 (March 19, 1982).

[9] ''Bay Area Emission Inventory Projections: 1980–2002,'' provided by the Bay Area to EPA May 1997.

[10] 62 FR 38426, July 18, 1997.

provides that the Administrator must establish a schedule for each area to submit a plan or plan revision that meets the applicable requirements of sections 172(c) and 110(a)(2). The schedule must, at a minimum, require submission of the attainment plan no later than three years after designation to nonattainment. EPA is proposing two separate submittal dates for elements of the Bay Area plan that are designed to achieve the November 15, 1999 attainment date. These submittals will be due on May 1, 1998 and September 1, 1998. The contents of these submittals are discussed in section II.B. above.

SCHEDULE OF SUBMITTAL OF REVISIONS TO THE STATE IMPLEMENTATION PLAN FOR OZONE FOR THE SAN FRANCISCO BAY AREA

Action/SIP submittal	Date
Current and complete baseline annual average and summer weekday and weekend day emissions inventory for volatile organic compounds (VOC), nitrogen oxides (NO_X), and carbon monoxide	5–1–98
Assessment, employing available modeling information, of the level of emission reductions needed to attain the current 1-hour ozone National Ambient Air Quality Standard (NAAQS). This assessment should take into account the meteorological conditions and ambient concentrations associated with the violations of the ozone NAAQS in the period 1995–6, and should be based on likely control measures for reducing VOC and NO_X emissions	5–1–98
Adopted regulations and/or control measures, with enforceable commitments to adopt and implement the control measures in regulatory form by specified dates, sufficient to meet reasonable further progress and attain the 1-hour NAAQS expeditiously	9–1–98

III. Administrative Requirements

A. Executive Order (E.O.) 12866

Under E.O. 12866, (58 FR 51735, October 4, 1993), EPA is required to determine whether today's proposal is a ''significant regulatory action'' within the meaning of the E.O., and therefore should be subject to OMB review, economic analysis, and the requirements of the E.O. See E.O. 12866, § 6(a)(3). The E.O. defines, in § 3(f), a ''significant regulatory action'' as a regulatory action that is likely to result in a rule that may meet at least one of four criteria identified in section 3(f), including,

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that the redesignation to nonattainment proposed today, as well as the establishment of SIP submittal schedules, would result in none of the effects identified in E.O. 12866 § 3(f). Under section 107(d)(3) of the Act, redesignations to nonattainment are based upon air quality considerations. The finding, based on air quality data, that the Bay Area is not attaining the ozone NAAQS and should be redesignated to nonattainment does not, in and of itself, impose any new requirements on any sectors of the economy. Similarly, the establishment of new SIP submittal schedules merely establishes the dates by which SIPs must be submitted, and does not adversely affect entities.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

A redesignation to nonattainment under section 107(d)(3), and the establishment of a SIP submittal schedule for a reclassified area, do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to the requirements of the rule). Instead, this rulemaking simply proposes to make a factual determination and to establish a schedule to require the State to submit SIP revisions, and does not propose to directly regulate any entities. Because EPA is proposing to apply the same permitting applicability thresholds and offset ratios applicable to moderate areas, no additional sources will be subject to these requirements as a result of EPA's action. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's proposed action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates ''any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more'' in any one year. A ''Federal mandate'' is defined, under section 101 of UMRA, as a provision that ''would impose an enforceable duty'' upon the private sector or State, local, or tribal governments,'' with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA ''establish[es] any regulatory requirements that might significantly or uniquely affect small governments.'' Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's ''regulatory proposals'' that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates ''any rule for which a written statement is required under [UMRA sec.] 202'', EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

EPA has concluded that this proposed rule is not likely to result in the promulgation of any Federal mandate

that may result in expenditures of $100 million or more for State, local or tribal governments in the aggregate, or for the private sector, in any one year. It is questionable whether a redesignation would constitute a federal mandate in any case. The obligation for the state to revise its State Implementation Plan that arises out of a redesignation is not legally enforceable and at most is a condition for continued receipt of federal highway funds. Therefore, it does not appear that such an action creates any enforceable duty within the meaning of section 421(5)(a)(i) of UMRA (2 U.S.C. 658(5)(a)(i)), and if it does the duty would appear to fall within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

Even if a redesignation were considered a Federal mandate, the anticipated costs resulting from the mandate would not exceed $100 million to either the private sector or state, local and tribal governments. Redesignation of an area to nonattainment does not, in itself, impose any mandates or costs on the private sector, and thus, there is no private sector mandate within the meaning of section 421(7) of UMRA (2 U.S.C. 658(7)). The only cost resulting from the redesignation itself is the cost to the State of California of developing, adopting and submitting any necessary SIP revision. Because that cost will not exceed $100 million, this proposal (if it is a federal mandate at all) is not subject to the requirements of sections 202 and 205 of UMRA (2 U.S.C. 1532 and 1535). EPA has also determined that this proposal would not result in regulatory requirements that might significantly or uniquely affect small governments because only the State would take any action as result of today's rule, and thus the requirements of section 203 (2 U.S.C. 1533) do not apply.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 11, 1997.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 97–33225 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE36

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on Proposed Endangered Status for Three Aquatic Snails, and Proposed Threatened Status for Three Aquatic Snails in the Mobile River Basin of Alabama

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing on the proposed endangered status for the cylindrical lioplax (*Lioplax cyclostomaformis*), flat pebblesnail (*Lepyrium showalteri*), and plicate rocksnail (*Leptoxis plicata*); and the proposed threatened status for the painted rocksnail (*Leptoxis taeniata*), round rocksnail (*Leptoxis ampla*), and lacy elimia (*Elimia crenatella*). The Service also announces the reopening of the comment period for these actions. The public hearing and the reopening of the comment period will allow additional comments on this proposal to be submitted from all interested parties.

DATES: The public hearing will be held from 7 to 10 p.m. on Tuesday, January 13, 1998, in Birmingham, Alabama. The comment period now closes on January 23, 1998. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Dwight Beeson Hall Auditorium on the campus of Samford University, 800 Lakeshore Drive, Birmingham, Alabama 35229. Written comments and materials concerning the proposal may be submitted at the hearing or sent directly to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield (see **ADDRESSES** section), 601/965–4900, extension 25.

SUPPLEMENTARY INFORMATION:

Background

The six aquatic snail species are endemic to portions of the Mobile River Basin, Alabama. The cylindrical lioplax, flat pebblesnail, and round rocksnail are found in the Cahaba River drainage; the lacy elimia and painted rocksnail are in the Coosa River drainage; and the plicate rocksnail is in the Black Warrior River drainage. All six species have disappeared from 90 percent or more of their historic range. Known populations are restricted to small portions of stream drainages. The past decline of the snails is attributed to impoundment, habitat fragmentation, and water quality degradation. Current threats include the gradual and cumulative effects of sedimentation and nutrification originating from nonpoint sources on the snails' localized and isolated stream refugia.

On October 17, 1997, the Service published a rule proposing endangered status for the cylindrical lioplax, flat pebblesnail, and plicate rocksnail; and threatened status for the painted rocksnail, round rocksnail, and lacy elimia in the **Federal Register** (62 FR 54020–54028. Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. A public hearing request by Gorham & Waldrep, P.C., was received within the allotted time period. The Service has scheduled a public hearing in Birmingham, Alabama on Tuesday, January 13, 1998, at Samford University's Dwight Beeson Hall Auditorium from 7:00 to 10:00 p.m.

Oral and written comments will be accepted and treated equally. Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are no limits to the length of written comments or materials submitted at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the hearing are being published in newspapers concurrently with this **Federal Register** notice. The comment period on the proposal was initially closed on December 16, 1997. To accommodate the hearing, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until January 23, 1998, to the Service office in the **ADDRESSES** section.

Author: The primary author of this notice is Paul Hartfield (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: December 11, 1997.

H. Dale Hall,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 97–33140 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 971124276–7276–01; I.D. No. 110797B]

RIN 0648–AH88

Designated Critical Habitat; Green and Hawksbill Sea Turtles

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments; and notice of public hearings.

SUMMARY: NMFS proposes to designate critical habitat pursuant to the Endangered Species Act of 1973 (ESA) for the threatened green turtle (*Chelonia mydas*) to include waters extending seaward 3 nautical miles (nm) [5.6 kilometers(km)] from the mean high water line of Culebra Island, Puerto Rico (see Figure 1), and for the endangered hawksbill turtle (*Eretmochelys imbricata*) to include waters extending seaward 3 nm (5.6 km) from the mean high water line of Mona and Monito Islands, Puerto Rico (see Figure 2). The designation of critical habitat provides explicit notice to Federal agencies and to the public that these areas and features are vital to the conservation of the species.

DATES: Comments must be received on or before February 17, 1998.

The public hearings on this proposed action are scheduled from 7 p.m. to 9 p.m. as follows:

1. Monday, January 26, 1998—Eugene Francis Conference Room, Physics Building, University of Puerto Rico at Mayaguez, Palmeras Road, Mayaguez, Puerto Rico.

2. Tuesday, January 27, 1998—Puerto Rico Department of Natural and Environmental Resources, Central Office Auditorium, Munoz Rivera Avenue (Bus Stop 3½), Puerta Tierra, Puerto Rico.

3. Thursday, January 29, 1998—Center for Multiple Use, Williamson Street, Culebra, Puerto Rico.

ADDRESSES: Comments and requests for a copy of the environmental assessment (EA) for this proposed rule should be addressed to Barbara Schroeder, National Sea Turtle Coordinator, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Michelle Rogers, 301–713–1401 or Bridget Mansfield, 813–570–5312.

SUPPLEMENTARY INFORMATION:

Background

On February 14, 1997, NMFS announced the receipt of a petition presenting substantial information to warrant a review (62 FR 6934) to designate critical habitat for green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) turtles to include all coastal waters surrounding the islands of the Culebra archipelago. At that time, NMFS also requested additional information concerning other areas in the U.S. Caribbean where the designation of critical habitat for listed sea turtles may be warranted.

Upon further review, NMFS has determined that substantial information exists to warrant the designation of critical habitat for green and hawksbill turtles in the Caribbean. Therefore, NMFS proposes to designate critical habitat for the threatened green turtle to include coastal waters surrounding Culebra Island, Puerto Rico, and for the endangered hawksbill turtle to include coastal waters surrounding Mona and Monito Islands, Puerto Rico (see Proposed Critical Habitat; Geographic Extent section of this notice). This designation of critical habitat for the hawksbill turtle complements the U.S. Fish and Wildlife Service (USFWS) action which designated critical habitat for this species to include all areas of beachfront on the west, south, and east sides of Mona Island, as well as certain nesting beaches on Culebra, Cayo Norte, and Culebrita in the Culebra archipelago (47 FR 27295, June 24, 1982).

In accordance with the July 18, 1977, Memorandum of Understanding between NMFS and the USFWS, NMFS was given responsibility for sea turtles while in the marine environment. Such responsibility includes proposing and designating critical habitat. The designation of critical habitat for sea turtles while on land is the jurisdiction of the USFWS; therefore, this rule includes only marine areas.

Green and hawksbill turtles are largely restricted to tropical and subtropical waters. Once abundant throughout the Caribbean, green and hawksbill turtle populations have diminished to the point where they may likely be extirpated from this area. The green turtle is listed as threatened under the ESA, except for the Florida and Pacific coast of Mexico breeding populations, which are listed as endangered. The hawksbill turtle is listed as endangered throughout its range.

Additionally, green and hawksbill turtles, as well as other marine turtle species, are protected internationally under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Without these protections, it is highly unlikely that either species, traditionally highly prized in the Caribbean for their flesh, fat, eggs, and shell, would exist today.

The extensive seagrass beds of the Culebra archipelago support a large juvenile population of green turtles. Researchers estimate that over 150 juvenile green turtles are resident on Culebra seagrass beds at any given time. Additionally, a small population of adult green turtles have been documented in these waters (Collazo *et al.*, 1992).

On November 10, 1993, the USFWS designated Culebra seagrass beds as Resource Category 1, recognizing these seagrasses as critical foraging habitat for juvenile green turtles (USFWS, 1993). The USFWS mitigation policy classifies habitats into different resource categories according to their importance on a national or ecoregional scale. This classification provides guidance to the USFWS, NMFS, action agencies, and private developers that mitigation may be necessary if impacts to these habitats are anticipated. Resource Category 1 designation recognizes the habitat as unique and irreplaceable on a national or ecoregional level and states that loss of the habitat is not acceptable.

Green turtles nest sporadically on Puerto Rico's beaches. Green turtle nests have been observed on the main island of Puerto Rico, as well as on Mona and Vieques Islands, and have been reported periodically on Culebra Island (Bacon *et al.*, 1984; Carr, 1978; Pritchard and Stubbs, 1981). The natal beaches of Culebra's juvenile green turtles and the location of their nesting beaches are unknown.

The coastal waters of Culebra provide habitat for hawksbill and leatherback turtles as well. Hawksbill turtles forage extensively on the nearby reefs, and both hawksbills and leatherbacks use Culebra's coastal waters to access nesting beaches. Culebra and St. Croix

beaches have the greatest density of leatherback nests within U.S. waters.

Mona and Monito Islands are uninhabited natural reserves managed by the Puerto Rico Department of Natural and Environmental Resources. The waters surrounding Mona Island are one of the few known remaining locations in the Caribbean where hawksbill turtles occur with considerable density (Diez and van Dam, 1996). Researchers have shown that the large juvenile population of hawksbill turtles around Mona and Monito are long term residents, exhibiting strong site fidelity for periods of at least several years (Diez, 1996). Mona Island supports the largest population of nesting hawksbill turtles in the U.S. Caribbean. During the most recent nesting season, a record 354 nests and 288 false crawls were recorded from July 31, 1996, to January 17, 1997 (Diez, 1996).

Additionally, the waters surrounding Mona Island support a small green turtle population, which possibly is surviving only because of Mona's remoteness and the full-time presence of Puerto Rico Department of Natural and Environmental Resources fisheries/wildlife enforcement personnel. Limited green turtle nesting still occurs on Mona Island.

Use of the term ''essential habitat'' within this Notice refers to critical habitat as defined by the ESA and should not be confused with the requirement to describe and identify Essential Fish Habitat (EFH) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et sec.

Definition of Critical Habitat

Critical habitat is defined in section 3(5)(A) of the ESA as ''(i) the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species * * * upon a determination by the Secretary that such areas are essential for the conservation of the species.'' (see 16 U.S.C. 1532(5)(A)). The term ''conservation,'' as defined in section 3(3) of the ESA, means ''* * * to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary.'' (see 16 U.S.C. 1532(3)).

In designating critical habitat, NMFS must consider the requirements of the species, including: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, or rearing of offspring; and, generally, (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of the species (see 50 CFR 424.12(b)).

In addition to these factors, NMFS must focus on and list the known physical and biological features (primary constituent elements) within the designated area(s) that are essential to the conservation of the species and that may require special management considerations or protection. These essential features may include, but are not limited to, breeding/nesting areas, food resources, water quality and quantity, and vegetation and soil types (see 50 CFR 424.12(b)).

Consideration of Economic, Environmental and Other Factors

The economic, environmental, and other impacts of a critical habitat designation have been considered and evaluated. NMFS identified present and anticipated activities that (1) may adversely modify the areas being considered for designation and/or (2) may be affected by a designation. An area may be excluded from a critical habitat designation if NMFS determines that the overall benefits of exclusion outweigh the benefits of designation, unless the exclusion will result in the extinction of the species (see 16 U.S.C. 1533(b)(2)).

The impacts considered in this analysis are only those incremental impacts specifically resulting from a critical habitat designation, above the economic and other impacts attributable to listing the species or resulting from other authorities. Since listing a species under the ESA provides significant protection to a species' habitat, in many cases the economic and other impacts resulting from the critical habitat designation, over and above the impacts of the listing itself, are minimal (see Significance of Designating Critical Habitat section of this proposed rule). In general, the designation of critical habitat highlights geographical areas of concern and reinforces the substantive protection resulting from the listing itself.

Impacts attributable to listing include those resulting from the ''take'' prohibitions contained in section 9 of the ESA and associated regulations. ''Take,'' as defined in the ESA means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (see 16 U.S.C. 1532(19)). Harm can occur through destruction or modification of habitat (whether or not designated as critical) that significantly impairs essential behaviors, including breeding, feeding, or sheltering.

Significance of Designating Critical Habitat

The designation of critical habitat does not, in and of itself, restrict human activities within an area or mandate any specific management or recovery action. A critical habitat designation contributes to species conservation primarily by identifying critically important areas and by describing the features within those areas that are essential to the species, thus alerting public and private entities to the area's importance. Under the ESA, the only regulatory impact of a critical habitat designation is through the provisions of section 7. Section 7 applies only to actions with Federal involvement (e.g., authorized, funded, conducted), and does not affect exclusively state or private activities.

Under the section 7 provisions, a designation of critical habitat would require Federal agencies to ensure that any action they authorize, fund, or carry out is not likely to adversely modify or destroy the designated critical habitat. Activities that adversely modify or destroy critical habitat are defined as those actions that ''appreciably diminish the value of critical habitat for both the survival and recovery'' of the species (see 50 CFR 402.02). Regardless of a critical habitat designation, Federal agencies must ensure that their actions are not likely to jeopardize the continued existence of the listed species. Activities that jeopardize a species are defined as those actions that ''reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery'' of the species (see 50 CFR 402.02). Using these definitions, activities that destroy or adversely modify critical habitat may also be likely to jeopardize the species. Therefore, the protection provided by a critical habitat designation generally duplicates the protection provided under the section 7 jeopardy provision.

A designation of critical habitat, in addition to emphasizing and alerting public and private entities to the critical importance of said habitat to listed species, provides a clear indication to Federal agencies regarding when section

7 consultation is required, particularly in cases where the action would not result in direct mortality, injury, or harm to individuals of a listed species (e.g., an action occurring within the critical area when a migratory species is not present). The critical habitat designation, describing the essential features of the habitat, also assists Federal action agencies in determining which activities conducted outside the designated area are subject to section 7 (i.e., activities that may affect essential features of the designated area). For example, discharge of sewage or disposal of waste material, or construction activities that could lead to soil erosion and increased sedimentation in waters in or adjacent to a critical habitat area may affect an essential feature of the designated habitat (water quality) and would be subject to the provisions of section 7 of the ESA.

A critical habitat designation will also assist Federal agencies in planning future actions since the designation establishes, in advance, those habitats that will be given special consideration during section 7 consultations. With a designation of critical habitat, potential conflicts between projects and endangered or threatened species can be identified and possibly avoided early in the agency's planning process.

Another indirect benefit of a critical habitat designation is that it helps focus Federal, state, and private conservation and management efforts in such areas. Management efforts may address special considerations needed in critical habitat areas, including conservation regulations to restrict private as well as Federal activities. The economic and other impacts of these actions would be considered at the time of those proposed regulations and, therefore, are not considered in the critical habitat designation process. Other Federal, state, and local laws or regulations, such as zoning or wetlands protection, may also provide special protection for critical habitat areas.

Process for Designating Critical Habitat

Developing a proposal for critical habitat designation involves three main considerations. First, the biological needs of the species are evaluated and habitat areas and features that are essential to the conservation of the species are identified. If alternative areas exist that would provide for the conservation of the species, such alternatives are also identified. Second, the need for special management considerations or protection of the area(s) or features are evaluated. Finally, the probable economic and other impacts of designating these essential areas as ''critical habitat'' are evaluated. After considering the requirements of the species, the need for special management, and the impacts of the designation, the proposed critical habitat designation is published in the **Federal Register** for comment. The final critical habitat designation, considering comments on the proposal and impacts assessment, is published within one year of the proposed rule. Final critical habitat designations may be revised, using the same process, as new information becomes available.

A description of the critical habitat, need for special management, impacts of designating critical habitat, and the proposed action are described in the following sections for green and hawksbill sea turtles.

Critical Habitat of the Green Turtle

Biological information for listed green turtles can be found in the Recovery Plan for U.S. Population of Atlantic Green Turtle (NMFS and USFWS, 1991), the most recent green turtle status review (NMFS in prep.), and the **Federal Register** notices of proposed and final listing determination (see 40 FR 21982, May 20, 1975; 43 FR 32800, July 28, 1978). These documents include information on the status of the species, its life history characteristics and habitat requirements, as well as projects, activities and other factors affecting the species.

While the precise space requirements for populations of green turtles are unknown, globally this species is primarily restricted to tropical and subtropical waters. In U.S. Atlantic and Gulf of Mexico waters, green turtles are found from Massachusetts to Texas and in the U.S. Virgin Islands and Puerto Rico. Caribbean populations of green turtles have diminished significantly from historical levels, primarily due to the directed turtle fishery that existed prior to their listing under the ESA. Additionally, researchers have documented that habitat loss is a primary factor slowing the recovery of the species throughout its range. Degradation of seagrass beds has slowed recovery of green turtles in the Caribbean due to reduced carrying capacity of seagrass meadows (Williams, 1988). Therefore, the extent of habitat required for foraging green turtles is likely to be increasing due to the reduced productivity of remaining seagrass beds.

Seagrasses are the principal dietary component of juvenile and adult green turtles throughout the Wider Caribbean region (Bjorndal, 1995). The seagrass beds of Culebra consist primarily of turtle grass (*Thalassia testudinum*). While seagrasses are distributed throughout temperate and tropical latitudes, turtle grass beds are a tropical phenomenon. In the Caribbean, turtle grass beds consist primarily of turtle grass, but may include other species of seagrass such as manatee grass (*Syringodium filiforme*), shoal grass (*Halodule wrightii*), and sea vine (*Halophila decipiens*), as well as several species of algae including green algae of the genera *Halimeda, Caulerpa,* and *Udotea.*

The natal beaches of Culebra's juvenile green turtles have not yet been identified. After emerging from nests on natal beaches, post-hatchlings may move into offshore convergence zones for an undetermined length of time (Carr, 1986). Upon reaching approximately 25 to 35 cm carapace length, juvenile green turtles enter benthic feeding grounds in relatively shallow, protected waters (Collazo *et al.*, 1992).

The importance of the Culebra archipelago as green turtle developmental habitat has been well documented. Researchers have established that Culebra coastal waters support juvenile and subadult green turtle populations and have confirmed the presence of a small population of adults (Collazo *et al.*, 1992). These findings, together with information obtained from studies conducted in the U.S. Virgin Islands, have reaffirmed the importance of developmental habitats throughout the eastern portion of the Puerto Rican Bank (Collazo *et al.*, 1992). Additionally, the coral reefs and other topographic features within these waters provide green turtles with shelter during interforaging periods that serve as refuge from predators.

Culebra seagrasses provide foraging habitat for many valuable species. In addition to green turtles, the commercially important queen conch (*Strombus gigas*) and coral reef bony fishes (Class Osteichthyes), such as parrotfish (*Sparisoma spp.*), grunts (*Haemulon spp.*), porgies or sea breams (*Archosargus rhomboidalis*), and others, utilize this important habitat. Culebra's seagrass beds also provide habitat for the endangered west Indian manatee (*Trichechus manatus*) and several species of cartilaginous fishes (Class Chondrichthyes). Additionally, seagrass beds beneficially modify the physical, chemical, and geological properties of coastal areas. They provide nutrients, primary energy, and habitats that help sustain coastal fisheries resources while enhancing biological diversity and wildlife (Vicente and Tallevast, 1992).

Critical Habitat of the Hawksbill Turtle

Biological information for listed hawksbill turtles can be found in the Recovery Plan for the Hawksbill Turtle in the U.S. Caribbean, Atlantic and Gulf of Mexico (NMFS and USFWS, 1993), the Hawksbill Turtle Status Review (NMFS, 1995), and the **Federal Register** notice of final listing determination (see 35 FR 8495, June 2, 1970). These documents include information on the status of the species, its life history characteristics and habitat requirements, as well as projects, activities, and other factors affecting the species.

The hawksbill turtle occurs in tropical and subtropical waters of the Atlantic, Pacific and Indian Oceans. The species is widely distributed in the Caribbean Sea and western Atlantic Ocean. Within the United States, hawksbills are most common in Puerto Rico and its associated islands, the U.S. Virgin Islands, and Florida.

International commerce in hawksbill shell, or ''bekko,'' is considered the most significant factor endangering hawksbill turtle populations around the world. Despite international trade protections under CITES, trade in hawksbill shell continues. The illegal take of hawksbills at sea has not yet been fully quantified, but it is a continuing and serious problem.

Juvenile hawksbills are thought to lead a pelagic existence before recruiting to benthic feeding grounds at a size of approximately 25 cm straight carapace length (Meylan and Carr, 1982). Coral reefs, like those found in the waters surrounding Mona and Monito Islands, are widely recognized as the primary foraging habitat of juvenile, subadult, and adult hawksbill turtles. This habitat association is directly related to the species' highly specific diet of sponges (Meylan, 1988). Gut content analysis conducted on hawksbills collected from the Caribbean suggest that a few types of sponges make up the major component of their diet, despite the prevalence of other sponges on the coral reefs where hawksbills are found (Meylan, 1984). Vicente (1993) observed similar feeding habits in hawksbills foraging specifically in Puerto Rico. Additionally, the ledges and caves of the reef provide shelter for resting and refuge from predators.

The hawksbill's dependence on coral reefs for shelter and food links its well-being directly to the condition of reefs. Destruction of coral reefs due to deteriorating water quality and vessel anchoring, striking, or grounding is a growing problem.

The coral reefs of Mona and Monito Islands are among the few known remaining locations in the Caribbean where hawksbill turtles occur with considerable density (Diez and van Dam, 1996). Recent genetic studies indicate that this resident population of immature hawksbills comprises individuals from multiple nesting populations in the Wider Caribbean. These data indicate that the conservation of the juvenile population of hawksbill turtles at Mona can contribute to sustaining healthy nesting populations throughout the Caribbean Region (Bowen *et al.*, 1996). Additionally, data on hawksbill turtle diet composition and foraging behavior suggest that this high-density hawksbill population may play a significant role in maintaining sponge species diversity in the nearshore benthic communities of Mona and Monito Islands (van Dam and Diez, 1997).

Hawksbills utilize both low- and high-energy nesting beaches in tropical oceans of the world. Both insular and mainland nesting sites are known. Hawksbills will nest on small pocket beaches and, because of their small body size and great agility, can traverse fringing reefs that limit access by other species.

Nesting within the southeastern United States occurs principally in Puerto Rico and in the U.S. Virgin Islands, the most important sites being Mona Island in Puerto Rico and Buck Island Reef National Monument in the U.S. Virgin Islands. Mona Island supports the largest population of nesting hawksbill turtles in the U.S. Caribbean. Considerable nesting also occurs on the beaches of Culebra, Vieques, and mainland Puerto Rico, as well as St. Croix, St. John, and St. Thomas.

Need for Special Management Considerations or Protection

In order to assure that the essential areas and features described in previous sections are maintained or restored, special management measures may be needed. Activities that may require special management considerations for listed green and hawksbill turtle foraging and developmental habitats include, but are not limited to, the following:

(1) Vessel traffic—Propeller dredging and anchor mooring severely disrupt benthic habitats by crushing coral, breaking seagrass root systems, and severing rhizomes. Propeller dredging and anchor mooring in shallow areas are major disturbances to even the most robust seagrasses. Trampling of seagrass beds and live bottom, a secondary effect of recreational boating, also disturbs seagrasses and coral.

(2) Coastal construction—The development of marinas and private or commercial docks in inshore waters can negatively impact turtles through destruction or degradation of foraging habitat. Additionally, this type of development leads to increased boat and vessel traffic which may result in higher incidences of propeller- and collision-related mortality.

(3) Point and non-point source pollution—Highly colored, low salinity sewage discharges may provoke physiological stress upon seagrass beds and coral communities and may reduce the amount of sunlight below levels necessary for photosynthesis. Nutrient over-enrichment caused by inorganic and organic nitrogen and phosphorous from urban and agricultural run-off and sewage can also stimulate algal growth that can smother corals and seagrasses, shade rooted vegetation and diminish the oxygen content of the water.

(4) Fishing activities—Incidental catch during commercial and recreational fishing operations is a significant source of sea turtle mortality. Additionally, the increased vessel traffic associated with fishing activities can result in the destruction of habitat due to propeller dredging and anchor mooring.

(5) Dredge and fill activities—Dredging activities result in direct destruction or degradation of habitat as well as incidental take of turtles. Channelization of inshore and nearshore habitat and the disposal of dredged material in the marine environment can destroy or disturb seagrass beds and coral reefs.

(6) Habitat restoration—Habitat restoration may be required to mitigate the destruction or degradation of habitat that can occur as a result of the activities previously discussed. Additionally, habitat degradation resulting from episodic natural stresses such as hurricanes and tropical storms may require special mitigation measures.

Activities That May Affect Critical Habitat

A wide range of activities funded, authorized, or carried out by Federal agencies may affect the critical habitat requirements of listed green and hawksbill turtles. These include, but are not limited to, authorization by the U.S. Army Corps of Engineers for beach renourishment, dredge and fill activities, coastal construction such as the construction of docks and marinas, and installation of submerged pipeline; actions by the U.S. Environmental Protection Agency to manage freshwater discharges into waterways; regulation of

vessel traffic by the U.S. Coast Guard; U.S. Navy activities; authorization of oil and gas exploration by the Minerals Management Service; authorization of changes to state coastal zone management plans by NOAA's National Ocean Service; and management of commercial fishing and protected species by NMFS.

The Federal agencies that will most likely be affected by this critical habitat designation include the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency; the U.S. Coast Guard, the U.S. Navy, the Minerals Management Service, and NOAA. This designation will provide clear notification to these agencies, private entities, and the public of the existence of marine critical habitat for listed green and hawksbill turtles in the U.S. Caribbean, of the boundaries of the habitat, and of the protection provided for that habitat by the section 7 consultation process. This designation will also assist these agencies and others in evaluating the potential effects of their activities on listed green and hawksbill turtles and their critical habitat and in determining when consultation with NMFS would be appropriate.

Expected Economic Impacts of Designating Critical Habitat

The economic impacts to be considered in a critical habitat designation are the incremental effects of critical habitat designation above the economic impacts attributable to listing or attributable to authorities other than the ESA (see Consideration of Economic, Environmental and Other Factors section of this proposed rule). Incremental impacts result from special management activities in areas outside the present distribution of the listed species that have been determined to be essential to the conservation of the species. However, NMFS has determined that the present range of both species contains sufficient habitat for their conservation. Therefore, NMFS finds that there are no incremental impacts associated with this critical habitat designation.

Proposed Critical Habitat; Geographic Extent

NMFS is proposing to designate the waters surrounding Culebra, Mona, and Monito Islands, Puerto Rico, as critical habitat necessary for the continued survival and recovery of green and hawksbill sea turtles in the region.

Proposed critical habitat for listed green turtles includes waters extending seaward 3 nm (5.6 km) from the mean high water line of Culebra Island, Puerto Rico. These waters include Culebra's outlying Keys including Cayo Norte, Cayo Ballena, Cayos Geniquí, Isla Culebrita, Arrecife Culebrita, Cayo de Luis Peña, Las Hermanas, El Mono, Cayo Lobo, Cayo Lobito, Cayo Botijuela, Alcarraza, Los Gemelos, and Piedra Steven (see Figure 1). Culebra Island lies approximately 16 nm (29.7 km) east of the northeast coast of mainland Puerto Rico. The area in general is bounded north to south by 18°24′ North to 18°14′ North and east to west by 65°11′ West and 65°25′ West.

Proposed critical habitat for listed hawksbill turtles includes waters extending seaward 3 nm (5.6 km) from the mean high water line of Mona and Monito Islands, Puerto Rico. (see Figure 2). Mona Island lies approximately 39 nm (72 km) west of the southwest coast of mainland Puerto Rico. The area in general is bounded north to south by 18°13′ North to 18°00′ North and east to west by 67°48′ West and 68°01′ West.

Note: Figures 1 and 2 will not be published in the Code of Federal Regulations.

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Figure 1—Critical Habitat for Green Turtles. Critical Habitat Includes Waters Extending Seaward 3 nm (5.6 km) From the Mean High Water Line of Isla de Culebra (Culebra Island), Puerto Rico

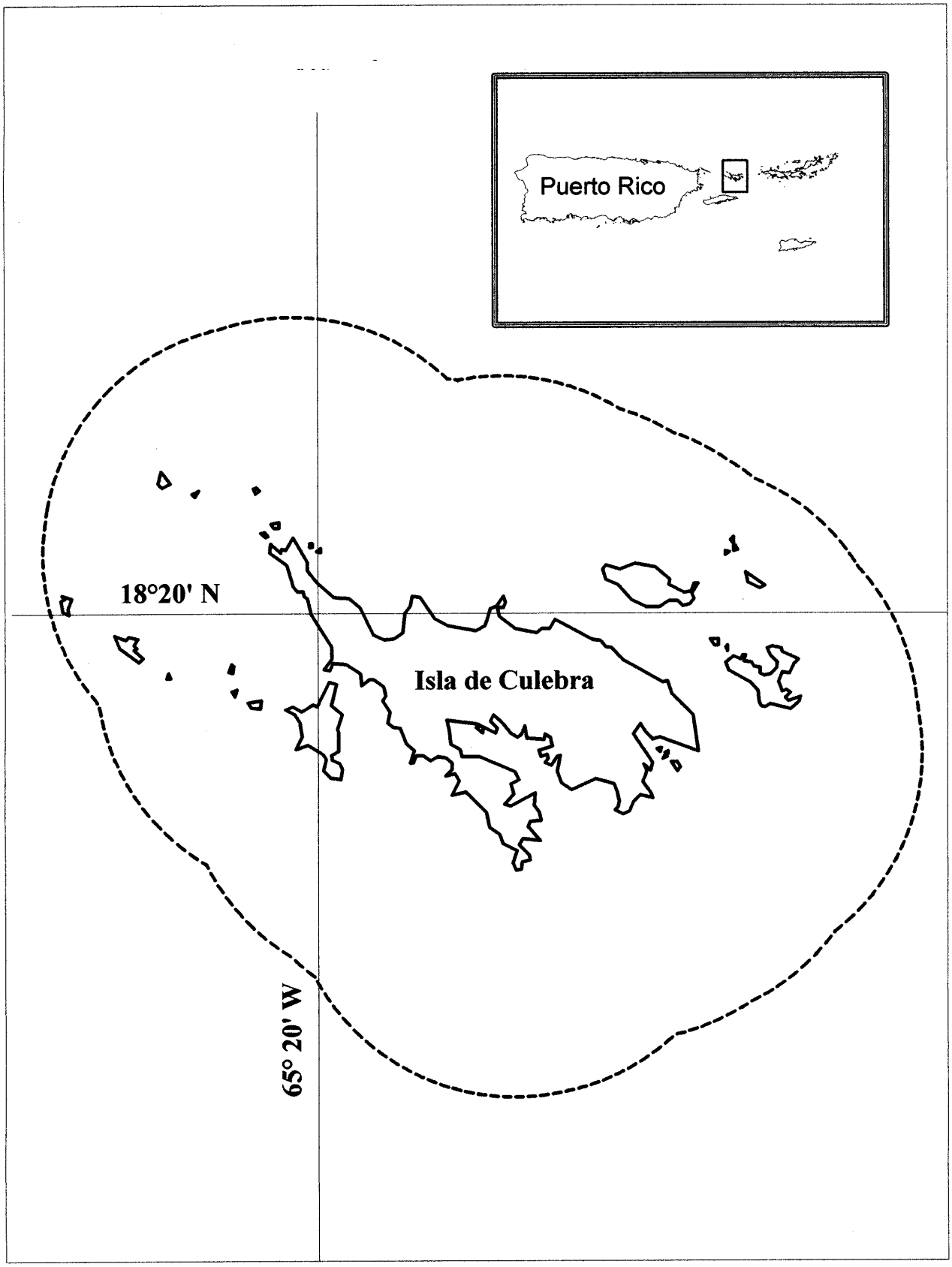
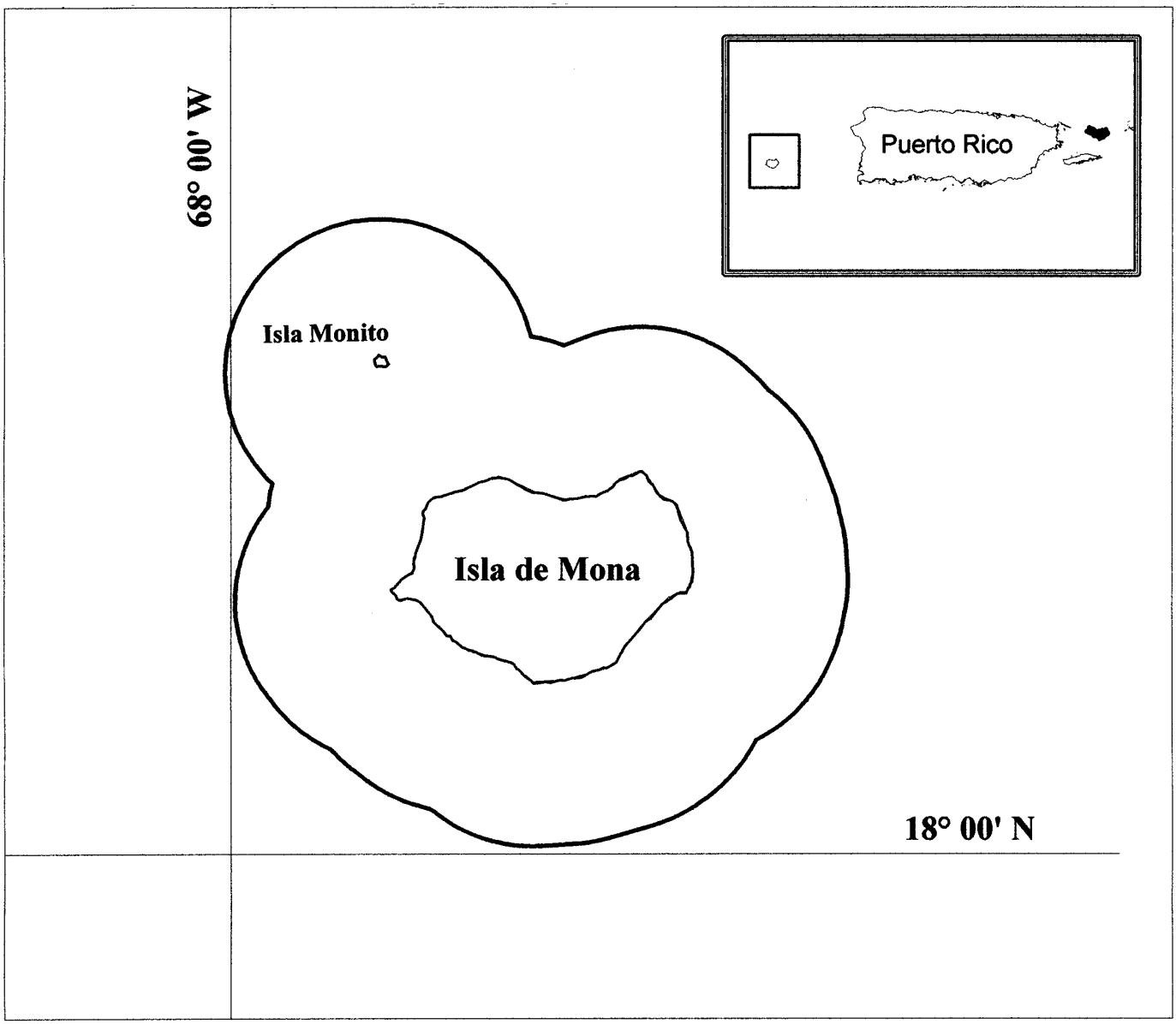


Figure 2—Critical Habitat for Hawksbill Turtles. Critical Habitat Includes Waters Extending Seaward 3 nm (5.6 km) From the Mean High Water Line of Isla de Mona (Mona Island) and Isla Monito (Monito Island), Puerto Rico



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Public Comments Solicited

NMFS is soliciting information, comments and/or recommendations on any aspect of this proposed rule from all concerned parties (see **ADDRESSES**). NMFS will consider all information, comments, and recommendations received before reaching a final decision.

Department of Commerce ESA implementing regulations state that the Secretary ''shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to designate critical habitat.'' (see 50 CFR 424.16(c)(3)). Public hearings on the proposed rule provide the opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages the public's involvement in such ESA matters.

The public hearings on this proposed action have been scheduled for the month of January, 1998 (see **DATES**). Interested parties will have an opportunity to provide oral and written testimony at the public hearings. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other aids should be directed to Bridget Mansfield (see **FOR FURTHER INFORMATION CONTACT**).

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined that this rule is not significant for purposes of Executive Order (E.O.) 12866.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

NMFS proposes to designate only areas within the current range of these sea turtle species as critical habitat; therefore, this designation will not impose any additional requirements or economic effects upon small entities, beyond those which may accrue from section 7 of the ESA. Section 7 requires Federal agencies to insure that any action they carry out, authorize, or fund is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat (ESA § 7(a)(2)). The consultation requirements of section 7 are nondiscretionary and are effective at the time of species' listing. Therefore, Federal agencies must consult with NMFS and ensure their actions do not jeopardize a listed species, regardless of whether critical habitat is designated.

In the future, should NMFS determine that designation of habitat areas outside either species' current range is necessary for conservation and recovery, NMFS will analyze the incremental costs of that action and assess its potential impacts on small entities, as required by the Regulatory Flexibility Act. Until that time, a more detailed analysis would be premature and would not reflect the true economic impacts of the proposed action on local businesses, organizations, and governments.

Accordingly, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact of a substantial number of small entities, as described in the Regulatory Flexibility Act.

The AA has determined that the proposed designation is consistent to the maximum extent practicable with the approved Coastal Zone Management Program of the Commonwealth of Puerto Rico. This determination will be submitted for review by the responsible state agency under section 307 of the Coastal Zone Management Act.

NOAA Administrative Order 216–6 states that critical habitat designations under the ESA are categorically excluded from the requirement to prepare an EA or an environmental impact statement. However, in order to more clearly evaluate the impacts of the proposed critical habitat designation, NMFS has prepared an EA. Copies of the assessment are available on request (see **ADDRESSES**).

References

The complete citations for the references used in this document can be obtained by contacting Michelle Rogers, NMFS (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: December 15, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 226 is proposed to be amended as follows:

PART 226—DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. Sections 226.72 and 226.73 are added to subpart D to read as follows:

§ 226.72 Green sea turtle (Chelonia mydas).

(a) Culebra Island, Puerto Rico—Waters surrounding the island of Culebra from the mean high water line seaward to 3 nautical miles (5.6 km). These waters include Culebra's outlying Keys including Cayo Norte, Cayo Ballena, Cayos Geniquí, Isla Culebrita, Arrecife Culebrita, Cayo de Luis Peña, Las Hermanas, El Mono, Cayo Lobo, Cayo Lobito, Cayo Botijuela, Alcarraza, Los Gemelos, and Piedra Steven.

(b) [Reserved]

§ 226.73 Hawksbill sea turtle (Eretmochelys imbricata).

(a) Mona and Monito Islands, Puerto Rico—Waters surrounding the islands of Mona and Monito, from the mean high water line seaward to 3 nautical miles (5.6 km).

(b) [Reserved]

[FR Doc. 97–33217 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 62, No. 244

Friday, December 19, 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

Agricultural Marketing Service

(Docket No. FV97–33–1 NC)

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the Export Fruit Acts, Apple and Pear Act and the Export Grape and Plum Act.

DATES: Comments on this notice must be received February 17, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Caroline C. Thorpe, Marketing Order Administration Branch, F & V, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, D.C., 20090-6456, Telephone (202) 720–8139 or Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Export Fruit Regulations—Export Apple and Pear Act (7 CFR part 33) and the Export Grape and Plum Act (7 CFR part 35).

OMB Number: 0581–0143.

Expiration Date of Approval: June 30, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Fresh apples, pears and grapes grown in the United States shipped to any foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple and Pear Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599). Currently, plums are not regulated under the Export Grape and Plum Act. The regulations issued under the Export Grape and Plum Act (7 CFR part 35) cover fresh grapes grown in the United States and shipped to foreign destinations, except Canada and Mexico. The regulations issued under the Export Apple and Pear Act (7 CFR part 3) cover fresh apples and pears grown in the United States shipped to foreign destinations. The Secretary of Agriculture is authorized to oversee the implementation of the export fruit acts and issue regulations regarding these commodities.

The information collection requirements in this request are essential to carry out the intent and administration of the export fruit acts. The Export Apple and Pear Act and the Export Grape and Plum Act have been in effect since 1933 and 1960 respectively.

Both Acts were designed to promote the foreign trade of the United States in apples, pears, grapes and plums; to protect the reputation of these American-grown commodities; and to prevent deception or misrepresentation of the quality of such products moving in foreign commerce.

The regulations issued under the Acts (§ 33.11 for apples and pears, and § 35.12 for grapes) require that the U.S. Department of Agriculture (USDA) officially inspect and certify that each shipment of fresh apples, pears, and grapes is in compliance with all pertinent regulatory requirements effective under the Acts. Persons who ship fresh apples, pears, and grapes grown in the United States to foreign destinations must have such shipment inspected and certified by Federal or Federal-State Inspection Service (FSIS) inspectors. The FSIS is administered by the Agricultural Marketing Service.

The forms covered under this information collection require the minimum information necessary to effectively carry out the export fruit acts, and their use is necessary.

The information collection requirements in this request is primarily in the form of recordkeeping. Information needed by USDA is available on official Federal-State Inspection Service (FSIS) inspection certificates, and on phytosanitary inspection certificates issued by USDA's Animal Plant Health Inspection Service.

Export carriers are required to keep on file for three years copies of inspection certificates for apples, pears, and grapes transported by them. Export shippers are required to label certain containers of apples, pears, and grapes used for export shipments.

The number of exporters has remained fairly constant in recent years. There are an estimated 115 exporters who use the required forms and the corresponding forms have remained constant.

The information collection requirements in this request are periodically reviewed to ensure that they place as small a burden on the exporter as possible. Procedures have been streamlined to assure efficiency in administering the Acts.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 4.9528 hours per response.

Respondents: Fruit export shippers and export carriers.

Estimated Number of Respondents: 115.

Estimated Number of Responses per Respondent: 3.96.

Estimated Total Annual Burden on Respondents: 2,204.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, D.C., 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 15, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–33166 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service [1]

Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act

AGENCY: Food and Consumer Service, USDA.

ACTION: Request for comments on proposed collection of information.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this action invites the general public and other public agencies to comment on proposed information collections. Requirements in changes to the Food Stamp Program regulations based on the Mickey Leland Childhood Hunger Relief Act are the basis for information collection in the areas of arbitration and good cause. This action revises the information collection burden that currently includes the Quality Control (QC) sampling plan by adding to it the burdens for the QC arbitration and good cause processes. While these processes have existed since 1981, they have not been included in the burden previously. A notice for the development of the QC sampling plan, as required by Food Stamp Program regulations, was published March 4, 1997 and has been approved through July 31, 2000. The Department of Agriculture published a final rule on June 2, 1997, entitled Food Stamp Program: Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act, which implements changes to the arbitration and good cause processes.

DATES: Written comments must be submitted on or before February 17, 1998.

ADDRESSES: Send comments and requests for copies of this information collection to: Retha Oliver, Chief, Quality Control Branch, Program Accountability Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the 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.

All responses to this action will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record. The Food and Consumer Service (FCS) will publish a document in the rules section of the **Federal Register** announcing the effective and implementation dates of the provisions contained in 7 CFR §§ 275.3(c)(4) and 275.23(e)(7) of the Leland Rule after the approval of the provisions by OMB under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Retha Oliver, (703) 305–2474.

SUPPLEMENTARY INFORMATION:

Title: Food Stamp Program Regulations, Part 275—Quality Control.

OMB Number: 0584–0303.

Expiration Date: July 31, 2000.

Type of Request: Revision of a currently approved collection of information.

Abstract: Pursuant to Section 13951 of the Mickey Leland Childhood Hunger Relief Act (Pub. L. 103–66), the final rule entitled Quality Control Provisions of the Mickey Leland Childhood Hunger Relief Act, (''The ''Leland Rule''), published June 2, 1997 (62 FR 29652), contains information collections which are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The reporting and recordkeeping burden associated with the Food Stamp Program QC sampling plan is approved through July 31, 2000, under OMB No. 0584–0303. This notice proposes to add the burdens for the QC arbitration and good cause processes to the burden that currently includes the QC sampling plan. The burden approved for the QC sampling plan is 266 hours per year. The annual burdens associated with the QC arbitration and good cause processes are estimated to total 1647 and 1917 respectively. The total annual burden for the QC sampling plan, arbitration and good cause processes is estimated to be 3630 hours. The increase of 3564 hours is solely the result of adding the arbitration and good cause processes to the burden.

The QC system contains procedures for resolving differences in review findings between State agencies and FNS. This is referred to as the arbitration process. The QC system also contains procedures which provide relief for State agencies from all or a part of a QC liability when a State agency can demonstrate that a part or all of an excessive error rate was due to an unusual event which had an uncontrollable impact on the State agency's payment error rate. In the past, information collections associated with the QC arbitration or good cause processes have not been included in the reporting and recordkeeping burden. However, since the good cause and arbitration processes have been implemented since 1981, in practice State agencies will not notice an actual increase in burden from current practice.

Quality Control Burden Associated With the Sampling Plan, Arbitration, and Good Cause

1. Sampling Plan

Affected Public: State agencies.

Estimated Number of Respondents: 53.

Estimated Number of Responses Per Respondent: 1.

Estimated Time Per Response: 5.0236 hours.

Estimated Total Annual Burden: 266.

2. Arbitration Process

Affected Public: State agencies.

Estimated Number of Respondents: 53.

Estimated Number of Responses Per Respondent: 3.1.

Estimated Time Per Response: 10.0236 hours.

Estimated Total Annual Burden: 1647.

3. Good Cause Process

Affected Public: State agencies.

Estimated Number of Respondents: 53.

Estimated Number of Responses Per Respondent: 0.226.

Estimated Time Per Response: 160 hours.

Estimated Total Annual Burden: 1917.

4. Combined Quality Control Burden Associated With the Sampling Plan,

[1] The agency name of the Food and Consumer Service was changed to the Food and Nutrition Service by order of the Secretary of Agriculture on November 25, 1997.

Arbitration and Good Cause: 3830 hours.

Dated: December 15, 1997.

Yvette S. Jackson,

Administrator, Food and Consumer Service.

[FR Doc. 97–33190 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Fatty-Piper Access Requests Project, Flathead National Forest, Swan Lake Ranger District, Lake County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Flathead National Forest, Swan Lake Ranger District, will prepare an environmental impact statement on a proposal to grant easements and authorize construction of roads across National Forest System lands in the Cedar Creek, Fatty Creek, and Piper Creek watersheds. The action is proposed in response to an applicant seeking permanent, roaded access to approximately 1,760 acres of non-federal land located within the Flathead National Forest boundary. The requested easements are located roughly 20 miles south of Swan Lake, Montana. The non-federal land to be accessed is located in sections 9, 15, and 23, Township 22 North, Range 18 West and section 35, Township 23 North, Range 18 West, Lake County, Montana. The easements are requested on National Forest System lands in sections 4, 10, and 14, Township 22 North, Range 18 West and section 34, Township 23 North, Range 18 West. The proposed project will be in compliance with the direction in the Flathead National Forest Land and Resource Management Plan (December, 1985), which provides the overall guidance for management of the area. The agency gives written notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing at the address shown below by January 23, 1998.

ADDRESSES: Submit written comments to Charles E. Harris, District Ranger, Swan Lake Ranger District, 200 Ranger Station Road, Bigfork, Montana 59911.

FOR FURTHER INFORMATION CONTACT: Questions about this environmental impact statement should be directed to Dennis McCarthy, Planning Team Leader, Swan Lake Ranger District, 200 Ranger Station Road, Bigfork, Montana 59911; phone (406) 837–7500.

SUPPLEMENTARY INFORMATION: The Swan Lake Ranger District is initiating this action in response to four applications filed by Plum Creek Timber Company, L.P. (Plum Creek). Plum Creek requested rights-of-way across Forest Service lands for the purpose of establishing permanent, roaded access to approximately 1,760 acres in four sections of Plum Creek land. The applications involve requests for five segments of road totaling approximately three miles across Forest Service land. Plum Creek has stated that it intends to manage these sections of land for long-term timber production using conventional ground-based logging systems and build roads on the permitted rights-of-way, sufficient to support timber production.

Plum Creek has no roaded access to two of the sections of land, which are surrounded by National Forest System lands. Plum Creek has limited access to the other two sections and has requested additional roaded access to them. Plum Creek seeks permanent, roaded access pursuant to federal regulations at 36 CFR part 251 (subpart D—Access to Non-Federal Lands), 36 CFR part 212 (Ingress and Egress) and the Alaska National Interest Lands Conservation Act (ANILCA) and its implementing regulations.

Swan Lake Ranger District personnel invited comments on the environmental analysis for this project in September, 1996, by sending a scoping notice to people on the District's mailing list. Subsequently, District personnel determined that they should prepare an environmental impact statement. The comments received in response to the September, 1996 scoping will be taken into consideration along with comments received on the draft environmental impact statement. Some of the issues identified include impacts to: Water quality; soils and slope stability; air quality; proximity to the Mission Mountains Wilderness; threatened, endangered, and sensitive animal, plant, and fish species and habitat (i.e., grizzly bear, bull trout, water howellia); old-growth forests; roadless area; and recreational experiences.

Swan Lake Ranger District personnel will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions. The scoping period for the draft environmental impact statement will extend to January 23, 1998. This information will be used in preparation of the draft environmental impact statement.

The draft environmental impact statement will be filed with the Environmental Protection Agency and will be made available for public review in February, 1998. At that time, copies of the draft environmental impact statement will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. The Environmental Protection Agency will publish a notice of availability of the draft environmental impact statement in the **Federal Register**. The comment period will be no less than 45 days from the date that appears in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corporation* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (8th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wisconsin, 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages of chapters of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final environmental impact statement is scheduled to be completed by May, 1998. In the final environmental impact statement, the Swan Lake Ranger District is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft environmental impact statement and applicable laws, regulations and policies considered in making the decision regarding this proposal. Charles E. Harris, District Ranger, Swan Lake Ranger District, is the responsible official and his decision and reasons for this decision will be documented in the Record of Decision. The decision will be subject to Forest Service appeal regulations (36 CFR 215).

Dated: December 8, 1997.

Charles E. Harris,

District Ranger.

[FR Doc. 97–33062 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent To Request a Revision of a Currently Approved Information Collection

AGENCY: Natural Resources Conservation Service, United States Department of Agriculture.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and the Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the Natural Resources Conservation Service's (NRCS) intention to request a revision to a currently approved information collection, the Rural Abandoned Mine Program.

DATES: Comments on this notice must be received by February 17, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Marcella Graham, Agency OMB Clearance Officer, Natural Resources Conservation Service, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890, (202) 720–5699.

SUPPLEMENTARY INFORMATION:

Title: Rural Abandoned Mine Program.

OMB Number: 0578–0019.

Expiration Date of Approval: May 31, 1998.

Type of Request: To reinstate, with change, a previously approved collection for which approval has expired.

Abstract: The primary objective of the Natural Resources Conservation Service is to work in partnership with the American people to conserve and sustain our natural resources. The Rural Abandoned Mine Program authorizes Federal technical and financial long-term cost-sharing assistance for conservation treatment and reclamation of abandoned coal mined land with eligible land users. The financial assistance is based on a conservation plan for reclamation which is made a part of an agreement or contract for a 5 or 10-year period of time. Under the terms of the agreement, the participant agrees to apply, or arrange to apply, the conservation treatment specified in the conservation plan. In return for this agreement, Federal cost-share payments are made to the land users, or third party, upon successful application of the conservation treatment.

Information collected is used by the NRCS to ensure proper utilization of program funds. The *NRCS–LTP–013* is used to record progress in applying the conservation/reclamation plan (7 CFR 632.24), such as the verification, revision or modification of the conservation plan, as well as recording the need for any follow up technical assistance. The *NRCS–LTP–150* is for the land user to enter into a contract with NRCS to receive Federal cost-share assistance (7 CFR 632.22). The *NRCS–LTP–151* is used to notify the participant, with an active agreement or contract, that information has been received which indicates a violation of the contract (7 CFR 632.42 (b)(1)(2)). The *NRCS–LTP–152* is used during the contract period when the land user loses control of all or part of the right and interest in the land (7 CFR 632.22(f)). The *NRCS–LTP–153* is used is used when non-compliance of the contract is indicated (7 CFR 632.41). The *NRCS–LTP–156* is the basic document used by landowners to request assistance through the local NRCS field office (7 CFR 632.20). The *NRCS–FNM–140* is used to authorize the vendor to furnish the conservation materials and services described in column (b) of the form (7 CFR 632.31(e)). This information collection is being resubmitted to reflect the elimination of two forms previously authorized (*NRCS–LTP–154* and *NRCS–LTP–155*) and to reflect a scaled-down program. NRCS will ask for 3-year OMB approval within 60 days of submitting the request.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.50 hours per response.

Respondents: Farms, individuals or households, or State, local, or Tribal governments.

Estimated Number of Respondents: 438.

Estimated Total Annual Burden on Respondents: 223 hours.

Copies of this information collection and related instructions can be obtained without charge from Marcella Graham, the Agency OMB Clearance Officer, at (202) 720–5699.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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, such as through the use of appropriate automated, electronic, mechanical, or other technologic collection techniques or other forms of information technology. Comments may be sent to: Marcella Graham, Agency OMB Clearance Officer, U.S. Department of Agriculture, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

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.

Signed at Washington, D.C. on December 15, 1997.

Thomas A. Weber,

Acting Chief, Natural Resources Conservation Service.

[FR Doc. 97–33126 Filed 12–18–97; 8:45 am]

BILLING CODE 3610–16–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the First Quarter of 1998

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the first quarter of 1998.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for

advances on municipal rate loans with interest rate terms beginning during the first calendar quarter of 1998.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning January 1, 1998, and ending March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, room 2234–S, Stop 1524, 1400 Independence Avenue, SW., Washington, DC 20250–1500. Telephone: 202–720–1928. FAX: 202–690–2268. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the first calendar quarter of 1998 for municipal rate electric loans. RUS regulations at 7 CFR 1714.4 state that each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to 7 CFR 1714.5, the interest rates on these advances are based on indexes published in the ''Bond Buyer'' for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The rate for interest rate terms of 20 years or longer is the average of the 20 year rates published in the Bond Buyer in the four weeks specified in 7 CFR 1714.5(d). The rate for terms of less than 20 years is the average of the rates published in the Bond Buyer for the same four weeks in the table of ''Municipal Market Data—General Obligation Yields'' or the successor to this table. No interest rate may exceed the interest rate for Water and Waste Disposal loans.

The table of Municipal Market Data includes only rates for securities maturing in 1998 and at 5 year intervals thereafter. The rates published by RUS reflect the average rates for the years shown in the Municipal Market Data table. Rates for interest rate terms ending in intervening years are a linear interpolation based on the average of the rates published in the Bond Buyer. All rates are adjusted to the nearest one eighth of one percent (0.125 percent) as required under 7 CFR 1714.5(a). The market interest rate on Water and Waste Disposal loans for this quarter is 5.375 percent.

In accordance with 7 CFR 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the first calendar quarter of 1998.

Interest rate term ends in (year)	RUS rate (0.000 percent)
2019 or later	5.250
2018	5.250
2017	5.250
2016	5.125
2015	5.125
2014	5.125
2013	5.125
2012	5.000
2011	4.875
2010	4.750
2009	4.750
2008	4.625
2007	4.500
2006	4.500
2005	4.375
2004	4.375
2003	4.250
2002	4.125
2001	4.000
2000	3.875
1999	3.750

Dated: December 10, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–33165 Filed 12–18–97; 8:45 am]

BILLING CODE 3410–15–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 20, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the J Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following service has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Janitorial/Grounds Maintenance, U.S. Army Reserve Center, 1900 Green Springs Highway, Birmingham, Alabama

NPA: Alabama Goodwill Industries, Inc., Birmingham, Alabama

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–33196 Filed 12–18–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 20, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310,

1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office and Miscellaneous Supplies
(Requirements for the Naval Support Activity, Millington, Tennessee)
NPA: National Industries for the Blind, Alexandria, Virginia

Pillow, Bed
7210–01–448–9432
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina

Services

Janitorial/Custodial, Department of Veterans Affairs Service and Distribution Center, Building #37—Warehouse, Hines, Illinois
NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois
Switchboard Operation, West Los Angeles VAMC, Los Angeles, California
NPA: Service Disabled Veterans Business Association, Stanford, California

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Napkin, Paper
8540–01–350–6418
Napkin, Junior Dispenser
8540–01–350–6419

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–33198 Filed 12–18–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 20, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 24, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (62 F.R. 55390) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Pen, Metal Barrel & Refills
7520–01–445–7221
7520–01–445–7226
7520–01–445–7230
7520–01–445–7237
7510–01–446–4835
7510–01–446–4845
7510–01–446–4846
7510–01–446–4850

Services

Janitorial/Custodial, U.S. Army Reserve Center, Middletown, Connecticut
Janitorial/Custodial, U.S. Army Reserve Center, Springfield, Massachusetts
Janitorial/Custodial, U.S. Army Reserve Center, Westover, Massachusetts

Janitorial/Custodial, Federal Building and Courthouse, 300 Virginia Street, Charleston, West Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–33199 Filed 12–18–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Additions to the Procurement List; Correction

In the document appearing on page 64351, F.R. Doc. 97–31939, in the issue of December 5, 1997, in the third column, the listing for Office and Miscellaneous Supplies (Requirements for the Marine Corps Air Station, Beaufort, North Carolina) should read (Requirements for the Marine Corps Air Station, Beaufort, South Carolina).

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–33197 Filed 12–18–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Advance Monthly Retail Sales Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 17, 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: Ronald L. Piencykoski, Bureau of the Census, Room 2626–FOB 3, Washington, D.C. 20233–6500, (301) 457–2713.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Advance Monthly Retail Sales Survey (MARTS) provides an early indication of current retail sales activity at the United States level. Policymakers such as the Federal Reserve Board need to have the most timely estimates in order to anticipate economic trends and act accordingly. The Bureau of Economic Analysis (BEA), the Council of Economic Advisors, and other government agencies and businesses use the data to formulate economic policy and make decisions. These estimates have a high BEA priority because of their timeliness. There would be approximately a month delay in the availability of these data if this survey were not conducted. Data are collected monthly from small, medium, and large size businesses, selected using a stratified random sampling procedure. The MARTS sample is reselected periodically, generally at two year intervals. Small and medium-size retailers are requested to participate for those two years, after which they are replaced with new panel members. Smaller firms have less of a chance for selection due to our sampling procedure. Firms canvassed in this survey are not required to maintain additional records and carefully prepared estimates are acceptable if book figures are not available. The change in the response burden is a result of a larger sample size. The sample was increased from 3,363 to 4,100 to improve the quality of the estimates.

II. Method of Collection

We will collect this information by mail, FAX and telephone follow-up.

III. Data

OMB Number: 0607–0104.

Form Number: B–104.

Type of Review: Regular Submission.

Affected Public: Retail Businesses.

Estimated Number of Respondents: 4,100.

Estimated Time Per Response: .0833 hrs (5 minutes).

Estimated Total Annual Burden Hours: 4,100 hours.

Estimated Total Annual Cost: The cost to the respondent is estimated to be $55,965, based on annual response burden of 4,100 hours and a rate of $13.65 per hour to complete the form.

Respondent's Obligation: voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 15, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–33173 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

National Security Assessment of the U.S. High Performance Military Explosives and Components Sector

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 17, 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 Brad Botwin, Director,

Strategic Analysis Division, Bureau of Export Administration (BXA), Department of Commerce, Room 3876, 14th and Constitution Avenue, NW, Washington, DC 20230 (telephone no. (202) 482–4060).

SUPPLEMENTARY INFORMATION:

I. Abstract

Commerce/Bureau of Export Administration (BXA) is conducting an assessment of the domestic high performance military explosives and components sector in order to determine the competitiveness of the U.S. industry and its ability to support current and future defense needs.

II. Method of Collection

The information will be collected using a non-recurring, mandatory survey. It will be collected in written form.

III. Data

The survey will collect information on the nature of the business performed by each firm; estimated sales and employment data; financial information; research and development expenditures and funding sources; capital expenditures and funding sources; and competitiveness issues.

OMB Number: none.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: The domestic high performance military explosives and related components industry.

Estimated Number of Respondents: 40.

Estimated Time Per Response: 6.0 hours.

Estimated Total Annual Burden Hours: 240 hours.

Estimated Total Annual Cost: $8,194 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 15, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–33174 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

International Import Certificate

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 17, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW, Room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States and twenty other countries have undertaken to increase the effectiveness of their respective controls over international trade in strategic commodities by means of an Import Certificate procedure. For the U.S. importer, this procedure provides that, where required by the exporting country with respect to a specific transaction, the importer certifies to the U.S. Government that he/she will import specific commodities into the United States and will not reexport such commodities except in accordance with the export control regulations of the United States. The U.S. Government, in turn, certifies that such representations have been made.

II. Method of Collections

This information is provided in written form.

III. Data

OMB Number: 0694–0017.

Form Number: Form BXA–645P, International Import Certificate.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 7,441.

Estimated Time Per Response: 16 minutes per response.

Estimated Total Annual Burden Hours: 1,986.

Estimated Total Annual Cost: $148,000.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 15, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–33175 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Short Supply Regulations, Petroleum (Crude Oil)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 17, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th & Constitution Avenue, NW, Room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information is collected as supporting documentation for license applications to export petroleum (crude oil) and used by licensing officers to determine the exporter's compliance with the 5 statutes governing this collection.

II. Method of Collection

The information is provided in written form.

III. Data

OMB Number: 0694–0027.
Form Number: BXA–748P.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 24.
Estimated Time Per Response: 4–12 hours per response.
Estimated Total Annual Burden Hours: 192.
Estimated Total Annual Cost: $2,880.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 15, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–33176 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Notification of Commercial Invoices That Do Not Contain a Destination Control Statement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 17, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW, Room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

To insure that U.S. exports go only to legally authorized destinations, ''a destination control statement'' is required to be entered on all commercial invoices and bills of lading or air waybills covering an export from the United States. The same statement must appear on all copies of all such shipping documents that apply to the same shipment. The exporter has the primary responsibility for assuring that the statement is entered on the commercial invoice, regardless of whether he prepares this document. If a forwarder, a carrier acting as a forwarder, or any other party prepares, presents, and/or executes a commercial invoice, that person is also responsible for assuring that an appropriate statement is entered on the document. Consequently, when a forwarding agent finds the documentation lacks the appropriate destination control statement, then he/she is required to notify the exporter of the problem. The forwarder must obtain a written assurance from the exporter that all copies have been corrected.

II. Method of Collection

This collection is a written requirement between freight forwarders and exporters.

III. Data

OMB Number: 0694–0038.
Form Number: None.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 40.
Estimated Time Per Response: 16 minutes per response.
Estimated Total Annual Burden Hours: 11.
Estimated Total Annual Cost: $420.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they will also become a matter of public record.

Dated: December 15, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–33177 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 936]

Grant of Authority for Subzone Status, Diesel Technology Company (Inc.) (Diesel Engine Fuel Injection Components), Kentwood, Michigan

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Kent Ottawa Muskegon Foreign Trade Zone Authority, grantee of Foreign-Trade Zone 189, for authority to establish special-purpose subzone status for the diesel engine fuel injection components manufacturing facilities of the Diesel Technology Company (Inc.), in Kentwood, Michigan, was filed by the Board on October 31, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 80–96, 61 FR 58036, 11–12–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Diesel Technology Company (Inc.), facilities in Kentwood, Michigan (Subzone 189A), at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 11th day of December 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–33239 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 938]

Approval of Manufacturing Activity Within Foreign-Trade Zone 38, Spartanburg, South Carolina; Zeuna Stärker USA, Inc. (Automotive Exhaust Systems)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the South Carolina State Ports Authority, grantee of FTZ 38, has requested authority under § 400.28(a)(2) of the Board's regulations on behalf of Zeuna Stärker USA, Inc., to manufacture automotive exhaust systems under zone procedures within FTZ 38—Site 4, Spartanburg, South Carolina (filed 2–18–97; FTZ Doc. 10–97, 62 FR 10022, 3–5–97);

Whereas, the Board adopts the findings and recommendation of the examiner's report, including a recommended restriction on stainless steel pipe, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied and that the proposal is in the public interest, subject to restriction;

Now, therefore, the Board hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and further subject to a restriction requiring that privileged foreign status (19 CFR 146.41) must be elected on all foreign origin stainless steel pipe admitted to FTZ 38 for the Zeuna Stärker USA, Inc., activity, as indicated in the application.

Signed at Washington, DC, this 11th day of December 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–33240 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order NO. 940]

Grant of Authority For Subzone Status Polaris Industries, Inc. (Small Spark-Ignition Engines) Osceola, Wisconsin

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry; WHEREAS, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved; WHEREAS, an application from Brown County, Wisconsin, grantee of Foreign-Trade Zone 167, for authority to establish special-purpose subzone status for the small internal-combustion engine manufacturing plant of Polaris Industries, Inc., in Osceola, Wisconsin, was filed by the Board on December 11, 1996, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 84–96, 61 FR 66652, 12–18–96); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Polaris Industries, Inc., plant in Osceola, Wisconsin (Subzone 167B), at the location described in the application,

subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 11th day of December 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 97–33241 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–405–802]

Certain Cut-to-Length Carbon Steel Plate From Finland: Antidumping Duty Administrative Review: Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the final results of the antidumping duty administrative review of Certain Cut-to-Length Carbon Steel Plate from Finland. This review covers the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: Heather Osborne or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.; telephone (202) 482–3019 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Due to the complexity of issues involved in this case, it is not practicable to complete this review within the original time limit. The Department is extending the time limit for completion of the final results until January 12, 1998, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. See memorandum to Robert S. LaRussa from Joseph A. Spetrini regarding the extension of the case deadline, dated December 12, 1997.

This extension is in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: December 12, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–33236 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–818)

Certain Pasta From Italy: Termination of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 27, 1997, the Department of Commerce published a notice of initiation of a new shipper administrative review of the antidumping duty order on certain pasta from Italy. The Department is now terminating this review.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Sunkyu Kim, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5288 or 482–2613, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to the regulations at 19 CFR Section 353, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1997, GSA S.r.l. (''GSA'') requested that the Department conduct a new shipper review of the antidumping duty order on certain pasta from Italy. On February 27, 1997, the Department published in the **Federal Register** (62 FR 8927) a notice of initiation of a new shipper administrative review of the antidumping duty order on certain pasta from Italy covering GSA and the period July 1, 1996, through January 31, 1997. On March 3, 1997, we issued the Department's antidumping duty questionnaire [1] to GSA. GSA submitted its response to Section A of the questionnaire on March 26, 1997. Based on our review of the Section A response, we issued a supplemental questionnaire on April 25, 1997. GSA submitted its response to the supplemental Section A questionnaire along with its Sections B and C responses on May 6, 1997. Subsequently, we issued additional supplemental questionnaires to GSA. GSA's responses to these questionnaires were received in June, July and September 1997.

On August 13, 1997, in accordance with 19 CFR 353.22 (h)(7), the Department extended the time for completion of the preliminary results of this review to no later than December 17, 1997, because the Department determined that this case is extraordinarily complicated (62 FR 44107 (August 19, 1997)).

Termination of Review

The respondent, GSA, is a trading company in Italy that purchased the merchandise under review from an unaffiliated producer and resold to customers in the home market and the United States during the POR. Based on our analysis of the data submitted to date by GSA, we conclude that the producer of GSA's pasta, which is unaffiliated with GSA, knew or had reason to know that its merchandise was destined for export to the United States at the time it sold the merchandise to GSA. Specifically, GSA stated that the subject pasta was packaged and labeled at the time of production by the producer. A copy of the packaging, provided in GSA's July 18, 1997, submission, which is identical in all material respects to the packaging for the pasta actually purchased and shipped to the United States by GSA, contains information indicating that the product is destined for the United States. Specifically, the packaging contains the address of the U.S. importer. Additionally, certain proprietary information on the record concerning the nature of the relationship between the parties involved in this review demonstrate that the producer knew or had reason to know that the pasta it sold to GSA was destined for the United States. For a further discussion, see Memorandum to Richard Moreland, Acting Deputy

[1] Section A of the questionnaire requests information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request home market sales listings and U.S. sales listings, respectively.

Assistant Secretary, Import Administration, dated November 23, 1997.

In determining the basis for export price, we examine the price at which the first party in the chain of distribution which has knowledge of the U.S. destination of the merchandise sells the subject merchandise, either directly to a U.S. purchaser or to an intermediary such as a trading company. The party making such a sale, with knowledge of destination, is the appropriate party to be reviewed. See Fresh Garlic From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review 61 FR 68229 (December 27, 1996).

In this case, GSA's unaffiliated producer knew or had reason to know that its merchandise was destined for export to the United States at the time it sold the merchandise to GSA. Therefore, we determine that it is inappropriate to review GSA's sales transactions. Moreover, no request was made to review the producer's sales. Accordingly, we are terminating the current new shipper review with respect to GSA.

This notice is published pursuant to 19 CFR 353.22(h).

Dated: December 12, 1997.

Robert S. LaRussa,

Assistant Secretary, For Import Administration.

[FR Doc. 97–33237 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Purdue University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–046R. *Applicant:* Purdue University, West Lafayette, IN 47907–1064. *Instrument:* Stopped-Flow Spectrophotometer/Fluorimeter System, Model SF–61DX2/X. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 62 FR 58706, October 30, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) Double-mixing of up to four independent solutions, (2) a wide range of aging times and (3) a microvolume rapid quench-flow system. The National Institutes of Health advises in its memorandum dated November 5, 1997 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–33238 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121197D]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Reef Fish Stock Assessment Panel (RFSAP) and the Standing and Special Reef Fish Scientific and Statistical Committee (SSC).

DATES: A joint meeting of the RFSAP and Standing and Special Reef Fish SSC will be held beginning at 1:00 p.m. on Monday, January 5, 1998, and will conclude by 3:00 p.m. on Thursday, January 8, 1998.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

Council address: 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RFSAP and SSC will review the NMFS Gulf of Mexico red snapper stock assessment that was prepared in October 1997. The RFSAP conducted a preliminary review of this assessment in October, but were unable to recommend an acceptable biological catch (ABC) at that time due to insufficient time to conduct a thorough review. In addition to the NMFS Gulf of Mexico red snapper stock assessment, the RFSAP and SSC will also review the NMFS South Atlantic red snapper stock assessment for comparison to the Gulf of Mexico assessment; an independent Gulf of Mexico red snapper stock assessment by Dr. Brian Rothschild, University of Massachusetts; new information on shrimp trawl bycatch reduction devices; and independent peer group evaluations of the red snapper management process that were compiled for NMFS by the American Fisheries Society.

The RFSAP is composed of biologists who are trained in the specialized field of population dynamics. They advise the Council on the status of stocks and level of ABC. The SSC is composed of biologists, economists, and sociologists who are knowledgeable about the technical aspects of fisheries in the Gulf of Mexico. They assess the acceptability of the scientific information and of the ABC recommendation. The SSC may also recommend a specific level of total allowable catch (TAC) from within the ABC range, and management measures needed to implement the TAC, in particular, management measures that may prevent a recreational quota closure in 1998.

The Council will set the 1998 red snapper TAC and associated management measures at its meeting in Point Clear, AL, on January 19–23, 1998, based on the recommendations of the RFSAP, SSC, and public testimony that will be taken at the Council meeting.

Although other issues not contained in this agenda may come before the joint RFSAP/SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal action during this meeting. RFSAP/SSC action will be restricted to those issues specifically identified in the agenda listed in this notice.

A copy of the agenda can be obtained by contacting the Council (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other

auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 29, 1997.

Dated: December 12, 1997.

Gary C. Matlock, Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–33216 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121197C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council will hold a meeting of its Precious Corals Plan Team.

DATES: The meeting will be held on January 30, 1998, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the NMFS Honolulu Laboratory, 2570 Dole St., Rm. 112, Honolulu, HI; telephone: 808–943–1221.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The Precious Corals Plan Team will discuss (1) the status of the precious corals fishery and the recent survey of Makapu'u Bed; (2) a final draft of a Precious Corals Fishery Management Plan (FMP) amendment to establish a framework procedure in the FMP and include the exclusive economic zone around the Northern Mariana Islands in the FMP area; (3) the inconsistency of Hawaii State and Federal regulations for the harvest of precious corals; (4) other issues as required.

Although other issues not contained in this agenda may come before this Plan Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Plan Team action during this meeting. Plan Team action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: December 12, 1997.

Gary C. Matlock, Ph.D.,

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

[FR Doc. 97–33134 Filed 12–18–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: TRICARE Retiree Dental Program enrollment Form; Contractor Designed Format (No DD Form Number); OMB Number 0720–0015.

Type of request: Extension.

Number of Respondents: 286,570.

Responses per Respondent: 1.

Annual Responses: 286,570.

Average Burden per response: 15 minutes.

Annual Burden Hours: 71,640.

Needs and Uses: Conditional approval for the information collection was granted under OMB approval number 0720–0015 pending development of a contractor designed enrollment form which is being submitted for approval. The form will be submitted to OMB concurrently with publication of the final rule. The collection instrument serves as an application form for military members entitled to retired pay and eligible dependents to enroll in the TRICARE Retiree Dental Program. The enrollment application will allow the Department to collect the information necessary to properly identify the program's applicants and to determine their eligibility for enrollment in the TRICARE Retiree Dental Program. In completing and signing an enrollment form, applicants will acknowledge that they understand the benefits offered under the program and the rules they must follow to continue their participation in the program. Further, applicants will acknowledge that the premium will be withheld from retired pay when such pay is available. Initial enrollment will be for a period of 24 months followed by month to month enrollment as long as the enrollee chooses to continue enrollment.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD/Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suit 1204, Arlington, VA 22202–4302.

Dated: December 15, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–33112 Filed 12–18–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

DATE OF MEETING: January 28, 1998 from 1200 to 1700 and January 29, 1998 from 0830 to 1200.

PLACE: National Highway Institute, Conference Room 302, 901 North Stuart Street, Arlington, VA.

MATTERS TO BE CONSIDERED: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the

time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Levine, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: December 15, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–33106 Filed 12–18–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare Environmental Impact Statement for the Realistic Bomber Training Initiative in Texas and New Mexico

The United States Air Force (USAF) is issuing this notice to advise the public of its intent to prepare an Environmental Impact Statement (EIS) to assess the potential environmental impacts of a proposal to implement the Realistic Bomber Training Initiative (RBTI). This proposal is intended to provide efficient, integrated training opportunities for aircrews flying B–1B aircraft from Dyess Air Force Base (AFB), Texas, and B–52H aircraft from Barksdale AFB, Louisiana. The proposed action for RBTI would involve several interrelated elements:

1. Modifications and additions to existing military training route (MTR) airspace used generally for low-altitude training activities;
2. Modifications and additions to existing military operations area (MOA) airspace used for medium to high altitude training and maneuvering;
3. Increased flights by B–1B and B–52H aircraft in the MTR and MOA airspace;
4. Acquisition of a total of 12, 15-acre parcels under the MTR and MOA airspace for construction and operation of an Electronic Scoring Site system consisting of electronic emitters and associated facilities; and
5. Closure of existing Electronic Scoring Site systems at Harrison, Arkansas and La Junta, Colorado, and transfer of equipment to the proposed Electronic Scoring Site system developed for RBTI.

The Air Force has developed three alternatives, each of which fulfills the requirements of the proposed action. Two of these alternatives use airspace over lands located in west Texas; the third uses airspace in northeastern New Mexico. All three of these alternatives, and the No-Action alternative will be evaluated in the EIS. If feasible alternatives are developed as part of the scoping process, they will be included in the EIS.

Implementation of any of the three alternatives fulfilling the proposed action would require the Federal Aviation Administration to modify existing special use airspace and to chart new airspace. Similarly, the Air Force would undertake real estate actions to acquire access to the 12, 15-acre sites for the electronic scoring system.

The information in this EIS will be considered in making the decision whether to implement RBTI, and if so, to select an alternative for implementation. A separate EIS is currently being conducted by the Air Force to address use of existing military airspace over west Texas and northeastern New Mexico by units stationed at Holloman AFB, New Mexico. This proposal, as well as other actions, will be assessed for potential cumulative impacts in the RBTI EIS.

The Air Force intends to hold several public scoping meetings in the potentially affected areas of Texas and New Mexico. Dates, times, and locations for these meetings will be announced through press releases, newspapers and other media sources accessible to the public and agencies. These meetings are the first step in asking for public and government agency comments on the RBTI proposal. Comments provided at these meetings and throughout the scoping process should focus on the merits of the proposal, alternatives, and the nature and scope of environmental issues and other concerns that need to be addressed in the EIS. During the meetings, the Air Force will describe the proposed action and all alternatives, the National Environmental Policy Act process, and outline the opportunities for public involvement in the process.

Comments will be accepted throughout the analysis process, however, to ensure the Air Force has sufficient time to consider public input in the preparation of the Draft EIS, comments should be submitted to the address below by February 17, 1998.

RBTI EIS, c/o 7 CES/CEV, 710 3rd Street, Dyess AFB, TX 79607.

Barbara A. Carmichael

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–33209 Filed 12–18–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for the Draft Environmental Impact Statement (DEIS) for the Disposal and Reuse of Fort McClellan, Alabama

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969 and the President's Council on Environmental Quality, the Army has prepared a DEIS for the Disposal and Reuse of Fort McClellan (FMC), Alabama. The approved 1995 base closure and realignment actions required by the Base Closure and Realignment Act of 1990 (Pub. L. 101–510), and subsequent actions in compliance wit this law, mandated the closure of FMC. It is Department of Defense (DoD) policy to dispose of property no longer needed by DoD. Consequently, as a result of the mandated closure of FMC, the Army is disposing of excess property at FMC.

The DEIS analyzes three disposal alternatives: (1) The no action alternative, which entails maintaining the property in caretaker status after closure; (2) the encumbered disposal alternative, which entails transferring the property to future owners with Army-imposed limitations, or encumbrances, on the future use of the property; and (3) the unencumbered disposal alternative, which entails transferring the property to future owners with fewer or no Army-imposed restrictions on the future use of the property. The preferred action identified in this DEIS is encumbered disposal of excess property at FMC. Based upon the analysis contained in the DEIS, encumbrances and deed restrictions associated with the Army's disposal actions for FMC will be mitigation measures.

Planning for the reuse of the property to be disposed of is a secondary action resulting from closure. The local community has established the Fort McClellan Reuse and Redevelopment Authority (FMRRA) to produce a reuse development plan for the surplus property. The impacts of reuse are evaluated in terms of land use intensities. This reuse analysis is based upon implementing one of three reuse alternatives, all of which are based upon the FMRRA draft reuse plan. The Army has not selected one of these three alternatives as the preferred action. Selection of the preferred reuse plan is a decision that will be made by the FMRRA.

DATES: The review period for the DEIS will end 45 days after publication of the NOA in the **Federal Register** by the EPA. Comments on the DEIS will be used in preparing the Final Environmental Impact Statement and a Record of Decision for the Army action.

COPIES: Copies of the DEIS have been forwarded to the Environmental Protection Agency (EPA), other Federal, state and local agencies, public officials; and organizations and individuals who previously requested copies of the DEIS. Copies of the DEIS and related support studies are available for review at the following FMC libraries: Abrams (Fort McClellan Community) Library, Building 2102, Fort McClellan, Alabama 36205–5020; Fischer Library, U.S. Army Chemical School, Fifth Avenue, Building 1081, Fort McClellan, Alabama 36205; and the Military Police School Library, U.S. Army Military Police School, Building 3181, Fort McClellan, Alabama 36205; as well as the following public and other libraries: Anniston-Calhoun County Public Library, 108 East 10th Street, Anniston, Alabama 36202; Cole Library, Jacksonville State University, 700 Pelham Road, North, Jacksonville, Alabama 36265; Jacksonville Public Library, 200 Pelham Road, North, Jacksonville, Alabama 36205; Oxford Public Library, 213 Choccolocco Street, Oxford, Alabama 36203; and Mobile District, Army Corps of Engineers, 109 Saint Joseph Street, Mobile, Alabama 36628.

ADDRESSES: Questions and/or written comments regarding the DEIS, or a request for a copy of the document may be directed to Mr. Curtis Flakes at the Mobile District, U.S. Army Corps of Engineers (ATTN: CESAM–PD–EC), P.O. Box 2288, Mobile, AL 36602–3630; phone: 334–690–2693 and telefax: 334–690–2727.

SUPPLEMENTARY INFORMATION: A public meeting will be held during the 45-day comment period to afford the public the opportunity to provide oral and written comments on the DEIS. The location and time of the meeting will be announced in local newspapers at least 15 days prior to the meeting. Interested persons are invited to attend this public meeting. Verbal comments at the public meeting will be limited to 5 minutes per person. Individuals desiring to make longer statements may provide written comments to the address above.

Dated: December 9, 1997.

Gary W. Abrisz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 97–32880 Filed 12–18–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army.

ACTION: Notice to Amend System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on January 20, 1998 unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: December , 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0640–10a TAPC

SYSTEM NAME:

Military Personnel Records Jacket Files (MPRJ) *(February 22, 1993, 58 FR 10166).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add '(includes documents pertaining to pre-separation and job assistance needs in transition from military to civilian life),' after 'retirement' in line 42.

* * * * *

A0640–10a TAPC

SYSTEM NAME:

Military Personnel Records Jacket Files (MPRJ).

SYSTEM LOCATION:

Active and Reserve Army Commands/field operating agencies, installations, activities. Official mailing addresses are published as an appendix to the Army's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Enlisted, warrant and commissioned officers on active duty in the U.S. Army; enlisted, warrant and commissioned officers of the U.S. Army Reserve in active reserve (unit or non-unit) status; retired persons; commissioned/warrant officers separated after June 30, 1917 and enlisted personnel separated after October 31, 1912.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting qualifications, emergency data, enlistment and related service agreement/extension/active duty orders; military occupational specialty evaluation data; group life insurance election; record of induction; security questionnaire and clearance; transfer/discharge report/Certificate of Release or Discharge from Active Duty; language proficiency questionnaire; police record check; statement of personal history; application for ID; Department of Veterans Affairs compensation forms and related papers; dependent medical care statement and related forms; training and experience documents; survivor benefit plan election certificate; efficiency reports; application/nomination for assignment; achievement certificates; record of proceeding and appellate or other supplementary actions, Article 15 (10 U.S.C. 815); weight control records; personnel screening and evaluation records; application/prior service enlistment documents; certificate barring reenlistment; waivers for enlistment; physical evaluation board summaries; service record brief; Army School records; classification board proceedings; correspondence relating to badges, medals, and unit awards, including foreign decorations; correspondence/letters/administrative reprimands/censures/admonitions relating to apprehensions/confinement/discipline; dependent travel and movement of household goods; personal indebtedness correspondence and related papers; documents relating to proficiency pay, promotion, reduction in grade, release, retirement (includes documents pertaining to pre-separation and job assistance needs in transition

from military to civilian life), temporary duty, individual flight records, physical examination records, aviator flight record, instrument certification papers, duty status, leave, and similar military documents prescribed for filing by Army regulations or directives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013; and E.O. 9397 (SSN).

PURPOSE(S):

Personnel records are created and maintained to manage the member's Army Service effectively, document historically the member's military service, and safeguard the rights of the member and the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State to issue passport/visa; to document persona-non-grata status, attache assignments, and related administration of personnel assigned and performing duty with the Department of State.

To the Department of Treasury to issue bonds; to collect and record income taxes.

To the Department of Justice to file fingerprints to perform investigative and judicial functions.

To the Department of Agriculture to coordinate matters related to its advanced education program.

To the Department of Labor to accomplish actions required under Federal Employees Compensation Act.

To the Department of Health and Human Services to provide services authorized by medical, health, and related functions authorized by 10 U.S.C. 1074 through 1079.

To the Nuclear Regulatory Commission to accomplish requirements incident to Nuclear Accident/Incident Control Officer functions.

To the American Red Cross to accomplish coordination and service functions including blood donor programs and emergency investigative support and notifications.

To the Civil Aeronautics Board to accomplish flight qualifications, certification and licensing actions.

To the Federal Aviation Agency to determine rating and certification (including medical) of in-service aviators.

To the General Services Administration for records storage and archival services and for printing of directories and related material which includes personal data.

To the U.S. Postal Service to accomplish postal service authorization involving postal officers and mail clerk authorizations.

To the Department of Veterans Affairs to provide information relating to service, benefits, pensions, in-service loans, insurance, and appropriate hospital support.

To the Bureau of Immigration and Naturalization to comply with status relating to alien registration, and annual residence/location.

To the Office of the President of the United States of America to exchange required information relating to White House Fellows, regular Army promotions, aides, and related support functions staffed by Army members.

To the Federal Maritime Commission to obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

To each of the several states, and U.S. possessions to support state bonus application; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions to accomplish student registration, tuition support, tests, and related requirements incident to in-service education programs in compliance with 10 U.S.C. chapters 102 and 103.

To the Social Security Administration to obtain or verify Social Security Number; to transmit Federal Insurance Compensation Act deductions made from members' wages.

To the Department of Transportation to coordinate and exchange necessary information pertaining to inter-service relationships between U.S. Coast Guard (USCG) and U.S. Army when service members perform duty with the USCG.

To the Civil authorities for compliance with 10 U.S.C. 814.

To the U.S. Information Agency to investigate applicants for sensitive positions pursuant to E.O. 10450.

To the Federal Emergency Management to facilitate participation of Army members in civil defense planning, training, and emergency operations pursuant to the military support of civil defense as prescribed by DoD Directive 3025.10, Military Support of Civil Defense, and Army Regulation 500–70, Military Support of Civil Defense.

To the Director of Selective Service System to Report of Non-registration at Time of Separation Processing, of individuals who decline to register with Selective Service System. Such report will contain name of individual, date of birth, Social Security Number, and mailing address at time of separation.

Other elements of the Federal Government pursuant to their respective authority and responsibility.

To the Military Banking Facilities Overseas. Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

NOTE: Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices do not apply to these categories of records.

County and city welfare organizations to provide information needed to consider applications for benefits.

Penal institutions to provide health information to aid patient care.

State, county, and city officials to include law enforcement authorities to provide information to determine benefits or liabilities, or for the investigation of claim or crimes.

Patriotic societies incorporated, pursuant to 36 U.S.C., in consonance

with their respective corporate missions when used to further the welfare, morale, or mission of the soldier. Information can only be disclosed only if the agency which receives it adequately prevents its disclosure to persons other than their employees who need such information to perform their authorized duties.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system, except for those specifically excluded categories of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAILING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's name and/or Social Security Number.

SAFEGUARDS:

All records are maintained in secured areas, accessible only to designated individuals whose official duties require access; they are transferred from station to station in personal possession of the individual whose record it is or, when this is not feasible, by U.S. Postal Service.

RETENTION AND DISPOSAL:

The maintenance, forwarding, and disposition of the MPRJ (DA Form 201) and its contents are governed by Army Regulations 640–10, Individual Military Personnel Records, and 635–10, Processing Personnel for Separations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the commander of the organization to which the service member is assigned; for retired and non-unit reserve personnel, information may be obtained from the U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St Louis, MO 63132–5200; for discharged and decreased personnel contact the National Personnel Records Center, General Services Administration, 9700 Page Boulevard, St Louis, MO 63132–5100.

Individual should provide the full name, Social Security Number, service identification number, current address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the commander of the organization to which the service member is assigned; for retired and non-unit reserve personnel, information may be obtained from the U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St. Louis, MO 63132–5200; for discharged and deceased personnel contact the National Personnel Records Center, General Services Administration, 9700 Page Boulevard, St Louis, MO 63132–5100.

Individual should provide the full name, Social Security Number, service identification number, current address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, educational and financial institutions, law enforcement agencies, personal references provided by the individual, Army records and reports, third parties when information furnished relates to the service member's status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–33107 Filed 12–18–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 20, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 USC Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: December 15, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Survey of Middle School Parents on Level of Knowledge Concerning College Costs and Admission Requirements.

Frequency: One time.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 500, Burden Hours: 42.

Abstract: This collection of information will provide baseline data on the level of knowledge concerning college costs and college admission requirements among parents of middle school children. The data will help the U.S. Department of Education to evaluate and refine its early awareness initiative.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Report of Financial Need and Certification Report for the Jacob K. Javits Fellowship Program.
Frequency: Annually.
Affected Public: Individuals or households; business or other for-profit; Not-for-profit institutions.
Annual Reporting and Recordkeeping Hour Burden: Responses: 100, Burden Hours: 400.
Abstract: These instructions and forms provide the means to collect data in order to make funding determinations for fellows selected under the Jacob K. Javits Fellowship Program.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: State Plan for Independent Living, Rehabilitation Act of 1973, as Amended (Act), Title VII, Chapter 1.
Frequency: Every three years.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden: Responses: 56, *Burden Hours:* 4,480.
Abstract: The purpose of Chapter 1 of Title VII of the Act (Ch.1) is to promote a philosophy of independent living which includes control, peer support, self-help, self-determination, equal access and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society. To implement this purpose, Ch.1 authorizes financial assistance to States for providing, expanding and improving the provisions of State independent living services (SILS), to develop and support statewide networks of centers for independent living (CILs), to improve working relationships among State IL services programs (SILS), CILs, Statewide Independent Living Councils (SILCs), programs funded under other titles of the Act, and other programs that address issues relevant to duals with disabilities funded by Federal and non-Federal authorities.

Section 704 of the Act requires the designated State unit(s) (DSU), jointly with the SILC to develop and sign an approvable SPIL in each State to receive financial assistance under Ch. 1.

[FR Doc. 97–33151 Filed 12–18–97; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Record of Decision: Supplemental Environmental Impact Statement/ Program Environmental Impact Report for the Sale of Naval Petroleum Reserve No. 1 (Elk Hills), Kern County, California

AGENCY: U.S. Department of Energy.
ACTION: Record of Decision.

SUMMARY: The Department of Energy (DOE) is issuing this Record of Decision to proceed, subject to review by Congress, with the sale to Occidental Petroleum Corporation (Occidental) of all right, title, and interest of the United States in Naval Petroleum Reserve No. 1 (NPR–1) located in Kern County, California, in accordance with Title XXXIV of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104–106 (hereinafter the ''Elk Hills Sales Statute'' or ''Act'').

The Act requires that DOE undertake a process to sell NPR–1 in a manner consistent with commercial practices and in a manner that maximizes the proceeds to the Federal government. Furthermore, the Act requires DOE to complete the sale of NPR–1 by February 10, 1998, unless DOE and the Office of Management and Budget (OMB) jointly determine that (i) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects full value, or (ii) another course of action is in the best interests of the United States. The Act also specifies a process for determining the minimum acceptable price for the sale of NPR–1.

Based on the analyses in the Supplemental Environmental Impact Statement/Program Environmental Impact Report (SEIS/PEIR) titled, ''Sale of Naval Petroleum Reserve No. 1 (Elk Hills) Kern County, California,'' consideration of the Congressional direction contained in the Elk Hills Sales Statute, and an offer submitted by Occidental that exceeded the minimum acceptable sale price as determined pursuant to section 3412(d) of the Act and exceeded all other offers received following a competitive sales process, DOE has determined that implementation of the Proposed Action and Preferred Alternative in the SEIS/PEIR (i.e., the sale of all right, title and interest in NPR–1 in accordance with the Act to Occidental) is in the best interests of the United States. Accordingly, DOE is publishing this Record of Decision (ROD) under the authority of the National Environmental Policy Act (NEPA) of 1969 to proceed with the sale of NPR–1 to Occidental and to document the basis for this decision.

ADDRESSES: For further information on the sale of NPR–1 (Elk Hills), contact Anthony J. Como, NEPA Document Manager, Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585, (202) 586–5935 or 1–888–NPR–EIS1. For further information on the NEPA process, contact Carol Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585, (202) 586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: DOE is issuing a ROD pursuant to the regulations of the Council on Environmental Quality implementing the procedural provisions of NEPA [1] and DOE's NEPA implementing regulations.[2]

Background

The Elk Hills Sales Statute, signed by President Clinton on February 10, 1996, authorized and directed the Secretary of Energy (the ''Secretary'') to enter into one or more contracts for the sale of NPR–1 by February 10, 1998, unless the Secretary and the Director of OMB jointly determine that (i) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects full value, or (ii) another course of action is in the best interests of the United States. The Act further directed that the sales process be conducted ''in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government.''

The Act directed the Secretary to take certain measures which were designed to assure that the sale of NPR–1 would result in the maximum return to the government and that the full value of the reserve would be realized. These measures included:

(1) The retention of an investment banker to independently administer the sale in a manner that maximizes sale proceeds to the government;

(2) The hiring of an independent petroleum engineer to prepare a reserve report in a manner consistent with commercial practices;

(3) The finalization of equity interests of known oil and gas zones;

[1] 40 CFR Parts 1500–1508.
[2] 10 CFR Part 1021.

(4) Conducting a competitive sale that was fair and open to all interested and qualified parties;

(5) The establishment of a process for setting the minimum acceptable sales price; and

(6) The authority to transfer to the purchaser(s) of NPR–1 the otherwise nontransferable incidental take permit [3] issued to the Secretary by the U.S. Fish and Wildlife Service (FWS) under section 7 of the Endangered Species Act (ESA).

The Act also requires that DOE submit a written notification to Congress of the conditions of the proposed sale at least 31 days before DOE enters into any contract(s).

Minimum Acceptable Sales Price

Section 3412(d) of the Act prescribes a process for the Secretary of Energy, in consultation with the Director of OMB, to set the minimum acceptable price for the sale of NPR–1. As required by this section of the Act, the Secretary retained the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of NPR–1 to the United States under continued government ownership and operation. Section 3412(d) specifies that in making their assessments, the independent experts shall consider, among other factors, the net present value of the anticipated revenue stream that the Secretary and the Director of OMB jointly determine the Treasury would receive from NPR–1 if it were not sold, adjusted for any anticipated increases in tax revenues that would result if NPR–1 were sold. This net present value determination was prepared jointly by DOE and OMB and was provided to the five independent experts for consideration in making their assessments.

Section 3412(d)(3) of the Act specifies that the Secretary may not set the minimum acceptable sale price below the higher of: (a) The average of the five independent assessments; and (b) the average of three assessments after excluding the high and low assessments. The five independent assessments were submitted to DOE on September 15, 1997. After reviewing these assessments, on September 26, 1997, the Secretary and the Director of OMB jointly established the minimum acceptable price for the sale of NPR–1 as the average of the five assessments, which average was higher than the average of the middle three assessments. The best and final offer submitted by Occidental on October 3, 1997, exceeded the minimum acceptable sale price established by the above process, as well as all other offers, and combinations of other offers, submitted by qualified offerors.

Transfer of Incidental Take Permit

Section 3413(d) of the Elk Hills Sales Statute permits the Secretary to transfer to the purchaser(s) of NPR–1 the incidental take permit issued to the Secretary by the FWS and in effect on February 10, 1996, ''if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States.'' At the beginning of the commercial sales process, DOE decided that transferring to the purchaser(s) of NPR–1 the Biological Opinion (and incidental take statement contained therein) issued to DOE by the FWS on November 8, 1995, should help maximize the proceeds from the sale of NPR–1. However, in the event that not all potential purchasers of NPR–1 would be willing to accept the transferred Biological Opinion and its terms and conditions, DOE determined to make the transfer optional on the part of the prospective operators in the draft Purchase and Sale Agreement distributed to potential purchasers during the sales process.

In its offer to purchase NPR–1, Occidental agreed to accept DOE's Biological Opinion and incidental take statement. Accordingly, under the terms of the Purchase and Sale Agreement, Occidental will assume and agree to be bound by and perform all of DOE's obligations (terms, conditions, and mitigation measures) under the Biological Opinion, including the on-going monitoring requirements and the obligation to establish a 7,075-acre conservation area.

NEPA Process

The continued operation of NPR–1 by DOE has been analyzed in two previously-issued environmental impact statements (EISs): the 1979 EIS titled ''Petroleum Production at Maximum Efficient Rate, Naval Petroleum Reserve No. 1 (Elk Hills), Kern County, California'' (DOE/EIS-0012) and a 1993 supplement to the 1979 EIS titled ''Petroleum Production at Maximum Efficient Rate, Naval Petroleum Reserve No. 1 (Elk Hills), Kern County, California'' (DOE/EIS–0158). However, neither of those documents addressed the possible divestiture of NPR–1. Therefore, subsequent to the enactment of the Elk Hills Sales Statute, DOE determined that the sale of NPR–1 would constitute a major Federal action that may have a significant impact upon the environment within the meaning of NEPA. Accordingly, on March 21, 1996, DOE published a notice in the **Federal Register** (61 FR 11617) announcing its intention to prepare a supplement to the 1993 Supplemental EIS to address foreseeable impacts from the sale of NPR–1 and reasonable alternatives. On April 16, 1996, DOE conducted two public scoping meetings in Bakersfield, California, to identify major issues and concerns that should be addressed in the SEIS.

After consultation with the Kern County (California) Planning Department, Kern County determined that the proposed sale was a project within the meaning of the California Environmental Quality Act of 1970 (CEQA) requiring the preparation of a environmental impact report (EIR). Kern County also determined that, because of the unknown future development decisions of the potential new owners, the EIR should be a program EIR (PEIR) with future additional analyses to be conducted under CEQA as required. Then the determination was made by DOE and Kern County to prepare a joint SEIS/PEIR as allowed by the NEPA and CEQA regulations.

In July 1997, the DOE and Kern County published a Draft SEIS/PEIR on the proposed divestiture of NPR–1 titled ''Draft Supplemental Environmental Impact Statement/Program Environmental Impact Report for the Sale of NPR–1, Kern County, California (DOE/SEIS/PEIR–0158–S2). This document addressed the environmental impacts associated with the Proposed Action (sale of all right, title, and interest of the United States in NPR–1 as required by the Elk Hills Sales Statute) and two possible alternatives. DOE and Kern County distributed approximately 300 copies of the Draft SEIS/PEIR to members of Congress, Federal, state and local agencies, Native American organizations, environmental groups, businesses, and interested individuals. On July 25, 1997, the U.S. Environmental Protection Agency published a notice in the **Federal Register** (62 FR 40074) announcing the availability of the Draft SEIS/PEIR and the start of a 45-day public comment period, which ended on September 8, 1997. As part of the public comment process, DOE and Kern County held two

[3] The authority for Federal agencies to incidentally ''take'' (i.e., kill, harm, hunt, wound, trap, etc.) endangered species is granted by the FWS through a consultation process. Such consultation results in the issuance of a Biological Opinion, which includes an incidental take statement. As used in this Record of Decision, the term ''incidental take permit'' or ''permit'' refers collectively to the Biological Opinion and the incidental take statement contained therein.

public hearings on August 26, 1997, in Bakersfield, California.

In preparing the Final SEIS/PEIR, DOE and Kern County considered all public comments received, including comments received after the September 8, 1997, comment closing date as well as the oral comments made during the public hearings. Over 300 comments were received from 29 written comment letters and 7 oral statements made at the public hearings. The Final SEIS/PEIR was distributed on October 17, 1997. This Final SEIS/PEIR consisted of the Draft SEIS/PEIR and a comment-response document that included public comments received on the Draft SEIS/PEIR, responses to those comments, and changes in the Draft SEIS/PEIR in response to public comments. The Final SEIS/PEIR identified the Proposed Action as DOE's Preferred Alternative. DOE and Kern County distributed approximately 300 copies of the Final SEIS/PEIR to members of Congress, Federal, state and local agencies, Native American organizations, environmental groups, businesses, and interested individuals. On October 24, 1997, the U.S. Environmental Protection Agency published a notice in the **Federal Register** (62 FR 55399) announcing the availability of the Final SEIS/PEIR.

Sales Process

In order to meet the February 10, 1998, statutory deadline contained in the Elk Hills Sales Statute for the completion of the sale, DOE conducted its sales process concurrently with the NEPA and CEQA processes. On May 21, 1997, DOE announced the start of the sales process, which culminated on October 1, 1997, with the submission of bids for the purchase of NPR–1.

To comply with the provisions of the Act, DOE implemented a sales strategy designed to maximize the proceeds to the Federal government. To comply with DOE's further obligations under NEPA to identify all practicable means of mitigating adverse impacts, DOE structured the sales process to incorporate mitigation in a manner that would not impair the ability of DOE to maximize the proceeds from the sale of NPR–1. To meet DOE's obligations under the Elk Hills Sales Statute and NEPA, the Purchase and Sale Agreement provided to prospective offerors during the sales process (May 21, 1997, through October 1, 1997) contained three optional provisions designed to incorporate mitigation into the sale of NPR–1 in a manner that did not impair DOE's ability to maximize proceeds from the sale. These optional provisions were:

(1) Acceptance of the Biological Opinion (including incidental take statement) issued to DOE by the FWS;

(2) Identification of mitigation measures (contained in the SEIS/PEIR) that would be committed to, without reducing the offering price; and

(3) A guarantee that small and independent refiners in the region would have access to 25% of the new operator's NPR–1 oil production for three years following the sale.

During the sales process, prospective purchasers were notified that, even after offers were submitted and the ''highest offer(s)'' identified, DOE could not enter into a sales contract until:

(1) The NEPA process is completed and DOE publishes a Record of Decision;

(2) The Justice Department completes an antitrust review of the sale; and

(3) A 31-day Congressional review period expires with no adverse Congressional action.

On October 1, 1997, DOE received twenty-two (22) offers from fifteen (15) entities. After a preliminary evaluation of these offers, DOE requested submission of ''best and final'' offers from all offerors whose initial offer exceeded the minimum acceptable price. After review of the ''best and final'' offers, DOE identified Occidental as the firm submitting the highest offer for the purchase of NPR–1. In the final Purchase and Sale Agreement to purchase NPR–1, Occidental proposed to accept the transfer of DOE's Biological Opinion and to submit to DOE, within ten (10) business days following the publication of the Final SEIS/PEIR, a list of mitigation measures Occidental would implement after the closing date of the sale, which is scheduled to occur no later than February 10, 1998. This list of mitigation measures[4] is described in this Record of Decision.

Description of Alternatives

Three alternative actions were analyzed in the SEIS/PEIR: (1) Sale of all right, title, and interest of the Federal government in NPR–1 in accordance with the Act (the Proposed Action); (2) continued DOE ownership and operation of NPR–1 (the No-Action Alternative); and (3) withdrawal of DOE from direct petroleum production activities at NPR–1 but continued Federal ownership (Alternative to the Proposed Action).

Comments received during the scoping process suggested that, depending upon how NPR–1 was offered for sale and the type of entity(ies) to whom NPR–1 was sold, different types and levels of environmental impacts could result. Based on these scoping comments, DOE and Kern County developed and analyzed three different divestiture scenarios under the Proposed Action and two different divestiture scenarios under the Alternative to the Proposed Action. In each case, the analyses in the SEIS/PEIR were based upon either a government approach to field development or a commercial approach, depending upon the type of entity(ies) assumed to be the eventual owner(s) of NPR–1. The three alternatives, five divestiture scenarios, and the two field development approaches combine to produce varying types and levels of environmental impacts that are identified in the SEIS/PEIR. These differences in types and levels of impacts result from differences in the rate and level of intensity of oil field development among the three alternatives.

The No Action Alternative assumes continued government ownership and operation of NPR–1 and is based upon the lowest rate and level of intensity of field development activities among the three alternatives. Because the Proposed Action and the Alternative to the Proposed Action both assume operation of NPR–1 by a private entity, these two alternatives are based upon the same rate and level of intensity of field development activities, which is above that assumed in the No Action Alternative.

In order to provide a development baseline against which to analyze the environmental impacts resulting from each alternative, the SEIS/PEIR also included a Reference Case. The Reference Case is based on continued production of NPR–1 at maximum efficient rate (MER) in compliance with the Naval Petroleum Reserves Production Act of 1976, 10 U.S.C. 7420 *et seq.* The 1976 Production Act defines MER as ''the maximum sustainable daily oil and gas rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to the ultimate recovery'' (10 U.S.C. 7420). Such a case formed the basis of the Proposed Action in the 1993 SEIS. The Reference Case in the SEIS/PEIR is

[4] The final Purchase and Sale Agreement negotiated with Occidental contained a provision in which Occidental agreed ''to deliver a list of mitigation measures to be implemented by Buyer [Occidental] after Closing.'' In compliance with this provision, on November 7, 1997, Occidental submitted a list of thirty-three (33) mitigation measures that it intends to implement. In this letter, Occidental also identified the appropriate State, local, or Federal agency which is expected to monitor compliance with each of the measures.

based upon NPR–1's 1995 Long Range Plan.

Proposed Action

The Proposed Action and DOE's Preferred Alternative is the sale of all the Federal government's right, title, and interest in NPR–1 as directed by the Elk Hills Sales Statute. Under the Proposed Action, one or more private entities would purchase NPR–1 and continue to develop and operate it as a commercial oil and gas field for at least the next 40 years. This alternative would result in a higher rate and level of intensity of development for NPR–1 than would be the case under continued government ownership and operation (the No Action Alternative). This higher rate and level of intensity of development would result in the construction and operation of more oil field infrastructure (wells, pipelines, gas processing facilities) than under government operation with a resulting increase in the level of environmental impacts.

No Action Alternative

The No Action Alternative assumes continued Federal ownership of NPR–1 with ongoing responsibility for the field continuing to be assumed by DOE. This could occur if the Secretary exercises his authority under section 3414(b) of the Act to suspend the sale. If such a recommendation were made, new and separate Congressional action would be required before further action with respect to the disposition of NPR–1 could take place.

However, section 3412(h) of the Act specifies that, until sale, production at NPR–1 is to continue at ''the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices.'' Therefore, under the No Action Alternative, continued ownership and operation by DOE would result in a higher rate and level of intensity of development and associated environmental impacts than those that formed the basis of the Proposed Action in the 1993 SEIS and that are above those characterized by the Reference Case in the SEIS/PEIR.

Alternative to the Proposed Action

Under this alternative, the Federal government would take some action other than that required by the Act to sell part, but not all, of its interest in NPR–1, with the same objective of maximizing the value of the reserve to the government. Under this alternative, some level of Federal ownership and control over NPR–1 would be retained. Future oil and gas development of NPR–1 would be at the same rate and level of intensity as the Proposed Action but at a higher rate and level of intensity than under the No Action Alternative. However, the continued Federal role in the overall management of the property would result in a lower level of environmental impacts than under the Proposed Action. Implementation of this alternative would require additional legislation.

Environmentally Preferable Alternative

The Environmentally Preferable Alternative is the No Action Alternative: continued ownership and operation of NPR–1 by DOE. This alternative would result in a continuation of the present level of Federal protection for the threatened and endangered species that are found on NPR–1. Also, under this alternative, the Federal government would develop NPR–1 at a lower rate and level of intensity than would a private entity under the Proposed Action or the Alternative to the Proposed Action. This lower rate and level of intensity of development would produce proportionately lower levels of impacts across the full spectrum of environmental resources. Finally, under the No Action Alternative, NPR–1 likely would revert to some form of conservation area after the completion of oil and gas operations. The environmentally preferable alternative was not selected as DOE's preferred alternative because it would not permit DOE to comply with the Congressional direction contained in the Act of divesting the Federal government of all right, title, and interest in NPR–1.

Major Environmental Impacts and Mitigation Measures

NPR–1 is expected to remain exclusively an oil field for about the next half century. The differences in environmental impacts among alternatives are driven by the rate and level of intensity of development. Development by a private entity under the Proposed Action or the Alternative to the Proposed Action would occur at a higher rate and level of intensity than development by the Federal government under the No Action Alternative.

The two most import resource areas expected to be impacted by the Proposed Action (as well as the No Action Alternative and the Alternative to the Proposed Action) are biological and cultural resources. The SEIS/PEIR also identified two other potentially significant resource areas for the three alternatives. These include air resources and water resources. Other potential resource areas and impacts analyzed in the SEIS/PEIR include geology and soils, hazardous waste, land use, noise, socioeconomic, energy conservation, and environmental justice. However, none of the impacts occurring in these areas were considered likely to be significant. The SEIS/PEIR concludes that all of the impacts resulting from the three alternatives could be mitigated to levels that are less than significant.

Proposed Action

Because the proposed sale of NPR–1 to Occidental would involve the sale of all of the Federal government's right, title, and interest, implementation of mitigation measures under the Proposed Action would be accomplished, for the most part (except for the completion of certain mitigation measures related to cultural resources), by the proposed purchaser of NPR–1, Occidental, with enforcement by the Federal, state and local agencies that have regulatory responsibility for the activities occurring at NPR–1.

Biological Resources

Impacts: The most significant impacts from the Proposed Action and the attendant future development of NPR–1 would be on biological resources. NPR–1 serves as an important habitat for a number of threatened and endangered species, including the San Joaquin kit fox, the blunt nose leopard lizard, the giant kangaroo rat, the Tipton kangaroo rat, the antelope squirrel, and Hoover's woolly-star (a flowering plant).

Oil and gas development on NPR–1 would continue to alter habitat and destroy or injure individuals of threatened and endangered species under the Proposed Action. Development under private ownership of NPR–1 would be at a higher rate and level of intensity and, consequently, have a greater impact on plant and animal communities in general and on threatened and endangered species in particular. Under the Proposed Action, potentially significant impacts include: (1) loss of the affirmative Federal obligation under section 7(a)(1) of the ESA to protect, conserve and help recover threatened and endangered species and their habitats, because the degree of mitigation required of private entities by the ESA is lower than that required of the Federal government; (2) the potential lack of funds for protection and management of the habitat conservation area required to be created by the 1995 Biological Opinion; (3) reduced potential for recovery of listed species and increased potential for listing additional species; and (4) increase in habitat loss and mortality, injury or displacement of plant and

animal communities, including threatened and endangered species.

The impacts under private ownership from future development following the depletion of the reserves and the end of oil and gas production are too speculative to be predicted with any specificity. However, it is possible that additional stress to biological resources could occur, depending on how the owners use the land.

Mitigation: The principal mitigation for the potentially significant impacts on biological resources is Occidental's decision to accept transfer of and agreement to be bound by all the terms and conditions of the Biological Opinion and incidental take statement issued to DOE by the FWS on November 8, 1995. Those terms and conditions, including the mitigation commitments made by DOE, will be in effect until Occidental applies for and receives a new incidental take permit from the FWS under section 10 of the ESA.[5] A new section 10 permit would contain appropriate terms and conditions agreed to by the FWS and Occidental. The principal mitigation measures contained in the 1995 Biological Opinion include:

(1) Creation of a 7,075-acre conservation area and habitat management program;

(2) Conducting research, monitoring, and biological survey programs;

(3) Incorporation of a variety of measures to limit disturbance or destruction of individuals of threatened and endangered species during operation and construction activities;

(4) Prohibitions of public access, hunting, and livestock grazing within NPR–1; and

(5) Restrictions on the use of pesticides, herbicides, and rodenticides.

In addition to accepting the terms and conditions of the 1995 Biological Opinion, Occidental will enter into and implement an Interim Memorandum of Understanding with the California Department of Fish and Game pursuant to Section 2081 of California's Endangered Species Act. The terms, conditions, and mitigation measures that would be contained in this Memorandum of Understanding will mitigate potentially significant impacts on those plant and animal species listed as threatened or endangered by the State of California.

Cultural Resources

Impacts: The second major resource area impacted by the Proposed Action is cultural resources. Approximately 60 percent of the area of NPR–1 has been subject to archaeological survey and inventory. There are two historic archaeological sites at NPR–1 that the California State Historic Preservation Officer (SHPO) has determined are eligible for inclusion on the National Register of Historic Places (discussed below). There are also four prehistoric sites that are eligible for the National Register. Additional inventory efforts are underway and more prehistoric sites are likely to be found (discussed below). The documented prehistoric sites are represented by accumulations of flaked and ground stone, shell and bone artifacts, features, faunal dietary remains and human remains (at two known sites), all of which may be relevant to the prehistory of the area.

Although many potentially significant individual historic archaeological sites or buildings at NPR–1 have been so disturbed that their archaeological values have been destroyed, DOE recommended to the SHPO that NPR–1 be eligible for inclusion on the National Register as an historic landscape. The SHPO concluded, however, that NPR–1 was not an historic landscape but found that three early production wells (the Hay No. 1 Discovery Well, the Hay No. 5 well, and the Hay No. 7 natural gas well) appear to be eligible for the National Register.

Discussions with the SHPO on prehistoric sites indicate that NPR–1 development may disturb the four individual prehistoric sites eligible for the National Register. In September 1997, DOE completed a survey of 3,000 acres previously unsurveyed but predicted to be sensitive for prehistoric archeological resources, and by the end of November 1997, archeological testing at the most promising sites within the 3,000-acre survey area had been completed. Data recovery on significant prehistoric archeological resources will be completed prior to the conclusion of the sales process which is presently scheduled for early February 1998.

Mitigation: Pursuant to sections 106 and 110 of the National Historic Preservation Act, DOE is in the process of finalizing a Programmatic Agreement with the California SHPO and the Advisory Council on Historic Preservation concerning surveys, research, data recordation, documentation and other preservation activities, as appropriate, to mitigate the impacts of the Proposed Action. A set of prehistoric resources representative of the types found on NPR–1 would be treated by a combination of surface mapping, collection, subsurface excavations and analysis to recover data and to address important scientific research questions. A Cultural Resources Management Plan (CRMP) will address the appropriate mitigation required to recover important data from these resources and preserve them through appropriate documentation and publication. The CRMP will be made a part of the Programmatic Agreement.

The Programmatic Agreement will also include mitigation measures specifically designed to address the impacts on resources of particular concern to Native Americans. The mitigation measures will be performed under appropriate archeological protection permits with notice to Native Americans in accordance with Native American Graves Protection and Repatriation Act (NAGPRA) and the Archeological Resources Protection Act. As one of the mitigation measures, DOE will inform Occidental and the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources that sites of this type are known to exist in particular areas of the Reserve, although without providing specific locations so as to protect Native American values.

The SHPO has indicated to DOE that the Programmatic Agreement must also address the concerns related to NAGPRA. As DOE develops the Programmatic Agreement with the SHPO, DOE will provide for involvement and comment by Native Americans, both from tribes on the NAGPRA list and from others with traditional ties to Elk Hills. In addition, DOE will work closely with the FWS and with Occidental in determining the location of the land to be included in the conservation set aside area required under the terms of the 1995 Biological Opinion, in order to maximize the inclusion of areas that archaeologists and Native Americans have identified as known or likely to contain human remains.

With respect to the two historic oil and gas wells that the SHPO has determined are eligible for the National Register, the Programmatic Agreement will provide for a treatment plan to describe the historic context of these wells, as well as to publish the descriptions and distribute the descriptions to public libraries.

In addition to DOE's mitigation, the mitigation measures Occidental intends to implement include:

(1) Evaluate inclusion of the two locations of suspected human remains identified by DOE within the conservation area to be established pursuant to the 1995 Biological Opinion;

(2) Implement a cultural resources training plan supervised by an archaeologist; and

[5] This is the section of the ESA which contains requirements applicable to private landowners.

(3) Implement a plan to address the discovery of suspected human remains, other than human remains addressed by the Programmatic Agreement between DOE and the SHPO, which may be unexpectedly encountered during construction activities. The plan may include consulting with the County Coroner, an archaeologist and/or a local Native American Representative to avoid disturbing suspected human remains.

Other Potentially Significant Impacts

Impacts: The two other potentially significant resource areas impacted by the Proposed Action are air quality and water resources. Future development of NPR–1 under the proposed action would likely result in higher levels of air emissions. Modeling of projected emissions for the year 2001, the highest expected emission year, shows the potential that the state ambient air quality standards for PM_{10} (particulate matter 10 microns or larger) could be exceeded off-site. In addition, on-site Federal ambient air quality standards for NO_2 (Nitrous Oxide) and state ambient air quality standards for PM_{10} and SO_2 (Sulfur Dioxide) might be exceeded. However, these results are conservatively based on maximum permitted emission rates rather than likely lower actual emission rates, so the actual future emissions are expected to be within the National and state standards.

The last potential significant impact area from the Proposed Action is the potential impact on water resources. The higher rate and level of intensity of development under the Proposed Action would increase water use in the enhanced oil recovery technique knows as ''water flooding'' and increase in treatment and disposal requirements for ''produced waters.''

Mitigation: The impacts to these resources would be roughly proportional to oil production levels and can be mitigated through compliance with applicable National and state air emission standards and a continuation of the ongoing NPR–1 program to use treated produced waters in ''water flood'' projects. Occidental intends to implement two mitigation measures with respect to air quality and fifteen (15) water resource mitigation measures. These mitigation measures by Occidental would continue existing DOE practices.

Other Resources

Impacts: Additional areas of potential concern are geology and soils, hazardous waste management and disposal, land use, noise, socioeconomic, energy conservation, and environmental justice. Impacts in these areas are not likely to be significant.

Comments received during scoping and comments received on the Draft SEIS/PEIR expressed concern that the possible loss of access to NPR–1 oil for use in local refineries and as a diluent for pipeline transmission could lead to a premature loss of local refinery production and/or the inability of local crude oil producers to deliver their products to market. Some local small and independent refiners and/or producers of heavy crude oil are dependent on continued access to the lighter NPR–1 oil, and concern was expressed that the proposed sale could limit their access to the oil. Although the proposed purchaser of NPR–1, Occidental, did not accept the optional sales provision to guarantee access to small and independent refiners, Occidental does not refine oil in California and is expected to put its share of the production from NPR–1 on the market. Therefore, small and independent refiners in the region should have access to NPR–1 crude oil under the Proposed Action (sale of NPR–1 to Occidental).

Mitigation: Occidental intends to implement 10 additional mitigation measures (see Footnote 4) with respect to these other impact areas. In addition, all known hazardous waste sites at NPR–1 have been or will be remediated by DOE using appropriate remediation technology. However, remediated sites have, as yet, not received determinations that no further actions are needed from the relevant regulatory agencies. DOE will continue to work with these agencies to achieve final closure on the sites, including any additional mitigation work if required. In the unlikely event that any previously undiscovered reportable hazardous waste sites are encountered prior to the sale, DOE will characterize the contamination and disclose it to Occidental.

No Action Alternative

Government development of NPR–1 under the No Action Alternative would likely be at a lower rate and level of intensity than under the Proposed Action or the Alternative to the Proposed Action. Further, DOE would retain the affirmative Federal obligation to mitigate the environmental consequences of its actions. However, the affected environment and the types of impacts to the affected environment would be the same under both the Proposed Action and the No Action Alternative. In addition, the SEIS/PEIR recognizes the possibility (although an unlikely one) of a higher rate and level of intensity of development under government operation than might occur under commercial operation.

For biological resources, there would be less destruction, disturbance and fragmentation of endangered species habitat under the No Action Alternative compared to the Proposed Action because it is expected that fewer wells would be drilled under the No Action Alternative. In addition, the level of mitigation required of Federal agencies under the ESA is greater than that for private industry. Furthermore, although future development cannot be predicted, at the end of NPR–1's useful life as an oil and gas field, it is more likely to be converted to wildlife habitat under government ownership than under private ownership.

For cultural resources, again there would be less disturbance of surface areas under the No Action Alternative than under the Proposed Action. Further, the requirements placed on Federal agencies by the National Historic Preservation Act to protect historic properties would continue under this alternative.

For air resources and water resources, the lower rate and level of intensity of development under the No Action Alternative would mean fewer impacts to these affected environments than under the Proposed Action or the Alternative to the Proposed Action. However, the difference in impacts between the No Action Alternative and the Proposed Action is not expected to be significant. The additional areas of potential concern of geology and soils, hazardous waste management and disposal, land use, noise, socioeconomic, energy conservation, and environmental justice would not involve significant differences in level of impacts between the No Action Alternative and the Proposed Action. However, the implementation of mitigation measures in each of the resource areas would reduce potential impacts to levels that are less than significant.

Alternative to the Proposed Action

Development of NPR–1 by a private entity under the Alternative to the Proposed Action would likely occur at the same rate and level of intensity as the Proposed Action. However, the continuing government interest in NPR–1, although not direct operation, would mean that development would continue to be subject to the affirmative Federal obligation to mitigate the environmental consequences of its actions, especially for biological and cultural resources.

Again, the affected environment and the types of impacts to the affected environment would be the same under both the Proposed Action and the Alternative to the Proposed Action.

For biological resources, there would be the same destruction, disturbance and fragmentation of endangered species habitat under the Alternative to the Proposed Action as for the Proposed Action because it is expected that the same number of wells would be drilled. However, the higher levels of mitigation required of government agencies would continue to apply and although future development cannot be predicted, at the end of the field's life, it is more likely to be converted to wildlife habitat under this limited amount of government ownership than under complete private ownership.

For cultural resources, again there would be the same disturbance of surface under the Alternative to the Proposed Action as the Proposed Action. Further, the requirements placed on Federal agencies by the National Historic Preservation Act to protect historic properties would continue under this alternative.

For air resources and water resources, the similarity of the rate and level of intensity of development likely for this alternative compared to the Proposed Action would mean similar impacts to these affected environments as in the Proposed Action. The impacts to additional areas of potential concern of geology and soils, hazardous waste management and disposal, land use, noise, socioeconomic, energy conservation, and environmental justice would not be significantly different from the impacts in these areas under the Proposed Action. However, the implementation of mitigation measures in each of the resource areas would reduce potential impacts to levels that are less than significant.

Cumulative Impacts

Section 3416 of the Elk Hills Sales Statute directed the Secretary to study four options for the disposition of the other Naval Petroleum Reserves (other than NPR–1)[6] and to recommend to Congress which option or combination of options would maximize the value of the reserves to the United States. These options included:

(1) Retention and continued operation by DOE;

(2) Transfer to the Department of the Interior (DOI) for leasing;

(3) Transfer of all or part of the other reserves to another Federal agency; and

(4) Sale of the interest of the United States in the other reserves.

Included in these other reserves is NPR–2, which consists of approximately 30,181 acres located immediately adjacent to NPR–1. The Federal government owns approximately 35 percent of the acreage of NPR–2, with the mineral rights associated with 9,224 of these acres leased to seven oil companies under 15 active leases. DOE administers these leases but has no active role in the day-to-day operation of NPR–2.

The SEIS/PEIR examined the cumulative impacts of the Proposed Action for NPR–1 in conjunction with three possible actions for NPR–2: transfer to DOI; a No Action Alternative; and a sales alternative. The analysis in the SEIS/PEIR indicated that the sales alternative for NPR–2 coupled with the Proposed Action for NPR–1 could result in significant adverse impacts to biological and cultural resources because of the loss of the affirmative Federal obligation to protect sensitive environmental resources on the additional land comprising NPR–2. However, the SEIS/PEIR concluded that there would be no significant adverse impact resulting from either transfer to DOI or the No Action Alternative for NPR–2 because both actions would continue Federal ownership of the land and the attendant protections for critical environmental resources.

Based on the results of the study of options for the other Naval Petroleum Reserves directed by the Act, in March 1997 DOE recommended to Congress that NPR–2 be transferred to the Department of the Interior's Bureau of Land Management (BLM) for management of the surface rights under the Federal Land Policy and Management Act and for possible leasing of currently unleased acreage under the Mineral Leasing Act. As discussed in the SEIS/PEIR, the combination of the Proposed Action for NPR–1 and the recommended action for NPR–2 would produce no increased stresses on the critical biological and cultural resources in the region and result in no significant adverse cumulative impacts.

Congress has not yet authorized DOE to take any action with respect to the future disposition of NPR–2.

Response to Comments Received After the Final SEIS/PEIR

Following publication of the Final SEIS/PEIR, DOE received a letter dated November 26, 1997, from the Pacific Environmental Advocacy Center (PEAC) notifying DOE that the Southwest Center for Biological Diversity intends to file suit against DOE for failure to reinitiate consultation with the FWS under section 7(a)(2) of the ESA before selling NPR–1. PEAC asserted that DOE is required to reinitiate consultation with the FWS independent of the authority contained in the Elk Hills Sales Statute, to transfer DOE's incidental take permit to the purchaser of NPR–1.

The issue of reconsultation was discussed extensively in the Final SEIS/PEIR in response to several comments received (Final SEIS/PEIR, pages 1–5 and 1–6). DOE explained in that discussion the basis for concluding that a new consultation was not required. DOE's conclusion is supported by an interpretation of the pertinent provisions of the Elk Hills Sales Statute provided by the DOI Regional Solicitor. DOE believes that PEAC has not provided any new information that would change the conclusions contained in the Final SEIS/PEIR or in this Record of Decision.

Decision

DOE has decided to proceed with the sale of all right, title, and interest of the United States in the NPR–1 to Occidental, subject to other requirements of law, including completion of a 31-day Congressional review period with no adverse legislative action by Congress. This action will allow compliance with the Congressional direction contained in the Elk Hills Sales Statute of removing the Federal government from the inherently non-Federal role of operating a commercial oil and gas field and also maximizing the value of NPR–1 to the United States. This decision also is based in part on the offer submitted by Occidental being the highest offer received by DOE at the conclusion of the bidding process in 1997, and the fact that the Occidental offer exceeds the minimum acceptable sale price set by DOE in consultation with OMB consistent with the provisions of section 3412(d) of the Act.

DOE has considered the information contained within the SEIS/PEIR and comments received in response to the Draft SEIS/PEIR. In making this decision, DOE has considered in particular: any potential adverse impacts to threatened and endangered plant and animal species which are found within NPR–1, as analyzed in the SEIS/PEIR; the decision by Occidental to accept the transfer of and to be bound by the terms and conditions of the

[6] The other Naval Petroleum Reserves include NPR–2 located adjacent to NPR–1 in Kern County, California; NPR–3 located in Natrona County, Wyoming; Naval Oil Shale Reserve Nos. 1 and 3 located in Garfield County, Colorado; and Naval Oil Shale Reserve No. 2 located in Uintah and Carbon Counties, Utah.

Biological Opinion issued to DOE by the FWS on November 8, 1995; the intention of Occidental to implement thirty-three (33) mitigation measures identified in a letter submitted to DOE on November 7, 1997, and which are generally described above; and the mitigation of potential adverse impacts to cultural resources through the implementation of mitigation measures by DOE pursuant to a Programmatic Agreement to be executed among DOE, the California SHPO, and the Advisory Council on Historic Preservation.

Mitigation Action Plan

Section 1201.331(a) of the DOE regulations implementing NEPA (10 CFR Part 1021) states that DOE shall prepare a Mitigation Action Plan that addresses mitigation commitments expressed in the ROD. A Mitigation Action Plan regarding DOE's commitments for the divestiture of NPR–1 is being developed to ensure implementation of all mitigation commitments. Copies of the Plan may be obtained from Mr. Anthony Como at the above address.

Issued in Washington, D.C. this 12th day of December 1997.

Patricia Fry Godley,

Assistant Secretary for Fossil Energy.

[FR Doc. 97–33208 Filed 12–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Aluminum Partnerships Solicitation

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of Solicitation for Financial Assistance Number DE–PS07–98ID13599 Aluminum Partnerships Solicitation.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office (ID) is seeking applications for cost-shared research and development of technologies which will enhance economic competitiveness, and reduce energy consumption and environmental impacts for the aluminum industry. The research is to address research priorities identified by the aluminum industry in the ''Aluminum Industry Technology Roadmap'' (November 1997) for the aluminum sector areas of Primary Aluminum Production, Semi-Fabricated Products, and Finished Products. Approximately $4,000,000 in federal funds ($2,000,000 in fiscal year 1998 funds and $2,000,000 in fiscal year 1999 funds) is available to totally fund the first year of selected research efforts. DOE anticipates making five to six cooperative agreement awards for projects with durations of four years or less. A minimum 30% non-federal cost share is required for research and development projects. Collaborations between industry, national laboratory, and university participants are encouraged.

FOR FURTHER INFORMATION CONTACT: T. Wade Hillebrant, Contract Specialist; Procurement Services Division; U.S. DOE, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, ID 83401–1563; telephone (208) 526–0547.

SUPPLEMENTARY INFORMATION: The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086. The solicitation text is expected to be posted on the ID Procurement Services Division home page on or about December 20, 1997, and may be accessed using Universal Resource Locator address http://www.inel.gov/doeid/solicit.html. Application package forms will not be included on the home page and should be requested from the contract specialist. Requests for application packages must be written. Include company name, mailing address, point of contact, telephone number, and fax number. Write to the contract specialist at the address above, via fax number (208) 526–5548, or via email to hillebtw@inel.gov.

Issued in Idaho Falls, Idaho, on December 5, 1997.

Michael Adams,

Acting Director, Procurement Services Division.

[FR Doc. 97–33206 Filed 12–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy.

ACTION: Solicitation of Applications for Grant Awards for High-Energy-Density and Laser-Matter Interaction Studies.

SUMMARY: Pursuant to 10 CFR 600.8, the Department of Energy (DOE) announces that it plans to conduct a technically competitive solicitation for basic research experiments in high-energy-density and laser-matter interaction studies at the National Laser Users' Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE). Grant Solicitation No. DE–PS03–98SF21535. Universities or other higher education institutions, private sector not-for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the Fiscal Year 1999 (FY99) program cycle is $700,000. Multiple awards are anticipated.

FOR FURTHER INFORMATION CONTACT: James Solomon, Contracting Officer, DOE Oakland Operations Office, 1301 Clay Street, Room 700N, Oakland, CA 94612–5208, Telephone No.: (510) 637–1865, Facsimile No.: (510) 637–2074, E Mail: james.solomon@oak.doe.gov.

SUPPLEMENTARY INFORMATION: The solicitation document contains all the information relative to this action for prospective applicants. The solicitation is targeted for release on or about January 9, 1998. The actual work to be accomplished will be determined by the experiments and diagnostic techniques that are selected for award. Proposed experiments and diagnostic techniques will be evaluated through scientific peer review against predetermined, published and available criteria. Final selection will be made by the DOE. It is anticipated that multiple grants will be awarded within the available funding. The unique resources of the NLUF are available, on a no-fee basis, to scientists for state-of-the art experiments primarily in the area of inertial confinement fusion (ICF) and related plasma physics. Other areas such as spectroscopy of high ionized atoms, laboratory astrophysics, fundamental physics, materials science and biology and chemistry will be considered on a secondary basis.

The LLE was established in 1970 to investigate the interaction of high-power lasers with matter. Available at the LLE for NLUF researchers is the upgraded Omega Laser, a 30–40 kJ UV, 60-beam laser system (at 0.35 um) suitable for direct-drive ICF implosions and other experimental configurations. This system is suitable for a variety of experiments including laser-plasma interactions and atomic spectroscopy. The NLUF program for FY99 will support experiments that can be done with the Omega Laser at the University of Rochester and development of diagnostic techniques suitable for the Omega Laser system. Measurements of the laser coupling, laser-plasma interactions, core temperature, and core density are needed to determine the characteristics of target implosions. Diagnostic techniques could include either new instrumentation, development of analysis tools, or development of targets that are applicable for 30–40 kJ implosions. Additional technical information about the available facilities and potential collaboration at the NLUF can be

obtained from: Dr. John M. Soures, Manager, National Laser Users' Facility, University of Rochester/LLE, 250 East River Road, Rochester, NY 14623–1299.

Issued in Oakland, CA on December 9, 1997.

W.E. "Bill" O'Neal,

Acting Branch Chief, Financial Assistance Branch, Program Acquisition and Assistance Division.

[FR Doc. 97–33207 Filed 12–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: Department of Energy.

ACTION: Designation of PRB Chair.

SUMMARY: This notice designates the Performance Review Board Chair for the Department of Energy.

EFFECTIVE DATE: The appointment is effective as of September 30,1997.

Performance Review Board Chair

David L. Hamer,
Department of Energy.

Issued in Washington, DC December 8, 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 97–32740 Filed 12–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: Department of Energy.

ACTION: SES Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

EFFECTIVE DATE: These appointments are effective as of September 30, 1997.

Acharya, Sarbeswar NMN
Ackerly, Lawrence R.
Alcock, Robert M.
Alvarez, Robert NMN
Andersen, Arthur T.
Anderson, Brooke D.
Anderson, Phyllis L.
Angell, John C.
Armstrong, M. Brent
Arthur III, William John
Baca, Frank A.
Bajura, Rita A.
Baker, Kenneth E.
Bamberger, Craig S.
Barber, Robert W.
Barker Jr., William L.
Barnes, Wesley E.
Barrett, Lake H.
Bauer, Linda K.
Beckett, Thomas H.
Beecy, David J.
Benedict, George W.
Bergholz Jr., Warren E.
Berkovitz, Dan M.
Bernard, Peter A.
Berube, Raymond P.
Bielan, Douglas J.
Black, Richard L.
Blackwood, Edward B.
Borchardt, Charles A.
Borgstrom, Carol M.
Borgstrom, Howard G.
Bornhoft Jr., Budd B.
Bostock, Judith L.
Bowman, Gerald C.
Boyd, Gerald G.
Bradley Jr., Theron M.
Brechbill, Susan R.
Brendlinger, Terry L.
Brice, James F.
Brodman, John R.
Broido, Michelle S.
Brown, Richard W.
Brown, Frederick R.
Brown Jr., Charles H.
Brush, Peter N.
Burrows, Charles W.
Canter, Howard R.
Carabetta, Ralph A.
Cardinali, Henry A.
Carlson, Lynda T.
Carlson, Kathleen Ann
Carlson, John T.
Caruso, Guy F.
Castelli, Brian T.
Chappell, Gerald F.
Cheney, David W.
Christensen, William J.
Christopher, Robert K.
Chun, Sun W.
Claflin, Alan B.
Clark, John R.
Clausen, Max Jon
Combs, Marshall O.
Conley, Michael W.
Cook, John S.
Crandall, David H.
Crawford, Timothy S.
Cross, Claudia A.
Crowe, Richard C.
Cumesty, Edward G.
Curtis, James H.
Cygelman, Andre I.
Czajkowski, Anthony F.
Dalton, Henry F.
Darugh, David G.
Davies, Nelia A.
Davis, James T.
Decker, James F.
Degrasse Jr., Robert W.
Dehanas, Thomas W.
Dehmer, Patricia M.
Deihl, Michael A.
Dempsey, Robert D.
Dennison, William J.
Der, Victor K.
Deremer, Craig W.
Dials, George E.
Diaz Jr., Romulo L.
Diebold, Robert E.
Difiglio, Carmen NMN
Dirks, Timothy M.
Divone, Louis V.
Dixon, Robert K.
Doherty, Donald P.
Domagala, Martin J.
Dooley III, George J.
Durnan, Denis D.
Dyer, J. Russell
Edmondson, John J.
Egger, Mary H.
Engel, Walter P.
Esvelt, Terence G.
Evans, Thomas W.
Falle, J. Gary
Feibus, Howard NMN
Fiore, James J.
Fiore, Joseph N.
Fiori, Mario P.
Fitzgerald Jr., Joseph E.
Fitzgerald, Cheryl P.
Ford, James L.
Ford, John A.
Forrister, Derrick L.
Fowler, Jennifer Johnson
Frank, Clyde William
Franklin, John R.
Frazier, Marvin E.
Frei, Mark W.
Friedman, Gregory H.
Furiga, Richard D.
Fygi, Eric J.
Garson, Henry K.
Garvie, William H.
Gebus, George R.
Geidl, John C.
Gibson Jr., William C.
Gibson, Judith D.
Gilbertson, Mark A.
Ginsberg, Mark B.
Glass, Richard E.
Golan, Paul M.
Goldenberg, Neal NMN
Goldenberg, Ralph D.
Goldman, David Tobias
Goldsmith, Robert NMN
Gollomp, Lawrence A.
Goodrum, William S.
Gottlieb, Paul A.
Greenwood, Johnnie D.
Gross, Thomas J.
Gruenspecht, Howard K.
Guidice, Carl W.
Gunn Jr., Marvin E.
Gurule, David A.
Haberman, Norton NMN
Hacskaylo, Michael S.
Hall Jr., Spain W.
Hall, James C.
Hamer Jr., David L.
Hansen, Charles A.

Hardin, Michael G.
Hardwick Jr., Raymond J.
Hardy, Randall W.
Harris, Skila S.
Harris, Jessie J.
Hartman, James K.
Harvey, Gordon W.
Haspel, Abraham E.
Hawkins, Francis C.
Heath, Charles C.
Heenan, Thomas F.
Heinkel, Joan E.
Helms, K. Dean
Henderson, Lynwood H.
Hendrie, David L.
Hensley Jr., Willie F.
Heusser, Roger K.
Hickey, Sue F.
Hickok, Steven G.
Hirahara, James S.
Hoffman, Allan R.
Holbrook, Phillip L.
Holstein Jr., Elwood NMN
Hooper, Michael K.
Hopf, Richard H.
Hopkins, T.J.
Hughes, Jeffrey L.
Huizenga, David G.
Hunter, Ray A.
Hutzler, Mary Jean
Inge Jr., Edwin F.
Inlow, Rush O.
Izell, Kathy D.
Jaffe, Harold
Jhirad, David J.
Johnson, Frederick M.
Johnson, Owen B.
Johnson, Milton D.
Johnson, Gerald W.
Johnston, Marc
Jones, David A.
Jones, C. Rick
Joseph, Antoinette Grayso
Juckett, Donald A.
Judge, Geoffrey J.
Katz, Maurice J.
Kelly, Cynthia C.
Kenderdine, Melanie Anne
Kennedy, John P.
Kight, Gene H.
Kilgore, Webster C.
Kilpatrick, Michael A.
Kingsbury, Robert L.
Kinzer, Jackson E.
Klein, Keith A.
Klein, Susan Elaine
Konopnicki, Thad T.
Kripowicz, Robert S.
Landers, James C.
Lane, Anthony R.
Langenfeld, Cherri J.
Langenkamp, Robert D.
Lash, Terry R.
Leclaire, David B.
Lewis, Roger A.
Lewis Jr., Howard E.
Lewis, Lenora J.
Lewis Jr., William A.
Lien, Stephen C.T.
Lightner, Ralph G.
Livingston-Behan, Ellen
Lowe, Owen W.
Lowe, David C.
Lyle, Jerry L.
MacDougall, Carmen E.
MaHaley, Joseph S.
Mangeno, James J.
Mann, Thomas O.
Marchese, Andrew R.
Marianelli, Robert S.
Marlay, Robert C.
Mathamel, Martin S.
Maxey, Kenneth G.
Mazur, Mark J.
McCallum, Edward J.
McClary, Michael Vance
McCoy III, Frank R.
McCraney, Percy P.
Michelsen, Stephen J.
Miller, Clarence L.
Miller, Deborah C.
Millhone, John P.
Milner, Ronald A.
Monlyn, Sylvia McDonald
Montoya, Elizabeth A.
Moorer, Richard F.
Morris, Marcia L.
Mournighan, Stephen D.
Mravca, Andrew E.
Mulholland, Joseph W.
Murphy, Robert E.
Murphy, Alice Q.
Nealy, Carson L.
Neilsen, Finn K.
Nelson, David B.
Nelson, Rodney R.
Nettles Jr., John J.
Nichols, Clayton R.
Nolan, Elizabeth A.
Nulton, John D.
O'Fallon, John R.
Oliver, Lawrence R.
Olson, Gary C.
Owendoff, James M.
Patil, Pandit G.
Patrinos, Aristides A.
Patton, Gloria S.
Pelletier, Raymond F.
Penry, Judith M.
Perin, Stephen G.
Peters, Franklin G.
Pettengill, Harry J.
Pettis, Lawrence A.
Piper II, Lloyd L.
Podonsky, Glenn S.
Poe, Robert W.
Ponce, Victoria L.
Powers, James G.
Powers, Kenneth W.
Pray, Charles P.
Price Jr., Robert S.
Prudom, Gerald H.
Przybylek, Charles S.
Pumphrey, David L.
Pye, David B.
Rabben, Robert G.
Reicher, Dan W.
Reid, James E.
Rhoades, Daniel R.
Richardson, Herbert
Richardson, Steven D.
Roberson, Jessie M.
Roberts, MichaeL NMN
Robertson, John S.
Robison, Sally A.
Rodeheaver, Thomas N.
Rodekohr, Mark E.
Rohlfing, Joan B.
Rollow, Thomas A.
Romm, Joseph J.
Rooney, John M.
Rosen, Simon Peter
Rosselli, Robert M.
Rousso, Samuel NMN
Rudins, George NMN
Rudy, Gregory P.
Ryder, Thomas S.
Salm, Philip E.
San Martin, Robert L.
Sato, Walter N.
Scheetz, Karl G.
Schmitt, Carl H.
Schmitt, William A.
Schmitt, Eugene C.
Schnapp, Robert M.
Schneider, Sandra L.
Scott, Randal S.
Shelor, Dwight E.
Sherman, Helen O.
Siebert Jr., Arlie B.
Silbergleid, Steven A.
Simon, Robert M.
Simpson, Charles Kyle
Singer, Marvin I.
Sitzer, Scott B.
Sjostrom, Leonard C.
Skubel, Stephen C.
Smedley, Elizabeth E.
Smith, Alexandra B.
Smith, Alan C.
Smith, Douglas W.
Sohinki, Stephen M.
Spigal, Harvard P.
Stadler, Silas D.
Staffin, Robin NMN
Stallman, Robert M.
Stark, Richard M.
Stello Jr., Victor NMN
Stern, Gary M.
Stewart Jr., Frank M.
Stewart Jr., Jake W.
Strakey Jr., Joseph P.
Sulak, Stanley R.
Sullivan, Mary Anne
Swink, Denise F.
Sye, Linda G.
Taboas, Anibal L.
Tamura, Thomas T.
Tavares, Antonio F.
Tedrow, Richard T.
Thomas, Iran L.
Thompson, Jerry F.
Throckmorton, Ralph R.
Todd, G. Thomas
Torkos, Thomas M.
Tryon, Arthur E.
Tseng, John C.

Turi, James A.
Turner, James M.
Twining, Bruce G.
Vaeth, Terry A.
Vagts, Kenneth A.
Vanzandt, Vickie R.
Vellenga, Thomas J.
Volpe, Frederick J.
Wagner, M. Patrice
Wagner, Mary Louise
Wagoner, John D.
Waisley, Sandra L.
Walgren, Douglas NMN
Walsh, Robert J.
Walton, Howard L.
Warnick, Walter L.
Watkins, Anthony Lee
Wegner, Gerald C.
Weigand, Gilbert G.
Werner, James D.
Whitaker Jr., Mark B.
White, James K.
Whiteman, Albert E.
Wieker, Thomas L.
Wilcynski, John M.
Wilken, Daniel H.
Williams, O. Jay
Williams, Mark H.
Willis, John W.
Wilmot, Edwin L.
Wisenbaker Jr., William
Wooley, John C.
Yuan-Soo Hoo, Camille C.

Issued in Washington, DC December 8, 1997.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 97–32741 Filed 12–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–725–000]

Chicago Energy Exchange of Chicago, Inc.; Notice of Filing

December 15, 1997.

Take notice that on November 17, 1997, Chicago Energy Exchange of Chicago, Inc., tendered for filing a notice of change of designation from Chicago Energy Exchange of Chicago, Inc., to Chicago Electric Trading, L.L.C.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 24, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33155 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4434–000]

Clean Air Capital Markets Corporation; Notice of Issuance of Order

December 15, 1997.

Clean Air Capital Markets Corporation (Clean Air) submitted for filing a rate schedule under which Clean Air will engage in wholesale electric power and energy transactions as a marketer. Clean Air also requested waiver of various Commission regulations. In particular, Clean Air requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Clean Air.

On December 3, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Clean Air should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Clean Air is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Clean Air's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 2, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33158 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–102–000]

Current Energy, Inc.; Notice of Issuance of Order

December 15, 1997.

Current Energy, Inc. (Current Energy) submitted for filing a rate schedule under which Current Energy will engage in wholesale electric power and energy transactions as a marketer. Current Energy also requested waiver of various Commission regulations. In particular, Current Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Current Energy.

On December 4, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Current Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Current Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the

applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Current Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 5, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33157 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4381–000]

Eastern Energy Marketing, Inc.; Notice of Issuance of Order

December 15, 1997.

Eastern Energy Marketing, Inc. (EEMI) submitted for filing a rate schedule under which EEMI will engage in wholesale electric power and energy transactions as a marketer. EEMI also requested waiver of various Commission regulations. In particular, EEMI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by EEMI.

On December 4, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within 30 days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by EEMI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, EEMI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of EEMI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 5, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33160 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4427–000]

Electric Lite, Inc.; Notice of Issuance of Order

December 15, 1997.

Electric Lite, Inc. (Electric Lite) submitted for filing a rate schedule under which Electric Lite will engage in wholesale electric power and energy transactions as a marketer. Electric Lite also requested waiver of various Commission regulations. In particular, Electric Lite requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Electric Lite.

On December 8, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Electric Lite should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Electric Lite is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Electrical Lite's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 7, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33159 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–126–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

December 15, 1997.

Take notice that on December 11, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–126–000, a request pursuant to §§ 157.205 and 157.216(b) for approval to abandon an inactive 2-inch delivery tap and meter station and 2-inch delivery lateral, under the blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon by removal an inactive 2-inch tap and meter station and to abandon in place approximately 150 feet of 2-inch delivery lateral that formerly served the Shelbyville city gate on behalf of Entex Inc. (Entex), a local distribution company, in Shelby County, Texas. Koch Gateway states that Entex would continue to serve its customers from its existing distribution system. It is further stated that service to the end-users would not be affected. Koch Gateway verifies that Entex agrees to the

proposed abandonment. Koch Gateway states that Entex has not used this point since 1988. Koch Gateway further states that it would plug and remove the tap, remove all above ground facilities and after cleaning the pipe and filling it with either water or nitrogen, would abandon the lateral in place.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33161 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–107–000]

Sithe Power Marketing, Inc.; Notice of Issuance of Order

December 15, 1997.

Sithe Power Marketing, Inc. (Sithe) submitted for filing a rate schedule under which Sithe will engage in wholesale electric power and energy transactions as a marketer. Sithe also requested waiver of various Commission regulations. In particular, Sithe requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Sithe.

On December 4, 1997, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Sithe should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Sithe is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purpose of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Sithe's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 5, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33156 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

December 15, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Action*: Proceeding Pursuant to Reserved Authority to Determine Whether Modifications to License are Appropriate.

b. *Project No*: 3021–048.

c. *License Issued*: March 27, 1985.

d. *Licensee:* Allegheny Hydro No. 8 and 9 Limited Partnership (LP) and Connecticut National Bank.

e. *Name of Project*: Allegheny River Lock and Dam 8 and 9 Hydroelectric Project.

f. *Location*: Allegheny River, Armstrong County, Pennsylvania.

g. *Authorization*: Section 10(a)(1) of the Federal Power Act and Article 17 of the License.

h. *License Contact*: Ms. Tania S. Aslan, Sithe Energies, Inc., 450 Lexington Avenue, 37th Floor, New York, NY 10017, (212) 450–9045

i. *FERC Contact*: Steve Hocking (202) 219–2656.

j. *Comment Date*: February 17, 1998.

k. *Description of Proceeding*: The Commission has begun a proceeding to determine if reserved authority in article 17 of the license should be used to require 15-inch flashboards on the top of Lock and Dam 9, part of the Allegheny River Lock and Dam 8 and 9 Project. The proceeding is in response to concerns raised by the Pennsylvania Fish and Boat Commission and private citizens about the impacts of project-induced lower water levels on recreational boating in the Lock 9 pool. Flashboards could be used to increase water levels in the Lock 9 pool to more closely resemble pre-hydroelectric project conditions. Flashboards have been authorized as an interim measure since 1994.

The Commission prepared a draft environmental assessment (EA) analyzing the environmental impacts of using 15-inch flashboards for public review and comment. A copy of the draft EA can be obtained by calling the Commission's public reference room at (202) 208–1371.

j. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Motions to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33152 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for New License

December 15, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File Application for New License.

b. *Project No.:* 2103.

c. *Date filed:* June 19, 1997.

d. *Submitted By:* Cominco American Incorporated.

e. *Name of Project:* Cedar Creek.

f. *Location:* On Cedar Creek, Stevens County, Washington, adjacent to International Boundary.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's Regulations.

h. *Expiration date of original license:* July 31, 2002.

i. The facilities under this license consist of 2.32 acres of public lands, of which 2.276 acres are U.S. lands managed by the Bureau of Land Management. These facilities are a minor part of the 375–MW Waneta Project, located in British Columbia, Canada, operating under Provincial British Columbia Water Licenses and an International Joint Commission Order of Approval.

j. Pursuant to 18 CFR 16.7, information on the project is available by contacting: Nan Nalder, Acres International Corporation, 3254 11th Avenue West, Seattle, WA 98119, Phone: (206) 281–7079.

k. *FERC contact:* Héctor M. Pérez, (202) 219–2843.

l. Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2000.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33153 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Filed With the Commission

December 15, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Joint Application for Transfer of License.

b. *Project No.:* 1413–023.

c. *Date Filed:* October 29, 1997.

d. *Applicants:* Buffalo Hydro, L. C. and Fall River Rural Electric Cooperative, Inc.

e. *Name of Project:* Buffalo River Hydroelectric Project.

f. *Location:* On the Buffalo River, a tributary to the Henry's Fork of the Snake River, in Fremont County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791 (a)–825(r).

h. *Contact:* Dee M. Reynolds, General Manager, Fall River Rural Electric, Cooperative, Inc., 714 Main Street, P.O. Box 830, Ashton, Idaho 83420, (208) 652–7431, Fax: (208) 652–7825.

i. *FERC Contact:* Mr. Lynn R. Miles, (202) 219–2671.

j. *Comment Date:* January 29, 1998.

k. *Description of the Proposed Action:* The licensee, Buffalo Hydro, L.C., seeks to transfer the project license to Fall River Rural Electric Cooperative, Inc., a Idaho corporation.

The licensee has agreed to sell to the transferee all operating assets except its power purchase agreement with PacifiCorp.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedures, 18 CFR sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and 8 copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Motions to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–33154 Filed 12–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: December 17, 1997 (Approximately 10:30 a.m., following Regular Commission Meeting).

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *American Rivers, Inc.* v. *FERC,* No. 96–4110.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400.

The following Commissioners voted that agency business requires the holding of a closed meeting on less than

the seven days' notice required by the Government in the Sunshine Act:

Chairman Hoecker
Commissioner Bailey
Commissioner Massey
Commissioner Breathitt
Commissioner Hebert

Lois D. Cashell,

Secretary.

[FR Doc. 97–33304 Filed 12–17–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00516; FRL–5760–7]

Pesticide Program Dialogue Committee; Committee and Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by of the Federal Advisory Committee Act, 5 U.S.C., App. 2 section 9(c), EPA's Office of Pesticide Programs (OPP) is giving notice of the renewal of the Pesticide Program Dialogue Committee (PPDC) and its Charter.

DATES: The PPDC Charter, which was filed with Congress on November 13, 1997, will be in effect for two years, until November 13, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach or Linda Murray, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway; Arlington, VA 22202; Phone: 703–305–7090; e-mail: fehrenbach.margie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The PPDC will be composed of approximately 25–30 members appointed by the EPA Deputy Administrator. Committee members will be selected from a balanced group of participants from the following sectors: pesticide industry and user, and commodity groups; Federal and State governments; consumer and environmental/public interest groups, including representatives from the general public; academia; and, public health organizations. The Committee may form subcommittees or establish workgroups for any purposes consistent with its Charter.

The Committee will provide a forum for a diverse group representing a broad range of interests to communicate with EPA's Office of Pesticide Programs regarding pesticide regulatory, policy and implementation issues.

PPDC meetings are open to the public. Specific dates, times and locations will be published in the **Federal Register** before each meeting. The PPDC Charter and other Committee materials are available for public review at the following address: U.S. Environmental Protection Agency, Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805 [PPDC Docket # 00439].

List of Subjects

Environmental protection.

Dated: December 5, 1997.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

[FR Doc. 97–33227 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5487–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed December 08, 1997 Through December 12, 1997, Pursuant to 40 CFR 1506.9.

EIS No. 970470, FINAL EIS, FHW, NC, Sunset Beach Bridge No. 198 on Secondary Road NC–1172 Replacement, Over the Atlantic Intracoastal Waterway, Funding, COE Section 10 and 404 Permit, Brunswick County, NC, Due: January 19, 1998, Contact: Nicholas L. Graf, P.E. (919) 856–4346.

EIS No. 970471, DRAFT EIS, FHW, NH, Manchester Airport Access Road Highway Improvement Project, Bedford-Manchester-Londonderry-Litchfield-Merrimack, Funding and NPDES Permit and COE Section 404 Permit, Hillsborough and Rockingham Counties, NH, Due: February 02, 1998, Contact: William F. O'Donnell, P.E. (603) 225–1608.

EIS No. 970472, DRAFT EIS, FHW, VT, Rutland Transportation Improvement Project, between US 4 and US 7 in the City of Rutland and the Towns of Rutland, Mendon, Clarendon and Shrewsbury, Funding, EPA Permit and COE Section 404 Permit, Rutland County, VT, Due: March 06, 1998, Contact: Frederick Downs (802) 828–4433.

EIS No. 970473, DRAFT EIS, UAF, FL, CA, Evolved Expendable Launch Vehicle (EELV) Program, Development, Operation and Deployment, Proposed Launch Locations are Cape Canaveral Air Station (AS), Florida and Vandenberg Air Force Base (AFB), California, Federal Permits and Licenses, FL and CA, Due: February 02, 1998, Contact: Jonathan D. Farthing (210) 536–3668.

EIS No. 970474, DRAFT EIS, USA, AL, Fort McClellen (Main Post) Disposal and Reuse, Implementation, Calhoun, Cleburne, Randolph, Clay, Talledega, St. Clair, Etowah and Cherokee Counties, AL, Due: February 02, 1998, Contact: Carla Coulson (703) 697–0225.

EIS No. 970475, DRAFT EIS, USN, CA, Long Beach Complex Disposal and Reuse, Implementation, COE Section 10 and 404 Permits, NPDES Permit, in the City of Long Beach and Los Angeles County, CA, Due: February 02, 1998, Contact: Melanie Ault (619) 532–4744.

EIS No. 970476, DRAFT EIS, DOE, SC, Accelerator for Production of Tritium at the Savannah River Site (DOE/EIS–0270D), Construction and Operation, Aiken and Barnwell Counties, SC, Due: February 02, 1998, Contact: Andrew R. Gainger 1–(800)–881–7292.

EIS No. 970477, FINAL EIS, AFS, MT, Jericho Salvage Timber Sale, Implementation, Salvage Treatments and Temporary Road Construction, Helena National Forest, Helena Ranger District, Powell County, MT, Due: January 19, 1998, Contact: Dan Mainwaring (406) 449–5490.

EIS No. 970478, DRAFT EIS, FHW, WI, WI–STH–11 Janesville Bypass (West) Transportation Improvements, between Dubuque, Iowa, and the Racine/Kenosha urban area, WI–STH–11 is the major link to IH–90, Funding and COE Section 404 Permit, Rock County, WI, Due: February 27, 1998, Contact: Richard Madrzak (608) 829–7510.

EIS No. 970479, FINAL EIS, USA, NJ, Evans Subpost Disposal and Reuse, Implementation, Fort Monmouth, Ocean and Monmouth Counties, NJ, Due: January 19, 1998, Contact: Ms. Susan H. Bauer (703) 697–0126.

EIS No. 970480, FINAL EIS, UMC, CA, Santa Margarita River Flood Control Project (MILCON P–010) and Basilone Road Bridge Replacement Project (MILCON P–030), Construction and Operation, COE Section 404 Permit, Camp Pendleton, CA, Due: January 19, 1998, Contact: Vicky K. Taylor (619) 532–3007.

EIS No. 970481, DRAFT EIS, STB, Conrail Acquisition (Finance Docket No. 33388) by CSX Corporation and CSX Transportation Inc., and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS), Control and Operating Leases and Agreements, To serve portion of eastern United States, Due: February 02, 1998, Contact: Michael Dalton (202) 565–1530.

EIS No. 970482, DRAFT EIS, FTA, FL, Central Florida Light Rail Transit System Transportation Improvement to the North/South Corridor Project, Locally Preferred Alternative (LPA) and Minimum Operable Segment (MOS), Orange and Seminole Counties, FL, Due: February 09, 1998, Contact: J. Anthony Dittmeier (404) 562–3512.

Amended Notices

EIS No. 970433, FINAL EIS, FHW, PA, US 202 Section 700 Corridor, Improvements, from PA 63 in Montgomeryville to the PA–611 Bypass in Doylestown Township, COE Section 404 Permit and Right-of-Way, Montgomery and Bucks Counties, PA, Due: January 30, 1998, Contact: Ronald W. Carmichael (717) 221–3461. Published FR 11–14–97—Review Period extended.

Dated: December 16, 1997.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–33242 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5937–9]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This document provides information on the availability of the fiscal year 1998 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedule are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research area within the solicitation and are listed in **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa.

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Regional Scale Analysis and Assessment, (2) Water and Watersheds (joint with the National Science Foundation and the U.S. Department of Agriculture, (3) Technology for a Sustainable Environment (joint with the National Science Foundation), (4) Bioremediation (joint with the Department of Energy, National Science Foundation, and Office of Naval Research), and (5) Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) (joint with the National Oceanographic and Atmospheric Administration, National Science Foundation, Office of Naval Research, U.S. Department of Agriculture, and National Aeronautics and Space Administration). Applications must be received as follows: February 12, 1998, for topic (1); February 17, 1998, for topic (3); February 23, 1998, for topic (5); February 27, 1998, for topic (4); and April 1, 1998 for topic (2).

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact person for the Regional Scale Analysis and Assessment RFA and Water and Watersheds RFA is Barbara Levinson (levinson.barbara@epamail.epa.gov), telephone 202–564–6911; for Technology for a Sustainable Environment is Barbara Karn (karn.barbara@epamail.epa.gov), telephone 202–564–6824; for Bioremediation is Robert Menzer (menzer.robert@epamail.epa.gov), telephone 202–564–6849, and for Ecology and Oceanography of Harmful Algal Blooms is Sheila Rosenthal (rosenthal.sheila@epamail.epa.gov), telephone 202–564–6916.

Dated: December 10, 1997.

Stephen A. Lingle,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–33226 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50837; FRL–5761–4]

Receipt of a Notification to Conduct Small-Scale Field Testing of a Genetically Engineered Microbial Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt from U.S. Department of Agriculture, Agricultural Research Service (ARS), in cooperation with Washington State University (WSU), of a notification (71233-NMP-R) of intent to conduct small-scale field testings involving species of fluorescent *Pseudomonas* bacteria, which have been genetically engineered to express antimicrobial genes from similar *Pseudomonas* species inhabitating the rhizosphere of wheat. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Written comments must be received on or before January 20, 1998.

ADDRESSES: By mail, submit written comments 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, deliver comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: William R. Schneider, PM 90, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th floor CS1 2800 Crystal Drive, Arlington, VA, (703) 308-8683, e-mail: schneider.william@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Notice of receipt of this notification does not imply a decision by the Agency on this notification.

These small-scale field tests are designed to evaluate fluorescent *Pseudomonas strains* that are able to control the plant pathogens that cause the following diseases in wheat: take-all, *Rhizoctonia* root rot, and *Pythium* root rot. The bacteria will be applied to the seeds prior to planting. In accordance with 40 CFR 172.3, these small-scale field tests will be conducted on a cumulative total of no more than 10 acres of land and any food or feed crops will be destroyed. Each test site will include a containment border such as a 20 foot wide unplanted area, fallow-field, or sod-berm, and will be direct-seeded in accordance with no-till practices to reduce or eliminate run-off of water from the site. The genetically-modified construct and the naturally-occuring wild type parental control strain will have been selected for a rifampicin-resistance marker gene to facilitate monitoring.

The object of the genetic manipulations is to combine: (1) The properties of *Pseudomonas* isolates that produce efficacious levels of antibiotics effective against the microorganisms that cause wheat diseases with (2) other *Pseudomonas* isolates that colonize wheat roots well. The antibiotic genes will be stably inserted into the chromosome of the recipient strain and both the recipient and the donor strains will be fluorescent pseudomonads. For example, in the proposed 1997 tests, the genes for phenazine-1-carboxylate from *Pseudomonas fluorescens* 2-79, isolated from wheat, were transfered into the chromosome of *Pseudomonas fluorescens* Q8R1-96, which is a better wheat root colonizer than strain 2-79. The plasmid used to introduce the *phzA*, *-B*, *-C*, *-D*, *-E*, *-F*, and *-G* genes is not maintained by the recipient strain and, thus, is eliminated, leaving the phenazine biosynthetic genes in the Q8R1-06 chromosome.

Following the review of the ARS/WSU notification and any comments received in response to this notice, EPA may approve the tests, ask for additional data, require additional modifications to the test protocols, or require EUP applications to be submitted. In accordance with 40 CFR 172.50, under no circumstances shall the proposed tests proceed until the submitters have received notice from EPA of its approval of such tests.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number ''OPP–50857'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–50837.'' Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: December 15, 1997.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–33228 Filed 12–18–97; 9:30 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30444; FRL–5761–1]

Novartis Seeds, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a plant pesticide containing an active ingredient involving a changed use pattern of the product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 20, 1998.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30444] and the file symbols to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8715; e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Novartis Seeds, Inc., 3054 Cornwallis Road, P.O. Box 12257, Research Triangle Park, NC 27709–2257, to amend the plant pesticide *Bacillus thuringiensis* European Corn Borer Control Protein (EPA Registration Number 66736–1)

containing the active ingredient *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production (pCIB4431 in corn) at 0.0001-0.0018 percent, which involves a changed use pattern of the product. This product is proposed for use on popcorn to be added to its presently registered use on field corn pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30444] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–30444]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Written comments filed pursuant to this notice, will be available in the Public Information and Records Integrity Branch, Information Resources and Services Division at the address provided, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805) to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: December 8, 1997.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–33229 Filed 12–18–97; 9:30 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5937–3]

Lindsley Lumber Site/Tifton, Georgia; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Lindsley Lumber Site (Site) located in Dania, Florida, with Lone Star Industries, Inc./Lone Star Building Centers (Eastern), Inc. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: December 5, 1997.

Jewell Harper,

Deputy Director.

[FR Doc. 97–33224 Filed 12–18–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42197B; FRL–5763–1]

Enforceable Consent Agreement Development for Ethylene Dichloride; Solicitation of Interested Parties and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting interested parties who want to monitor or participate in negotiations on an enforceable consent agreement (ECA) concerning the use of pharmacokinetics (PK) studies and mechanistic data to help meet testing requirements for ethylene dichloride (CAS No. 107–06–02) in the proposed hazardous air pollutants (HAPs) test rule. In addition, EPA invites all interested parties to attend a public meeting to initiate negotiations on the ECA for ethylene dichloride.

DATES: EPA must receive written notification requesting designation as an interested party for ethylene dichloride on or before January 9, 1998. Those persons who identify themselves as interested parties for ethylene dichloride may submit written comments to EPA on the PK proposal for this chemical, on EPA's preliminary technical analysis, and on other materials in the docket for the proposed HAPs test rule, that relate to the ECA process for this chemical by January 9, 1998.

The public meeting is scheduled from 10 a.m. to 2 p.m. on January 12, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42197B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

EPA will address these comments at the public meeting.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document.

Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

The public meeting will be held at EPA Headquarters, 401 M St., SW., Washington, DC in the EPA Conference Center, North Conference Area in Room 1.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; fax: (202) 260–8850; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register** —Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1997/).

II. Background

EPA proposed health effects testing under section 4(a) of the Toxic Substances Control Act (TSCA) on June 26, 1996, for a number of HAPs chemicals (61 FR 33178) (FRL–4869–1). As indicated in the proposed HAPs test rule, EPA would use the data obtained from testing to implement several provisions of section 112 of the Clean Air Act (CAA), including the determination of residual risk, the estimation of the risks associated with accidental releases of chemicals, and determinations whether substances should be removed from the CAA section 112(b)(1) list of hazardous air pollutants (delisting). The data also would be used by other Federal agencies (e.g. Agency for Toxic Substances and Disease Registry (ATSDR), National Institute of Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), and Consumer Product Safety Commission (CPSC)) in assessing chemical risks and in taking appropriate actions within their programs.

In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the basis for negotiation of ECAs. These PK studies would be used to inform EPA about the use of route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. EPA received a PK proposal for ethylene dichloride from the HAP Task Force on November 25, 1996. Based on the PK proposal received for ethylene dichloride, the Agency developed a preliminary technical analysis. A copy of this preliminary technical analysis was sent to the HAP Task Force on June 26, 1997. The HAP Task Force reviewed EPA's analysis and notified EPA on July 31, 1997, that it has a continued interest in pursuing the ECA process. A copy of the PK proposal, the EPA preliminary technical analysis and related materials is contained in the public record for this ECA process. These materials will be used during discussions at the negotiating meeting. EPA has decided to proceed with the ECA process for ethylene dichloride and is providing public notice that the Agency is hereby initiating the procedures for ECA negotiations for the HAP chemical, ethylene dichloride. The procedures for ECA negotiations are described at 40 CFR 790.22(b). EPA intends to publish, as appropriate, additional **Federal Register** documents to solicit interested parties and announce public meetings for other HAPs chemicals for which PK proposals were submitted.

The proposed HAPs test rule, and the ECA negotiations on chemicals included in the proposed rule are separate and parallel activities. While the Agency's objective of obtaining data could be accomplished by either activity, EPA recognizes that the final testing program performed by industry may differ depending on whether it is accomplished under the final HAPs test rule or via the ECA process. During the course of ECA negotiations, additional information may be brought forward that could cause the Agency to re-evaluate the nature of the testing requirements as stated in the proposed HAPs test rule. This could result in the development of an ECA that would fulfill the Agency's data needs in ways not stated in the proposed HAPs test rule. It is therefore essential for all interested parties to recognize these differences at the outset and respond accordingly within the framework of these two separate and parallel activities. Comments on the proposed HAPs test rule must be submitted under docket control number, OPPTS–42187A, as described in the proposed HAPs test rule published on June 26, 1996, and will be addressed by EPA via the rulemaking process, which is separate and distinct from the ECA process. Participation in the ECA process is described in Units II. through IV. of this preamble.

Negotiations on developing an ECA for the HAP chemical, ethylene dichloride, will focus on the use of PK studies and mechanistic data to help meet testing requirements for ethylene dichloride. In addition, discussion will include the adequacy of the available data base to be used for extrapolation to obtain the data needs identified for ethylene dichloride in the proposed HAPs test rule. The objective of the ECA process is to conclude an ECA that will set in place an industry-sponsored testing program that will adequately address EPA's data needs for ethylene dichloride.

III. Identification of Interested Parties

EPA is soliciting interested parties to monitor or participate in testing negotiations on an ECA for ethylene dichloride. The HAP Task Force, the submitter of the PK proposal for ethylene dichloride, and the member companies of the HAP Task Force are already considered interested parties and do not need to respond to this document. Additionally, any persons who respond to this document on or before January 9, 1998 will be given the status of interested parties. Interested parties must respond in writing to the address specified in the ''ADDRESSES'' at the beginning of this document. These interested parties will not incur any obligations by being so designated. Negotiations will be conducted in one or more meetings open to the public. The negotiation time schedule for ethylene dichloride will be established at the first negotiation meeting and will not exceed a period of 4 months from the initial meeting. If an ECA is not established in principle within this timeframe and EPA does not choose to extend the negotiation time period, negotiations will be terminated and testing will be required under the final HAPs test rule. If the testing from the ECA does not meet the Agency's needs,

EPA reserves the right to enter into rulemaking.

IV. Public Participation in Negotiations

Under EPA regulations, the Agency is required to provide the public with an opportunity to comment on and participate in the development of ECAs. The procedural rule for ECAs (40 CFR part 790) contains provisions to ensure that the views of interested parties are taken into account during the ECA process.

Individuals and groups who respond to this document will have the status of interested parties. All negotiating meetings for the development of this ECA for ethylene dichloride will be open to the public and minutes of each meeting will be prepared by EPA and placed in the public docket for this ECA process. The Agency will advise interested parties of meeting dates and make available meeting minutes, testing proposals, background documents, and other materials exchanged at or prepared for negotiating meetings. Where tentative agreement is reached on an acceptable testing program, a draft ECA will be made available for comment by interested parties and, if necessary, EPA will hold a public meeting to discuss any comments that have been received and determine whether revisions to the ECA are appropriate. EPA will not reimburse costs incurred by non-EPA participants in this ECA negotiation process.

ECAs will only be concluded where an agreement can be obtained which is satisfactory to the Agency, manufacturers or processors who are potential test sponsors, and other interested parties, concerning the need for and scope of testing. In the absence of an ECA, EPA reserves the right to proceed with rulemaking.

A. The Agency will not enter into an ECA if either:

1. EPA and affected manufacturers or processors cannot reach an agreement on the provisions of the ECA; or

2. The draft ECA is considered inadequate by other interested parties who have submitted timely written objections to the draft ECA.

B. EPA may reject these objections if the Agency concludes either that:

1. They are not made in good faith;

2. They are untimely;

3. They are not related to the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of TSCA; or

4. They are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

EPA will prepare an explanation of the basis for each ECA. The explanatory document will summarize the agreement (including the required testing), explain the objectives of the testing, and outline the chemical's use and exposure characteristics. The document, which will also announce the availability of the ECA, will be published in the **Federal Register**.

V. Proposal of Export Notification Requirements for Ethylene Dichloride

EPA intends to publish a proposed rule in an upcoming **Federal Register** document to require export notification by all persons who export or intend to export ethylene dichloride under TSCA section 12(b) upon the successful conclusion of an ECA for ethylene dichloride.

VI. Public Record and Electronic Submissions

As described above, ethylene dichloride is listed as a chemical that would be subject to testing requirements under the proposed HAPs test rule. This ECA negotiation process and the proposed rule, are separate and parallel activities. The official record for this ECA action, including the public version, has been established under docket control number OPPTS–42197B (including comments and data submitted electronically as described below). The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A; FRL–4869–1, the record for the proposed HAPs test rule, and all materials and submissions filed under docket control number OPPTS–42187B; FRL–4869–1, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals.

The official record for this document, including the public version, which does not include any information claimed as CBI, has been established for this document under docket control number OPPTS–42197B. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42197B. Electronic comments on this document may be filed online at many Federal Depository Libraries.

The record contains the following information:

A. **Federal Register** notices/EPA documents pertaining to this notice consisting of:

1. ''Proposed Test Rule for Hazardous Air Pollutants; Proposed Rule'' (61 FR 33178, June 26, 1996).

B. PK proposal materials consisting of:

1. HAP Task Force, ''Proposal for Pharmacokinetics Study of Ethylene Dicholoride'' (November 22, 1996) and cover letter (November 25, 1996).

2. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Ethylene Dichloride'' and cover letter (June 26, 1997).

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 17, 1997.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–33328 Filed 12–18–97; 8:45 am]

BILLING CODE 6065–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42198B; FRL–5763–2]

Enforceable Consent Agreement Development for 1,1,2-Trichloroethane; Solicitation of Interested Parties and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting interested parties who want to monitor or participate in negotiations on an enforceable consent agreement (ECA) concerning the use of pharmacokinetics (PK) studies and mechanistic data to help meet testing requirements for 1,1,2-trichloroethane (CAS No. 79–00–5) in the proposed hazardous air pollutants (HAPs) test rule. In addition, EPA invites all interested parties to attend a public meeting to initiate negotiations on the ECA for 1,1,2-trichloroethane.

DATES: EPA must receive written notification requesting designation as an interested party for 1,1,2-trichloroethane on or before January 9, 1998. Those persons who identify themselves as interested parties for 1,1,2-trichloroethane may submit written comments to EPA on the PK proposal for this chemical, on EPA's preliminary technical analysis, and on other materials in the docket for the proposed HAPs test rule, that relate to the ECA process for this chemical by January 9, 1998.

The public meeting is scheduled from 8 a.m. to 10 a.m. on January 12, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42198B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

EPA will address these comments at the public meeting.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

The public meeting will be held at EPA Headquarters, 401 M St., SW., Washington, DC in the EPA Conference Center, North Conference Area in Room 1.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; fax: (202) 260–8850; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1997/).

II. Background

EPA proposed health effects testing under section 4(a) of the Toxic Substances Control Act (TSCA) on June 26, 1996, for a number of HAPs chemicals (61 FR 33178) (FRL–4869–1). As indicated in the proposed HAPs test rule, EPA would use the data obtained from testing to implement several provisions of section 112 of the Clean Air Act (CAA), including the determination of residual risk, the estimation of the risks associated with accidental releases of chemicals, and determinations whether substances should be removed from the CAA section 112(b)(1) list of hazardous air pollutants (delisting). The data also would be used by other Federal agencies (e.g. Agency for Toxic Substances and Disease Registry (ATSDR), National Institute of Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), and Consumer Product Safety Commission (CPSC)) in assessing chemical risks and in taking appropriate actions within their programs.

In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the basis for negotiation of ECAs. These PK studies would be used to inform EPA about the use of route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. EPA received a PK proposal for 1,1,2-trichloroethane from the HAP Task Force on November 25, 1996. Based on the PK proposal received for 1,1,2-trichloroethane, the Agency developed a preliminary technical analysis. A copy of this preliminary technical analysis was sent to the HAP Task Force on June 26, 1997. The HAP Task Force reviewed EPA's analysis and notified EPA on July 31, 1997, that it has a continued interest in pursuing the ECA process. A copy of the PK proposal, the EPA preliminary technical analysis and related materials is contained in the public record for this ECA process. These materials will be used during discussions at the negotiating meeting. EPA has decided to proceed with the ECA process for 1,1,2-trichloroethane and is providing public notice that the Agency is hereby initiating the procedures for ECA negotiations for the HAP chemical, 1,1,2-trichloroethane. The procedures for ECA negotiations are described at 40 CFR 790.22(b). EPA intends to publish, as appropriate, additional **Federal Register** documents to solicit interested parties and announce public meetings for other HAPs chemicals for which PK proposals were submitted.

The proposed HAPs test rule, and the ECA negotiations on chemicals included in the proposed rule are separate and parallel activities. While the Agency's objective of obtaining data could be accomplished by either activity, EPA recognizes that the final testing program performed by industry may differ depending on whether it is accomplished under the final HAPs test rule or via the ECA process. During the course of ECA negotiations, additional information may be brought forward that could cause the Agency to re-evaluate the nature of the testing requirements as stated in the proposed HAPs test rule. This could result in the development of an ECA that would fulfill the Agency's data needs in ways not stated in the proposed HAPs test rule. It is therefore essential for all interested parties to recognize these differences at the outset and respond accordingly within the framework of these two separate and parallel activities. Comments on the proposed HAPs test rule must be submitted under docket control number, OPPTS–42187A, as described in the proposed HAPs test rule published on June 26, 1996, and will be addressed by EPA via the rulemaking process, which is separate and distinct from the ECA process. Participation in the ECA process is described in Units II. through IV. of this preamble.

Negotiations on developing an ECA for the HAP chemical, 1,1,2-trichloroethane, will focus on the use of PK studies and mechanistic data to help meet testing requirements for 1,1,2-trichloroethane. In addition, discussion will include the adequacy of the available data base to be used for extrapolation to obtain the data needs identified for 1,1,2-trichloroethane in

the proposed HAPs test rule. The objective of the ECA process is to conclude an ECA that will set in place an industry-sponsored testing program that will adequately address EPA's data needs for 1,1,2-trichloroethane.

III. Identification of Interested Parties

EPA is soliciting interested parties to monitor or participate in testing negotiations on an ECA for 1,1,2-trichloroethane. The HAP Task Force, the submitter of the PK proposal for 1,1,2-trichloroethane, and the member companies of the HAP Task Force are already considered interested parties and do not need to respond to this document. Additionally, any persons who respond to this document on or before January 9, 1998 will be given the status of interested parties. Interested parties must respond in writing to the address specified in the ''ADDRESSES'' at the beginning of this document. These interested parties will not incur any obligations by being so designated. Negotiations will be conducted in one or more meetings open to the public. The negotiation time schedule for 1,1,2-trichloroethane will be established at the first negotiation meeting and will not exceed a period of 4 months from the initial meeting. If an ECA is not established in principle within this timeframe and EPA does not choose to extend the negotiation time period, negotiations will be terminated and testing will be required under the final HAPs test rule. If the testing from the ECA does not meet the Agency's needs, EPA reserves the right to enter into rulemaking.

IV. Public Participation in Negotiations

Under EPA regulations, the Agency is required to provide the public with an opportunity to comment on and participate in the development of ECAs. The procedural rule for ECAs (40 CFR part 790) contains provisions to ensure that the views of interested parties are taken into account during the ECA process.

Individuals and groups who respond to this document will have the status of interested parties. All negotiating meetings for the development of this ECA for 1,1,2-trichloroethane will be open to the public and minutes of each meeting will be prepared by EPA and placed in the public docket for this ECA process. The Agency will advise interested parties of meeting dates and make available meeting minutes, testing proposals, background documents, and other materials exchanged at or prepared for negotiating meetings. Where tentative agreement is reached on an acceptable testing program, a draft ECA will be made available for comment by interested parties and, if necessary, EPA will hold a public meeting to discuss any comments that have been received and determine whether revisions to the ECA are appropriate. EPA will not reimburse costs incurred by non-EPA participants in this ECA negotiation process.

ECAs will only be concluded where an agreement can be obtained which is satisfactory to the Agency, manufacturers or processors who are potential test sponsors, and other interested parties, concerning the need for and scope of testing. In the absence of an ECA, EPA reserves the right to proceed with rulemaking.

A. The Agency will not enter into an ECA if either:

1. EPA and affected manufacturers or processors cannot reach an agreement on the provisions of the ECA; or

2. The draft ECA is considered inadequate by other interested parties who have submitted timely written objections to the draft ECA.

B. EPA may reject these objections if the Agency concludes either that:

1. They are not made in good faith;

2. They are untimely;

3. They are not related to the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of TSCA; or

4. They are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

EPA will prepare an explanation of the basis for each ECA. The explanatory document will summarize the agreement (including the required testing), explain the objectives of the testing, and outline the chemical's use and exposure characteristics. The document, which will also announce the availability of the ECA, will be published in the **Federal Register** .

V. Proposal of Export Notification Requirements for 1,1,2-trichloroethane

EPA intends to publish a proposed rule in an upcoming **Federal Register** document to require export notification by all persons who export or intend to export 1,1,2-trichloroethane under TSCA section 12(b) upon the successful conclusion of an ECA for 1,1,2-trichloroethane.

VI. Public Record and Electronic Submissions

As described above, 1,1,2-trichloroethane is listed as a chemical that would be subject to testing requirements under the proposed HAPs test rule. This ECA negotiation process and the proposed rule, are separate and parallel activities. The official record for this ECA action, including the public version, has been established under docket control number OPPTS–42198B (including comments and data submitted electronically as described below). The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A; FRL–4869–1, the record for the proposed HAPs test rule, and all materials and submissions filed under docket control number OPPTS–42187B; FRL–4869–1, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals.

The official record for this document, including the public version, which does not include any information claimed as CBI, has been established for this document under docket control number OPPTS–42198B. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42198B. Electronic comments on this document may be filed online at many Federal Depository Libraries.

The record contains the following information:

A. **Federal Register** notices/EPA documents pertaining to this notice consisting of:

1. ''Proposed Test Rule for Hazardous Air Pollutants; Proposed Rule'' (61 FR 33178, June 26, 1996).

B. PK proposal materials consisting of:

1. HAP Task Force, ''Proposal for Pharmacokinetics Study of 1,1,2-Trichloroethane'' (November 22, 1996) and cover letter (November 25, 1996).

2. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for 1,1,2-Trichloroethane'' and cover letter (June 26, 1997).

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 17, 1997.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–33329 Filed 12–18–97; 8:45 am]

BILLING CODE 6065–50–F

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Prem International, Inc., 7225 N.W. 25th Street, Suite 203, Miami, FL 33122, Officers: Hugo Pedro Kelly, President, Sergio Barci, Vice President

UT Freight Forwarders Ltd., 161–15 Rockaway Blvd., Jamaica, NY 11434, Officers: John Hwang, President, Lisa Cho, Secretary

Triton Forwarding, Inc., 3080 Bristol Street, Suite 610, Costa Mesa, CA 92626, Officers: Anthony G. Khamis, Director, Leonard Yanovsky, Director

Interamericas Consulting Import Export Inc., 22716 SW 65 Way, Boca Raton, FL 33428, Officer: Iracema V.S. Heidal, President.

Dated: December 15, 1997.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–33121 Filed 12–18–97; 8:45 am]

BILLING CODE 6730–01–M

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 January 15, 1998.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Industry Bancshares, Inc., Industry, Texas; to acquire 100 percent of the voting shares of Citizens State Bank, Buffalo, Texas.

B. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. New Century Financial Corporation, Spokane, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of New Century Bank (in organization), Spokane, Washington.

Board of Governors of the Federal Reserve System, December 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–33201 Filed 12–18–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Information Line

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has changed its procedure for accessing the Advisory Committee Information Line (the information line) concerning those advisory committees under the purview of the Center for Biologics Evaluation and Research (CBER). CBER has assigned a separate 5-digit code to each of its advisory committees.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4820.

SUPPLEMENTARY INFORMATION: The information line provides the public with access to the most current information available on upcoming FDA advisory committee meetings, guidance for making an oral presentation during the open public hearing portion of an advisory committee meeting, and procedures for obtaining copies of transcripts of advisory committee meetings. The information line can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee has been assigned a 5-digit code on the information line that enables the public to obtain information about a particular advisory committee by using that code. This 5-digit code appears in each individual notice of a meeting. Information provided is preliminary and may change before a meeting is held. The information line will be updated when such changes are made. The following is a list of CBER's advisory committees and the 5-digit code assigned to each advisory committee:

Committee name	Code
Allergenic Products Advisory Committee	12388
Biological Response Modifiers Advisory Committee	12389
Blood Products Advisory Committee	19516

Committee name	Code
Vaccines and Related Biological Products Advisory Committee	12391
Transmissible Spongiform Encephalopathies Advisory Committee	12392

Dated: December 11, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–33097 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0503]

Agency Information Collection Activities: Proposed Collection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements for submission of a new animal drug application (NADA).

DATES: Submit written comments on the collection of information by February 17, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1686.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following 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, when appropriate, and other forms of information technology.

New Animal Drug Application (NADA), Form FDA 356 V, 21 CFR Part 514, (OMB Control number 0910–0032—Reinstatement)

Description: FDA has the responsibility under the Federal Food, Drug, and Cosmetic Act (the act), for the approval of new animal drugs that are safe and effective. Section 512(b) of the act (21 U.S.C. 360b(b)) requires that a sponsor submit and receive approval of a NADA, before interstate marketing is allowed. The regulations implementing statutory requirements for NADA approval have been codified under 21 CFR part 514. NADA applicants generally use a single form, FDA 356 V. The NADA must contain, among other things, safety and effectiveness data for the drug, labeling, a list of components, manufacturing and controls information, and complete information on any methods used to determine residues of drug chemicals in edible tissues. While the NADA is pending, an amended application may be submitted for proposed changes. After an NADA has been approved, a supplemental application must be submitted for certain proposed changes, including changes beyond the variations provided for in the NADA and other labeling changes. An amended application and a supplemental application may omit statements concerning which no change is proposed. This information is reviewed by FDA scientific personnel to ensure that the intended use of an animal drug, whether as a pharmaceutical dosage form, in drinking water, or in medicated feed, is safe and effective. The respondents are pharmaceutical firms that produce veterinary products and commercial feed mills.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 356 V	514.1 and 514.6	190	6.76	1,824	211.6	271,694
	514.8 and 514.9				30	8,520
	514.11				1	1,824
Total burden hours						282,038

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the burden hours required for reporting are based on fiscal year 1996 data. The burden estimate includes original NADA's, supplemental NADA's and amendents to unapproved applications.

Dated: December 10, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33098 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0485]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by January 20, 1998.

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

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Shipment of a Blood Product Prior to Completion of Testing for Hepatitis B Surface Antigen (HbsAg) (21 CFR 610.40(b)); and Shipment of Blood Products Known Reactive for HbsAg (21 CFR 610.40(d))—(OMB Control Number 0910–0168—Reinstatement)

Under sections 351 and 361 of the Public Health Service Act (42 U.S.C. 262 and 42 U.S.C. 264), FDA prescribes standards designed to ensure the safety, purity, potency, and effectiveness of biological products including blood and blood components and to prevent the transmission of communicable diseases. To accomplish this, FDA requires, among other things, that each unit of Whole Blood or Source Plasma be tested by a licensed serologic test for hepatitis B surface antigen (HbsAg). Section 610.40(b)(4) (21 CFR 610.40(b)(4)) permits preapproved or emergency shipments of blood products for further manufacturing before the test for HbsAg is completed. To obtain approval for such shipments, the collection facility must submit a description of the control procedures to be used by the collection facility and manufacturer. Proper control procedures are essential to ensure the safe shipment, handling, quarantine of untested or incompletely tested blood products, communication of test results, and appropriate use or disposal of the blood products based on the test results. Section 610.40(d)(1) and (d)(2) requires that a collection facility notify FDA of each shipment of HbsAg reactive source blood, plasma, or serum for manufacturing into hepatitis B vaccine and licensed or unlicensed in vitro diagnostic biological products, including clinical chemistry control reagents. The reporting requirements inform FDA of the shipment of potentially infectious biological products that may be capable of transmitting disease. The respondent's for this information collection are the blood collection facilities that are shipping hepatitis B reactive products. FDA's monitoring of such activity is essential should any deviations occur that may require immediate corrective action to protect public safety. The labeling helps ensure that product is safely and appropriately handled and used by the collection facility, shipper, and manufacturer.

Only a few firms are actually engaged in shipping hepatitis B reactive products and making the reports required by § 610.40. Also, there are very few to no emergency shipments per year related to further manufacturing and the only product currently shipped prior to completion of hepatitis B testing is a licensed product, Source Leukocytes. Shipments of Source Leukocytes are preapproved under the product license applications and do not require notification for each shipment. Currently, there have been no respondents reporting emergency or preapproved shipments (§ 610.40(b)). However, FDA is listing one report per year for emergency or preapproved shipments to account for the possibility of future emergency shipments.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
610.40(b)[2]	1	1	1	0.5	0.5
610.40(d)[3]	6	8.5	51	0.5	25.5
TOTAL					26

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] This notice involves a brief letter and an enclosure. The letter identifies who is making the shipment, to whom shipped, the nature of the emergency, the kind and quantity shipped, and date of shipment. The enclosure is a copy of the shippers written standard operating procedures for handling, labeling storage, and shipment of contaminated (contagious) product. The burden for development and maintenance of standard operating procedures is approved under OMB No. 0910–0116. Preparation of the notice and duplication of standard operating procedure documents is estimated at one half hour per notice.

[3] The notice of reactive product shipment is limited to information on: the identity of the kind and amount of source material shipped; the name and address of the consignee; the date of shipment; and the manner in which the source material is labeled.

FDA has calculated no additional burden in this information collection package for the labeling requirements in § 610.40(d) because the information and statements on the label necessary for public disclosure and safety are provided by FDA in these regulations. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally

supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information.

Dated: December 10, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33091 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0309]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by January 20, 1998.

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

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Infant Formula Requirements (21 CFR 106.100, 21 CFR 106.120(b), 21 CFR 107.10(a), 21 CFR 107.20, 21 CFR 107.50(e)(2), 21 CFR 107.50(b)(3), 21 CFR 107.50(b)(4), 21 CFR 107.50(c)(3))—(OMB Control Number 0910–0256—Extension)

Statutory requirements for infant formula under the Federal Food, Drug, and Cosmetic Act (the act) are intended to protect the health of infants and include a number of reporting and recordkeeping requirements. Among other things, section 412 of the act (21 U.S.C. 350a) requires manufacturers of infant formula to establish and adhere to quality control procedures, notify FDA when a batch of infant formula that has left the manufacturer's control may be adulterated or misbranded, and keep records of distribution. FDA has issued regulations to implement the act's requirements for infant formula in 21 CFR parts 106 and 107.

FDA also regulates the labeling of infant formula under the authority of section 403 (21 U.S.C. 343). Under the labeling regulations for infant formula in 21 CFR part 107, the label of an infant formula must include nutrient information and directions for use. The purpose of these labeling requirements is to ensure that consumers have the information they need to prepare and use infant formula appropriately.

In a document published in the **Federal Register** of July 9, 1996 (61 FR 36154), FDA proposed changes in the infant formula regulations, including some of those listed below. The document included revised burden estimates for the proposed changes and solicited public comment. In the interim, however, FDA is seeking an extension of OMB approval for the current regulations so that it can continue to collect information while the proposal is pending.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
106.120(b)	4	7	28	0	0
107.10(a) 107.20	4	7	28	8	224
107.50(b)(3), (b)(4)	3	4	12	4	48
107.50(e)(2)	3	4	12	0	0
Total					272

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
106.100	4	10	40	4,000	16,000
107.50(c)(3)	4	10	40	0	0
Total					16,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In compiling these estimates, FDA consulted its records of the number of infant formula submissions received in the past. The figures for hours per response are based on estimates from experienced persons in the agency and in industry. Because these infant formula regulations implement statutory information collection requirements, only the additional burden attributable to the regulations has been included in the estimates.

Due to clerical error, the burden estimates that appeared in FDA's previous notice soliciting comments on this collection of information (62 FR 42256, August 6, 1997) were incorrect. The tables above contain the correct estimates.

Dated: December 10, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33092 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Dental Products Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dental Products Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on January 12, 1998, 10:15 a.m. to 5 p.m., and January 13, 1998, 8 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Pamela D. Scott, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12518. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 12, 1998, the committee will discuss and vote on a premarket approval application for a bone filling and augmentation device for periodontal use. On January 13, 1998, the committee will discuss and make recommendations to FDA regarding the reclassification of subgroups of endosseous dental implant devices. The following subgroups of endosseous implants will be included: Coated and uncoated root form implants, coated and uncoated blade-type implants, temporary implants, and implants with special enhanced retention features.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 29, 1997. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11:30 a.m. on January 12, 1998, and between approximately 8:10 a.m. and 9:10 a.m. on January 13, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 5, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 12, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–33096 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0317]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled, ''Interstate Shellfish Dealers Certificate,'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 7, 1997 (62 FR 42560), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection and has assigned OMB control number 0910–0021. The approval expires on September 30, 2000.

Dated: December 10, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33093 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 95N–0245 and 94P–0110]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 23, 1997 (62 FR 49826), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0351. The approval expires on November 30, 2000.

Dated: December 11, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–33094 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 94D–0422 and 93N–0005]

Revocation of Certain Guidance Documents on Positron Emission Tomography Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking two notices regarding guidance documents affecting positron emission tomography (PET) radiopharmaceutical drug products. The guidance documents address FDA's regulatory approach to PET drug products and current good manufacturing practice (CGMP) requirements for such products. FDA is revoking these notices along with the guidance documents to which the notices relate in accordance with provisions of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). Elsewhere in this issue of the **Federal Register**, FDA is announcing the revocation of a final rule.

EFFECTIVE DATE: December 21, 1997.

FOR FURTHER INFORMATION CONTACT: Brian L. Pendleton, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5649.

SUPPLEMENTARY INFORMATION: On November 21, 1997, President Clinton signed into law the Modernization Act (Pub. L. 105–115). Section 121(c)(1)(A) of the Modernization Act directs FDA to develop appropriate procedures for the approval of PET drugs as well as CGMP requirements for such drugs, taking into account any relevant differences between not-for-profit institutions that compound PET drugs and commercial manufacturers. FDA is to establish these procedures and requirements not later than 2 years after the date of enactment. In doing so, the agency must consult with patient advocacy groups, professional associations, manufacturers, and persons licensed to make or use PET drugs.

Under section 121(c)(2) of the Modernization Act, FDA cannot require the submission of new drug applications (NDA's) or abbreviated new drug applications (ANDA's) for compounded PET drugs that are not adulterated under section 501(a)(2)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(C)) for a period of 4 years after the date of enactment, or 2 years after the date that the agency adopts special approval procedures and CGMP requirements for PET drugs, whichever is longer.

Section 121(d) of the Modernization Act requires FDA, within 30 days of enactment, to terminate the application of two notices that were published in the **Federal Register** on February 27, 1995 (60 FR 10593 and 10594). One notice is entitled ''Regulation of Positron Emission Tomography Radiopharmaceutical Drug Products; Guidance; Public Workshop'' (60 FR 10594). The notice included a guidance document entitled ''Regulation of PET Radiopharmaceuticals.'' This guidance document, among other things, stated that a manufacturer of a PET drug was required to obtain FDA approval of an NDA or ANDA in accordance with 21 CFR part 314.

In the other notice, FDA announced the availability of its ''Draft Guideline on the Manufacture of Positron Emission Tomography Radiopharmaceutical Drug Products'' (60 FR 10593). In the **Federal Register** of April 22, 1997 (62 FR 19580), FDA published a notice of availability of a final version of this guidance entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products; Availability.'' The agency is hereby revoking these notices as well as the draft and final guidance documents on CGMP's for PET drugs.

Section 121(d) of the Modernization Act also directs FDA to terminate the application of a final rule, published in the **Federal Register** of April 22, 1997 (62 FR 19493), permitting the agency to approve requests from manufacturers of PET drug products for exceptions or alternatives to provisions of FDA's CGMP regulations (21 CFR 211.1(d)). FDA is announcing the revocation of this rule in a final rule published elsewhere in this issue of the **Federal Register**.

The notices and corresponding guidance documents discussed previously are revoked effective December 21, 1997.

In accordance with section 121(c)(1)(A) of the Modernization Act, FDA intends to begin the development of new PET drug approval procedures and CGMP requirements immediately and will obtain appropriate public input during this process.

Dated: December 16, 1997.

William B. Schultz,

Deputy Commissioner for Policy,

[FR Doc. 97–33188 Filed 12–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3482–N–04]

Office of Lead Hazard Control; Notice of Proposed Information Collection: Comment Request

AGENCY: Office of Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: February 17, 1998.

ADDRESSES: Interesed persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Ms. Ruth Wright, Reports Liaison Officer, Office of Lead Hazard Control (L), Department of Housing & Urban Development, 451—7th Street, SW, Room B–133, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David Levitt at (202) 755–1785, extension 156 (this is not a toll-free number), Office of Lead Hazard Control, HUD, for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Requirements for Disclosure of Lead-Based Paint Hazards in Residential Housing.

OMB Control Number, if applicable: 2539–0007.

Description of the need for the information and proposed use: HUD is requesting approval of a continuation of current record keeping requirements to ensure compliance for persons selling, leasing or acting as agents in transactions to sell or lease target housing. This rule was issued on March 6, 1996 under the authority of section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The records acknowledge that the sellers, lessors, and agents complied with the HUD/Environmental Protection Agency requirements. No changes to the current requirements are being requested.

Agency form numbers, if applicable: None.

Members of affected public: Individuals or Households, Businesses or Other For-Profit, Federal Agencies or Employees, Small Business or Organizations.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

	Number of recordkeepers	Annual hours per record-keeper	Burden hours
Real Estate Transaction Disclosures	15,441,000	15.4 min	3,957,210
Total Estimated Burden Hours: 3,957,210.			

Status of the proposed information collection: Continuation.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 10, 1997.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 97–33148 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–63]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: February 17, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW., Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Maurice Gulledge, telephone number (202) 708–6396 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Survey of Title I Borrowers.

OMB Control Number: 2502–xxxx.

Description of the need for the information and proposed use: This survey is intended to identify significant program abuses and develop a comprehensive database of borrower concerns. Reported instances of program abuse will be reviewed and followed up for complaint resolution, or, when warranted, referred for civil/criminal litigation.

Form numbers: None.

Members of affected public: Title I borrowers.

An estimation of the total numbers of hours needed to prepare the information collection is .0833,the number of respondents is 10,000, frequency of response is on occasion, and the hours of response is 833.

Status of the proposed information collection: new collection.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 15, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–33149 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4254–N–02]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: February 17, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer Shelia E. Jones, Department of Housing and Urban Development, 451–7th Street, SW, Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jan C. Opper, Senior Program Officer, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh St., SW., Washington, DC 20410; telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Opper at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENT INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35 as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Disaster Recovery Initiative Data System (DRIDS).

OMB Control Number, if applicable: Not applicable. This is new data collection.

Description of the need for the information and proposed use: HUD requires that grantees submit quarterly reports to the Department on the use of HUD Disaster Recovery funds. This information must be submitted to HUD no later than 30 days following each calendar quarter. HUD will use the information to submit quarterly reports to Congress that are required by Public Law 105–18. The reports to Congress must cover the use of grant fund for or associated with buyouts.

In addition, cities and counties must submit a Performance Report for the HUD Disaster Recovery Initiative in accordance with 24 CFR 91.520 that must be submitted to HUD no later than 90 days following the end of each 12 month period. States are also required by 24 CFR 91.520 to submit a Performance Evaluation Report (PER) for the HUD Disaster Recovery Initiative no later than 90 days following the end of each 12 month period. HUD is considering modifying paragraphs II.A. 1. through 3. of the HUD Disaster Recovery Initiative Federal Register Notice dated September 8, 1997, at FR 47351, so that most of the requirements of paragraph 1 and 2 are met by the quarterly report in paragraph 3.

HUD will use the information from these submissions to report to Congress on the overall use of the Disaster Recovery Initiative Grant funds.

Agency form numbers, if applicable: Not applicable. This will be a computerized data system operating on the world-wide web.

Member of affected public: State and local governments.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents—about 100;
Frequency of response—quarterly per grantee;
Hours of reponse—128 hours annually per grantee (116 hours for record keeping; 12 hours for reporting.)

Status of the proposed information collection: This is new information collection.

Authority: Section 3506 of the Paperwork Reduction Act 1995, 44 U.S.C. Chapter 35, as amended.

Date: December 12, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 97–33150 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4187–N–02]

Announcement of Funding Awards for Fiscal Year 1997; Community Outreach Partnership Centers

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1997 Community Outreach Partnership Centers Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards which are to be used to establish and operate Community Outreach Partnership Centers that will: (1) Conduct competent and qualified research and investigation on theoretical or practical problems in large and small cities; and (2) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

FOR FURTHER INFORMATION CONTACT: John Hartung, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8130, 451 Seventh Street, S.W., Washington, DC 20410, telephone (202) 708–3061, extension 261. To provide service for persons who are hearing-or-speech-impaired, this number may be reached via TTY by Dialing the Federal Information Relay Service on 1–800–877–TTY, 1–800–877–8339, or 202–708–1455. (Telephone number, other than ''800'' TTY numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The Community Outreach Partnership Centers Program was enacted in the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) and is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. In addition to this program, the Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education as well as creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Community Outreach Partnership Centers Program provides funds for: research activities which have practical application for solving specific problems in designated communities and neighborhoods; outreach, technical assistance and information exchange activities which are designed to address specific problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, and community organizing. On March 20, 1997 (62 FR 13506), HUD published a Notice of Funding Availability (NOFA) announcing the availability of $7.4 million in Fiscal Year 1997 funds for the Community Outreach Partnership Centers Program. The Department reviewed, evaluated and

scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the 16 applicants for New Grants and (9) applicants for Institutionalization Grants. These grants, with their grant amounts are identified below.

The Catalog Federal Domestic Assistance number for this program is 14.511.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 1997 Community Outreach Partnership Centers Funding Competition, by Name and Address

New Grants

New England

1. Fitchburg State College, Mr. David Newton, Fitchburg State College, 160 Pearl Street, Fitchburg, MA 01420, (508) 665–3368. Grant: $399,864.

2. University of Rhode Island, Mr. Angelo Mendello, University of Rhode Island, 70 Lower College Road, Kingston, RI 02881, (401) 874–5138. Grant: $391,918

3. New Hampshire College, Mr. Michael Swack, New Hampshire College, 2500 North River Road, Manchester, NH 03106, (603) 644–3103. Grant: $399,278.

New York/New Jersey

4. Brooklyn College, Ms. Nancy Romer, Brooklyn College, 2900 Bedford Avenue, Brooklyn, NY 11210, (718) 951–5766. Grant: $399,979.

5. Buffalo State College, Mr. Douglas Koritz, Buffalo State College, 1300 Elmwood Avenue, Cleveland Hall 517, Buffalo, NY 12222, (716) 878–4606. Grant: $391,596.

Mid-Atlantic

6. Virginia Commonwealth University, Ms. Catherine Howard, Virginia Commonwealth University, P.O. Box 980568, Richmond, VA 23298, (804) 828–1831. Grant: $399,358.

Southeast/Caribbean

7. University of North Carolina at Chapel Hill, Ms. Mary Beth Powell, University of North Carolina at Chapel Hill, CB#4100, Room 300, Bynum Hall, Chapel Hill, NC 27599–4100, (919) 962–3076. Grant: $399,985.

8. Clemson University, Mr. William Geer, Clemson University, 300 Brackett Hall, Box 345702, Clemson, SC 29634, (864) 656–2424. Grant: $399,686.

Midwest

9. Indiana University-Purdue University Indianapolis, Mr. William Plater, Indiana University-Purdue University Indianapolis, 620 Union Drive, Room 618, Indianapolis, IN 46202, (317) 274–4500. Grant: $400,000.

10. University of Wisconsin-Parkside, Ms. Esther Letven, University of Wisconsin-Parkside, 900 Wood Road, Box 2000, Kenosha, WI 53141, (414) 595–2208. Grant: $399,966.

Great Plains

11. University of Missouri-Kansas City, Mr. Ronald McQuarrie, University of Missouri-Kansas City, 5100 Rockhill Road, Kansas City, MO 64110, (816) 235–1301. Grant: $399,195.

12. University of Nebraska at Omaha, Ms. Mary Laura Farnham, University of Nebraska at Omaha, CPACS, Annex 24, Omaha, NE 68182, (402) 554–2286. Grant: $400,000.

Southwest

13. University of North Texas, Mr. Stan Ingman, University of North Texas, P.O. Box 305250, Denton, TX 767203, (940) 565–2298. Grant: $399,692.

Pacific/Hawaii

14. Rancho Santiago College, Mr. John Nixon, Rancho Santiago College, 1530 17th Street, Santa Ana, CA 92706, (714) 564–6082. Grant: $400,000.

15. San Jose State University, Mr. Jerome Bernstein, San Jose State University, P.O. Box 720130, San Jose, CA 95172, (408) 924–3531. Grant: $399,979.

16. University of California at San Diego, Ms. Martha Obermeier, University of California at San Diego, 9500 Gilman Drive, San Diego, CA 92093, (619) 534–0242. Grant: $400,000.

Institutionalization Grants

Mid-Atlantic

1. George Mason University, Dr. Hugh Sockett, George Mason University, 4400 University Drive, Fairfax, VA 22030, (703) 993–8320. Grant: $99,979.

2. Marshall University, Dr. Ron L. Schelling, Marshall University, 1050 4th Avenue, Huntington, WV 25755, (304) 696–6246. Grant: $99,958.

Southeast/Caribbean

3. University of Alabama at Birmingham, Dr. Craig T. Ramey, University of Alabama at Birmingham, 1719 Sixth Avenue South, Birmingham, AL 35294–0021, (205) 934–8900. Grant: $99,998.

4. Georgia State University, Dr. David J. Sjoquist, Georgia State University, University Plaza, Atlanta, GA 30303, (404) 651–3995. Grant: $100,000.

5. University of Memphis, Mr. Norman S. Trenk, University of Memphis, Clement Hall, Room 427, Memphis, TN 38152, (901) 678–2533. Grant: $99,959.

6. University of Tennessee-Knoxville, Ms. Madeline Rogero, University of Tennessee-Knoxville, 404 Andy Holt Tower, Knoxville, TN 37996, (423) 974–4542. Grant: $100,000.

Midwest

7. DePaul University, Ms. Clarice Hearn, DePaul University, 1 East Jackson Blvd., Chicago, IL 60604, (312) 362–6138. Grant: $100,000.

8. University of Illinois at Urbana, Dr. Kenneth M. Reardon, University of Illinois at Urbana, 801 South Wright Street, 109 Coble Hall, Champaign, IL 61802. Grant: $99,990.

Southwest

9. University of Texas at Austin, Dr. Robert Wilson, University of Texas at Austin, P.O. Box 7726, Austin, TX 78713, (512) 471–4962. Grant: $99,999.

Dated: December 12, 1997.

Paul A. Leonard,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 97–33212 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4206–N–02]

Announcement of Funding Awards for Fiscal Year 1997; Hispanic Serving Institutions Work Study Program

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1997 Hispanic-Serving Institutions Work Study Program (HSI-WSP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to community college to be used to attract economically disadvantaged and minority students to pre-professional careers in community and economic development, community planning and community management, and to provide a cadre of well-qualified professionals to work in local community building programs.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University

Partnerships, U.S. Department of Housing and Urban Development, Room 8110, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–1537, extension 218. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8339, or 202–708–1455. (Telephone numbers, other than the ''800'' TTY number, are not toll free.)

SUPPLEMENTARY INFORMATION: The HSI-WSP is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. The Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education and creates initiatives through which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The Catalog of Federal Domestic Assistance number for this program is 14.512.

The HSI-WSP was created through an earmark of funds appropriated for the Community Development Work Study Program. Eligible applicants are private non-profit Hispanic-serving community colleges having qualifying academic degrees. Each participating institution of higher education can be funded for a minimum of three and a maximum of ten students. The HSI-WSP provides each participating student up to $12,200 per year for a work stipend (for internship-type work in community building) and tuition and additional support (for books and other expenses related to the academic program). Additionally, the HSI-WSP provides the participating institution of higher education with an administrative allowance of $1,000 per student per year. On April 9, 1997 (62 FR 17498), HUD published a Notice of Funding Availability (NOFA) of $3 million in FY 1997 funds for the Hispanic-Serving Institutions Work Study Program. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as follows:

List of Awardees for Grant Assistance Under the FY 1996 Hispanic-Serving Institutions Work Study Program Funding Competition, by Name, Address, Phone Number, Grant Amount, and Number of Students Funded

New York/New Jersey

1. Hudson County Community College, Dr. Estelle F. Greenberg, Hudson County Community College, 25 Journal Square, Jersey City, NJ 07306, (201) 714–2103. Grant: $91,400 to fund five students.

2. Hostos Community College, Dr. Salvatore Martino, Hostos Community College, 500 Grand Concourse B–447, Bronx, NY 10451, (718) 518–6673. Grant: $127,720 to fund five students.

3. Fiorello H. LaGuardia Community College, Dr. Harry N. Heineman, Fiorello H. LaGuardia Community College, 31–10 Thomson Avenue, Long Island, NY 11101, (718) 482–5203. Grant: $84,300 to fund five students.

Midwest

4. St. Augustine College, Dr. Joaquin Villegas, St. Augustine College, 1333 W. Argyle, Chicago, IL 60640, (773) 772–1760. Grant: $128,200 to fund five students.

Southwest

5. El Paso Community College, Mr. C. Alfred Lawrence, El Paso Community College, P.O. Box 20500, El Paso, TX 79998, (915) 594–2238. Grant: $121,470 to fund five students.

Pacific/Hawaii

6. Pasadena City College, Ms. Linda Stroud, Pasadena City College, 1570 E. Colorado Blvd., Pasadena, CA 91106, (818) 585–7404. Grant: $131,960 to fund five students.

7. Desert Community College District, Dr. Dan M. Baxley, Desert Community College District, 43–500 Monterey Avenue, Palm Desert, CA 92260, (760) 773–2506. Grant: $121,220 to fund five students.

8. Los Angeles Trade-Technical College, Dr. Denise G. Fairchild, Los Angeles Trade-Technical College, 400 West Washington Blvd., Los Angeles, CA 90015, (213) 744–9065. Grant: $132,000 to fund five students.

9. Compton Community College, Mr. Ron D. Chatman, Compton Community College, 111 E. Artesia Blvd., Compton, CA 90221, (310) 637–2660, Extension 2852. Grant: $106,500 to fund five students.

10. Los Angeles Harbor College, Ms. Clare Adams, Los Angeles Harbor College, 1111 Figueroa Place, Wilmington, CA 90744, (310) 522–8318. Grant: $128,700 to fund five students.

11. Fresno City College, Ms. Deborah J. Ikeda, Fresno City College, 1101 E. University Avenue, Fresno, CA 93741, (209) 442–6000, Extension 8641. Grant: $132,000 to fund five students.

12. Rancho Santiago College, Ms. Gloria Guzman, Rancho Santiago College, 1530 W. 17th Street, Santa Ana, CA 92706, (714) 564–6810. Grant: $132,000 to fund five students.

Dated: December 9, 1997.

Paul A. Leonard,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 97–33211 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. FR–4085–N–02, FR–4194–N–02, FR–4195–N–03, FR–4207–N–03, FR–4220–N–03, and FR–4224–02]

Announcement of Funding Awards for Fiscal Year 1997 for the Rental Voucher and Rental Certificate, Family Unification, and Family Self-Sufficiency Programs

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 1997 to housing agencies (HAs) under the Section 8 rental voucher and rental certificate programs. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide rental assistance to very low-income families.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Senior Program Advisor, Public and Assisted Housing Delivery, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TTY number (202) 708–4594. (These telephone numbers are not toll-free) .

SUPPLEMENTARY INFORMATION: The regulations governing the rental certificate and rental voucher programs are published at 24 CFR parts 882 and 887, respectively, and 24 CFR part 982. The regulations for allocating housing

assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, Subpart D.

The purpose of the rental voucher and rental certificate programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 97 awards announced in this notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFAs) published in the **Federal Register** on October 30, 1996 (61 FR 56091), April 10, 1997 (62 FR 17666), April 10, 1997 (62 FR 17672), April 18, 1997 (62 FR 19208), May 1, 1997 (62 FR 23912) and August 1, 1997, (62 FR 41407), and June 23, 1997 (62 FR 33952).

The October 30, 1996 (61 FR 56091) NOFA made available rental certificates and rental vouchers for persons with disabilities in support of designated housing allocation plans.

The April 18, 1997 (62 FR 19208) NOFA made available rental certificates for the Family Unification Program to assist families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

The April 10, 1997 NOFA (62 FR 17666) made available rental certificates and rental vouchers for persons with disabilities under the Mainstream Housing Program.

The April 10, 1997 NOFA (62 FR 17672) made available rental certificates and rental vouchers for non-elderly persons with disabilities in support of designated housing allocation plans. In addition, funds were also made available for non-elderly disabled families in connection with certain Section 8 project-based development where the owner has established a preference for the admission of elderly households.

The May 1, 1997 (62 FR 23912) NOFA made available Section 8 Family Self-Sufficiency (FSS) Coordinator funds to hire FSS program coordinators. The August 1, 1997 NOFA made a correction to the May 1 NOFA to extend the deadline date for submission of the required FSS certification.

The June 23, 1997 (62 FR 33952) document made available rental certificates and rental vouchers to HAs in connection with public housing demolition and disposition to provide relocation assistance and replacement housing.

A total of $441,500,299 of budget authority for rental vouchers and rental certificates (27,887 units) was awarded to recipients under all of the above mentioned categories.

The Catalog of Federal Domestic Assistance numbers for these programs are 14.855 and 14.857.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: December 15, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

HOUSING AGENCY	ADDRESS	UNITS	AWARD

SECTION 8 RENTAL ASSISTANCE PROGRAMS
ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 1997

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Section 811 Disabled Certificates			
CAMBRIDGE HA	270 GREEN STREET, CAMBRIDGE, MA, 02139	100	$3,191,800
QUINCY HA	80 CLAY STREET, QUINCY, MA, 02170	100	3,975,940
BARNSTABLE HA	146 SOUTH ST, HYANNIS, MA, 02601	200	6,145,680
BRUNSWICK HA	P O BOX A, BRUNSWICK, ME, 04011	15	355,740
HA HIGH POINT	P O BOX 1779, HIGH POINT, NC, 27261	50	933,380
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC, 27420	50	960,880
DOVER HA	62 WHITTIER STREET, DOVER, NH, 03820	30	666,785
LAKEWOOD HA	P O BOX 1543, LAKEWOOD, NJ, 08701	68	2,231,075
ALBUQUERQUE HA	1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM, 87106	50	1,364,895
HA OF ROCHESTER	140 WEST AVENUE, ROCHESTER, NY, 14611	20	473,970
SPRINGFIELD MET.HA	437 EAST JOHN STREET, SPRINGFIELD, OH, 45505	50	1,023,510
ASHTABULA MHA	P O BOX 2350, 3600 LAKE AVENUE, ASHTABULA, OH, 44005	60	1,420,630
BUTLER COUNTY HA	P O BOX 1917, BUTLER, PA, 16003	50	929,290
PAWTUCKET H A	214 ROOSEVELT AVE, PO BOX 1303, PAWTUCKET, RI, 02862	75	2,188,140
NORTH PROVIDENCE HA	945 CHARLES STREET, NORTH PROVIDENCE, RI, 02904	25	727,630
Totals for Section 811 Disabled Certificates		**943**	**$26,589,345**
Section 811 Disabled Vouchers			
CITY OF SANTA BARBARA H/A	808 LAGUNA ST, SANTA BARBARA, CA, 93101	100	$3,666,640
IMPERIAL VALLEY HA	1401 D STREET, BRAWLEY, CA, 92227	49	680,410
BOULDER CITY HA	3120 BROADWAY AVE, BOULDER, CO, 80304	50	1,315,210
WILMINGTON HA	400 WALNUT STREET, WILMINGTON, DE, 19801	50	1,254,080
LEXINGTON-FAYETTE UR CO H/A	635 BALLARD ST, LEXINGTON-FAYETTE U, KY, 40508	25	750,215
CAMBRIDGE HA	270 GREEN STREET, CAMBRIDGE, MA, 02139	100	3,154,940
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC, 27420	50	926,380
HA WINSTON-SALEM	901 CLEVELAND AVENUE, WINSTON-SALEM, NC, 28101	73	1,413,105
OMAHA HA	540 SOUTH 27TH STREET, OMAHA, NE, 68105-1521	100	1,889,780
HA OF ROCHESTER	140 WEST AVENUE, ROCHESTER, NY, 14611	20	472,570
LUCAS MHA	P O BOX 477, 435 NEBRASKA AVENUE, TOLEDO, OH, 43697	150	3,453,040
HA CITY OF SALEM	PO BOX 808, SALEM, OR, 97308-0808	44	932,475
BURLINGTON HA	230 ST PAUL STREET, BURLINGTON, VT, 05401	100	2,236,840
Totals for Section 811 Disabled Vouchers		**911**	**$22,145,685**
Mainstream Certificates			
MOBILE HOUSING BOARD	P O BOX 1345, MOBILE, AL 36633	35	$757,055
COUNTY OF RIVERSIDE HA	5555 ARLINGTON AVE, RIVERSIDE, CA 92504	38	$1,095,195
CLEARWATER H/A	P O BOX 960, CLEARWATER, FL 34617	75	$1,619,050
NEW ORLEANS HA	918 CARONDELET STREET, NEW ORLEANS, LA 70130	25	$578,465
WESTBROOK HA	P.O. BOX 349, WESTBROOK, ME 04092	50	$1,714,970
HA OF KANSAS CITY, MO	712 BROADWAY, KANSAS CITY, MO 64105-4105	100	$2,074,250
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ 07306	100	$4,661,550
NEW YORK CITY HA	250 BROADWAY, NEW YORK, NY 10007	100	$4,527,550
BUTLER COUNTY HA	P.O. BOX 1917, BUTLER, PA 16003	50	$1,112,315
CLARION COUNTY HA	ONE NORTH SIXTH AVENUE, CLARION, PA 16214	50	$867,525
KNOXVILLE COMM DEV CORP	P O BOX 3629, KNOXVILLE, TN 37937-3629	50	679,585
CEDAR CITY HA	2390 W. HWY 56, SUITE 7, CEDAR CITY, UT 84720	25	$576,245
VIRGINIA HSG DEV. AUTH	601 S. BELVIDERE STREET, RICHMOND, VA 23225	100	$3,220,060
Totals for Mainstream Certificates		**798**	**$23,483,815**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Mainstream Vouchers			
MOBILE HOUSING BOARD	P O BOX 1345, MOBILE, AL 36633	65	$1,003,450
CITY OF MESA	415 N. PASADENA STREET, MESA, AZ 85201-5916	100	$2,621,155
ANAHEIM HA	201 S. ANAHEIM BLVD., 2ND FL, ANAHEIM, CA 92805	100	$3,733,920
WILMINGTON HA	400 WALNUT STREET, WILMINGTON, DE 19801	100	$3,323,785
ANNE ARUNDEL COUNTY HA	7885 GORDON COURT, GLEN BURNIE, MD 21061	100	$3,232,280
WESTBROOK HA	P.O. BOX 349, WESTBROOK, ME 04092	50	$1,568,220
MADISON HEIGHTS HSG COMM.	300 W. THIRTEEN MILE RD., MADISON HEIGHTS, MI 48071	50	$1,111,140
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC 27420	50	$2,355,160
KEENE HA	105 CASTLE STREET, KEENE, NH 03431	50	$1,198,250
TRUTH OR CONSEQUENCES HA	108 S. CEDAR ST, TRUTH OR CONSEQUENCES, NM 87901	20	$425,325
HA CITY OF SALEM	PO BOX 808, SALEM, OR 97308-0808	50	$1,119,000
BLAIR COUNTY HA	P.O. BOX 167, HOLLIDAYSBURG, PA 16648	22	$534,570
CLARION COUNTY HA	ONE NORTH SIXTH AVENUE, CLARION, PA 16214	50	$941,375
KNOXVILLE COMM DEV CORP	P O BOX 3629, KNOXVILLE, TN 37937-3629	50	$930,900
HA CITY OF MORGANTOWN	517 FAIRMONT AVENUE, FAIRMONT, WV 26554	39	$629,700
Totals for Mainstream Vouchers		**958**	**$25,012,460**
Section 23 Conversions Certificates			
MANSFIELD MHA	PO BOX 1029, 150 PARK AVENUE WEST, MANSFIELD, OH, 44901	158	$253,644
Totals for Section 23 Conversion Certificates		**158**	**$253,644**
Litigation Vouchers			
DALLAS HA	3939 N HAMPTON, DALLAS, TX, 75212	320	$4,101,684
HSG AUTH CITY OF PARIS	P O BOX 688, PARIS, TX, 75461-0688	25	221,092
MARSHALL HA	P O BOX 609, MARSHALL, TX, 75671-0609	20	143,458
NACOGDOCHES HA	715 SUMMIT ST, NACOGDOCHES, TX, 75961	25	202,666
ARK-TEX COUNCIL OF GOVTS	P O BOX 5307, TEXARKANA, TX, 75505	60	409,104
DEEP EAST TX COUNCIL OF GOVTS	274 E LAMAR, JASPER, TX, 75951	50	399,736
Totals for Litigation Vouchers		**500**	**$5,477,740**
Litigation Certificates			
CITY OF BUFFALO	201 CITY HALL-65 NIAGARA SQUAR, BUFFALO, NY, 14202	50	$539,476
ALLEGHENY COUNTY HA	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA, 15222	50	647,668
HSG AUTH OF PITTSBURGH	P O BOX 435, PITTSBURGH, TX, 75686	20	163,394
Totals for Litigation Certificates		**120**	**$1,350,538**
Designated Housing Certificates			
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	160	$943,296
HA OF KANSAS CITY, MO	712 BROADWAY, KANSAS CITY, MO, 64105	200	714,120
Totals for Designated Housing Certificates		**360**	**$1,657,416**
Designated Housing Vouchers			
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	40	$217,584
HA OF GLOUCESTER COUNTY	223 S EVERGREEN AVE, WOODBURY, NJ, 08096	130	643,344
HA OF SYRACUSE	516 BURT STREET, SYRACUSE, NY, 13202-3999	35	122,548
THURSTON COUNTY	505 WEST FOURTH AVENUE, OLYMPIA, WA, 98501-	25	105,606
Totals for Designated Housing Vouchers		**230**	**$1,089,082**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Family Unification Certificates			
HA LEEDS	P O BOX 513, LEEDS, AL, 35094	50	$214,554
LITTLE ROCK HA	1000 WOLFE STREET, LITTLE ROCK, AR, 72202	100	689,748
CITY OF YUMA HA	1350 W. COLORADO STREET, YUMA, AZ, 85364	100	527,940
COUNTY OF LOS ANGELES HA	2 CORAL CIRCLE, MONTEREY PARK, CA 91754	150	1,353,126
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD., LOS ANGELES, CA, 90057	50	545,983
HA of the COUNTY OF KERN	525 ROBERTS LANE, BAKERSFIELD, CA, 93308	50	287,736
COUNTY OF CONTRA COSTA HA	3133 ESTUDILLO ST, P O BOX 2759, MARTINEZ, CA, 94553	100	844,282
COUNTY OF SAN MATEO HA	456 PENINSULA AVE, SAN MATEO, CA, 94401	50	575,382
COUNTY OF MERCED HA	405 U STREET, MERCED, CA, 95340	120	747,384
COUNTY OF SAN JOAQUIN HA	P O BOX 447, STOCKTON, CA, 95201	50	305,058
COUNTY OF STANISLAUS HA	P O BOX 3958, MODESTO, CA, 95352	50	292,332
COUNTY OF FRESNO HA	P O BOX 11985, FRESNO, CA, 93776	59	335,833
CITY OF OXNARD HA	1470 COLONIA ROAD, OXNARD, CA, 93030	50	408,605
COUNTY OF MONTEREY HA	123 RICO STREET, SALINAS, CA, 93907	50	332,862
CITY OF SAN BUENAVENTURA HA	P O BOX 1648, VENTURA, CA, 93002	35	271,523
SANTA CLARA COUNTY HA	505 WEST JULIAN STREET, SAN JOSE, CA, 95110	50	551,982
COUNTY OF SANTA CLARA HA.	505 WEST JULIAN ST, SAN JOSE, CA, 95110	50	551,982
SAN DIEGO HOUSING COMMISSION	1625 NEWTON AVE, SAN DIEGO, CA, 92113-1012	50	330,876
SANTA CRUZ COUNTY HA	2160 - 41ST AVE, CAPITOLA, CA, 95010	50	603,642
HA CITY OF NAPA	P. O. BOX 660, NAPA, CA, 94559	100	772,332
HA OF THE CITY OF SANTA PAULA	P O BOX 404, SANTA PAULA, CA, 93060	15	100,063
CITY OF SANTA BARBARA HA	808 LAGUNA ST, SANTA BARBARA, CA, 93101	50	381,954
COUNTY OF VENTURA AREA HA	99 SOUTH GLENN DRIVE, CAMARILLO, CA, 93010	50	471,823
CITY OF SANTA ANA HA	20 CIVIC CENTER PLAZA, SANTA ANA, CA, 92701	10	85,424
ORANGE COUNTY HA	2043 N BROADWAY, SANTA ANA, CA, 92706	120	893,909
ANAHEIM HA	201 S. ANAHEIM BLVD., 2ND FL, ANAHEIM, CA, 92805	150	1,191,390
COUNTY OF SAN DIEGO	5555 OVERLAND AVE., BLDG. 2, RM. 202, SAN DIEGO, CA, 92123	21	163,224
COMM SERV DEPT EL DORADO CO	360 FAIR LANE, PLACERVILLE, CA, 95667	25	217,596
COLORADO SPRINGS HA	P O BOX 1575, COLORADO SPRINGS, CO, 80903	30	193,718
CONN DEPT OF SOCIAL SERVICES	25 SIGOURNEY STREET, HARTFORD, CT, 06105-	100	714,180
D.C HA	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC, 20002	100	1,020,715
ORLANDO H/A	300 REEVES COURT, ORLANDO, FL, 32801	100	509,388
METRO DADE HA	2153 CORAL WAY, MIAMI, FL, 33145-2659	100	872,460
HA BREVARD COUNTY	P O BOX 338, MERRITT ISLAND, FL, 32952	100	581,568
HIALEAH H/A	70 EAST 7TH STREET, HIALEAH, FL, 33010	100	1,028,640
BROWARD COUNTY HA	1773 NORTH STATE ROAD 7, LAUDERHILL, FL, 33313	50	497,058
HA PALM BEACH COUNTY	3432 W 45TH STREET, WEST PALM BEACH, FL, 33407	100	924,516
HA PASCO COUNTY	522 AUTUMN DR, DADE CITY, FL, 33525-2703	50	345,660
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA, 30365	100	718,044
SIOUX CITY HOUSING SERVICES	BOX 447, 520 ORPHEUM BUILDING, SIOUX CITY, IA, 51102	50	196,459
CITY OF CEDAR RAPIDS	CITY HALL, CEDAR RAPIDS, IA, 52401	100	477,624
MTHORITYID IOWA REGIONAL HA	1814 CENTRAL AVENUE, FORT DODGE, IA, 50501	10	33,506
IDAHO HSG AND FINANCE ASSOC.	565 W MYRTLE STREET, POB 7899, BOISE, ID, 83707-1899	100	433,812
EAST ST LOUIS HA	683 N 20TH STREET, EAST ST LOUIS, IL, 62205	100	447,072
CHICAGO HA	626 WEST JACKSON BLVD, CHICAGO, IL, 60602	100	896,711
HA ROCKFORD	330 15TH AVE., ROCKFORD, IL, 61108	100	438,828
HA OF THE COUNTY OF COOK	59 E VAN BUREN SUITE 1802, CHICAGO, IL, 60605	50	388,776
HA KANKAKEE	P O BOX 1289, KANKAKEE, IL, 60901	50	315,229
DUPAGE COUNTY ILLINOIS	128A S. COUNTY FARM ROAD, WHEATON, IL, 60187	50	427,536
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN, 46204	100	542,425
INDIANA DEPT OF HUMAN SERV	I251 N. ILLINOIS P O BOX 7083, INDIANAPOLIS, IN 46207	100	504,852
WICHITA HA	455 N MAIN CITY HALL 11TH FLO, WICHITA, KS, 67202-0004	100	573,156
HA OF LOUISVILLE	420 S. 8TH ST., LOUISVILLE, KY, 40203	100	595,500
HA OF JEFFERSON COUNTY	801 VINE STREET, LOUISVILLE, KY, 40204-1044	100	488,652
CITY OF LOUISVILLE	601 WEST JEFFERSON STREET, LOUISVILLE, KY, 40202-2728	100	488,652
NEW ORLEANS HA	918 CARONDELET STREET, NEW ORLEANS, LA, 70130	100	662,316
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	100	843,000
MA.,E.O.C.D.	100 CAMBRIDGE ST, BOSTON, MA, 02202	100	977,160
HA OF PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD, 20785	100	900,444

HOUSING AGENCY	ADDRESS	UNITS	AWARD
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD, 21204	100	497,724
MAINE STATE HA	353 WATER STREET, AUGUSTA, ME, 04330-4633	100	621,936
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI, 48207	100	732,564
CITY OF PONTIAC	1600 WEST WIDE TRACK DRIVE, PONTIAC, WI, 48058	50	217,362
SAGINAW HSG COMM.	2811 DAVENPORT, BOX A, SAGINAW, MI, 48602	100	488,255
CITY OF PLYMOUTH HSG COMM.	1160 SHERIDAN, PLYMOUTH, MI, 48170	100	574,463
ST PAUL PHA	480 CEDAR STREET, SUITE 600, ST. PAUL, MN, 55101-2240	50	341,382
METROPOLITAN COUNCIL	230 E. FIFTH STREET, ST. PAUL, MN, 55101	100	613,176
HA OF KANSAS CITY, MO	712 BROADWAY, KANSAS CITY, MO, 64105	50	320,310
ST. LOUIS COUNTY HA	8865 NATURAL BRIDGE, ST. LOUIS, MO, 63121	50	203,016
HA HIGH POINT	P O BOX 1779, HIGH POINT, NC, 27261	100	536,952
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC, 27420	100	640,272
HA DURHAM	P O BOX 1726, DURHAM, NC, 27702	50	422,748
HA ROWAN COUNTY	121 WEST COUNCIL, SUITE 103, SALISBURY, NC, 28144-4347	50	243,786
EWARK HA	57 SUSSEX AVENUE, NEWARK, NJ, 07103	50	585,120
ELIZABETH HA	688 MAPLE AVENUE, ELIZABETH, NJ, 07202	50	348,978
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ, 07306	100	905,460
PATERSON HA	60 VAN HOUTEN STREET, PATERSON, NJ, 07509	25	253,401
CARTERET HA	96 ROOSEVELT AVENUE, CARTERET, NJ, 07008	100	777,276
LAKEWOOD HA	P O BOX 1543, LAKEWOOD, NJ, 08701	50	505,812
MONMOUTH COUNTY HA	PO BOX 3000, FREEHOLD, NJ, 07728	50	407,663
NJ DEPT. OF COMM. AFFAIRS	101 S. BROAD STREET CN800, TRENTON, NJ, 08625-0800	100	781,528
HA OF SYRACUSE	516 BURT STREET, SYRACUSE, NY, 13202-3999	25	146,634
NEW YORK CITY HA	250 BROADWAY, NEW YORK, NY, 10007	100	968,700
TOWN OF AMHERST	5583 MAIN ST., WILLIAMSVILLE, NY, 14221	100	522,576
CITY OF UTICA	ONE KENNEDY PLAZA, UTICA, NY, 13502	100	395,976
NY STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY, 10458	95	484,402
NY STATE HSG. FIN. AGENCY	ONE FORDHAM PLAZA, BRONX, NY, 10458	100	962,589
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH, 43201	100	498,306
CINCINNATI METROPOLITAN HA	16 WEST CENTRAL PARKWAY, CINCINNATI, OH, 45210	50	287,437
DAYTON METROPOLITAN HA	400 WAYNE AVE, DAYTON, OH, 45410	50	299,147
ZANESVILLE MET HA	2746 MAPLE AVENUE, ZANESVILLE, OH, 43701	50	183,573
LORAIN MHA	1600 KANSAS AVENUE, LORAIN, OH, 44052-3317	100	589,907
CHILLICOTHE MET HA	178 WEST FOURTH STREET, CHILLICOTHE, OH, 45601	45	226,514
HAMILTON COUNTY	138 EAST COURT ST RM 507, Cincinnati, OH 46202	100	581,156
TULSA HA	P O BOX 6369, TULSA, OK, 74148-0369	100	694,368
MUSKOGEE HA	200 N 40TH, MUSKOGEE, OK, 74401	50	173,598
PHILADELPHIA HA	2012-18 CHESTNUT STREET, PHILADELPHIA, PA, 19103	100	970,800
ALLEGHENY COUNTY HA	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA, 15222	50	229,848
WESTMORELAND COUNTY HA	R.D. #6, BOX 223 S GREENGATE R, GREENSBURG, PA, 15601	25	102,330
LANCASTER HA	333 CHURCH STREET, LANCASTER, PA, 17602-4253	30	168,488
LEHIGH COUNTY HA	333 RIDGE STREET, EMMAUS, PA, 18049	50	343,381
PUERTO RICO DEPT OF HOUSING	606 BARBOSA AVENUE, P O BOX 21365, RIO PIEDRAS, PR, 00928	100	520,536
METROPOLITAN DEV & HA	701 SIXTH STREET, NASHVILLE-DAVIDSON, TN, 37206	50	317,970
HA CROSSVILLE	202 IRWIN AVE, CROSSVILLE, TN, 38555	50	146,562
FORT WORTH HA	P O BOX 430, FORT WORTH, TX, 76101	100	702,720
SAN ANTONIO HA	P O DRAWER 1300, SAN ANTONIO, TX, 78295	100	639,984
DALLAS HA	3939 N HAMPTON, DALLAS, TX, 75212	50	259,224
TARRANT COUNTY	100 E WEATHERFORD STREET, FORT WORTH, TX, 76196-0103	100	635,820
ARLINGTON HA	401 W SANFORD SUITE 2600, ARLINGTON, TX, 76011	100	665,940
HA OF THE COUNTY OF SALT LAKE	3595 S. MAIN STREET, SALT LAKE CITY, UT, 84115	100	530,772
FAIRFAX CO RED AND HA	3700 PENDER DRIVE, FAIRFAX, VA, 22030	24	233,280
VIRGINIA HOUSING DEV AUTH	601 S. BELVIDERE STREET, RICHMOND, VA, 23220	5	48,275
BURLINGTON HA	230 ST PAUL STREET, BURLINGTON, VT, 05401	50	341,993
VERMONT STATE HA	P O BOX 397, MONTPELIER, VT, 05601-0397	100	540,480
HA COUNTY OF KING	15455 65TH AVE SO, TUKWILA, WA, 98188	100	67,352
HARTFORD HSG AUTH	109 NORTH MAIN STREET, HARTFORD, WI, 53027	20	50,794
CHARLESTON HA	P O BOX 86, CHARLESTON, WV, 25321	50	231,624
HUNTINGTON HA	P O BOS 2183, HUNTINGTON, WV, 25722	50	230,580
Totals for Family Unification Certificates		**8,639**	**$58,799,022**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Public Housing Relocation/Replacement Certificates			
DANBURY HA	2 MILL RIDGE ROAD P O BOX 86, DANBURY, CT, 06810	29	693,258
CITY OF JACKSONVILLE	1300 BROAD STREET, JACKSONVILLE, FL, 32202	45	516,026
HA TAMPA	1514 UNION ST, TAMPA, FL, 33607	137	1,961,180
HA OCALA	1415 N E 32ND TERRACE, OCALA, FL, 32670	68	905,134
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA, 30365	516	9,395,744
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	20	203,908
DETROIT HOUSING DEPARTMENT	2211 ORLEANS, DETROIT, MI, 48207	1,432	16,049,394
JERSEY CITY HA	400 US HIGHWAY #1, JERSEY CITY, NJ, 07306	53	917,918
NEW YORK CITY HA	250 BROADWAY, NEW YORK, NY, 10007	19	409,032
WASHINGTON COUNTY HA	100 CRUMRINE TOWER FRANKLIN ST, WASHINGTON, PA, 15301	16	158,948
EL PASO HA	1600 MONTANA, EL PASO, TX, 79902	306	3,624,582
ORANGE (CITY) HA	P O BOX 3107, ORANGE, TX, 77631	36	414,512
Totals for Public Housing Relocation/Replacement Certificates		**2,677**	**$35,249,636**
Public Housing Relocation/Replacement Vouchers			
AK HSG FINANCE CORP	PO BOX 101020, ANCHORAGE, AK, 99510-1020	30	$406,036
WATERBURY HA	70 LAKEWOOD ROAD, WATERBURY, CT, 06704	19	199,942
MIDDLETOWN HA	40 BROAD STREET, MIDDLETOWN, CT, 06457	53	573,158
DANBURY HA	2 MILL RIDGE ROAD P O BOX 86, DANBURY, CT, 06810	26	461,520
HA OCALA	1415 N E 32ND TERRACE, OCALA, FL, 32670	62	802,080
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA, 30365	323	4,495,638
LYNN HA	174 SOUTH COMMON STREET, LYNN, MA, 01905	4	99,260
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	142	1,584,312
ST. LOUIS COUNTY HA	8865 NATURAL BRIDGE, ST. LOUIS, MO, 63121	40	303,466
CITY OF LAS VEGAS HA	P O BOX 1897, LAS VEGAS, NV, 89125-1897	141	1,892,784
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH, 43201	348	2,580,614
CHESTER HA	6 W. 6TH STREET P O BOX 380, CHESTER, PA, 19016	152	2,637,280
HA OF CITY OF SEATTLE	120 SIXTH AVENUE NORTH, SEATTLE, WA, 98109	46	854,312
Totals for Public Housing Relocation/Replacement Vouchers		**1,386**	**$16,890,402**
Preservation/Prepayment Certificates			
COUNTY OF LOS ANGELES HA	2 CORAL CIRCLE, MONTEREY PARK, CA, 91754	42	$191,066
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD., LOS ANGELES, CA, 90057	35	165,304
CITY OF SACRAMENTO	P O BOX 1834, 630 I ST, SACRAMENTO, CA, 95812-1834	11	55,810
COUNTY OF SANTA CLARA HA	505 WEST JULIAN ST, SAN JOSE, CA, 95110	66	548,518
HA OF THE CITY OF LIVERMORE	3203 LEAHY WAY, LIVERMORE, CA, 94550	35	57,892
ANSONIA HA	75 CENTRAL STREET, ANSONIA, CT, 06401	76	181,630
GEORGIA RESIDENTIAL FIN. AUTH	60 EXECUTIVE PKWY SO, SUITE 250, ATLANTA, GA, 30329-000	63	249,466
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	83	532,164
MA.,E.O.C.D.	100 CAMBRIDGE ST, BOSTON, MA, 02202	14	90,960
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD 21202	64	118,467
ST. CLOUD HRA	619 MALL GERMAIN, SUITE 212, ST. CLOUD, MN, 56301-3689	11	36,903
HELENA HA	812 ABBEY ST, HELENA, MT, 59601	80	205,631
DALLAS COUNTY	411 ELM ST, DALLAS, TX, 75202	162	523,115
METROPOLITAN DEV & HA	701 SIXTH STREET, NASHVILLE-DAVIDSON, TN, 37206	132	612,904
HA OF THE COUNTY OF SALT LAKE	3595 S. MAIN STREET, SALT LAKE CITY, UT, 84115	25	75,189
NEWPORT NEWS REDEV & H/A	P O BOX 77, NEWPORT NEWS, VA, 23607-0077	41	135,884
FAIRFAX CO RED AND HA	3700 PENDER DRIVE, FAIRFAX, VA, 22030	43	238,476
RIVER FALLS HA	625 NORTH MAIN STREET, RIVER FALLS, WI, 54022	44	135,837
Totals for Preservation/Prepayment Certificates		**1,032**	**$4,165,141**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Preservation/Prepayment Vouchers			
AK HSG FINANCE CORP	PO BOX 101020, ANCHORAGE, AK, 99510-1020	4	$22,790
CITY OF MESA	415 N. PASADENA STREET, MESA, AZ, 85201-5916	5	29,958
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD., LOS ANGELES, CA, 90057	142	650,608
CITY OF SACRAMENTO	P O BOX 1834, 630 I ST, SACRAMENTO, CA, 95812	16	36,917
COUNTY OF SAN MATEO HA	456 PENINSULA AVE, SAN MATEO, CA, 94401	6	54,139
COUNTY OF RIVERSIDE HA	5555 ARLINGTON AVE, RIVERSIDE, CA, 92504	80	197,197
CITY OF BERKELEY HA	3200 ADELINE STREET, BERKELEY, CA, 94703	16	98,719
COUNTY OF SANTA CLARA HA	505 WEST JULIAN ST, SAN JOSE, CA, 95110	116	527,059
SAN DIEGO HOUSING COMMISSION	1625 NEWTON AVE, SAN DIEGO, CA, 92113-1012	214	836,336
CITY OF SANTA ANA HA	20 CIVIC CENTER PLAZA, SANTA ANA, CA, 92701	16	99,391
ORANGE COUNTY HA	2043 N BROADWAY, SANTA ANA, CA, 92706	323	2,032,503
COUNTY OF SAN DIEGO	5555 OVERLAND AVE., BLDG. 2, RM. 202, SAN DIEGO, CA, 92123	51	258,186
CITY OF OCEANSIDE	300 NORTH HILL ST, OCEANSIDE, CA, 92054	33	122,714
COMM SERVICE DEPT EL DORADO CO	360 FAIR LANE, PLACERVILLE, CA, 95667	78	300,107
COUNTY OF LOS ANGELES HA	2 CORAL CIRCLE, MONTEREY PARK, CA 91754	12	77,499
COUNTY OF SAN BERNARDINO HA	1053 NORTH D STREET, SAN BERNARDINO, CA, 92410	54	338,419
TULARE COUNTY HA	P O BOX 791, VISALIA, CA, 93279	7	19,094
COUNTY OF MONTEREY HA	123 RICO STREET, SALINAS, CA, 93907	8	26,386
CITY OF GARDEN GROVE	11391 ACACIA PARKWAY, GARDEN GROVE, CA, 92640	14	127,608
HAOF THE CITY AND CO OF DENVER	P O BOX 40305-MILE HI STN, DENVER, CO, 80204-0305	53	192,856
COLORADO SPRINGS HA	P O BOX 1575, COLORADO SPRINGS, CO, 80903	2	6,338
ADAMS COUNTY HA	7190 COLORADO BLVD, 6TH FL, COMMERCE CITY, CO, 80022	7	24,058
JEFFERSON COUNTY HA	6025 WEST 38TH AVENUE, WHEATRIDGE, CO, 80033	13	44,851
D.C HA	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC, 20002	58	217,600
HA TALLAHASSEE	2940 GRADY ROAD, TALLAHASSEE, FL, 32312	57	171,225
HA COLUMBUS, GA GEN FUND	P O BOX 630, COLUMBUS, GA, 31902-0630	0	124,300
HA SAVANNAH	P O BOX 1179, SAVANNAH, GA, 31402	0	1,222,238
HA MARIETTA	P O DRAWER K, MARIETTA, GA, 30061	0	173,992
CITY OF CLINTON, IOWA HOUSING	215 6TH AVENUE S. SUITE 33, CLINTON, IA, 52732	20	42,235
IDAHO HOUSING AND FIN. ASSOC.	565 W MYRTLE STREET, POB 7899, BOISE, ID, 83707-1899	1	22,828
CHICAGO HA	626 WEST JACKSON BLVD, CHICAGO, IL, 60602	47	262,873
PEORIA HA	814 W BROTHERSON ST, PEORIA, IL, 61605	43	79,148
HA OF THE COUNTY OF COOK	59 E VAN BUREN SUITE 1802, CHICAGO, IL, 60605	257	795,489
ELGIN HA	120 SOUTH STATE STREET, ELGIN, IL, 60123	140	484,135
SOUTH BEND HA	PO BOX 11057, SOUTH BEND, IN, 46010-0057	81	240,397
HA OF THE CITY OF MISHAWAKA	P O BOX 1347, MISHAWAKA, IN, 46546-	87	229,227
BLOOMINGTON HA	1007 N SUMMIT, P O BOX 1815, BLOOMINGTON, IN, 47402	34	92,379
LEXINGTON-FAYETTE UR CO H/A	635 BALLARD ST, LEXINGTON-FAYETTE U, KY, 40508	7	18,978
COMMUNITY DEV SECTION 8	201 WEST WALNUT STREET, DANVILLE, KY, 40422	18	29,224
HA FRANKFORT	590 WALTER TODD DRIVE, FRANKFORT, KY, 40601	12	14,378
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	232	1,712,725
BROOKLINE HA	90 LONGWOOD AVE, BROOKLINE, MA, 02146	0	307,817
CAMBRIDGE HA	270 GREEN STREET, CAMBRIDGE, MA, 02139	136	1,061,237
MA.,E.O.C.D.	100 CAMBRIDGE ST, BOSTON, MA, 02202	1	8,172
ANNE ARUNDEL COUNTY HA	7885 GORDON COURT, GLEN BURNIE, MD, 21061	29	105,585
HOWARD CO. HSG.AND COMM. DEV.	10650 HICKORY RIDGE ROAD, COLUMBIA, MD, 21044	8	24,878
HARFORD COUNTY HSG.AGENCY	220S. MAIN STREET, BEL AIR, MD, 21014	34	150,827
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD, 21204	24	78,850
HAGERSTOWN HA	P O BOX 2859, HAGERSTOWN, MD, 21741-2859	115	221,447
PORTLAND HA	14 BAXTER BOULEVARD, PORTLAND, ME, 04101	27	54,652
MINNEAPOLIS PHA	1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN, 55401	0	559,698
ST. LOUIS COUNTY HA	8865 NATURAL BRIDGE, ST. LOUIS, MO, 63121	21	32,755
DOUGLAS COUNTY HA	5404 NORTH 107TH PLAZA, OMAHA, NE, 68134	81	220,953
ALBUQUERQUE HA	1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM, 87106	46	213,056
CITY OF RENO HA	1525 EAST NINTH ST, RENO, NV 89512-3012	109	87,515
HSG AUTH OF PORTLAND	135 SW ASH STREET, PORTLAND, OR, 97204	30	160,675
HA WASHINGTON COUNTY	111 NE LINCOLN ST, SUITE 200-L, HILLSBORO, OR, 97124	9	23,129
NORTHWEST OREGON HSNG ASSOC	1508 EXCHANGE, ASTORIA, OR, 97103	11	24,283
CITY OF SPARTANBURG H/A	P O BOX 2828, SPARTANBURG, SC, 29304-2828	85	286,029

HOUSING AGENCY	ADDRESS	UNITS	AWARD
CITY OF ROCK HILL	P. O. BOX 11706, ROCK HILL, SC, 29730	85	245,172
HA SUMTER	P O BOX 1030, SUMTER, SC, 29150	62	174,358
HA CONWAY	2303 LEONARD AVENUE, CONWAY, SC, 29526	56	224,138
HA OF MYRTLE BEACH	P O BOX 2468, MYRTLE BEACH, SC, 29578	95	339,365
SAN ANTONIO HA	P O DRAWER 1300, SAN ANTONIO, TX, 78295	53	282,936
ARLINGTON HA	401 W SANFORD SUITE 2600, ARLINGTON, TX, 76011	74	203,815
DALLAS HA	3939 N HAMPTON, DALLAS, TX, 75212	167	498,301
MESQUITE (CITY OF)	P O BOX 850137, MESQUITE, TX, 75185-0137	91	235,078
TARRANT COUNTY	100 E WEATHERFORD STREET, FORT WORTH, TX, 76196	68	254,746
HA OF THE CITY OF OGDEN	127 24TH STREET STE 2, OGDEN, UT, 84401-1340	20	43,802
WEBER COUNTY HA	127 24TH STREET, #6, OGDEN, UT, 84401-1340	1	1,095
BEAR RIVER REGIONAL HA	170 NORTH MAIN, LOGAN, UT, 84321	2	3,038
HA OF THE COUNTY OF SALT LAKE	3595 S. MAIN STREET, SALT LAKE CITY, UT, 84115	0	58,312
ALEXANDRIA REDEV & H/A	600 N FAIRFAX STREET, ALEXANDRIA, VA, 22314	2	4,162
FAIRFAX CO RED AND HA	3700 PENDER DRIVE, FAIRFAX, VA, 22030	287	137,354
RICHMOND REDEV & H/A	P O BOX 26887, RICHMOND, VA, 23261-6887	306	945,642
HA OF TACOMA, WA	1728 E 44TH STREET, TACOMA, WA, 98404	7	15,873
HA CITY OF SPOKANE	W. 55TH MISSION, SUITE 104, SPOKANE, WA, 99201	11	18,652
HA OF THE CITY OF LACROSSE	PO BOX 1053, LA CROSSE, WI, 54602-1053	29	134,775
Totals for Preservation/Prepayment Vouchers		**4,552**	**$20,756,157**
Property Disposition Relocation Certificates			
LITTLE ROCK HA	1000 WOLFE STREET, LITTLE ROCK, AR, 72202	37	295,709
ROCKVILLE HA	114 FRANKLIN PARK WEST P O BO, ROCKVILLE, CT, 06066	27	183,915
D.C HA	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC, 20002	266	2,420,193
CHICAGO HA	626 WEST JACKSON BLVD, CHICAGO, IL, 60602	179	1,241,291
HA OF THE COUNTY OF COOK	59 E VAN BUREN SUITE 1802, CHICAGO, IL, 60605	133	938,168
KENTUCKY HSG CORPORATION	1231 LOUISVILLE ROAD, FRANKFORT, KY, 40601	46	191,780
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	139	816,391
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	94	547,708
FLINT HOUSING COMMISSION	3820 RICHFIELD ROAD, FLINT, MI, 48506	91	365,491
ST. LOUIS HA	4100 LINDELL BLVD, ST. LOUIS, MO, 63108	6	18,098
HA OF KANSAS CITY, MO	712 BROADWAY, KANSAS CITY, MO, 64105-	37	178,979
MISSOURI HSG DEV	3435 BROADWAY, KANSAS CITY, MO, 64111-	45	157,593
MISS REGIONAL H/A VIII	P O BOX 2347, GULFPORT, MS, 39505	120	580,651
MT DEPARTMENT OF COMMERCE	POB 200545, 836 FRONT STREET, HELENA, MT, 59620-0545	13	36,988
ATLANTIC CITY HA	227 NO VERMONT AVENUE, ATLANTIC CITY, NJ, 08404	38	154,311
NEW YORK CITY HA	250 BROADWAY, NEW YORK, NY, 10007	109	7,975,747
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH, 43201	17	44,938
TULSA HA	P O BOX 6369, TULSA, OK, 74148-0369	31	168,853
PUERTO RICO HSG FIN CORP	CALL BOX 71361-GPO, SAN JUAN, PR, 00936	167	896,369
HOUSTON HA	2640 FOUNTAIN VIEW, HOUSTON, TX, 77057-	74	383,848
TYLER (CITY OF)	P O BOX 2039, TYLER, TX, 75710	64	308,129
DEEP EAST TX COUNCIL OF GOVTS	274 E LAMAR, JASPER, TX, 75951	38	144,015
BENNINGTON HA	WILLOW ROAD, BENNINGTON, VT, 05201	72	368,405
JACKSON HA	WHISPERING WAY-TANGLEWOOD VILL, RIPLEY, WV, 25271	48	208,454
Totals for Property Disposition Certificates		**1,874**	**$18,626,024**
Property Disposition Relocation Vouchers			
COUNTY OF SAN BERNARDINO HA	1053 NORTH D STREET, SAN BERNARDINO, CA, 92410	53	$240,049
HA OF THE CITY AND CO OF DENVER	P O BOX 40305-MILE HI STN, DENVER, CO, 80204-0305	22	89,253
D.C HA	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC, 20002	0	2,480,508
CHAMPAIGN HA	P O BOX 183, URBANA, IL, 61801	69	362,031
HA OF THE COUNTY OF COOK	59 E VAN BUREN SUITE 1802, CHICAGO, IL, 60605	0	1,650,972
ST PAUL PHA	480 CEDAR STREET, SUITE 600, ST. PAUL, MN, 55101-2240	58	313,331

HOUSING AGENCY	ADDRESS	UNITS	AWARD
CUYAHOGA MHA	1441 WEST 25TH STREET, CLEVELAND, OH, 44113	166	829,372
DALLAS HA	3939 N HAMPTON, DALLAS, TX, 75212	92	590,305
Totals for Property Disposition Vouchers		**460**	**$6,555,821**
Termination/Opt-Out Certificates			
HSG AUTH OF CITY OF NEW HAVEN	360 ORANGE STREET, NEW HAVEN, CT, 06511	22	$235,386
CINCINNATI METROPOLITAN HA	16 WEST CENTRAL PARKWAY, CINCINNATI, OH, 45210	90	550,938
HAMILTON COUNTY	138 EAST COURT ST RM 507, CINCINNATI, OH, 45202	44	239,994
HA OF CITY OF SEATTLE	120 SIXTH AVENUE NORTH, SEATTLE, WA, 98109	127	672,480
Totals for Termination/Opt-out Certificates		**283**	**$1,698,798**
Termination/Opt-Out Vouchers			
MOBILE COUNTY HA	P. O. BOX 303, CITRONELLE, AL, 36522	57	$236,545
LITTLE ROCK HA	1000 WOLFE STREET, LITTLE ROCK, AR, 72202	7	316,302
CITY OF PHOENIX	251 W. WASHINGTON ST., 4TH FLOOR, PHOENIX, AZ, 85034	65	362,576
CHICAGO HA	626 WEST JACKSON BLVD, CHICAGO, IL, 60602	45	408,723
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN, 46204	247	1,209,344
LAFOURCHE PH. SEC.8 HA	P O DRAWER 5548, THIBODAUX, LA, 70302	157	951,160
HA OF KANSAS CITY, MO	712 BROADWAY, KANSAS CITY, MO, 64105-	15	71,331
HA WINSTON-SALEM	901 CLEVELAND AVENUE, WINSTON-SALEM, NC, 28101	20	71,299
HA DURHAM	P O BOX 1726, DURHAM, NC, 27702	13	65,376
HA STATESVILLE	433 S. MEETING STREET, STATESVILLE, NC, 28677-	29	127,134
NEW YORK CITY HA	250 BROADWAY, NEW YORK, NY, 10007	500	3,690,241
CINCINNATI METROPOLITAN HA	16 WEST CENTRAL PARKWAY, CINCINNATI, OH, 45210	24	134,998
METROPOLITAN DEV & HA	701 SIXTH STREET, NASHVILLE-DAVIDSON, TN, 37206	153	752,260
TENNESSEE HSG DEV AGENCY	404 J. ROBERTSON PKWY, NASHVILLE-DAVIDSON, TN, 37243	60	308,169
DALLAS COUNTY	411 ELM ST, DALLAS, TX, 75202	522	3,578,572
HA COUNTY OF KING	15455 65TH AVE SO, TUKWILA, WA, 98188	26	173,880
Totals for Termination/Opt-out Vouchers		**2,006**	**$12,457,910**
Section 8 Counseling Certificates			
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD., LOS ANGELES, CA, 90057	0	$75,000
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	0	29,500
Totals for Section 8 Counseling Certificates		**0**	**$104,500**
Section 8 Counseling Vouchers			
AK HSG FINANCE CORP	PO BOX 101020, ANCHORAGE, AK, 99510-1020	0	$30,000
WATERBURY HA	70 LAKEWOOD ROAD, WATERBURY, CT, 06704	0	19,000
MIDDLETOWN HA	40 BROAD STREET, MIDDLETOWN, CT, 06457	0	53,000
DANBURY HA	2 MILL RIDGE ROAD P O BOX 86, DANBURY, CT, 06810	0	26,000
HA ATLANTA GA	739 WEST PEACHTREE STREET NE, ATLANTA, GA, 30365	0	323,000
LYNN HA	174 SOUTH COMMON STREET, LYNN, MA, 01905	0	4,000
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	0	142,000
CITY OF LAS VEGAS HA	P O BOX 1897, LAS VEGAS, NV, 89125-1897	0	141,000
COLUMBUS METRO. HA	960 EAST FIFTH AVE., COLUMBUS, OH, 43201	0	73,000
CHESTER HA	6 W. 6TH STREET P O BOX 380, CHESTER, PA, 19016	0	152,000
HA OF CITY OF SEATTLE	120 SIXTH AVENUE NORTH, SEATTLE, WA, 98109	0	46,000
Totals for Section 8 Counseling Vouchers		**0**	**$1,009,000**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
FSS Coordinators Certificates			
DOTHAN H/A	P O BOX 1727, DOTHAN, AL, 36302	0	$14,445
FLORENCE H/A	303 NORTH PINE STREET, FLORENCE, AL, 35630	0	37,267
HA LEEDS	P O BOX 513, LEEDS, AL, 35094	0	25,289
HA OZARK	P O BOX 566, OZARK, AL, 36361	0	31,415
HA JEFFERSON COUNTY	3700 INDUSTRIAL PARKWAY, BIRMINGHAM, AL, 35217	0	29,628
HA ALBERTVILLE	P O BOX 1126, ALBERTVILLE, AL, 35950	0	32,607
HA BESSEMER	1100 5TH AVENUE NORTH, BESSEMER, AL, 35020	0	30,487
HA JACKSONVILLE	895 GARDNER DRIVE, JACKSONVILLE, AL, 36265	0	27,295
NORTH LITTLE ROCK HA	P O BOX 516, NORTH LITTLE ROCK, AR, 72115	0	25,750
CONWAY HA	360 C H A, CONWAY, AR, 72032	0	24,102
NW REGIONAL HA	P O BOX 699, HARRISON, AR, 72602-0699	0	33,475
HOPE HA	720 TEXAS STREET, HOPE, AR, 71801	0	15,979
SILOAM SPRINGS HA	P O BOX 280, SILOAM SPRINGS, AR, 72761	0	28,809
HARRISON HOUSING AGENCY	P O BOX 1715, HARRISON, AR, 72601	0	33,475
MISSISSIPPI COUNTY PFB	808 W KEISER, OSCEOLA, AR, 72370	0	29,355
CITY OF MESA	415 N. PASADENA STREET, MESA, AZ, 85201-5916	0	41,200
CITY OF CHANDLER	99 N. DELAWARE STREET, CHANDLER, AZ, 85225	0	37,026
CITY OF YUMA HA	1350 W. COLORADO STREET, YUMA, AZ, 85364	0	18,777
CITY OF BULLHEAD CITY	1255 MARINA BOULEVARD, BULLHEAD CITY, AZ, 86442	0	60,108
UPLAND CITY HA	1226 N CAMPUS AVE, UPLAND, CA, 91786	0	30,615
CITY OF BENICIA HA	28 RIVERHILL DRIVE, P O BOX 549, BENICIA, CA, 94510	0	43,775
KINGS COUNTY HA	P O BOX 355, HANFORD, CA, 93232-0355	0	39,311
CITY OF FAIRFIELD	MICHAEL LESS, 1000 WEBSTER, FAIRFIELD, CA, 94533	0	29,468
HA CITY OF NAPA	P. O. BOX 660, NAPA, CA, 94559	0	43,775
CITY OF CARLSBAD	1200 CARLSBAD VILLAGE DRIVE, CARLSBAD, CA, 92008	0	24,905
COUNTY OF SHASTA HA	1670 MARKET STREET STE 300, REDDING, CA, 96001	0	36,394
CITY OF REDDING HA	760 PARKVIEW AVE, REDDING, CA, 96001-3396	0	43,775
YUBA COUNTY HA	938 14TH STREET, MARYSVILLE, CA, 95901	0	41,304
CITY OF PICO RIVERA	6615 PASSONS BLVD, PICO RIVERA, CA, 90660	0	43,593
NORWALK HA	12700 NORWALK BLVD, NORWALK, CA, 90650	0	39,316
CITY OF POMONA	P O BOX 660, POMONA, CA, 91769	0	34,449
CITY OF VACAVILLE	650 MERCHANT STREET, VACAVILLE, CA, 95688	0	43,775
CITY OF ROSEVILLE	311 VERNON STREET, ROSEVILLE, CA, 95678	0	41,909
COUNTY OF SOLANO HA	COURTHOUSE ANNEX, FAIRFIELD, CA, 94533	0	42,580
CITY OF OCEANSIDE	300 NORTH HILL ST, OCEANSIDE, CA, 92054	0	44,000
CITY OF LAKEWOOD	5050 N CLARK AVE, LAKEWOOD, CA, 90712	0	41,186
LAKE COUNTY HSG COMMN	255 N FORBES STREET, LAKEPORT, CA, 95453	0	36,875
COMM SERV DEPT EL DORADO CO	360 FAIR LANE, PLACERVILLE, CA, 95667	0	37,232
CALIFORNIA DHCD	P. O. BOX 952050, SACRAMENTO, CA, 94252-2050	0	21,558
FORT COLLINS HA	1715 W. MOUNTAIN AVE., FORT COLLINS, CO, 80521	0	33,604
CITY OF ENGLEWOOD HA	3460 SOUTH SHERMAN ST. #101, ENGLEWOOD, CO, 80110	0	6,275
HA OF THE CITY OF LAKEWOOD	445 S. ALLISON PARKWAY, LAKEWOOD, CO, 80226-3105	0	65,772
ARVADA HA	8101 RALSTON ROAD, ARVADA, CO, 80002	0	33,372
BOULDER COUNTY HA	2040 14TH STREET, PO BOX 471, BOULDER, CO, 80306-0471	0	75,662
JEFFERSON COUNTY HA	6025 WEST 38TH AVENUE, WHEATRIDGE, CO, 80033	0	65,772
MONTROSE COUNTY HA	222 HAP COURT, OKATHE, CO, 81425-	0	29,675
GARFIELD COUNTY HA	400 7TH STREET SOUTH, SUITE 1000, RIFLE, CO, 80650-	0	79,008
COLORADO DEPT OF HUMAN SER.	4131 S. JULIAN WAY, DENVER, CO, 80236-	0	86,275
COLORADO DOH	1313 SHERMAN STREET R00M 323, DENVER, CO, 80203	0	86,275
NORWALK HA	24 1/2 MONROE STREET, SOUTH NORWALK, CT, 06854	0	35,500
HARTFORD HA	475 FLATBUSH AVENUE, HARTFORD, CT, 06106	0	43,340
MIDDLETOWN HA	40 BROAD STREET, MIDDLETOWN, CT, 06457	0	43,434
MERIDEN HA	22 CHURCH STREET, MERIDEN, CT, 06450	0	43,672
ANSONIA HA	75 CENTRAL STREET, ANSONIA, CT, 06401	0	43,480
MILFORD HA	75 DEMAIO DRIVE, P O BOX 4123, MILFORD, CT, 06460	0	16,694
TORRINGTON HA	TORRINGTON TOWERS, TORRINGTON, CT, 06790	0	40,629
WILMINGTON HA	400 WALNUT STREET, WILMINGTON, DE, 19801	0	41,935
DOVER HA	1266-76 WHITE OAK ROAD, DOVER, DE, 19901	0	28,660
HA DAYTONA BEACH	118 CEDAR ST, DAYTONA BEACH, FL, 32114	0	35,942

HOUSING AGENCY	ADDRESS	UNITS	AWARD
PANAMA CITY HA	804 E 15TH STREET, PANAMA CITY, FL, 32405	0	24,090
HA DELAND	300 SUNFLOWER CIRCLE, DE LAND, FL, 32724	0	39,970
HA RIVIERA BEACH	2014 WEST 17TH COURT, RIVIERA BEACH, FL, 33404	0	34,823
GAINESVILLE H/A	P O BOX 1468, GAINESVILLE, FL, 32602	0	35,278
HA PASCO COUNTY	522 AUTUMN DR, DADE CITY, FL, 33525-2703	0	35,947
WALTON CO BD OF CO COMM	P O BOX 1258, DE FUNIAK SPRINGS, FL, 32433	0	34,909
COUNTY OF VOLUSIA	123 WEST INDIANA, DE LAND, FL, 32720	0	27,929
HA BOCA RATON	201 WEST PALMETTO PARK ROAD, BOCA RATON, FL, 33432	0	26,994
HERNANDO COUNTY HA	820 Kennedy Blvd., BROOKSVILLE, FL, 34601	0	35,894
COLLIER COUNTY HA	1800 FARM WORKER WAY, IMMOKALEE, FL, 33934	0	35,074
HA BRUNSWICK	P O BOX 1118, BRUNSWICK, GA, 31521	0	28,412
OTTUMWA HA	102 WEST FINLEY AVENUE, OTTUMWA, IA, 52501	0	32,836
SIOUX CITY HSG SERVICES DIV	BOX 447, 520 ORPHEUM BUILDING, SIOUX CITY, IA, 51102	0	36,050
MUNICIPAL HA	119 SOUTH MAIN ST, SUITE # 200, COUNCIL BLUFFS, IA, 51503	0	30,834
WATERLOO HA	SUITE 102, 620 MULBERRY STREET, WATERLOO, IA, 50703	0	26,821
DUBUQUE DEPT OF HUMAN RIGHTS	CITY HALL, DUBUQUE, IA, 52001	0	28,892
FORT DODGE HA	700 SOUTH 17TH STREET, FORT DODGE, IA, 50501	0	43,761
SOUTHERN IOWA REG HA	219 N PINE, CRESTON, IA, 50801-2413	0	30,915
EASTERN IOWA REGIONAL HA	330 NESLER CENTRE, P O BOX 1140, DUBUQUE, IA, 52001	0	40,458
NORTH IOWA REGIONAL HA	121 THIRD STREET NW, MASON CITY, IA, 50401	0	43,775
NORTHWEST IOWA REGIONAL HA	P O BOX 6207, SPENCER, IA, 51301	0	33,465
UPPER EXPLORERLAND REG. HA	134 W. GREENE ST., POSTVILLE, IA, 52162	0	37,389
CENTRAL IOWA REGIONAL HA	1111 NINTH STREET, SUITE 240, DES MOINES, IA, 50314	0	43,775
IOWA NORTHLAND REGIONAL HA	2530 UNIVERSITY AVE., SUITE #5, WATERLOO, IA, 50701	0	36,050
SW IDAHO COOPERATIVE HA	1108 WEST FINCH DRIVE, NAMPA, ID, 83651	0	27,291
IDAHO HOUSING AND FIN. ASSOC.	565 W MYRTLE STREET, POB 7899, BOISE, ID, 83707-1899	0	38,762
EAST ST LOUIS HA	683 N 20TH STREET, EAST ST LOUIS, IL, 62205	0	37,825
CHAMPAIGN HA	P O BOX 183, URBANA, IL, 61801	0	27,398
MADISON HA	1609 OLIVE STREET, COLLINSVILLE, IL, 62234	0	34,932
HA WAUKEGAN	215 SOUTH UTICA STREET, WAUKEGAN, IL, 60085	0	41,200
HA BLOOMINGTON	104 EAST WOOD, BLOOMINGTON, IL, 61701	0	38,634
KENDALL COUNTY HA	111 W. MADISON ST., YORKVILLE, IL, 60560	0	8,734
LEADERSHIP COUNCIL METRO	401 S STATE ST SUITE 860, CHICAGO, IL, 60605-1289	0	43,083
VINCENNES HA	501 HART ST P O BOX 1636, VINCENNES, IN, 47591	0	18,025
HA DELAWARE COUNTY	2401 S HADDIX AVENUE, MUNCIE, IN, 47302	0	28,916
HA KOKOMO	P O BOX 1207, KOKOMO, IN, 46901	0	18,701
HAMMOND HA	7329 COLUMBIA CIRCLE WEST, HAMMOND, IN, 46324	0	32,793
GARY HA	578 BROADWAY, GARY, IN, 46402	0	29,632
HA OF THE CITY OF SULLIVAN	200 NORTH COURT STREET, SULLIVAN, IN, 47882-	0	24,979
HA OF THE CITY OFMARION	601 SOUTH ADAMS STREET, MARION, IN, 46953	0	29,875
HA OF KNOX COUNTY	TILLY ESTATES-OFFICE, BICKNELL, IN, 47512	0	24,020
HA PERU	701 E MAIN ST, PERU, IN, 46970	0	26,086
THE HA OF THE CITY OF GOSHEN,	302 S 5TH STREET, GOSHEN, IN, 46526-	0	32,772
FORT SCOTT HA	315 SCOTT AVE P O BOX 269, FORT SCOTT, KS, 66701	0	11,536
MANHATTAN HA	P O BOX 1024 300 N 5TH, MANHATTAN, KS, 66502	0	30,849
ECKAN	P O BOX 110, OTTAWA, KS, 66067	0	27,354
FORD COUNTY HA	C/O SWKAAA, INC., P O BOX 1636, DODGE CITY, KS, 67801	0	28,428
H A SOMERSET	P O BOX 449, SOMERSET, KY, 42501	0	30,591
HA CYNTHIANA	P O BOX 351, CYNTHIANA, KY, 41031	0	27,785
HA GEORGETOWN	139 SCROGGIN PARK, GEORGETOWN, KY, 40324	0	22,660
PIKE COUNTY HA	P O BOX 1468, PIKEVILLE, KY, 41501	0	42,475
BOONE CT FISCAL CT AHD	P O BOX 577, FLORENCE, KY, 41005	0	32,102
CITY OF PADUCAH	P O BOX 2267, PADUCAH, KY, 42002-2267	0	30,739
HA FLOYD COUNTY	P O BOX 687, PRESTONSBURG, KY, 41653	0	25,367
CUMBERLAND VALLEY REGL HA	P O BOX 806, BARBOURVILLE, KY, 40906-0806	0	21,476
APPALACHIAN FOOTHILLS HA	1448 DIEDERICH BLVD, RUSSELL, KY, 41169	0	41,197
CITY OF BOWLING GREEN	P O BOX 430, BOWLING GREEN, KY, 42102-0430	0	36,596
KENTUCKY HOUSING CORP	1231 LOUISVILLE ROAD, FRANKFORT, KY, 40601	0	34,757
PORT ALLEN (CITY OF)	PO BOX 468, PORT ALLEN, LA, 70767	0	19,615
TERREBONNE PARISH COUNCIL	P O BOX 6097, HOUMA, LA, 70361	0	19,570
WEBSTER PARISH POLICE JURY	P O BOX 389, MINDEN, LA, 71055	0	22,423

HOUSING AGENCY	ADDRESS	UNITS	AWARD
WASHINGTON PARISH HA	P O BOX 167, VARNADO, LA, 70467	0	17,874
LOWELL HA	350 MOODY STREET, LOWELL, MA, 01854	0	43,775
WOBURN HA	59 CAMPBELL STREET, WOBURN, MA, 01801	0	43,775
LYNN HA	174 SOUTH COMMON STREET, LYNN, MA, 01905	0	43,260
GLOUCESTER HA	P. O. BOX 1599, GLOUCESTER, MA, 01931-1599	0	33,242
EVERETT HA	90 CHELSEA ST, EVERETT, MA, 02149	0	43,775
BROOKLINE HA	90 LONGWOOD AVE, BROOKLINE, MA, 02146	0	39,798
SHREWSBURY HA	36 NORTH QUINSIGAMOND AVENUE, SHREWSBURY, MA, 01545	0	24,732
ARLINGTON HA	4 WINSLOW ST, ARLINGTON, MA, 02174	0	27,292
PEABODY HA	75 - 81 CENTRAL ST, PEABODY, MA, 01960	0	33,709
SALEM HA	27 CHARTER STREET, SALEM, MA, 01970	0	42,488
ACTON HA	P O BOX 681, ACTON, MA, 01720	0	30,390
PLYMOUTH HA	P O BOX 3537, PLYMOUTH, MA, 02361	0	32,042
MELROSE HA	910 MAIN ST, MELROSE, MA, 02176	0	25,516
MILFORD HA	45 BIRMINGHAM COURT, MILFORD, MA, 01757	0	12,854
HOLBROOK HA	ONE HOLBROOK COURT, HOLBROOK, MA, 02243	0	27,677
WAKEFIELD H A	26 CRESCENT ST, WAKEFIELD, MA, 01880	0	23,459
READING HA	22 FRANK D TANNER DRIVE, READING, MA, 01867	0	25,724
ANDOVER HA	100 MORTON ST, ANDOVER, MA, 01810	0	43,775
LEOMINSTER HA	100 MAIN ST, LEOMINSTER, MA, 01453	0	39,248
GREENFIELD HA	ONE ELM TERRACE, GREENFIELD TOWN, MA, 01301	0	27,295
SAUGUS HA	19 TALBOT ST, SAUGUS, MA, 01906	0	32,612
WAYLAND HA	106 MAIN STREET, WAYLAND, MA, 01778	0	17,825
NORTH ANDOVER HA	P. O. BOX 373, NORTH ANDOVER, MA, 01845	0	23,981
NORWOOD HA	40 WILLIAM SHYNE CIRCLE, NORWOOD, MA, 02062	0	38,417
DANVERS HA	14 STONE STREET, DANVERS, MA, 01923	0	21,692
GARDNER HA	116 CHURCH ST, GARDNER, MA, 01440	0	12,992
MANSFIELD HA	22 BICENTENNIAL COURT, MANSFIELD TOWN, MA, 02048	0	23,419
DENNIS HA	167 CENTER ST, DENNIS TOWN, MA, 02660	0	32,337
HANSON HA	MEETINGHOUSE LANE, HANSON, MA, 02341	0	22,994
NORTH ATTLEBOROUGH HA	P O BOX 668, NORTH ATTLEBOROUGH, MA, 02761	0	28,208
HAGERSTOWN HA	P O BOX 2859, HAGERSTOWN, MD, 21741-2859	0	22,187
HA OF THE CITY OF ROCKVILLE	14 MOORE DRIVE, ROCKVILLE, MD, 20850	0	43,775
HAVRE DE GRACE HA	101 STANSBURY COURT, HAVRE DE GRACE, MD, 21904	0	27,126
ANNE ARUNDEL COUNTY HA	7885 GORDON COURT, GLEN BURNIE, MD, 21061	0	31,129
ST MARY'S COUNTY COMM.	P O BOX 653, GOVT CENTER, LEONARDTOWN, MD, 20650	0	43,775
CALVERT COUNTY HA	420 WEST DARES BEACH ROAD, PRINCE FREDERICK, MD, 20678	0	25,750
CITY OF WESTMINSTER	P O BOX 010 CITY HALL, WESTMINSTER, MD, 21157	0	25,398
WASHINGTON COUNTY HA	33 WEST WASHINGTON STREET, HAGERSTOWN, MD, 21740	0	22,187
CECIL COUNTY HA	COURT HOUSE ROOM 122, ELKTON, MD, 21921	0	40,213
CARROLL COU HSG & COMM DEV	125 NORTH COURT STREET, WESTMINSTER, MD, 21157	0	31,413
BANGOR HA	161 DAVIS ROAD, BANGOR, ME, 04401	0	33,930
WESTBROOK HA	P O BOX 349, WESTBROOK, ME, 04092	0	44,000
MOUNT DESERT HA	15 EAGLE LAKE ROAD, BAR HARBOR, ME, 04609	0	32,945
CARIBOU HA	25 HIGH ST, CARIBOU, ME, 04736	0	34,064
AUGUSTA HA	16 CONY ST, CITY CENTER PLAZA, AUGUSTA, ME, 04330	0	23,102
SAGINAW HSG COMM.	2811 DAVENPORT, BOX A, SAGINAW, MI, 48602	0	43,775
CITY OF JACKSON	161 WEST MICHIGAN AVENUE, JACKSON, MI,	0	22,567
CITY OF PLYMOUTH HSG COMM.	1160 SHERIDAN, PLYMOUTH, MI, 48170	0	39,489
LANSING HOUSING COMMISSION	310 SEYMOUR, LANSING, MI, 48933	0	33,125
CITY OF MUSKEGON	933 TERRACE STREET, PO BOX 536, MUSKEGON,, MI, 49443	0	38,551
CITY OF WYOMING	1155 28TH STREET, SW, WYOMING, MI	0	34,535
CITY OF WESTLAND	32175 DORSEY ROAD, WESTLAND, MI, 48185	0	28,840
TOWNSHIP OF REDFORD	12121 HEMINGWAY, REDFORD TWP, MI, 482390	0	27,810
DEARBORN HEIGHTS HSG COMM.	26155 RICHARDSON ST., DEARBORN HEIGHTS, MI, 48127	0	29,522
COUNTY OF KENT	4326 CASCADE ROAD, SE, GRAND RAPIDS, MI, 49546	0	39,768
WAYNE COUNTY	DETROIT, MI, 48226-29420	0	33,684
WINONA HRA	165 EAST FOURTH ST., WINONA, MN, 55987-3514	0	11,481
SOUTH ST PAUL HRA	125 SOUTH THIRD AVENUE, SOUTH ST. PAUL, MN, 55075	0	37,780
BRAINERD HRA	304 EAST RIVER ROAD, SUITE 2, BRAINERD, MN, 56401-3551	0	39,355
OLMSTED COUNTY HRA	2116 CAMPUS DRIVE SE, ROCHESTER, MN, 55904-4744	0	17,486

HOUSING AGENCY	ADDRESS	UNITS	AWARD
BLOOMINGTON HRA	2215 W. OLD SHAKOPEE RD., BLOOMINGTON, MN, 55431	0	26,828
NW MN MULTI-COUNTY HRA	P O BOX 128, MENTOR, MN, 56736-0128	0	30,900
KANDIYOHI COUNTY HRA	HEARTLAND CAA, BOX 1359, WILLMAR, MN, 56201	0	41,832
SCOTT COUNTY HRA	16049 FRANKLIN TRAIL S.E., PRIOR LAKE, MN, 55372	0	15,028
SE MN MULTI-COUNTY HRA	134 EAST SECOND STREET, WABASHA, MN, 55981	0	28,665
WASHINGTON COUNTY HRA	321 BROADWAY AVE., ST. PAUL PARK, MN, 55071	0	22,664
SOUTH CENTRAL MULTI COUNTY HRA	410 JACKSON STREET, MANKATO, MN, 56001	0	30,123
ST CHARLES HA	1014 OLIVE ST, ST CHARLES, MO, 63301	0	29,021
FRANKLIN COUNTY PUBLIC HA	P. O. BOX 920, HILLSBORO, MO, 63050	0	28,325
PHELPS COUNTY PHA	101 W. 10TH ST, ROLLA, MO, 65401	0	22,149
LIBERTY HA	P O BOX 159, 101 E. KANSAS, LIBERTY, MO, 64068	0	31,189
RIPLEY COUNTY PHA	3019 FAIR STREET, P O BOX 1183, POPLAR BLUFF, MO, 63901	0	24,425
PHA OF THE COUNTY OF RAY	302 NORTH CAMDEN, RICHMOND, MO, 64085	0	9,801
JASPER COUNTY PUBLIC HOUSING	P O BOX 207, JOPLIN, MO, 64802	0	22,172
MISSOURI HSG DEV COMM.	3435 BROADWAY, KANSAS CITY, MO, 64111	0	34,278
HA MISSISSIPPI REGIONAL NO 5	P O BOX 419, NEWTON, MS, 39345	0	26,471
MISS REGIONAL H/A VIII	P O BOX 2347, GULFPORT, MS, 39505	0	35,971
HA MISSISSIPPI REGIONAL NO 7	P O BOX 886, MC COMB, MS, 39648	0	23,234
HA OF BILLINGS	2415 1ST AVE NORTH, BILLINGS, MT, 59101	0	71,801
GREAT FALLS HA	1500 SIXTH AVE. SOUTH, GREAT FALLS, MT, 59405-2599	0	60,368
HELENA HA	812 ABBEY ST, HELENA, MT, 59601	0	85,451
HA HIGH POINT	P O BOX 1779, HIGH POINT, NC, 27261	0	28,830
CITY OF CONCORD	P O BOX 308, CONCORD, NC, 28026-0308	0	13,037
HA GREENSBORO	P O BOX 21287, GREENSBORO, NC, 27420	0	43,775
HA LAURINBURG	P O BOX 1437, LAURINBURG, NC, 28352	0	37,645
H/A CITY OF GREENVILLE	P O BOX 1426, GREENVILLE, NC, 27835	0	26,888
HA SANFORD	P O BOX 636, SANFORD, NC, 27331	0	30,639
H A GRAHAM	P O BOX 88, GRAHAM, NC, 27253	0	20,600
HA STATESVILLE	433 S. MEETING STREET, STATESVILLE, NC, 28677	0	39,042
HA ASHEBORO	P O BOX 609, ASHEBORO, NC, 27204-0609	0	30,699
HA MIDEAST REGIONAL	P O BOX 474, WASHINGTON, NC, 27889	0	21,941
TOWN OF EAST SPENCER	P O BOX 367, EAST SPENCER, NC, 28039	0	34,880
WESTERN CAROLINA COMM ACTION	P O BOX 685, HENDERSONVILLE, NC, 28793	0	27,588
SANDHILLS COMM ACTION PROG INC	P O BOX 937, CARTHAGE, NC, 28327	0	43,775
TWIN RIVERS OPPORTUNITIES INC	P O BOX 1482, NEW BERN, NC, 28563	0	33,475
MOUNTAIN PROJECTS, INC.	RT. 1 BOX 732, WAYNESVILLE, NC, 28786	0	27,382
MACON PROGRAM FOR PROGRESS	P O BOX 700, 38 1/2 E MAIN STREET, FRANKLIN, NC, 28734	0	19,582
STUTSMAN COUNTY HA	217 1ST AVENUE N., JAMESTOWN, ND, 58401	0	26,749
KEARNEY HA	2715 AVE I, KEARNEY, NE, 68847	0	27,308
NORFOLK HA	111 S. FIRST STREET, NORFOLK, NE, 68701	0	30,900
BELLEVUE HA	8214 ARMSTRONG CIRCLE, OMAHA, NE, 68147	0	25,766
NORTHEAST NEBRASKA JOINT HA	520 PIERCE STREET, SUITE 400, SIOUX CITY, IA, 51102	0	27,985
GOLDENROD JOINT HA	P O BOX 280, WISNER, NE, 68769	0	26,700
CENTRAL NEBRASKA JOINT HA	P O BOX 509, LOUP CITY, NE, 68853	0	23,962
LACONIA HOUSING & REDEV AUTH	25 UNION AVE, LACONIA, NH, 03246	0	4,610
KEENE HA	105 CASTLE STREET, KEENE, NH, 03431	0	34,268
LONG BRANCH HA	P O BOX 336, LONG BRANCH, NJ, 07740	0	43,775
WOODBRIDGE HA	10 BUNNS LANE, WOODBRIDGE, NJ, 07095	0	41,598
PLAINFIELD HA	510 EAST FRONT STREET, PLAINFIELD, NJ, 07060	0	41,715
NEPTUNE HA	BOX 726, NEPTUNE, NJ, 07753	0	35,020
EAST ORANGE HA	160 HALSTED STREET, EAST ORANGE, NJ, 07018	0	43,775
GLASSBORO HA	737 LINCOLN BLVD P O BOX 563, GLASSBORO, NJ, 08028	0	29,065
BOONTON HA	125 CHESTNUT STREET, BOONTON, NJ, 07005	0	43,260
LAKEWOOD HA	P O BOX 1543, LAKEWOOD, NJ, 08701	0	43,775
BERKELEY TOWNSHIP HA	44 FREDERICK DR., BAYVILLE, NJ, 08721	0	37,121
MILLVILLE HA	P O BOX 803 122 E MAIN STREET, MILLVILLE, NJ, 08332	0	37,254
BRICK HA	165 CHAMBERS BRIDGE ROAD, BRICK, NJ, 08723	0	43,454
DOVER HA	215 EAST BLACKWELL STREET, DOVER, NJ, 07801	0	42,799
FORT LEE HA	1403 TERESA DRIVE, FORT LEE, NJ, 07024	0	42,848
WEEHAWKEN HA	525 GREGORY AVENUE, WEEHAWKEN, NJ, 07087	0	43,176
HUNTERDON COUNTY HA	8 GAUNTT PL. RT. 31, FLEMINGTON, NJ, 08822	0	43,672

HOUSING AGENCY	ADDRESS	UNITS	AWARD
TOWNSHIP OF MONTCLAIR HA	205 CLAREMONT AVENUE, MONTCLAIR, NJ, 07042	0	43,672
PASSAIC COUNTY HA	317 PENNSYLVANIA AVE, PATERSON, NJ, 07503	0	34,454
WARREN COUNTY HA	WAYNE DUMONT JR ADMIN BLDG, BELVIDERE, NJ, 07823	0	43,775
WEST ORANGE, PHA	66 MAIN STREET, WEST ORANGE, NJ, 07052	0	41,200
LAKEWOOD TOWNSHIP	231 THIRD ST, LAKEWOOD, NJ, 08701	0	43,775
NJ DEPT. OF COMM. AFFAIRS	101 S. BROAD STREET CN800, TRENTON, NJ, 08625-0800	0	42,789
LAS CRUCES HA	926 S SAN PEDRO, LAS CRUCES, NM, 88001	0	27,885
ALAMOGORDO (CITY OF) HA	P O BOX 336, ALAMOGORDO, NM, 83311-0336	0	43,775
TRUTH OR CONSEQUENCES HA	108 S CEDAR STREET, TRUTH OR CONSEQUENCES, NM, 87901	0	43,775
SANTA FE COUNTY HA	PO BOX 276, SANTA FE, NM, 87504-0276	0	36,565
BERNALILLO COUNTY HSG DEPT	620 LOMAS BLVD NW, ALBUQUERQUE, NM, 87102	0	38,482
REGION IV HA	104 WEST SECOND STREET, CLOVIS, NM, 88101	0	30,900
CLOVIS HA	P O BOX 1240, CLOVIS, NM, 88101	0	28,737
HA OF PLATTSBURGH	19 OAK STREET, PLATTSBURGH, NY, 12901	0	29,732
HA OF COHOES	DR JAY MCDONALD TOWERS REMSEN, COHES, NY, 12047	0	35,225
CITY OF OSWEGO	CITY HALL, OSWEGO, NY, 13126	0	26,203
HA OF GLOVERSVILLE	181 WEST STREET, GLOVERSVILLE, NY, 12078	0	25,821
HA OF HORNELL	71 CHURCH STREET, HORNELL, NY, 14843	0	37,021
HA OF MONTICELLO	76 EVERGREEN DRIVE, MONTICELLO, NY, 12701	0	43,672
HA OF NEW ROCHELLE	50 SICKLES AVENUE, NEW ROCHELLE, NY, 10801	0	33,846
TOWN OF BABYLON	200 EAST SUNRISE HIGHWAY, LINDENHURST, NY, 11757	0	43,518
TOWN OF YORKTOWN	363 UNDERHILL AVE, YORKTOWN HGTS, NY, 10598	0	34,938
PORT JERVIS	20 FRONT STREET, PORT JERVIS, NY, 12771	0	28,322
CITY OF POUGHKEEPSIE	MEMORIAL SQ, P O BOX 300, POUGHKEEPSIE, NY, 12602	0	35,484
NORTH FORK HSG ALLIANCE INC	110 SOUTH STREET, GREENPORT, NY, 11944	0	43,260
TOWN OF SMITHTOWN	99 WEST MAIN STREET, P O BOX 5, SMITHTOWN, NY, 11787	0	42,034
VILLAGE OF KIRYAS JOEL HA	500 FOREST ROAD, SUITE 202, MONROE, NY, 10950	0	43,775
TOWN OF COLONIE	MEMORIAL TOWN HALL, NEWTONVILLE, COLONIE, NY, 12128	0	41,901
CITY OF FULTON	MUNICIPAL BUILDING, FULTON, NY, 13069	0	27,038
TOWN OF UNION COM DEV	3111 EAST MAIN ST, ENDWELL, NY, 13760	0	24,571
JEFFERSON MHA	815 NORTH SIXTH AVENUE, STEUBENVILLE, OH, 43952	0	36,568
SPRINGFIELD MET.HA	437 EAST JOHN STREET, SPRINGFIELD, OH, 45505	0	43,775
MEDINA MHA	850 WALTER ROAD, MEDINA, OH, 44256-1593	0	29,305
PORTAGE MHA	2832 STATE ROUTE 59, RAVENNA, OH, 44266-2741	0	36,029
CAMBRIDGE METROPOLITAN HA	P O BOX 744, CAMBRIDGE, OH, 43725-0744	0	25,371
THE MEIGS MHA	237 RACE STREET, MIDDLEPORT, OH, 45760	0	10,951
WARREN MET.HA	P O BOX 63, LEBANON, OH, 45036	0	27,754
FAYETTE METRO HA	101 E. EAST STREET, WASHINGTON C.H., OH, 43160	0	25,260
PICKAWAY METROPOLITAN HA	176 RUSTIC DRIVE, CIRCLEVILLE, OH, 43113	0	22,709
PIKE METROPLITAN HA	2626 SHYVILLE ROAD, PIKETON, OH, 45661	0	36,916
TUSCARAWAS MHA	125 EAST HIGH, NEW PHILADELPHIA, OH, 44663	0	43,625
CITY OF MIDDLETOWN	ONE CITY CENTRE PLAZA, MIDDLETOWN, OH, 45042	0	20,888
LOGAN COUNTY MHA	105W HIGH ST, BELLEFONTAINE, OH, 43311	0	33,207
CITY OF MARIETTA	P O BOX 708, MARIETTA, OH, 45750	0	33,421
VINTON METROPOLITAN H. A.	P. O. BOX 487, MCARTHUR, OH, 45651	0	30,851
DELAWARE METRO HA	P O BOX 1292, DELAWARE, OH, 43015	0	37,080
MORROW METRO. HA	PO BOX 1029, MANSFIELD, OH, 44902	0	29,664
BOWLING GREEN HA	304 NORTH CHURCH STREET, BOWLING GREEN, OH, 43402	0	28,943
BROKEN BOW HA	P O BOX 177, BROKEN BOW, OK, 74728	0	16,781
NORMAN HA	700 NORTH BERRY RD, NORMAN, OK, 73069	0	34,589
STILLWATER HA	807 S. LOWRY, STILLWATER, OK, 74074	0	30,900
HA OF DOUGLAS COUNTY	P O BOX 966, ROSEBURG, OR, 97470	0	27,172
H.A. OF LINCOLN COUNTY	1039 NW NYE ST, NEWPORT, OR, 97365	0	27,310
H.A. OF YAMHILL COUNTY	414 N EVANS, MCMINNVILLE, OR, 97128	0	31,275
MID COLUMBIA HOUSING AGENCY	506 E 2ND, THE DALLES, OR, 97058	0	27,817
H.A. OF MALHEUR CO.	959 FORTNER ST, ONTARIO, OR, 97914	0	19,960
NORTHWEST OREGON HSG ASSOC.	1508 EXCHANGE, ASTORIA, OR, 97103	0	25,853
CENTRAL ORE REG HA	2445 SW CANAL BLVD, REDMOND, OR, 97756	0	28,675
HARRISBURG HA	P O BOX 3461, HARRISBURG, PA, 17101-3461	0	39,501
BUTLER COUNTY HA	P O BOX 1917, BUTLER, PA, 16003	0	43,775
ALTOONA HA	1100 11TH STREET, ALTOONA, PA, 16601	0	43,775

HOUSING AGENCY	ADDRESS	UNITS	AWARD
MONTOUR COUNTY HA	ONE BEAVER PLACE, DANVILLE, PA, 17821	0	43,775
DAUPHIN COUNTY HA	501 MOHN STREET, STEELTON, PA, 17113	0	36,628
LANCASTER HA	333 CHURCH STREET, LANCASTER, PA, 17602-4253	0	41,338
WILKES BARRE HA	LINCOLN PLAZA S. WILKES BARRE, WILKES BARRE, PA, 18702	0	40,355
INDIANA COUNTY HA	104 PHILADELPHIA STREET, INDIANA, PA, 15701	0	15,897
SUNBURY HA	705 MARKET STREET P O BOX 458, SUNBURY, PA, 17801	0	26,828
NORTHUMBERLAND COUNTY HA	50 MAHONING STREET, MILTON, PA, 17847	0	26,828
BERKS COUNTY HA	1803 BUTTER LANE, READING, PA, 19606	0	28,922
CUMBERLAND COUNTY HA	114 NORTH HANOVER STREET, CARLISLE, PA, 17013	0	13,905
NORTHAMPTON COUNTY HA	P O BOX 252, NAZARETH, PA, 18064	0	43,672
ADAMS COUNTY HA	139 CARLISLE STREET, GETTYSBURG, PA, 17325	0	35,329
PAWTUCKET H A	214 ROOSEVELT AVE, PO BOX 1303, PAWTUCKET, RI, 02862	0	35,063
CENTRAL FALLS H A	30 WASHINGTON ST, CENTRAL FALLS, RI, 02863	0	28,208
EAST PROVIDENCE H A	99 GOLDSMITH AVE, EAST PROVIDENCE, RI, 02914	0	43,126
SOUTH KINGSTON HA	P O BOX 6, PEACE DALE, RI, 02883	0	43,672
NORTH PROVIDENCE HA	945 CHARLES STREET, NORTH PROVIDENCE, RI, 02904	0	33,475
EAST GREENWICH H A	146 FIRST AVE, EAST GREENWICH, RI, 02818	0	24,860
NARRAGANSETT HA	P.0. BOX 388 25 FIFTH AVENUE, NARRAGANSETT, RI, 02882	0	26,422
RI HSG MORT FIN CORP	44 WASHINGTON STREET, PROVIDENCE, RI, 02903	0	39,668
MUNICIPALITY OF PONCE	P O BOX 1709, PONCE, PR, 00733-1709	0	22,751
MUNICIPALITY OF BAYAMON	P O BOX 2988, BAYAMON MUNICIPIO, RQ, 00620	0	17,850
MUNICIPALITY OF CAROLINA	P O BOX 8, CAROLINA, PR, 00985-0008	0	19,513
MUNICIPALITY OF HORMIGUEROS	P O BOX 97, HORMIGUEROS, PR, 00660	0	43,775
MUNICIPALITY OF ADJUNTAS	P O BOX 1009, ADJUNTAS, PR, 00601	0	19,325
MUNICIPALITY OF ISABELA	P O BOX 507, ISABELA, PR, 00662	0	11,660
MUNICIPALITY OF AGUAS BUENAS	BOX 128, AGUAS BUENAS MUNICI, RQ, 00607	0	16,977
HA CONWAY	2303 LEONARD AVENUE, CONWAY, SC, 29526	0	15,518
HA GREENWOOD	P O BOX 973, GREENWOOD, SC, 29646	0	30,900
HA OF MYRTLE BEACH	P O BOX 2468, MYRTLE BEACH, SC, 29578	0	37,692
HA ANDERSON	1335 E RIVER STREET, ANDERSON, SC, 29621	0	29,983
CHARLESTON COUNTY HRD	2106 MOUNT PLEASANT STREET, CHARLESTON, SC, 29403	0	22,517
PENNINGTON COUNTY HRD	1805 WEST FULTON ST, RAPID CITY, SD, 57702	0	15,393
BROOKINGS HRD	1310 MAIN AVE. SOUTH, BROOKINGS, SD, 57006	0	19,652
MOBRIDGE HSG & REDEV AUTH	111 SECOND STREET E, MOBRIDGE, SD, 57601	0	59,503
HA KINGSPORT	P O BOX 44, KINGSPORT, TN, 37662	0	36,457
HA JACKSON	P O BOX 3188, JACKSON, TN, 38303	0	36,699
HA CROSSVILLE	202 IRWIN AVE, CROSSVILLE, TN, 38555	0	30,900
SE TN HUMAN RESOURCE AGENCY	P O Box 805, DUNLAP, TN, 37327	0	41,925
CORPUS CHRISTY HA	P O BOX 7019, CORPUS CHRISTI, TX, 78467-7019	0	27,851
BAYTOWN HA	805 NAZRO STREET, BAYTOWN, TX, 77520	0	34,373
TEXARKANA HA	BOX 5766, TEXARKANA, TX, 75505-5766	0	33,765
LUBBOCK HA	P O BOX 2568, LUBBOCK, TX, 79408	0	23,850
BEAUMONT HA	P O BOX 1312, BEAUMONT, TX, 77704	0	31,184
CENTER HA	1600 SWEETGUM TRAIL, CENTER, TX, 75935	0	26,203
EDINBURG HA	P O BOX 295, EDINBURG, TX, 78540	0	32,960
HARLINGEN HA	P O BOX 1669, HARLINGEN, TX, 78551	0	30,400
PHARR HA	211 W AUDREY, PHARR, TX, 78577	0	38,831
KINGSVILLE HA	1000 W CORRAL, KINGSVILLE, TX, 78363	0	42,927
PLANO HA	1581 AVENUE K., PLANO, TX, 75074	0	30,387
HSG AUTH CITY OF TATUM	P O BOX 1066, TATUM, TX, 75691	0	9,258
GARLAND (CITY OF)	P O BOX 469002, GARLAND, TX, 75046-9002	0	34,064
ANTHONY HA	P O DRAWER 1740, ANTHONY, TX, 79821	0	23,578
SAN ANGELO PUBLIC HA	P O BOX 1751, SAN ANGELO, TX, 76902	0	29,052
TRAVIS COUNTY HA	P O BOX 1748, AUSTIN, TX, 78767	0	32,445
HIDALGO COUNTY HA	1800 N. TEXAS BLVD., WESLACO, TX, 78596	0	34,675
CAMERON COUNTY HA	P O BOX 5806, BROWNSVILLE, TX, 78520	0	35,319
MIDLAND COUNTY HA	218 WEST ILLINOIS ROOM 108, MIDLAND, TX, 79701	0	33,796
HA OF THE CITY OF PROVO	650 WEST 100 NORTH, PROVO, UT, 84601	0	71,606
DAVIS COUNTY HA	P O BOX 328, FARMINGTON, UT, 84025	0	56,590
UTAH PAIUTE HA	600 NORTH 100 EAST, CEDAR CITY, UT, 84720	0	39,768
GRAND COUNTY HA	302 EAST CENTER ST., MOAB, UT, 84532	0	11,791

HOUSING AGENCY	ADDRESS	UNITS	AWARD
WEST VALLEY CITY HA	3600 CONSTITUTION BLVD, WEST VALLEY CITY, UT, 84119	0	29,791
CEDAR CITY HA	2390 W. HWY 56, SUITE 7, CEDAR CITY, UT, 84720	0	74,948
PORTSMOUTH REDEV & H/A	339 HIGH STREET P O BOX 1098, PORTSMOUTH, VA, 23705	0	35,546
CUMBERLAND PLATEAU REG. HA	P O BOX 1328, MEMORIAL DRIVE, LEBANON, VA, 24266	0	31,276
LEE COUNTY HA	P O BOX 665, JONESVILLE, VA, 24263	0	29,882
COUNTY OF ALBEMARLE	401 MCINTIRE ROAD, CHARLOTTESVILLE, VA, 22902-4596	0	29,998
CITY OF VIRGINIA BEACH	MUNICIPAL CENTER, VIRGINIA BEACH, VA, 23456	0	31,219
VIRGINIA HSG DEV. AUTH.	601 S. BELVIDERE STREET, RICHMOND, VA, 23220	0	43,775
BURLINGTON HA	230 ST PAUL STREET, BURLINGTON, VT, 05401	0	33,015
BARRE HA	455 NORTH MAIN STREET, BARRE, VT, 05641	0	22,709
HA COUNTY OF CLALLAM	2603 SOUTH FRANCIS, PORT ANGELES, WA, 98362	0	37,692
HA CITY OF KENNEWICK	P. O. BOX 6737, KENNEWICK, WA, 99336	0	43,260
HA OF GRANT COUNTY	1139 LARSON BLVD, MOSES LAKE, WA, 98837	0	38,868
HA OF TACOMA, WA	1728 E 44TH STREET, TACOMA, WA, 98404	0	32,081
HA CITY OF PASCO	820 NORTH FIRST AVENUE, PASCO, WA, 99301	0	30,819
BELLINGHAM HSG AUTH	208 UNITY STREET LOWER LEVEL, BELLINGHAM, WA, 98225	0	33,840
KITSAP COUNTY CONSOLID. HA	9265 BAYSHORE DR NW, SILVERDALE, WA, 98383	0	41,351
THURSTON COUNTY	505 WEST FOURTH AVENUE, OLYMPIA, WA, 98501	0	38,237
HA CITY OF SPOKANE	W. 55TH MISSION, SUITE 104, SPOKANE, WA, 99201	0	43,775
WENATCHEE HA	1555 SOUTH METHOW, WENATCHEE, WA, 98801	0	32,169
HA CITY OF RICHLAND	650 GEORGE WASHINGTON WAY, RICHLAND, WA, 99352	0	20,085
HA OF JEFFERSON COUNTY	P O BOX 1540, PORT TOWNSEND, WA, 98368	0	26,353
GREEN BAY HA	1424 ADMIRAL ST., GREEN BAY, WI, 54303	0	40,796
DUNN COUNTY HA	525 2ND ST., GLENWOOD CITY, WI, 54013	0	31,955
CITY OF KENOSHA	625 52ND ST, KENOSHA, WI, 53140	0	37,494
HA OF THE CITY OF APPLETON	525 NORTH ONEIDA STREET, APPLETON, WI, 54911	0	31,182
CITY OF JANESVILLE	18 N. JACKSON ST. PO BOX 5005, JANESVILLE, WI, 53545	0	29,036
WALWORTH COUNTY HA	COURTHOUSE ANNEX HWY NW, BOX 1007, ELKHORN, WI, 53121	0	31,467
HUNTINGTON WV HA	P O BOS 2183, HUNTINGTON, WV, 25722	0	29,189
BENWOOD HA	13TH AND HIGH STREETS, BENWOOD, WV, 26031	0	30,314
WEIRTON HA	525 COVE ROAD, WEIRTON, WV, 26062	0	13,498
KANAWHA COUNTY HA	P O BOX 3826, CHARLESTON, WV, 25338	0	30,900
HA OF RALEIGH CO	P O BOX BD, BECKLEY, WV, 25802-2852	0	27,766
HA OF THE CITY OF CASPER	1607 CY AVENUE, #301, CASPER, WY, 82604	0	37,650
Totals for FSS Coordinators Certificates		**0**	**$13,310,162**
FSS Coordinators Vouchers			
NEK-CAP, INC	P O BOX 380, HIAWATHA, KS, 66434	0	29,724
WINN PARISH POLICE JURY	301 WEST MAIN ST., WINNFIELD, LA, 71483	0	28,484
ATTLEBORO HA	37 CARLON ST, ATTLEBORO, MA, 02703	0	23,674
BOYNE CITY HSG CM	829 SOUTH PARK STREET, BOYNE CITY, MI, 49712	0	30,999
MISSOULA HA	1319 E. BROADWAY, MISSOULA, MT, 59802	0	52,948
HA ROCKY MOUNT	P O BOX 4717, ROCKY MOUNT, NC, 27803	0	29,361
HA COUNTY OF WAKE	P O BOX 368, ZEBULON, NC, 27597-0368	0	23,572
BLAIR HA	758 SOUTH 16TH STREET, BLAIR, NE, 68008	0	14,412
WAYNESBORO REDEV. & HA	1700 NEW HOPE ROAD, WAYNESBORO, VA, 22980-2566	0	28,224
HA OF ISLAND COUNTY	7 NORTHWEST 6TH STREET, COUPEVILLE, WA, 98239	0	36,285
EAU CLAIRE COUNTY HA	721 OXFORD AVE., EAU CLAIRE, WI, 54703	0	30,958
WAUKESHA COUNTY	515 WEST MORELAND BLVD, WAUKESHA, WI, 53188-2428	0	34,932
Totals for FSS Coordinators Vouchers		**0**	**$363,573**
Amendments - Certificates			
HA OF SKAGIT COUNTY	2021 E COLLEGE WAY, SUITE 101, MOUNT VERNON, WA, 98273	0	384,000
Totals for Amendment - Certificates		**0**	**$384,000**

HOUSING AGENCY	ADDRESS	UNITS	AWARD
Amendments - Moderate Rehabilitation			
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD., LOS ANGELES, CA, 90057	0	$2,400,000
COUNTY OF SAN BERNARDINO HA	1053 NORTH D STREET, SAN BERNARDINO, CA, 92410	0	400,000
TULARE COUNTY HA	P O BOX 791, VISALIA, CA, 93279	0	115,000
SAN DIEGO HOUSING COMMISSION	1625 NEWTON AVE, SAN DIEGO, CA, 92113-1012	0	200,000
ORANGE COUNTY HA	2043 N BROADWAY, SANTA ANA, CA, 92706	0	164,000
CITY OF HAWTHORNE	4455 W 126TH ST, HAWTHORNE, CA, 90250	0	30,000
SAN FRANCISCO HA	440 TURK STREET, SAN FRANCISCO, CA, 94102	0	3,960,296
MARIPOSA COUNTY HA	P. O. BOX 39, MARIPOSA, CA, 95338	0	170,000
GREENWICH HA	P O BOX 141, GREENWICH, CT, 06830	0	885,233
MANCHESTER HA	24 BLUEFIELD DR, MANCHESTER TOWN, CT, 06040	0	294,776
MANSFIELD HA	309 MAPLE RD, STORRS, CT, 06268	0	501,083
NORWALK HA	24 1/2 MONROE STREET, SOUTH NORWALK, CT, 06854	0	180,700
WATERBURY HA	70 LAKEWOOD ROAD, WATERBURY, CT, 06704	0	2,850,900
NAUGATUCK HA	16 IDA STREET, NAUGATUCK, CT, 06770	0	101,000
CITY OF HARTFORD	550 MAIN ST, HARTFORD, CT, 06103	0	2,806,218
CONNECTICUT DOH	505 HUDSON STREET, HARTFORD, CT, 06106-7106	0	297,214
D.C HA	1133 NORTH CAPITOL STREET NE, WASHINGTON, DC, 20002	0	13,047,000
WILMINGTON HA	400 WALNUT STREET, WILMINGTON, DE, 19801	0	220,000
CITY OF JACKSONVILLE	1300 BROAD STREET, JACKSONVILLE, FL, 32202	0	346,920
HA COCOA	P O BOX 338, MERRITT ISLAND, FL, 32952	0	50,000
HA TALLAHASSEE	2940 GRADY ROAD, TALLAHASSEE, FL, 32312	0	1,550,000
HILLSBOROUGH COUNTY-BOCC	P O BOX 1110, TAMPA, FL, 33601	0	1,200,000
HA COLUMBUS GA GEN FUND	P O BOX 630, COLUMBUS, GA, 31902-0630	0	840,000
CITY OF MARIETTA	COMM DEV FUND, P. O. BOX 609, MARIETTA, GA, 30061	0	706,000
HA AUGUSTA	P O BOX 3246, AUGUSTA, GA, 30904-1246	0	7,000
HA MACON	P O BOX 4928, MACON, GA, 31208	0	55,000
H/A DEKALB COUNTY	P O BOX 1627, DECATUR, GA, 30031	0	886,641
GEORGIA RESIDENTIAL FIN AUTH	60 EXECUTIVE PKWY S, SUITE 250, ATLANTA, GA, 30329	0	350,000
DES MOINES AUTH MUNICIPAL HA	1101 CROCKER, DES MOINES, IA, 50309	0	130,000
AREA XV MULTI-COUNTY HA	417 NORTH COLLEGE, P O BOX 276, AGENCY, IA, 52530	0	5,000
CHICAGO HA	626 WEST JACKSON BLVD, CHICAGO, IL, 60602	0	3,353,559
PEORIA HA	814 W BROTHERSON ST, PEORIA, IL, 61605	0	630,000
HA ROCKFORD	330 15TH AVE., ROCKFORD, IL, 61108	0	1,795,000
JOLIET HA	P O BOX 2519, JOLIET, IL, 60434	0	988,000
LAKE COUNTY HA	33928 N ROUTE 45, GRAYSLAKE, IL, 60030	0	1,359,000
AURORA HA	1630 WEST PLUM STREET, AURORA, IL, 60506	0	723,000
CITY OF NORTH CHICAGO	1850 LEWIS AVE, NORTH CHICAGO, IL, 60064	0	403,000
CITY OF DANVILLE HA	P O BOX 312, DANVILLE, IL, 61834	0	995,000
MAYWOOD HA	1701 SOUTH 1ST AVENUE SUITE 5, MAYWOOD, IL, 60153	0	551,000
ELGIN HA	120 SOUTH STATE STREET, ELGIN, IL, 60123	0	13,000
CITY OF INDIANAPOLIS	FIVE INDIANA SQ., SECOND FLOOR, INDIANAPOLIS, IN, 46204	0	1,547,878
HA CITY OF TERRE HAUTE	P O BOX 3086, TERRE HAUTE, IN, 47803	0	55,001
EAST CHICAGO HA	4920 LARKSPUR DR PO BOX 498, EAST CHICAGO, IN, 46312	0	587,538
INDIANA DEPT OF HUMAN SERV	251 N. ILLINOIS P O BOX 7083, INDIANAPOLIS, IN, 46207-7083	0	1,604,639
VINCENNES HA	501 HART ST P O BOX 1636, VINCENNES, IN, 47591	0	1,600,987
HA DELAWARE COUNTY	2401 S HADDIX AVENUE, MUNCIE, IN, 47302	0	388,000
HA CITY OF EVANSVILLE	P O BOX 3605, EVANSVILLE, IN, 47735	0	2,000,000
HA CITY OFCRAWFORDSVILLE	P O BOX 421, CRAWFORDSVILLE, IN, 47933-0421	0	606,000
SHREVEPORT HA	623 JORDAN, SHREVEPORT, LA, 71101	0	441,914
MONROE HA	P O BOX 1194, MONROE, LA, 71201	0	142,086
WEST MONROE HA	2305 N 7TH STREET, WEST MONROE, LA, 71291	0	213,000
BOSTON HA	52 CHAUNCY STREET, BOSTON, MA, 02111	0	2,214,000
BROCKTON HA	45 GODDARD ROAD, P O BOX 340, BROCKTON, MA, 02403	0	150,000
HOLYOKE HA	475 MAPLE STREET, HOLYOKE, MA, 01040	0	432,000
WORCESTER HA	40 BELMONT STREET, WORCESTER, MA, 01605	0	876,000
WARREN HSG AUTHORITY	P. O. BOX 01083, WARREN, MA, 01083	0	120,000
HA OF BALTIMORE CITY	417 E FAYETTE STREET, BALTIMORE, MD, 21202	0	2,065,859
MONTGOMERY CO HA	10400 DETRICK AVENUE, KENSINGTON, MD, 20895	0	74,000
HA OF PRINCE GEORGES CO	9400 PEPPERCORN PLACE, LANDOVER, MD, 20785	0	4,181,816

HOUSING AGENCY	ADDRESS	UNITS	AWARD
BALTIMORE COUNTY, MD	400 WASHINGTON AVENUE, TOWSON, MD, 21204	0	7,977,044
DEPT. OF HSG & COMM DEVEL	100 COMMUNITY PL, ROOM #2.611, CROWNSVILLE, MD, 21032	0	30,000
CALVERT COUNTY HA	420 WEST DARES BEACH ROAD, PRINCE FREDERICK, MD, 20678	0	246,000
COUNTY COMM CHARLES CO.	P. O. BOX B, LA PLATA, MD, 20646	0	1,600,000
BREWER HA	ONE COLONIAL CIRCLE, BREWER, ME, 04412	0	600,000
BIDDEFORD HA	P O BOX 586, BIDDEFORD, ME, 04005	0	600,000
MAINE STATE HA	353 WATER STREET, AUGUSTA, ME, 04330-4633	0	2,622,604
WESTBROOK HA	P O BOX 349, WESTBROOK, ME, 04092	0	505,000
CITY OF GRAND RAPIDS	1420 FULLER AVE SE, GRAND RAPIDS, MI, 49507	0	250,000
CITY OF ANN ARBOR	100 NORTH FIFTH AVE, ANN ARBOR, MI, 48107	0	840,000
ST. LOUIS COUNTY HA	8865 NATURAL BRIDGE, ST. LOUIS, MO, 63121	0	120,000
MT DEPARTMENT OF COMMERCE	POB 200545, 836 FRONT STREET, HELENA, MT, 59620-0545	0	670,000
CHADRON HA	800 PINE, CHADRON, NE, 69337	0	30,000
SALEM HA	44 MILLVILLE STREET P O BOX 6, SALEM, NH, 03079	0	300,000
FRANKLIN H A	915 CENTRAL ST, FRANKLIN, NH, 03235	0	1,000,000
ASBURY PARK HA	1004 COMSTOCK STREET, ASBURY PARK, NJ, 07712	0	279,000
PLAINFIELD HA	510 EAST FRONT STREET, PLAINFIELD, NJ, 07060	0	460,000
HA OF GLOUCESTER COUNTY	223 S EVERGREEN AVE, WOODBURY, NJ, 08096	0	725,000
LAKEWOOD TOWNSHIP	231 THIRD ST, LAKEWOOD, NJ, 08701	0	110,000
ATLANTIC CITY HA	227 NO VERMONT AVENUE, ATLANTIC CITY, NJ, 08404	0	810,000
SOUTH AMBOY HA	BAYSHORE DRIVE, SOUTH AMBOY, NJ, 08879	0	565,000
CLIFFSIDE PARK HA	500 GORGE ROAD, CLIFSIDE PARK, NJ, 04010	0	100,000
TOWNSHIP OF MONTCLAIR HA	205 CLAREMONT AVENUE, MONTCLAIR, NJ, 07042	0	200,000
COUNTY OF UNION	UNION COUNTY ADMINISTRATION BL, ELIZABETH, NJ, 07207	0	100,000
NJ DEPT. OF COMM. AFFAIRS	101 S. BROAD STREET CN800, TRENTON, NJ, 08625-0800	0	20,500,000
ALBUQUERQUE HA	1840 UNIVERSITY BLVD. SE, ALBUQUERQUE, NM, 87106	0	112,387
CITY OF LAS VEGAS HA	P O BOX 1897, LAS VEGAS, NV, 89125-1897	0	560,000
NORTH LAS VEGAS HA	1632 YALE STREET, NORTH LAS VEGAS, NV, 89030	0	300,000
CITY OF NEW ROCHELLE	515 NORTH AVE, NEW ROCHELLE, NY, 10801	0	756,356
HA OF GLOVERSVILLE	181 WEST STREET, GLOVERSVILLE, NY, 12078	0	127,000
TOWN OF SOUTHAMPTON	116 HAMPTON RD, SOUTHAMPTON, NY, 11968	0	635,000
TOWN OF BABYLON	200 EAST SUNRISE HIGHWAY, LINDENHURST, NY, 11757	0	56,310
VILLAGE OF CORINTH	242 UNION STREET, SCHENECTADY, NY, 12305	0	18,000
VILLAGE OF BALLLSTON SPA	66 FRONT STREET, BALLSTON, NY, 12020	0	205,000
CUYAHOGA MHA	1441 WEST 25TH STREET, CLEVELAND, OH, 44113	0	430,000
CHEROKEE NATION HA	P O BOX 1007, TAHLEQUAH, OK, 74465	0	253,440
HA CITY OF PITTSBURGH	200 ROSS STREET, PITTSBURGH, PA, 15219	0	1,000,000
CHESTER HA	6 W. 6TH STREET P O BOX 380, CHESTER, PA, 19016	0	232,000
MONTGOMERY COUNTY HA	1875 NEW HOPE STREET, NORRISTOWN, PA, 19401-3146	0	516,591
BEAVER COUNTY HA	STATE AVENUE & TOY STREET, BEAVER, PA, 15009	0	100,000
WESTMORELAND COUNTY HA	R.D. #6, BOX 223 S GREENGATE R, GREENSBURG, PA, 15601	0	500,000
JOHNSTOWN HA	P O BOX 419, JOHNSTOWN, PA, 15907	0	100,000
ALTOONA HA	1100 11TH STREET, ALTOONA, PA, 16601	0	600,000
CUMBERLAND COUNTY HA	114 NORTH HANOVER STREET, CARLISLE, PA, 17013	0	550,000
NORTHAMPTON COUNTY HA	P O BOX 252, NAZARETH, PA, 18064	0	10,000
LEHIGH COUNTY HA	333 RIDGE STREET, EMMAUS, PA, 18049	0	86,000
ADAMS COUNTY HA	139 CARLISLE STREET, GETTYSBURG, PA, 17325	0	190,000
ALLEGHENY COUNTY HA	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA, 15222	0	400,000
MERCER COUNTY	800 LINDEN STREET, SHARON, PA, 16146	0	200,000
HA CO OF LAWRENCE	481 NESHANNOCK AVE, P O BOX 988, NEW CASTLE, PA, 16103	0	100,000
BRADFORD CITY HA	2 BUSHNELL STREET, BRADFORD, PA, 16701	0	100,000
FRANKLIN CITY HA	1212 CHESTNUT STREET, FRANKLIN, PA, 16323	0	75,000
JEFFERSON COUNTY HA	201 N JEFFERSON STREET, PUNXSUTAWNEY, PA, 15767	0	200,000
FULTON COUNTY HA	100 LWE, FULTON COUNTY, PA, 17233	0	200,000
WARREN COUNTY HA	108 OAK STREET, WARREN, PA, 16365	0	100,000
VENANGO COUNTY HA	P O BOX 988, OIL CITY, PA, 16801	0	100,000
ALLEGHENY COUNTY HA	341 FOURTH AVENUE FIDELITY BL, PITTSBURGH, PA, 15222	0	400,000
MERCER COUNTY	800 LINDEN STREET, SHARON, PA, 16146	0	200,000
HA CO OF LAWRENCE	481 NESHANNOCK AVE, P O BOX 988, NEW CASTLE, PA, 16103	0	100,000
BRADFORD CITY HA	2 BUSHNELL STREET, BRADFORD, PA, 16701	0	100,000
FRANKLIN CITY HA	1212 CHESTNUT STREET, FRANKLIN, PA, 16323	0	75,000

HOUSING AGENCY	ADDRESS	UNITS	AWARD
JEFFERSON COUNTY HA	201 N JEFFERSON STREET, PUNXSUTAWNEY, PA, 15767	0	200,000
FULTON COUNTY HA	100 LWE, FULTON COUNTY, PA, 17233	0	200,000
WARREN COUNTY HA	108 OAK STREET, WARREN, PA, 16365	0	100,000
VENANGO COUNTY HA	P O BOX 988, OIL CITY, PA, 16801	0	100,000
MUNICIPALITY OF TRUJILLO ALTO	BOX 1869, TRUJILLO ALTO, PR, 00760	0	161,000
MUNICIPALITY OF CAROLINA	P O BOX 8, CAROLINA, PR, 00985-0008	0	544,000
PUERTO RICO DOH	606 BARBOSA AVE, P O BOX 21365, RIO PIEDRAS, PR, 00928	0	1,236,164
MUNICIPALITY OF TOA ALTA	BOX 82, TOA ALTA, PR, 00758	0	530,000
PROVIDENCE H A	100 BROAD ST, PROVIDENCE, RI, 02903	0	368,000
WARWICK H A	25 EASTON AVE, WARWICK, RI, 02888	0	1,594,000
PROVIDENCE H A	100 BROAD ST, PROVIDENCE, RI, 02903	0	75,000
CENTRAL FALLS H A	30 WASHINGTON ST, CENTRAL FALLS, RI, 02863	0	55,700
RI HSG MORT FIN CORP	44 WASHINGTON STREET, PROVIDENCE, RI, 02903	0	123,000
CITY OF SPARTANBURG H/A	P O BOX 2828, SPARTANBURG, SC, 29304-2828	0	225,000
S C STATE HSG FIN & DEV	919 BLUFF ROAD, COLUMBIA, SC, 29201-3416	0	175,000
HA AIKEN	P O BOX 889, AIKEN, SC, 29802-0889	0	559,000
HA MURFREESBORO	318 EAST LOKEY AVENUE, MURFREESBORO, TN, 37130	0	271,000
HA MEMPHIS	700 ADAMS AVE, MEMPHIS, TN, 38105	0	162,000
KNOXVILLE COMM DEVEL CORP	P O BOX 3629, KNOXVILLE, TN, 37937-3629	0	116,770
METROPOLITAN DEV & HA	701 SIXTH STREET, NASHVILLE-DAVIDSON, TN, 37206	0	291,000
HOUSTON HA	2640 FOUNTAIN VIEW, HOUSTON, TX, 77057-	0	1,699,128
SAN ANTONIO HA	P O DRAWER 1300, SAN ANTONIO, TX, 78295	0	4,265,084
BEAUMONT HA	P O BOX 1312, BEAUMONT, TX, 77704	0	445,445
BROWNSVILLE HA	P O BOX 4420, BROWNSVILLE, TX, 78523-4420	0	1,062,018
LAREDO HA	2000 SAN FRANCISCO AVENUE, LAREDO, TX, 78040	0	78,000
EDINBURG HA	P O BOX 295, EDINBURG, TX, 78540	0	95,420
DEEP EAST TX COUNCIL OF GOVTS	274 E LAMAR, JASPER, TX, 75951	0	938,272
MC ALLEN HA	2301 JASMINE AVE, MC ALLEN, TX, 78501	0	1,556,055
MERCEDES HA	P O BOX 985, MERCEDES, TX, 78570	0	67,701
SEGUIN HA	516 JEFFERSON AVENUE, SEGUIN, TX, 78155	0	283,341
RUSK HA	1004A NORTH MAIN STREET, RUSK, TX, 75785	0	604,455
DILLEY HA	P O DRAWER 876, DILLEY, TX, 78017	0	29,055
LA JOYA HA	P O DRAWER H, LA JOYA, TX, 78560	0	161,000
TRAVIS COUNTY HA	P O BOX 1748, AUSTIN, TX, 78767	0	682,830
DAVIS COUNTY HA	P O BOX 328, FARMINGTON, UT, 84025	0	4,050,000
RICHMOND REDEV & H/A	P O BOX 26887, RICHMOND, VA, 23261-6887	0	1,309,000
FAIRFAX CO RED AND HA	3700 PENDER DRIVE, FAIRFAX, VA, 22030	0	318,000
ARLINGTON CO DHS	2100 CLARENDON BLVD, SUITE 709, ARLINGTON, VA, 22201	0	2,346,000
COUNTY OF LOUDOUN HSG SERV	102 HERITAGE WAY NE SUITE 100, LEESBURG, VA, 22075	0	54,000
HARTFORD HA	15 BRIDGE STREET, WHITE RIVER JUNCTIO, VT, 05001	0	600,000
HA COUNTY OF KING	15455 65TH AVE SO, TUKWILA, WA, 98188	0	1,200,000
HA CITY OF EAU CLAIRE	203 S. FARWELL ST. CALL BOX 51, EAU CLAIRE, WI, 54702	0	186,000
HARTFORD HA	109 NORTH MAIN STREET, HARTFORD, WI, 53027	0	20,000
GRANT COUNTY HA	P O BOX 125, PETERSBURG, WV, 26847	0	45,000
GREENBRIER CO HA	BOX 265, LEWISBURG, WV, 24901	0	200,000
Totals for Amendments - Moderate Rehabilitation		**0**	**$144,070,428**
	GRAND TOTAL	**27,887**	**$441,500,299**

[FR Doc. 97–33213 Filed 12–18–97; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–34]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 11, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development

[FR Doc. 97–32789 Filed 12–18–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit 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: University of Arizona, Tucson, AZ, PRT–837560.

The applicant requests a permit to import blood samples from captive-held chimpanzee (*Pan troglodytes*), pygmy chimpanzee (*Pan paniscus*), gorilla (*Gorilla gorilla*), and orangutan (*Pongo pygmaeus*) and to import fecal and hair samples taken from chimpanzee (*Pan troglodytes*), pygmy chimpanzee (*Pan paniscus*), gorilla (*Gorilla gorilla*), and orangutan (*Pongo pygmaeus*) in the wild for the purpose of scientific research.

Applicant: International Crane Foundation, Baraboo, WI, PRT–837403.

The applicant requests a permit to export captive-bred Siberian crane (*Grus leucogeranus*) eggs for reintroduction into the wild in Russia to enhance the survival of the species.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE, PRT–837631.

The applicant requests a permit to export one captive-born Malayan tapir (*Tapirus indicus*) to the Adelaide Zoo, Adelaide, Australia, for captive breeding to enhance the survival of the species.

Applicant: St. Louis Zoological Park, St. Louis, MO, PRT–837553.

The applicant requests a permit to import one male and one female captive-held false gavial (*Tomistoma schlegelii*) from the Singapore Zoo for the purpose of enhancement of the survival of the species through captive propagation and conservation education.

Applicant: Felson Bowman, Greenwood, Indiana, PRT–837701.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director on or before January 20, 1998.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Eugene Giscombe, Amityville, NY, PRT–837603.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

Applicant: William Jury, Gilroy, CA, PRT–837379.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted, prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Applicant: Jack R. Cook, Mondovi, WI, PRT–837437.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted, prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the 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 above address on or before January 20, 1998.

Dated: December 15, 1997.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–33089 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Management Plan for the Northern End of South Monomoy Island, Monomoy National Wildlife Refuge for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft management plan for the northern end of South Monomoy Island, Monomoy National Wildlife Refuge, Chatham, MA. The multi-year adaptive management plan, to be initiated in the 1998 season, focuses on management of wildlife

competitor and predator species to encourage a diversity of nesting bird species. This plan is in keeping with the Service's efforts to restore avian diversity on the Refuge as outlined in the 1996 Final Environmental Assessment, ''Restoration of Avian Diversity on Monomoy National Wildlife Refuge''. The Service solicits review and comment from the public on the draft management plan.

DATES: Comments on the draft management plan must be received by January 16, 1998. The draft management plan will not be available until December 22, 1997, however, the Service is currently accepting requests for copies in order to expedite distribution once the document becomes available.

ADDRESSES: Persons wishing to review the draft plan can obtain a copy from the Monomoy National Wildlife Refuge, Wikis Way, Morris Island, Chatham, MA 02633, telephone 508–945–0594. Comments should be sent to this address, to the attention of Sharon Ware.

FOR FURTHER INFORMATION CONTACT: Sharon Ware (see **ADDRESSES**).

Dated: December 15, 1997.

Cathy Short,

Deputy Regional Director, Region 5.

[FR Doc. 97–33203 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–08–1220–00: GP8–0062]

Notice of Meeting of Southeast Oregon Resource Advisory Council

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Meeting of Southeast Oregon Resource Advisory Council.

SUMMARY: A meeting of the Southeast Oregon Resource Advisory Council will be on January 27, 1998 from 8:00 a.m. to 5:00 p.m. (MDT) and January 28, 1998 from 8:00 a.m. to 12:00 noon. Public comments are scheduled from 12:00 noon to 12:15 p.m. January 27, 1998.

The meeting will be held at the National Interagency Fire Center, 3833 S. Development Ave., Boise, Idaho. The Council will recess at an appropriate time for a lunch break of approximately one and one-half hours.

The Council will discuss the Interior Columbia Basin Ecosystem Management Draft Environmental Impact Statement and such other matters as may reasonably come before the Council.

ADDRESSES: The Southeast Oregon Resource Advisory Council will meet at the National Interagency Fire Center, 3833 S. Development Ave., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Jonne Hower, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, Oregon 97918, Telephone (541) 473–3144.

Dated: December 10, 1997.

Edwin J. Singleton,

District Manager.

[FR Doc. 97–33205 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–1269]

Public Land Order No. 7283; Partial Revocation of Executive Order No. 5327 and Public Land Order No. 4522; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects Public Land Order No. 7283, 62 FR 49024, FR Doc. 97–24834.

Page 49024 third column, paragraph 1, line which reads ''T. 6 S., R. 94 E.'', is hereby corrected to read ''T. 6 S., R., 94 W,''.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 97–33136 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–065–08–1990–02; CACA–37875]

Notice of Realty Action; California

December 12, 1997.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management is offering the following lands in Kern County, California for competitive sale.

ADDRESSES: Written requests for information may be addressed to Bureau of Land Management, Ridgecrest Resource Area, 300 S. Richmond Road, Ridgecrest, California 93555, Attention: Linn Gum; Chief, Minerals.

FOR FURTHER INFORMATION CONTACT: Linn Gum, Ph: 760–384–5450 or Mike Hogan, Ph: 760–384–5423.

SUPPLEMENTARY INFORMATION: Under the Land Tenure Adjustment Element entitled ''Needs of Desert Communities'', the California Desert Conservation Area Plan of 1980 provides guidance allowing the Bureau of Land Management to consider the special needs of desert communities by the transfer of ownership of key public land parcels in and around these communities. The following public lands have been found suitable for competitive sale under Section 203 of the Federal Land Policy and Management Act of 1976 to any party that meets the eligibility requirements for qualified bidders as described herein. The fair market value appraisal was completed in accordance with the Federal Uniform Appraisal Standards of 1992 and the United States Professional Practices of 1997.

Mount Diablo Meridian, California

T. 29 S., R. 40 E., Section 35

Lot No.	Size in acres	Minimum acceptable bid	30 percent deposit required
24	13.07	$6,353	$1,960.50
30	12.21	6,105	1,831.50
31	2.89	1,445	433.50
33	0.04	500	150.00
40	1.21	1,000	300.00
45	6.23	3,115	934.50
103	0.45	500	150.00
105	8.03	4,015	1,204.50
106	14.79	7,395	2,218.50
107	1.39	695	208.50
E/2 NE/4 NW/4	20.00	10,000	3,000.00

Lot No.	Size in acres	Minimum acceptable bid	30 percent deposit required
W/2 NE/4 NW/4	20.00	10,000	3,000.00
Total	100.31	51,123	15,336.90

Bidder Qualifications

To become a qualified bidder, eligible to compete during the oral auction, the following applicable criteria must be met:

(1) You must provide proof that you are a citizen of the United States who is at least 18 years of age; or (2) you must provide proof that you are a corporation subject to the laws of the State of California or of the United States; or (3) you must provide proof that you are a State or State instrumentality or political subdivision authorized to hold property; or (4) you must provide proof that you are an entity legally capable of conveying and holding lands or interests therein under the laws of the State of California; and (5) you must provide a sealed bid and deposit of no less than 30% of the minimum fair market value shown in the above table, or 30% of the amount of your bid greater than the minimum fair market value.

This information must be provided to the Bureau of Land Management, Ridgecrest Resource Area, 300 S. Richmond Road, Ridgecrest, CA 93555 by 4:00 p.m. Pacific Daylight Time on or before March 2, 1998. Failure to timely provide the appropriate proof of qualification and the deposit for the proper value will result in immediate disqualification. No exceptions will be permitted. The Bureau of Land Management will return all disqualified bids and deposits.

Payments for the 30% deposit may be in the form of certified or cashiers check, money order, visa, mastercard, personal check or any combination thereof.

Bids must include the bidder's name, as it would appear on the patent, address, telephone number and social security number.

Bids must be submitted in a sealed legal-size envelope and marked on the front with the Lot Number and the printed name of the bidder. Sealed bids shall be considered only if received in accordance with the instructions of this Notice.

Procedures

Public Notice is provided that a competitive bid will be conducted on March 20, 1998, beginning at 1:30 p.m. Pacific Daylight Time at the Bureau of Land Management Conference Room located at 300 S. Richmond Road, Ridgecrest, CA 93555. Bidder registration will open at 12:45 p.m. and close at 1:25 p.m. Any qualified bidder who fails to register timely for the oral auction will be disqualified. All deposits from disqualified bidders will be returned.

Oral bids will only be conducted for those lots where two or more bids have been received. Bidding will begin at the highest bid greater than the minimum fair market value. Bidding will be in $50.00 increments. Bidding will be restricted to only qualified bidders identified by the Bureau of Land Management.

Upon the conclusion of bidding for each lot, the successful bidder will be declared. That bidder will be required to immediately submit a minimum payment of not less than 20% of the final bid for the lot. Payment must be made in the form described above. The successful bidder has 180 days from the date of the sale to submit full payment for the lot. Failure to submit the full payment by the 180th day shall result in cancellation of the sale of the specific lot and all deposits made, to date, shall be forfeited and disposed of as other receipts of sale.

The United States reserves the right to reject the highest qualified bid and release the bidder from his/her obligation and withdraw the lot from competitive sale if the Authorized Officer (AO) determines that consummation of the bidding process would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered, or restrained free and open bidding. Bidders are WARNED that any violations of this statute, Title 18 U.S.C. 1860, could result in fine or imprisonment, or both. No harassing, intimidating, vulgar, or other abusive behavior will be tolerated. Any bidder or other person who engages in such activity will be disqualified and expelled from the oral auction.

Terms and Conditions Applicable to the Sale Are

1. The subsurface estate and all minerals are reserved to the United States, together with the right to prospect for, mine and remove the minerals.

2. A reservation for road rights-of-way will be incorporated into each affected patent in conjunction with the Kern County road network.

3. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the authority of the Act of August 30, 1890, 43 U.S.C. 945.

4. The patent will be subject to any rights-of-way for the purposes of utilities (Electric, Telephone, Water and Cable) as they affect the lots.

5. The purchaser, by accepting the land patent, will indemnify the United States against any current or future liability pertaining to Hazardous Materials and underlying mine shafts, tunnels or adits, known or unknown.

Grazing Issues

This land sale involves lands inside the Cantil Common Allotment. These lands are withdrawn under Section 3 of the Taylor Grazing Act. It has been determined that the lands contribute no forage for the Cantil Common Allotment and their sale will not result in the loss of grazing preference for any of the permittees.

Detailed information concerning the sale, including the reservations, sale procedures and conditions, and planning and environmental documents, is available at the Bureau of Land Management, Ridgecrest Resource Area office, 300 S. Richmond Road, Ridgecrest, CA 93555.

For a period of 45 days from the date of this Notice in the **Federal Register**, interested parties may submit comments to the Area Manager, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Lee Delaney,

Field Manager.

[FR Doc. 97–33182 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1430–00; GP8–0059]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification

AGENCY: Bureau of Land Management, Prineville District, Oregon.

ACTION: Notice to authorize the continued use of public lands for recreation purposes.

SUMMARY: The following public lands in Klamath County, Oregon have been examined and found suitable for classification for lease to the La Pine Rodeo Association under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The La Pine Rodeo Association proposes to use the lands for a community rodeo grounds. This proposal would allow for the continued use that has been occurring for ten years under a similar lease. The lands involve about 20 acres and are described as:

Willamette Meridian, Oregon

T. 23 S., R. 10 E.,
Sec. 3, SE¼SE¼; (that portion lying north of the county road),

The lands are not needed for Federal purposes. The renewal of this lease is consistent with current BLM land use planning and would be in the public interest.

The lease, when issued, will be subject to the following:

1. The provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. State and local planning and zoning ordinances.

3. The Management Plan approved by BLM.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Prineville District, 3050 NE Third, Prineville, Oregon, 97754.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease or classification of the lands to the District Manager, Prineville District Office, P.O. Box 550, Prineville, Oregon 97754.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a community rodeo grounds. Comments on the classification are restricted to whether the use will maximize the future use of uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties my submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a community rodeo grounds.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective February 17, 1998.

Dated: December 10, 1997.

Donald L. Smith,

Acting District Manager.

[FR Doc. 97–33139 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

[Docket No. NM–952–07–1420–00]

Notice of Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico States Office, Bureau of Land Management, Santa Fe, New Mexico, on January 10, 1998.

New Mexico Principal Meridian, New Mexico.

Tps. 30–31 N., R. 16 W., accepted October 30, 1997, for Group 922 NM; T. 31 N., R. 18 W., accepted October 30, 1997, for Group 922 NM; T. 23 N., Rs. 10 and 11 W., accepted November 7, 1997, for Group 909 NM; T. 25 S., R. 3E., accepted November 7, 1997, for Group 949 NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filled.

The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502-0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: December 9, 1997.

John P. Bennett,

Chief Cadastral Surveyor, For New Mexico.

[FR Doc. 97–33137 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–4214–010; COC–61331]

Proposed Withdrawal: Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 450 acres of National Forest System lands for 10 years to allow management alternatives for the Forest Service. This notice closes these lands to location and entry under the mining laws for up to two years. The lands remain open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before March 19, 1998.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On November 24, 1997, the Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch 2):

Uncompahgre National Forest New Mexico Principal Meridian

T. 44 N, R. 7 W.,
Sec. 31, W½.
T. 44 N, R. 8 W.,
Sec. 35, E½.

The areas described exclude any patented lands within the application and contain approximately 450 acres of National Forest System lands in Ouray County.

The purpose of this withdrawal is to protect the area and allow the Forest Service alternatives in managing the land.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal, may present their views in writing to the Colorado State Director. If it is determined that a public meeting should be held, the public meeting will be scheduled and conducted in accordance with 43 CFR 2310.3–1(c)(2). Notice of the meeting will be published in the **Federal Register**.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2310.

For a period of two years from the date of publication in the **Federal Register**, this land will be segregated from the mining laws as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Forest Service will continue to manage these lands.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 97–33135 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Permits; Glacier Bay National Park, AK

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service (NPS) proposes to award concession permits authorizing the operation of cruise ship services for the public at Glacier Bay National Park, Alaska, for a period of five (5) years from January 1, 2000, through December 31, 2004. This solicitation offers sixty-eight (68) cruise ship entries from June 1 to August 31 and up to 546 cruise ship entries outside of the June-August regulatory period into Glacier Bay proper, subject to the scheduling limitation of two cruise ships per day, year round for all companies combined. This solicitation also serves as public notice that the NPS intends to discontinue the former practice of issuing Incidental Business Permits for park waters outside Glacier Bay proper, and instead require prospective operators to apply under a concession solicitation and prospectus to operate in these waters after January 1, 2000.

EFFECTIVE DATE: Within 30 days of January 15, 1998, a notice will be published in the Commerce Business Daily. The official release date of the Prospectus shall be the date of publication in the Commerce Business Daily. Anyone interested in making an offer for these permits must do so within 90 days of the date of publication of the Commerce Business Daily announcement.

ADDRESSES: Interested parties should contact the Superintendent, Glacier Bay National Park & Preserve, P.O. Box 140, Gustavus, AK 99826 for a copy of the prospectus.

SUPPLEMENTARY INFORMATION: An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the headquarters building of Glacier Bay National Park & Preserve, Gustavus, Alaska.

There are two types of preferences applicable to this solicitation, as follows:

1. The provisions of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197), Section 1307(b) and 36 CFR 13.83 apply to this solicitation. Preference will be given to the Native Corporation(s) most directly affected by the creation of Glacier Bay National Park and Preserve and to persons who are determined to be local residents. The preferences established in ANILCA Section 1307 take precedence over the preferential right of renewal granted incumbent NPS concessioners (see item #2 below).

2. Thirty of the 68 cruise ship entries during the June 1-August 31 period referred to above are assigned to existing concessioners. These existing concessioners have operated satisfactorily during their current permits, and may apply and compete for new permits. As satisfactory operators, they have the rights to renewal provided for in PL 89–249, Section 5 and in 36 CFR 51.3(b) and 36 CFR 51.5.

For further details concerning these preferences, see the prospectus.

All interested parties are encouraged to apply and the Secretary will consider and evaluate all offers received as a result of this notice. Any offer, including that of the existing concessioner, must be received by the Superintendent, Glacier Bay National Park & Preserve, at the Bartlett Cove Administration Building, Gustavus, Alaska 99826–0140 or at P.O. Box 140, Gustavus, AK 99826, not later than 90 days following the date of publication of the Commerce Business Daily announcement.

Tom Ferranti,

Acting Regional Director, Alaska Region.

[FR Doc. 97–33189 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information on Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR Part 784.

DATES: Comments on the proposed information collection must be received by February 17, 1998, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease, at (202) 208–2783, or submit electronically to jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR Part 784.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans, 30 CFR 784.

OMB Control Number: 1029–0039.

Summary: Sections 507(b), 508(a) and 516(b) of Public Law 95–87 require underground coal mine permit applicants to submit an operations and reclamation plan and establish performance standards for the mining operation. Information submitted is used by the regulatory authority to determine if the applicant can comply with the applicable performance and environmental standards required by the law.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Underground coal mining permit applicants.

Total Annual Responses: 130.

Total Annual Burden Hours: 92,605.

Dated: December 15, 1997.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 97–33122 Filed 12–18–97; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–405]

Certain Automotive Scissors Jacks; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed on November 13, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Universal Tool & Stamping Company, Inc., 6544 U.S. Highway 6, Box 100, Butler, Indiana, 46721–0100. The complaint alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automotive scissors jacks by reason of infringement of claims 7, 8, 10, 11, and 13 of United States Patent Reexamination Certificate No. B1 5,110,091. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10.

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 12, 1997, *Ordered that*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain automotive scissors jacks by reason of infringement of claims 7, 8, 10, 11, or 13 of United States Patent Reexamination Certificate No. B1 5,110,091, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Universal Tool & Stamping Company, Inc., 6544 U.S. Highway 6, P.O. Box 100, Butler, IN 46721–0100.

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Ventra Group, Inc., 1 Mitten Court, P.O. Box 126, Cambridge, Ontario, CANADA N1R 5S9.

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–0, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

A response to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.13(a), such response will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting a response to the complaint will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against the respondent.

Issued: December 15, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–33210 Filed 12–18–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 23, 1997, and published in the **Federal Register** on July 10, 1997 (62 FR 37077), Applied Science Labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
4-Methylaminorex (cis isomer) (1590)	I
Lysergic acid diethylamide (7315)	I
Mescaline (7381)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxy- amphetamine (7402)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexyl) pyrrolidine (7458)	I
1-[1-(2-Thienyl) cyclohexyl]piperidine (7470)	I
Dihydromorphine (9145)	I
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II

The firm plans to manufacture small quantities of the listed controlled substances for reference standards.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Applied Science Labs to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33113 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 25, 1997, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application by renewal, which was received for processing on November 4, 1997, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Dimethyltryptamine (7435)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morhone (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the above listed controlled substances for isotope labeled standards for drug analysis.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 17, 1998.

Dated: November 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33115 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 9, 1997, and published in **Federal Register** on June 17, 1997, (62 FR 32824), Damocles10, 3529 Lincoln Highway, Thorndale, Pennsylvania 19372, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Heroin (9200)	I
Codeine (9050)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The firm plans to manufacture the listed controlled substances for the purpose of deuterium labeled internal standards for distribution to analytical laboratories.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Damocles10 to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 1, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33116 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 9, 1997, and published in the **Federal Register** on June 17, 1997, (62 FR 32824), Dupont Pharmaceutical Company, 1000 Stewart Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Dupont Pharmaceutical Company to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33117 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 22, 1997, High Standard Products, 1100 W. Florence Avenue, #B, Inglewood, California 90301, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Heroin (9200)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to manufacture analytical reference standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 17, 1998.

Dated: November 28, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33118 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 30, 1997, Ansys Diagnostics, Inc., 2 Goodyear, Irvine, California 92718, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (PCC) (8603)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 17, 1998.

Dated: December 3, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–33114 Filed 12–18–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs; U.S. National Administrative Office; National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of Open Meeting by Teleconference

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of open meeting by teleconference, January 22, 1998.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administration Office (NAO) gives notice of a meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor.

The Committee was established to provide advice to the U.S. Department of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn from among labor organizations,

business and industry, and educational institutions.

DATES: The Committee will meet on January 22, 1998 from 4:00 p.m. to 5:00 p.m. The meeting will be by teleconference.

ADDRESSES: U.S. Department of Labor, 200 Constitution Avenue N.W., Room C–5515 (Seminar Room 1A), Washington, D.C. 20210. The meeting is open to the public on a first come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, designated Federal Officer, U.S. NATO, U.S. Bureau of International Labor Affairs, U.S. 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: Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington D.C. on December 15, 1997.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 97–33191 Filed 12–18–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, DC 20210 .

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Virginia
VA970015 (Feb. 14, 1997)
VA970085 (Feb. 14, 1997)
West Virginia
WV970002 (Feb. 14, 1997)
WV970003 (Feb. 14, 1997)
WV970006 (Feb. 14, 1997)

Volume III

Kentucky
KY970001 (Feb. 14, 1997)
KY970002 (Feb. 14, 1997)
KY970003 (Feb. 14, 1997)
KY970007 (Feb. 14, 1997)
KY970027 (Feb. 14, 1997)
KY970029 (Feb. 14, 1997)
KY970035 (Feb. 14, 1997)

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Michigan
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General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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Signed at Washington, D.C. this 12th day of December 1997.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–32873 Filed 12–18–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10236, et al.]

Proposed Exemptions; Equitable Life Assurance Society of the United States

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Equitable Life Assurance Society of the United States (Equitable) Located in New York, New York; Proposed Exemption

[Exemption Application No. D–10236]

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR, part 2570, subpart B (55 FR 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) the leasing of 13,086 square feet of office space and 6,650 square feet of parking space by Equitable Real Estate Investment Management, Inc. (ERE) until June 30, 2002 (the Tower 1 Lease); and (2) the leasing of 5,821 square feet of office space and 3584 square feet of parking space by ERE's subsidiary, Compass Management and Leasing, Inc. (Compass) until August 31, 1999 (the Tower 2 Leases), in office buildings located in Orange County, California, that will be held by the Equitable Separate Account No. 8, also known as the Prime Property Fund (the PPF) and to the 1996 renewal of the original leases provided the following conditions are satisfied: (a) the renewal

of the leases and the terms of the leases were reviewed, negotiated and approved by a qualified independent fiduciary to PPF; (b) the qualified independent fiduciary determined that the terms of the transactions reflect fair market value and are at least as favorable to PPF as the terms would have been in arm's length transactions between unrelated parties; and (c) the independent fiduciary will continue to monitor the leases on behalf of the PPF.

EFFECTIVE DATE OF EXEMPTION: This exemption, if granted, will have an effective date of March 15, 1996. This exemption would expire for the Tower 2 Leases, on August 31, 1999 and for the Tower 1 Lease, on June 30, 2002.

Summary of Facts and Representations

1. Equitable (the Applicant) is a life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. Equitable is one of the largest insurance companies in the United States. Among the variety of insurance products and services it offers, Equitable provides funding, asset management and other services for several thousand employee benefit plans subject to the provisions of Title I of ERISA.

Equitable maintains several pooled separate accounts (including PPF) in which pension, profit-sharing, and thrift plans participate. Equitable also has several single customer separate accounts and investment management accounts pursuant to which Equitable manages all or a portion of the assets of a number of large plans.

2. The Applicant represents that PPF is an insurance company separate account as defined in section 3(17) of the Act. PPF was established on August 20, 1973. Equitable maintains PPF for the investment of corporate qualified and governmental pension plan assets in real estate and real estate related investments. As of December 31, 1995, PPF held 171 investments in wholly-owned properties or equity interests in real estate partnerships with an aggregate net value of $3.1 billion. In addition, as of December 31, 1995, PPF had eight investments in mortgage loans with an aggregate value of $311 million, or 9.2 percent of PPF's total net asset value. PPF's portfolio is diversified by property type and by geographic region.

As of December 31, 1995, approximately 206 plans participated in PPF (collectively, the Plans). No plan holds more than a 20 percent interest in PPF. The Equitable Retirement Plan for Employees, Managers and Agents (the Plan), a defined benefit plan, participates in PPF. As of December 31, 1995, 2.2 percent of the fair market value of the assets of PPF were represented by the Plan's investment, and the Plan had invested 4.36 percent of its assets in PPF.

3. ERE provides real estate investment advisory services to Equitable and, through its Compass and Compass Retail, Inc. subsidiaries, property management services with respect to certain properties held by Equitable accounts. ERE provides real estate investment advisory services with respect to the real property assets of PPF and the Compass companies manage numerous PPF properties.

The Applicant provides that until 1997, ERE was an indirect wholly-owned subsidiary of Equitable. All of the outstanding stock of ERE was held by Equitable Holding Corporation (EHC), a Delaware corporation wholly-owned by Equitable. However, Equitable has entered into a purchase agreement dated April 19, 1997 whereby EHC transferred all of its interests in ERE to Neptune Real Estate, Inc., a Delaware corporation wholly-owned by Lend Lease Corporation, an Australian corporation. As a result, ERE is no longer an affiliate of Equitable as of the sale closing date on June 10, 1997. However, the Applicant represents that the responsibilities of ERE with respect to Equitable's accounts remain substantially unchanged and that the exemptive relief requested is still required because ERE will continue to be a fiduciary of PPF.

Equitable and ERE have substantial experience in managing real estate investments. Of the more than $69 billion in total assets held by Equitable at year-end 1995, Equitable's general account held $6.5 billion in real estate mortgage loans and approximately $5.3 billion in equity investments in real property and interests in real estate joint ventures. Additionally, more than $11 billion of real property investments were held in Equitable's real estate separate accounts.

4. Equitable represents that the first of the transactions subject to this proposed exemption originated in 1985, when Equitable, on behalf of PPF, entered into a joint venture agreement with Brinderson Towers I (Brinderson), for the purpose of developing a parcel of real estate in Orange County, California. PPF provided construction financing and Brinderson, an entity unrelated to Equitable, was the developer and managing partner of the joint venture, Brin-Mar I, L.P., succeeded by Brin-Mar II, L.P. on December 24, 1991 (Brin-Mar).[1] One of the two buildings in the Newport Gateway complex in Orange County was completed in 1987 and is a 14 story office tower with a total of 286,132 square feet of rentable space (Tower 1). On August 24, 1988, after completion of Tower 1, Banque Paribas[2] provided permanent financing to fully repay the PPF construction loan for approximately $64 million.

In July, 1987, Brin-Mar leased office space in Tower 1 to ERE as its regional headquarters. The terms of the 10 year lease were negotiated between ERE and Brinderson, acting as managing partner on behalf of Brin-Mar, and reviewed by Cushman and Wakefield, to assure that the terms reflected then-market rates. The lease commenced on July 1, 1987 and terminated on June 30, 1997 and includes subleases by ERE for additional space. The Tower 1 Lease now covers a total of 13,086 square feet of office space at a monthly rental rate of $1.88 per square feet. The Applicant represents that the original ERE lease did not constitute a prohibited transaction because of Brin-Mar's status as a REOC.

5. The Applicant provides that the second transaction subject to the proposed exemption arose out of the development of a building adjacent to Tower 1 (Tower 2). On October 18, 1988, Equitable (on behalf of PPF) and Brinderson began development of Tower 2 under a second amendment to the Brin-Mar joint venture agreement. PPF provided the joint venture with construction financing in the amount of $61 million. However, deterioration of the rental market in Orange County led the parties to restructure ownership of Towers 1 and 2 on December 24, 1991.

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[1] The Applicant represents that Brin-Mar is a real estate operating company (REOC) within the meaning of the Department's ''plan asset'' regulation 20 CFR 2510.3–101(e) and that the assets of the partnership are not plan assets for purposes of the prohibited transaction provisions of the Act and the Code. Further, as an entity predating the plan asset regulation, Brin-Mar achieved REOC status as of January 1, 1987. The Department expresses no opinion herein as to whether Brin-Mar is a REOC or whether the partnership's assets constitute plan assets.

[2] At the time of the transaction, Banque Paribas was unrelated to Equitable. As a result of a change in Equitable's structure in 1992, Banque Paribas is now related to Equitable but with respect to Plans invested in PPF, it is not a party in interest as defined under section 3(14) of the Act by virtue of any relationship to Equitable. Specifically, AXA Mutual Companies currently holds a 62.1 percent interest in Finaxa, an entity in which Banque Paribas holds a 26.5 percent interest. Finaxa owns 60 percent of Midi-Participations, which in turn owns 42.3 percent of AXA SA. AXA SA owns 60.46 percent of Equitable Companies, Inc., which in turn holds 100 percent ownership of Equitable. Equitable represents that Banque Paribas would be deemed to have, at most, a 4 percent interest in Equitable and that this *de minimis* interest in no way affected the terms of any of the transactions described in the Equitable application.

Equitable, on behalf of PPF, foreclosed on Tower 2 and took title to Tower 2 in fee simple absolute. As a result, PPF holds 100 percent of the ownership interest in Tower 2. With the improvement of the economy in Orange County, Tower 2 is now 98 percent leased, and is valued at approximately $38.5 million.

In 1992, Compass began leasing office space in Tower 2. The applicant states that the total square footage now occupied by Compass through the Tower 2 Leases is 5821 square feet of office space (including 1,500 square feet of space used as the Compass property management office) and 3584 square feet of parking space. The applicant represents that the original Tower 2 Leases complied with the requirements of Part III of PTE 84–14 which permits a qualified professional asset manager (QPAM) to lease not in excess of the greater of 7500 square feet or 1 percent of the rentable space of the office building in which the investment fund managed by the QPAM (or an affiliate) has the investment.[3]

Furthermore, the Applicant represents that in 1992, when the original Tower 2 Leases were entered, PPF had two different investments in the two buildings. First, PPF, through Equitable, owned 100 percent of Tower 2. Second, PPF held a limited partnership interest in Brin-Mar II, L.P., the successor to Brin-Mar the original joint venture, and the owner of Tower 1. The Applicant states that because of this difference in ownership, the leased spaces in Tower 1 and Tower 2 were treated separately for the purposes of determining compliance with the space limitations in Part III of PTE 84–14. The original Tower 2 Leases expired but continued on a month-to-month basis while the parties negotiated new lease terms.

6. Compass manages Towers 1 and 2 pursuant to PTE 91–8, granted to Equitable by the Department on January 14, 1991 (56 Fed. Reg. 1411). PTE 91–8 permits the provision of property management, leasing and other services by Equitable affiliates with respect to properties held by Equitable separate accounts in which plans invest. Such provision of services is fully disclosed to plans participating in the separate accounts and is approved by plan fiduciaries independent of Equitable. Management fees and leasing commissions payable to Compass are also reviewed and approved by an independent fiduciary and may not exceed those fees charged by comparable firms for similar services. The applicant states that, aside from the lease agreements provided to the Department and described in the exemption application and the Independent Fiduciary's reports, and the property management agreement discussed above, there are no other separate agreements between the parties governing the leased properties.

7. The Applicant represents that with respect to Tower 1, Banque Paribas insisted on the December 24, 1991 restructuring of Brin-Mar so that Equitable, on behalf of PPF, would obtain a 70 percent partnership interest. As a result, Equitable became the managing partner of Brin-Mar. On September 1, 1995, Banque Paribas sold the note on Tower 1 to Equitable, on PPF's behalf, for $38.5 million. Equitable had first offered the opportunity to purchase the note to Brin-Mar but Brinderson refused. Thus, as of September 1, 1995, PPF held a 70 percent interest in the Brin-Mar partnership owning Tower 1, as well as a $65 million (par value) note secured by Tower 1 which was, at that time, technically in default. Equitable determined that it would be in PPF's best interests to foreclose on Tower 1 because the Brin-Mar partnership had negative equity in Tower 1 (the building was worth $41 million but was subject to a $65 million mortgage). In Equitable's view, any actions taken to revive the partnership would only have the net effect of providing an additional return to Brinderson without any additional benefit to PPF. The foreclosure would result in the termination of the Brin-Mar partnership and consolidation of ownership in PPF. It would also clear title to Tower 1 because the outstanding note encumbered title to Tower 1.

8. The applicant states that on March 15, 1996, Equitable, on behalf of PPF, foreclosed on the note secured by Tower 1. As a result, Tower 1 is now held 100 percent by PPF. Equitable states that the most immediate effect of a Tower 1 foreclosure was to terminate the status of Brin-Mar as a REOC because the foreclosure eliminated all of Brin-Mar's interest in Tower 1. A 100 percent ownership interest in Tower 1 was vested directly in Equitable, on behalf of PPF. The continuing Towers 1 and 2 Lease arrangements involving ERE and Compass were then subject to the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions of section 4975 of the Code.

Regulation 29 CFR 2510.3–101(h)(iii) provides that, notwithstanding any other provision of the plan asset regulation, assets held in an insurance company separate account (such as PPF) in which plans invest constitute plan assets. Tower 1 became a plan asset upon foreclosure and the Tower 1 Lease to ERE then constituted a lease between a plan and a party in interest prohibited by section 406(a)(1)(A) of the Act. Furthermore, because ERE is a fiduciary with respect to PPF and an affiliate of Equitable, the Tower 1 Lease may be a violation of sections 406(b)(1) and (b)(2). Thus, March 15, 1996 is the requested effective date of this proposed exemption for the Tower 1 Lease.

9. The Tower 2 Leases with Compass, an affiliate of ERE, were also affected by the foreclosure on Tower 1. Tower 1 and Tower 2 are now both owned by PPF. The Applicant represents that, while before the foreclosure it had relied upon Part III(a) of PTE 84–14 for relief from the lease of Tower 2 to Compass, following foreclosure the aggregate space leased by ERE and Compass in both Towers 1 and 2 exceeded the limitations in Part III of PTE 84–14. The Applicant interprets Part III(a) of PTE 84–14 to provide that the amount of leased space in different buildings in an integrated office park or commercial center in which the investment fund has the investment shall be aggregated for purposes of determining compliance with the space limitations in Part III. Therefore, the Applicant is also seeking relief for the Tower 2 leasing arrangements as of March 15, 1996.

10. Robert A. Alleborn Properties, Inc. (Alleborn) will act as Independent Fiduciary for PPF with regard to the transactions that are subject to the requested exemptions. Alleborn currently manages more than 10 million square feet of commercial, office, industrial and mixed-use property in the western United States. Alleborn is experienced in and familiar with the real estate market in Southern California. Alleborn is also directly familiar with the Newport Gateway Towers through the provision of consulting services to Banque Paribas during the bank's investment in these projects. The Applicant states that Alleborn currently receives no fee income from Equitable, and anticipates that in the future it will not receive more than 3 percent of its annual income from Equitable and its affiliates, including fees for its services as independent fiduciary.

The responsibilities of Alleborn with respect to the transactions are set forth in a letter agreement between Alleborn and Equitable signed on March 6, 1996 (the Agreement). Under the Agreement, Alleborn assumed responsibility as

[3] The Applicant represents that Equitable is a QPAM as that term is defined in PTE 84–14. The Department expresses no opinion herein as to whether Equitable is a QPAM or whether the original Tower 2 Leases complied with the requirements of Part III of PTE 84–14.

independent fiduciary on behalf of PPF to: review the existing ERE and Compass leases; negotiate the ERE and Compass lease extensions, renewals or modifications and prepare for delivery to Equitable, one or more reports regarding these activities; and annually monitor the compliance of ERE and Compass with the terms of the leases.

The Agreement provides that Alleborn's fees may only be changed by written agreement among Alleborn and a majority in interest of the plans participating in PPF. Alleborn may resign as independent fiduciary at any time on no less than 90 days prior written notice to Equitable and will be deemed to have resigned in the event that it no longer meets the requirements for an independent fiduciary. In no event shall Equitable or any affiliate have the authority to terminate Alleborn's service as independent fiduciary. Alleborn may be removed only by a vote of a majority in interest of the plans participating in PPF.

Specifically, the Agreement provides that Alleborn has been authorized by Equitable to determine on behalf of PPF whether it was in the best interests of PPF to continue the Tower 1 and Tower 2 Leases after the foreclosure date of March 15, 1996 under the existing terms. This entailed a determination that the existing leases provides PPF with a market-level return or better. Further, Alleborn was authorized to represent PPF in negotiations regarding the extension, renewal or modification of the Tower 1 and Tower 2 Leases. Alleborn has the authority to determine whether and on what terms PPF will continue the transactions. Upon completion of the negotiations, Alleborn was required to determine whether the lease terms as negotiated were in the best interests of PPF and to submit a report summarizing Alleborn's activities.

Additionally, Alleborn will continue to monitor both the Tower 1 and Tower 2 Leases to assure compliance with the lease terms. Compliance with lease terms will be reviewed at least annually either directly by Alleborn or by an independent contractor reporting to Alleborn. Based on this review, Alleborn will have the authority to take any steps it deems necessary to assure lease compliance.

On March 12, 1996, Alleborn submitted an interim report to Equitable that stated that Alleborn had evaluated the Towers 1 and 2 current leases and preliminarily concluded that the leases provided PPF with above market returns. Alleborn submitted a more detailed review of the current lease terms in the Towers 1 and 2 Leases, and informed Equitable of its conclusion in the May 16, 1996 Independent Fiduciary Review and Opinion of Existing Leases (Review)[4] that the leases in both Tower 1 and Tower 2 provide PPF with above market returns and it was in the best interests of PPF to continue the existing leases pending renegotiation and extension of the leasing relationships. The Review, submitted by the Applicant, compared eight office complexes that would compete and compare favorably with Towers 1 and 2 for tenants and were used in comparing the existing tenancy for rate and term leases.

Alleborn has completed the renegotiation process for the leases to Compass in Tower 2. The application for exemption contained copies of the executed leases and the Independent Fiduciary's report dated September 2, 1996 (Report 1) approving the leases between Equitable and Compass for a three year term commencing September 1, 1996 and terminating August 31, 1999. Report 1 states that the Compass leases are market rates for comparable projects for Tower 1 and Tower 2 and concludes that it is in the best interests of PPF to consummate the Compass leases.

Alleborn has also completed the renegotiation process for the lease to ERE in Tower 1. The application for exemption contained the Independent Fiduciary's report dated October 1, 1996 (Report 2) approving the new lease term between Equitable and ERE for 69 months, commencing October 1, 1996 and terminating June 30, 2002. Report 2 states that concurrent with the execution of a new lease, a Termination and Surrender Agreement for the original lease, dated April 1, 1987, was executed by ERE. An unrelated tenant in Tower 1 has requested a lease extension and at the same time desires to relinquish 231 square feet of space. Effective January 1, 1997, ERE will incorporate the additional 231 square feet into their base lease, allowing their total occupancy for the remaining months on the lease to be 13,086 square feet. Additionally, Alleborn required ERE to pay in their new lease, the unamortized portion of the above market rate that remained in their old lease dated April 1, 1987. This allowed Tower 1 to recapture the potential of lost income between the new lease and the old lease. Report 2 concludes that the lease is a market rate lease comparable to buildings described in the Review and that it is in the best interests of PPF to enter the renegotiated lease.

11. In summary, the applicant represents that the requested exemption will satisfy the criteria of section 408(a) of the Act for the following reasons: (a) the Towers 1 and 2 Leases and the renewals of the original leases are for a limited term; (b) the terms of the Tower 1 and 2 Leases as of March 15, 1996, and the renewal of the leases have been reviewed, negotiated and approved by Alleborn, a qualified independent fiduciary to PPF, who has determined that the terms of the transactions reflect fair market value and are at least as favorable to PPF as the terms would have been in arm's length transactions between unrelated parties; and (c) Alleborn will continue to monitor the leases on behalf of PPF.

For Further Information Contact: Ms. Wendy McColough of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

PNC Capital Markets, Inc. (PNC) Located in Pittsburgh, Pennsylvania; Proposed Exemption

[Application No. D–10521]

I. Transactions

A. Effective October 21, 1997, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice

[4] In a November 17, 1997 letter to the Department, Alleborn stated that between the dates of March 15, 1996 and May 16, 1996, there were no changes to the circumstances surrounding the transactions subject to the requested exemptions that in any way adversely affected Alleborn's May 16, 1996 conclusion.

with respect to the assets of that Excluded Plan.[5]

B. Effective October 21, 1997, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) the plan is not an Excluded Plan;

(ii) solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) a plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[6] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective October 21, 1997, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) the pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[7]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. Effective October 21, 1997, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating from a rating agency (as defined in section III.W.) at the time of such acquisition that is in one of the three highest generic rating categories;

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

(7) In the event that the obligations used to fund a trust have not all been transferred to the trust on the closing date, additional obligations as specified in subsection III.B(1) may be transferred to the trust during the pre-funding period (as defined in section III.BB.) in exchange for amounts credited to the pre-funding account (as defined in section III.Z.), provided that:

(a) The pre-funding limit (as defined in section III.AA.) is not exceeded;

(b) All such additional obligations meet the same terms and conditions for eligibility as those of the original obligations used to create the trust corpus (as described in the prospectus or private placement memorandum and/

[5] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[6] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[7] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

or pooling and servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority of the outstanding certificateholders or by a rating agency;

(c) The transfer of such additional obligations to the trust during the pre-funding period does not result in the certificates receiving a lower credit rating from a rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the trust at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the trust on the closing date;

(e) In order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to those which were acquired as of the closing date, the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor, or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, the underwriter and the trustees) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date;

(f) The pre-funding period shall be described in the prospectus or private placement memorandum provided to investing plans;

(g) The trustee of the trust (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. Certificate means:

(1) a certificate—

(a) that represents a beneficial ownership interest in the assets of a trust; and

(b) that entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) a certificate denominated as a debt instrument—

(a) that represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or section 860L, respectively, of the Internal Revenue Code of 1986; and

(b) that is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) above for which PNC or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. Trust means an investment pool, the corpus of which is held in trust and consists solely of:

(1)(a) secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T); and/or

(c) obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property); and/or

(d) obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U); and/or

(e) *guaranteed governmental mortgage pool certificates*, as defined in 29 CFR 2510.3–101(i)(2); and/or

(f) fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);

(2) property which had secured any of the obligations described in subsection B.(1);

(3) (a) undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and/or

(b) cash or investments made therewith which are credited to an account to provide payments to certificateholders pursuant to any yield supplement agreement or similar yield maintenance arrangement to supplement the interest rates otherwise payable on obligations described in subsection III.B.(1) held in the trust, provided that such arrangements do not involve swap agreements or other notional principal contracts; and/or

(c) cash transferred to the trust on the closing date and permitted investments made therewith which:

(i) are credited to a pre-funding account established to purchase additional obligations with respect to which the conditions set forth in clauses (a)–(g) of subsection II.A.(7) are met and/or;

(ii) are credited to a capitalized interest account (as defined in section III.X.); and

(iii) are held in the trust for a period ending no later than the first distribution date to certificate holders occurring after the end of the pre-funding period.

For purposes of this clause (c) of subsection III.B.(3), the term *permitted investments* means investments which are either: (i) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by the United States, or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a rating agency; are described in the pooling and servicing agreement; and are permitted by the rating agency.

(4) rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, yield supplement agreements described in clause (b) of subsection III.B.(3) and other credit support arrangements with respect to any obligations described in subsection III.B.(1).

Notwithstanding the foregoing, the term *trust* does not include any investment pool unless: (i) the investment pool consists only of assets of the type described in clauses (a) through (f) of subsection III.B.(1) which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by a rating agency for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means:

(1) PNC;

(2) any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with PNC; or

(3) any member of an underwriting syndicate or selling group of which PNC or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *Sponsor* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *Master Servicer* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *Subservicer* means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. *Trustee* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) each underwriter;

(2) each insurer;

(3) the sponsor;

(4) the trustee;

(5) each servicer;

(6) any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) any affiliate of a person described in (1)–(6) above.

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *Control* means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be *independent* of another person only if:

(1) such person is not an affiliate of that other person; and

(2) the other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *Sale* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *Forward delivery commitment* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. *Reasonable compensation* has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. *Qualified Administrative Fee* means a fee which meets the following criteria:

(1) the fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) the servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) the ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) the amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *Qualified Equipment Note Secured By A Lease* means an equipment note:

(1) which is secured by equipment which is leased;

(2) which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) with respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. *Qualified Motor Vehicle Lease* means a lease of a motor vehicle where:

(1) the trust owns or holds a security interest in the lease;

(2) the trust holds a security interest in the leased motor vehicle; and

(3) the trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. *Pooling and Servicing Agreement* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. *Rating Agency* means Standard & Poor's Structured Rating Group (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Credit Rating Co. (D & P) or Fitch Investors Service, L.P. (Fitch);

X. *Capitalized Interest Account* means a trust account: (i) Which is established to compensate certificateholders for shortfalls, if any, between investment earnings on the pre-funding account and the pass-through rate payable under the certificates; and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

Y. *Closing Date* means the date the trust is formed, the certificates are first issued and the trust's assets (other than those additional obligations which are to be funded from the pre-funding account pursuant to subsection II.A.(7)) are transferred to the trust.

Z. Pre-Funding Account means a trust account: (i) which is established to purchase additional obligations, which obligations meet the conditions set forth in clauses (a)–(g) of subsection II.A.(7); and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

AA. Pre-Funding Limit means a percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered which is less than or equal to 25 percent.

BB. Pre-Funding Period means the period commencing on the closing date and ending no later than the earliest to occur of: (i) the date the amount on deposit in the pre-funding account is less than the minimum dollar amount specified in the pooling and servicing agreement; (ii) the date on which an event of default occurs under the pooling and servicing agreement; or (iii) the date which is the later of three months or 90 days after the closing date.

CC. PNC means PNC Capital Markets, Inc. and its affiliates.

The Department notes that this proposed exemption is included within the meaning of the term ''Underwriter Exemption'' as it is defined in section V(h) of Prohibited Transaction Exemption 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts at 35932.

Summary of Facts and Representations

1. PNC is an indirect, wholly-owned, separately capitalized investment banking and registered broker-dealer subsidiary of PNC Bank Corp. (the Corporation). As of September 30, 1997, PNC's capitalization was approximately $54.9 million. The Corporation is a diversified financial services company incorporated under the laws of the Commonwealth of Pennsylvania and a multi-bank holding company registered under the Bank Holding Act of 1956, as amended. As of September 30, 1997, the Corporation's consolidated assets were approximately $71.8 billion. The principal executive offices of the Corporation are located in Pittsburgh, Pennsylvania. As of September 30, 1997, the Corporation had indirectly-held subsidiary banks located in seven states. In addition, indirectly-held non-bank subsidiaries of the Corporation offer a wide range of insurance, securities brokerage, investment banking, venture capital investment, mortgage banking and consumer finance products and services.

PNC Mortgage Corp. of America (PNC Mortgage), an Ohio corporation having its principal place of business in Vernon Hills, Illinois, is one of the largest mortgage banking originators in the United States, with offices in all 50 states.

PNC Bank, National Association (the Bank), an indirect, wholly-owned subsidiary of the Corporation, is a national banking association engaged in banking and related activities and is the largest bank in the Corporation's banking group. The Bank is the sole shareholder of PNC Mortgage. As of September 30, 1997, the Bank had total assets of approximately $57.5 billion. The principal executive offices of the Bank are located in Pittsburgh, Pennsylvania. Six other commercial banks and one federal savings bank, located in six states, had aggregated assets slightly exceeding $13.2 billion as of September 30, 1997.

PNC was incorporated in 1984 as a Pennsylvania corporation. PNC maintains its principal place of business in Pittsburgh, Pennsylvania and has branch offices in Pennsylvania, New Jersey, Ohio, and Kentucky.

In 1987, PNC received Federal Reserve Board authorization to underwrite and deal in commercial paper, municipal revenue bonds, residential mortgage-related securities and consumer receivable-related securities. This order is currently subject to the condition that PNC does not derive more than 25% of its total gross revenues from such activities. In addition, PNC's affiliates have the power to sell interests in their own assets in the form of asset-backed securities.

PNC is a member of the National Association of Securities Dealers and the Securities Investor Protection Corporation and underwrites and deals in corporate debt securities, commercial paper, municipal securities, high-yield securities and asset-backed securities, provides private placement and corporate finance advisory services, including merger and acquisition advisory services, publishes research on a wide range of securities and issuers, and engages in the syndication and arranging and trading of bank loans.

PNC has significant experience in asset securitizations. PNC's participation in securitization transactions includes the underwriting of public offerings and serving as private placement agent or commercial paper conduit agent/dealer for transactions backed by retail auto receivables and bank and retail credit card receivables.

Trust Assets

2. PNC seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) single and multi-family residential or commercial mortgage investment trusts;[8] (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed

[8] The Department notes that PTE 83–1 [48 FR 895, January 7, 1983], a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-l are met. PNC requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, PNC has stated that it may still avail itself of the exemptive relief provided by PTE 83–1.

governmental mortgage pool certificate investment trusts.[9]

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mort gages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.[10]

Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee.[11] The sponsor or servicer of a trust selects assets to be included in the trust.[12] These assets are receivables which may have been originated by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.[13]

Typically, on or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. Typically, all receivables to be held in the trust are transferred as of the closing date, but in some transactions, as described more fully below, a limited percentage of the receivables to be held in the trust may be transferred during a limited period of time following the closing date, through the use of a pre-funding account.

PNC, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates presently contemplated are to be underwritten by PNC on a firm commitment basis. In addition, PNC anticipates that it may privately place certificates on both a firm commitment and an agency basis. PNC may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders will be entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. Usually, the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account does not exceed one month. Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. PNC requests exemptive relief for two types of multi-class certificates: ''strip'' certificates and ''fast-pay/ slow-pay'' certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.[14]

''Fast-pay/slow-pay'' certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class

[9] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[10] Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990 at 23150).

[11] The Department is of the view that the term ''trust'' includes a trust: (a) the assets of which, although all specifically identified by the sponsor or the originator as of the closing date, are not all transferred to the trust on the closing date for administrative or other reasons but will be transferred to the trust shortly after the closing date, or (b) with respect to which certificates are not purchased by plans until after the end of the pre-funding period at which time all receivables are contained in the trust.

[12] It is the Department's view that the definition of ''trust'' contained in III.B. includes a two-tier structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues securities that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

[13] It is the view of the Department that section III.B.(4) includes within the definition of the term ''trust'' rights under any yield supplement or similar arrangement which obligates the sponsor or master servicer, or another party specified in the relevant pooling and servicing agreement, to supplement the interest rates otherwise payable on the obligations described in section III.B.(1), in accordance with the terms of a yield supplement arrangement described in the pooling and servicing agreement, provided that such arrangements do not involve swap agreement or other notional principal contracts.

[14] It is the Department's understanding that where a plan invests in REMIC ''residual'' interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(l)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing a certificate be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so distributed, all senior certificateholders then entitled to receive distributions will share in the amount distributed on a pro rata basis.[15]

6. The trust will be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

In some cases the trust will be maintained as a Financial Asset Securitization Investment Trust (''FASIT''), a statutory entity created by the Small Business Job Protection Act of 1996, adding sections 860H, 860J, 860K and 860L to the Code. In general, a FASIT is designed to facilitate the securitization of debt obligations, such as credit card receivables, home equity loans, and auto loans, and thus, allows certain features such as revolving pools of assets, trusts containing unsecured receivables and certain hedging types of investments. A FASIT is not a taxable entity and debt instruments issued by such trusts, which might otherwise be recharacterized as equity, will be treated as debt in the hands of the holder for tax purposes. However, a trust which is the subject of the proposed exemption will be maintained as a FASIT only where the assets held by the FASIT will be comprised of secured debt; revolving pools of assets or hedging investments will not be allowed unless specifically authorized by the exemption, if granted, so that a trust maintained as a FASIT will be maintained as an essentially passive entity.

Trust Structure with Pre-Funding Account

Pre-Funding Accounts

7. As described briefly above, some transactions may be structured using a pre-funding account or a capitalized interest account. If pre-funding is used, cash sufficient to purchase the receivables to be transferred after the closing date will be transferred to the trust by the sponsor or originator on the closing date. During the pre-funding period, such cash and temporary investments, if any, made therewith will be held in a pre-funding account and used to purchase the additional receivables, the characteristics of which will be substantially similar to the characteristics of the receivables transferred to the trust on the closing date. The pre-funding period for any trust will be defined as the period beginning on the closing date and ending on the earliest to occur of (i) the date on which the amount on deposit in the pre-funding account is less than a specified dollar amount, (ii) the date on which an event of default occurs under the related pooling and servicing agreement or (iii) the date which is the later of three months or ninety days after the closing date. Certain specificity and monitoring requirements described below will be met and will be disclosed in the pooling and servicing agreement and/or the prospectus or private placement memorandum.

For transactions involving a trust using pre-funding, on the closing date, a portion of the offering proceeds will be allocated to the pre-funding account generally in an amount equal to the excess of (i) the principal amount of certificates being issued over (ii) the principal balance of the receivables being transferred to the trust on such closing date. In certain transactions, the aggregate principal balance of the receivables intended to be transferred to the trust may be larger than the total principal balance of the certificates being issued. In these cases, the cash deposited in the pre-funding account will equal the excess of the principal balance of the total receivables intended to be transferred to the trust over the principal balance of the receivables being transferred on the closing date.

On the closing date, the sponsor transfers the assets to the trust in exchange for the certificates. The certificates are then sold to PNC for cash or to the certificateholders directly if the certificates are sold through PNC as a placement agent. The cash received by the sponsor from the certificateholders (or PNC) from the sale of the certificates issued by the trust in excess of the purchase price for the receivables and certain other trust expenses such as underwriting or placement agent fees and legal and accounting fees, constitutes the cash to be deposited in the pre-funding account. Such funds are either held in the trust and accounted for separately, or are held in a sub-trust. In either event, these funds are not part of assets of the sponsor.

Generally, the receivables are transferred at par value, unless the interest rate payable on the receivables is not sufficient to service both the interest rates to be paid on the certificates and the transaction fees (i.e., servicing fees, trustee fees and fees to credit support providers). In such cases, the receivables are sold to the trust at a discount, based on an objective, written, mechanical formula which is set forth in the pooling and servicing agreement and agreed upon in advance between the sponsor, the rating agency and any credit support provider or other insurer. The proceeds payable to the sponsor from the sale of the receivables transferred to the trust may also be reduced to the extent they are used to pay transaction costs (which typically include underwriting or placement agent fees and legal and accounting fees). In addition, in certain cases, the sponsor may be required by the rating agencies or credit support providers to set up trust reserve accounts to protect the certificateholders against credit losses.

The pre-funding account of any trust will be limited so that the percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered (the pre-funding limit) will not exceed 25%. The pre-funding limit (which may be expressed as a ratio or as a stated percentage or a combination thereof) will be specified in the prospectus or the private placement memorandum.

Any amounts paid out of the pre-funding account are used solely to purchase receivables and to support the certificate pass-through rate (as explained below). Amounts used to support the pass-through rate are payable only from investment earnings and are not payable from principal. However, in the event that, after all of

[15] If a trust issues subordinated certificates, holders of such subordinated certificates may not share in the amount distributed on a pro rata basis with the senior certificateholders. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

the requisite receivables have been transferred into the trust, any funds remain in the pre-funding account, such funds will be paid to the certificateholders as principal prepayments. Upon termination of the trust, if no receivables remain in the trust and all amounts payable to certificateholders have been distributed, any amounts remaining in the trust would be returned to the sponsor.

A dramatic change in interest rates on the receivables held in a trust using a pre-funding account would be handled as follows. If the receivables (other than those with adjustable or variable rates) had already been originated prior to the closing date, no action would be required as the fluctuations in the market interest rates would not affect the receivables transferred to the trust after the closing date. In contrast, if interest rates fall after the closing date, loans originated after the closing date will tend to be originated at lower rates, with the possible result that the receivables will not support the certificate pass-through rate. In a situation where interest rates drop dramatically and the sponsor is unable to provide sufficient receivables at the requisite interest rates, the pool of receivables would be closed. In this latter event, under the terms of the pooling and servicing agreement, the certificateholders would receive a repayment of principal from the unused cash held in the pre-funding account. In transactions where the certificate pass-through rates are variable or adjustable, the effects of market interest rate fluctuations are mitigated. In no event will fluctuations in interest rates payable on the receivable affect the pass-through rate for fixed rate certificates.

The cash deposited into the trust and allocated to the pre-funding account is invested in certain permitted investments (see below), which may be commingled with other accounts of the trust. The allocation of investment earnings to each trust account is made periodically as earned in proportion to each account's allocable share of the investment returns. As pre-funding account investment earnings are required to be used to support (to the extent authorized in the particular transaction) the pass-through amounts payable to the certificateholders with respect to a periodic distribution date, the trustee is necessarily required to make periodic, separate allocations of the trust's earning to each trust account, thus ensuring that all allocable commingled investment earnings are properly credited to the pre-funding account on a timely basis.

The Capitalized Interest Account

8. In certain transactions where a pre-funding account is used, the sponsor and/or originator may also transfer to the trust additional cash on the closing date, which is deposited in a capitalized interest account and used during the pre-funding period to compensate the certificateholders for any shortfall between the investment earnings on the pre-funding account and the pass-through interest rate payable under the certificates.

The capitalized interest account is needed in certain transactions since the certificates are supported by the receivables and the earnings on the pre-funding account, and it is unlikely that the investment earnings on the pre-funding account will equal the interest rates on the certificates (although such investment earnings will be available to pay interest on the certificates). The capitalized interest account funds are paid out periodically to the certificateholders as needed on distribution dates to support the pass-through rate. In addition, a portion of such funds may be returned to the sponsor from time to time as the receivables are transferred into the trust and the need for the capitalized interest account diminishes. Any amounts held in the capitalized interest account generally will be returned to the sponsor and/or originator either at the end of the pre-funding period or periodically as receivables are transferred and the proportionate amount of funds in the capitalized interest account can be reduced. Generally, the capitalized interest account terminates no later than the end of the pre-funding period. However, there may be some cases where the capitalized interest account remains open until the first date distributions are made to certificateholders following the end of the pre-funding period.

In other transactions, a capitalized interest account is not necessary because the interest paid on the receivables exceeds the interest payable on the certificates at the applicable pass-through rate and the fees of the trust. Such excess is sufficient to make up any shortfall resulting from the pre-funding account earning less than the certificate pass-through rate. In certain of these transactions, this occurs because the aggregate principal amount of receivables exceeds the aggregate principal amount of certificates.

Pre-Funding Account and Capitalized Interest Account Payments and Investments

9. Pending the acquisition of additional receivables during the pre-funding period, it is expected that amounts in the pre-funding account and the capitalized interest account will be invested in certain permitted investments or will be held uninvested. Pursuant to the pooling and servicing agreement, all permitted investments must mature prior to the date the actual funds are needed. The permitted types of investments in the pre-funding account and capitalized interest account are investments which are either: (i) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a rating agency, as set forth in the pooling and servicing agreement and as required by the rating agencies. The credit grade quality of the permitted investments is generally no lower than that of the certificates. The types of permitted investments will be described in the pooling and servicing agreement.

The ordering of interest payments to be made from the pre-funding and capitalized interest accounts is pre-established and set forth in the pooling and servicing agreement. The only principal payments which will be made from the pre-funding account are those made to acquire the receivables during the pre-funding period and those distributed to the certificateholders in the event that the entire amount in the pre-funding account is not used to acquire receivables. The only principal payments which will be made from the capitalized interest account are those made to certificateholders if necessary to support the certificate pass-through rate or those made to the sponsor either periodically as they are no longer needed or at the end of the pre-funding period when the capitalized interest account is no longer necessary.

The Characteristics of the Receivables Transferred During the Pre-Funding Period

10. In order to ensure that there is sufficient specificity as to the representations and warranties of the sponsor regarding the characteristics of the receivables to be transferred after the closing date:

(i) All such receivables will meet the same terms and conditions for eligibility

as those of the original receivables used to create the trust corpus (as described in the prospectus or private placement memorandum and/or pooling and servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. However, the terms and conditions for determining the eligibility of a receivable may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by a rating agency;

(ii) The transfer to the trust of the receivables acquired during the pre-funding period will not result in the certificates receiving a lower credit rating from the rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(iii) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the trust at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the trust on the closing date;

(iv) The trustee of the trust (or any agency with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

In order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to receivables that were acquired as of the closing date, the characteristics of the additional obligations subsequently acquired will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, PNC and the trustee) stating whether or not the characteristics of the additional obligations acquired after the closing date conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date.

Each prospectus, private placement memorandum and/or pooling and servicing agreement will set forth the terms and conditions for eligibility of the receivables to be included in the trust as of the related closing date, as well as those to be acquired during the pre-funding period, which terms and conditions will have been agreed to by the rating agencies which are rating the applicable certificates as of the closing date. Also included among these conditions is the requirement that the trustee be given prior notice of the receivables to be transferred, along with such information concerning those receivables as may be requested. Each prospectus or private placement memorandum will describe the amount to be deposited in, and the mechanics of, the pre-funding account and will describe the pre-funding period for the trust.

Parties to Transactions

11. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a home-owner or automobile purchaser, or leases property to a lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their businesses, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

12. The *sponsor* will be one of three entities: (i) a special-purpose or other corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

13. The *trustee* of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to PNC, the trust sponsor, the servicer or any other member of the Restricted Group (as defined in section III.L.). PNC represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer or sponsor or out of the trust assets. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

14. The *servicer* of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, the receivables may be ''subserviced'' by their respective originators and a single entity may ''master service'' the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

Receivables of the type suitable for inclusion in a trust invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold receivables on the computer system in order to continue monitoring the accounts. Although the records relating to sold receivables are kept in the same master file as receivables retained by the originator, the sold receivables are flagged as having been sold. To protect the investor's interest, the servicer ordinarily covenants that this ''sold flag'' will be included in all records relating to the sold receivables, including the master file, archives, tape extracts and printouts.

The sold flags are invisible to the obligor and do not affect the manner in which the servicer performs the billing, posting and collection procedures

related to the sold receivables. However, the servicer uses the sold flag to identify the receivables for the purpose of reporting all activity on those receivables after their sale to investors.

Depending on the type of receivable and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsibilities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investors are reconciled to the servicer's books and reviewed by public accountants.

The *underwriter* will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment basis. Private placement of certificates may be made on a firm commitment or agency basis.

It is anticipated that the lead and co-managing underwriters will make a market in certificates offered to the public.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (although they may themselves be related) will be unrelated to PNC. In other cases, however, affiliates of PNC may originate or service receivables included in a trust or may sponsor a trust.

Certificate Price, Pass-Through Rate and Fees

15. In some cases, the sponsor will obtain the receivables from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a third party pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the receivables transferred to the trust, the sponsor receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters.

16. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.[16] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

17. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer typically will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This ''credit support fee'' may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

18. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

19. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts maintained with itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

20. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what it receives for the

[16] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into ''principal'' and ''interest'' components based on an implicit interest rate.

certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

21. The applicant represents that as the principal amount of the receivables in a trust is reduced by payments, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to: (1) the unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the receivables in the case of a trust that is not a REMIC.

Certificate Ratings

22. The certificates will have received one of the three highest ratings available from a rating agency. Insurance or other credit support (such as surety bonds, letters of credit, guarantees, or overcollateralization) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

Provision of Credit Support

23. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be the master servicer or an affiliate thereof) or, (c) in the case of a trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a ''floor'' dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount thereafter is subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

24. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust

was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets, including the terms and conditions for eligibility of any receivables transferred during the pre-funding period and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; a description of permitted investments for any pre-funding account or capitalized interest account; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

(k) A statement as to the duration of any pre-funding period and the pre-funding limit for the trust.

25. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

26. In the case of a trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10-Q and Annual Reports on Form 10-K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10-Q and a modification of the disclosure requirements for annual reports on Form 10-K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8-K to report material developments concerning the trust and the certificates and copies of the statements sent to certificateholders. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

27. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets (including those purchased by the trust from any pre-funding account), payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the servicer or trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Forward Delivery Commitments

28. To date, no forward delivery commitments have been entered into by PNC in connection with the offering of any certificates, but PNC may contemplate entering into such commitments. The utility of forward delivery commitments has been recognized with respect to offering similar certificates backed by pools of residential mortgages, and PNC may find it desirable in the future to enter into such commitments for the purchase of certificates.

Secondary Market Transactions

29. It is PNC's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter, and it is PNC's intention to make a market for any certificates for which it is lead or co-managing underwriter, although it is under no obligation to do so. At times PNC will facilitate sales by investors who purchase certificates if PNC has acted as agent or principal in the original private placement of the certificates and if such investors request PNC's assistance.

Retroactive Relief

30. PNC represents that it has not engaged in transactions related to mortgage-backed and asset-backed securities based on the assumption that retroactive relief would be granted prior to the date of their application. However, PNC requests the exemptive relief granted to be retroactive to October 21, 1997, the date of their application, and would like to rely on such retroactive relief for transactions entered into prior to the date exemptive relief may be granted.

Summary

31. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain ''fixed pools'' of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) In the case where a pre-funding account is used, the characteristics of the receivables to be transferred to the trust during the pre-funding period will be substantially similar to the characteristics of those transferred to the trust on the closing date, thereby giving the sponsor and/or originator little discretion over the selection process, and compliance with this requirement will be assured by the specificity of the characteristics and the monitoring mechanisms contemplated under the

proposed exemption. In addition, certain cash accounts will be established to support the certificate pass-through rate and such cash accounts will be invested in short-term, conservative investments; the pre-funding period will be of a reasonably short duration; a pre-funding limit will be imposed; and any Internal Revenue Service requirements with respect to pre-funding intended to preserve the passive income character of the trust will be met. The fiduciary of the plans making the decision to invest in certificates is thus fully apprised of the nature of the receivables which will be held in the trust and has sufficient information to make a prudent investment decision;

(c) Certificates in which plans invest will have been rated in one of the three highest rating categories by a rating agency. Credit support will be obtained to the extent necessary to attain the desired rating;

(d) All transactions for which PNC seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(e) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(f) PNC anticipates that it will make a secondary market in certificates (although it is under no obligation to do so).

Notice to Interested Persons

The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Jeffrey R. Light, M.D., Inc. Profit Sharing Plan (the Plan) Located in Garden Grove, CA; Proposed Exemption

[Application No. D–10530]

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) by the individual, self-directed account of Jeffrey R. Light, M.D. within the Plan (the Account) of two parcels of real property (the Property) to Jeffrey R. Light, M.D. (Dr. Light), a party in interest with respect to the Plan; provided the following conditions are satisfied:

(A) The terms and conditions of the transaction are no less favorable to the Plan than those which the Plan would receive in an arm's-length transaction with an unrelated party;

(B) The Sale is a one-time transaction for cash;

(C) The Plan does not incur any expenses from the Sale; and

(D) The Plan receives as consideration from the Sale no less than the fair market value of the Property as determined on the date of the Sale by a qualified, independent appraiser.

Summary of Facts and Representations

1. Jeffrey R. Light, M.D., Inc., located in Garden Grove, California, a California corporation for the practice of medicine, is sponsor of the Plan. Dr. Light is a medical physician and a pathologist, whose practice involves tissue analysis, sample reviews, and providing opinions regarding such analysis and review.

The Plan is a defined contribution plan that is intended to qualify under section 401(a) of the Code. The applicant represents that on December 31, 1996, the Plan had 26 participants and total assets of $523,077, and of the total assets $404,582 was in Dr. Light's Account. The applicant represents that the Plan permits its participants to self-direct their respective accounts into various investments. Dr. Light is represented by the applicant to be the fiduciary and trustee with respect to the Plan.

2. The Property consists of two lots of unimproved land. One of the lots is located at 370 Ranch Road in Mammoth Lakes, California, consists of 0.38 of an acre (16,553 square feet), and is designated as Ranch at Snowcreek Lot #14 (Lot #14). The second lot is located at Majestic Pines Drive in Mammoth, California, consists of 0.2 of an acre (8,750 square feet), and is designated as Mammoth Vista III Lot #34 (Lot #34). The applicant represents that Lot #14 was purchased on January 29, 1996, for the sum of $126,892 and Lot #34 was purchased on January 7, 1991, for the sum of $127,639.55.

The applicant also represents that the Property was purchased only for investment purposes and it has been held in the Account since the respective dates of purchase with no improvements made on or to the Property. Also, the applicant represents that the Property has not been used or leased by anyone since being acquired by the Account.

The Property was appraised on October 3, 1997, by Mitch Dunshee, MAI, AG002575 and Cheryl Bretton, Appraiser, AG023954, The Dunshee Appraisal Group, located in Frensno, California; and Lot #14 was determined to have a fair market value of $130,000 and Lot #34 was determined to have a fair market value of $120,000. Also the appraisal of the Property represented that the Property is zoned residential and located in an earthquake zone that is designated Zone 1: High Risk Damage; Reference: ISO Earthquake Zones, 1981.

3. Dr. Light proposes to purchase the Property from the Account for cash with no expenses incurred by the Plan in a one-time transaction, paying to the Account the fair market value of the Property as determined by a qualified, independent appraiser on the date of the Sale.

Dr. Light is prompted to take this action by Mr. Douglas B. George, Financial Counsel, Newport Beach, California, whose services were recently employed by Dr. Light with respect to the Plan's finances. The applicant represents the need for the Account to diversify its investments, noting that the Property represents more than 62 percent of the total value of the assets in the Account. Also, Mr. George expressed concern about the lack of investment diversity in the Account and the location of the Property being in the high risk earthquake zone of California.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the Sale is a one-time transaction for cash; (b) the Plan and the Account will receive the fair market value of the Property as determined by a qualified, independent appraiser on the date of the transaction; (c) the transaction will enable the Account to avoid any risk associated with the continued holding of the Property and enable the Dr. Light to direct Account assets to active and safer investments; (d) neither the Plan or the Account will incur any expenses from the transaction; and (e) other than Dr. Light, no other participant of the Plan will be affected by the transaction, and

he desires that the transaction be consummated.

Notice to Interested Persons

Because the only Plan assets involved in the proposed transaction are those in the Account of Dr. Light and he is the only participant affected by the proposed transaction, there is no need to distribute the notice of the proposed transaction to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 16th day of December 1997.

Ivan Strasfeld,

Director of Exemption Determinations Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–33179 Filed 12–18–97; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Nos. D–10461, D–10462 and D–10463]

Notice of Proposed Amendment to Prohibited Transaction Exemption (PTE) 93–8 Involving the Fortunoff Pension Plans (the Plans) Located in Westbury, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed amendment to PTE 93–8.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption which, if granted, would amend PTE 93–8 (58 FR 7258, February 5, 1993), a purchase, leaseback and license exemption involving Plans sponsored by Fortunoff Fine Jewelry and Silverware, Inc. (FFJ) and M. Fortunoff of Westbury Corporation (M. Fortunoff) and parties in interest. These transactions are described in a notice of pendency that was published in the **Federal Register** on May 8, 1992 at 57 FR 19951. The proposed exemption, if granted, would affect participants and beneficiaries of, and fiduciaries with respect to the Plans.

EFFECTIVE DATE: If granted, this proposed exemption would be effective as of the date the notice granting the exemption is published in the **Federal Register**.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 2, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application Nos. D–10461, D–10462 and D–10463. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of proposed exemption that would amend PTE 93–8. PTE 93–8 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed on behalf of M. Fortunoff and FFJ (collectively), the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed exemption is being issued solely by the Department.

I. Background

PTE 93–8 provides prospective exemptive relief from the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code with respect to (1) the purchase by the Fortunoff Pension Plan—Employer Group A Plan (the Employer Group A Plan), the Fortunoff Pension Plan—Employer Group B Plan (the Employer Group B Plan) and the Fortunoff Fine Jewelry and Silverware, Inc. Profit Sharing Plan (the Profit Sharing Plan) of undivided interests in certain improved real property (the Property), for the total

cash consideration of $6 million, from M. Fortunoff, the sponsor of the Group B Plan and a retailer of rugs, furniture and household items; (2) the leasing of the Property by the Plans, under the provisions of an amended lease (the Amended Lease), to FFJ, the sponsor of the Group A Plan and the Profit Sharing Plan as well as retailer of fine jewelry, silverware, glassware and crystal; and (3) the use of space in the Property by Fortunoff Information Services (FIS), a partnership providing data processing services to FFJ and M. Fortunoff pursuant to the terms of a license agreement (the License) between FFJ and FIS.

As noted in the Summary of Facts and Representations underlying PTE 93–8, the subject Property, which is located at One MH Plaza, Axinn Avenue, Garden City East, Nassau County, New York has the following legal description:

All that certain plot, piece or parcel of land, situate, lying and being near Westbury, Town of Hempstead, County of Nassau and State of New York, being the northerly 367.04 feet more or less of Lot 44 Block 73 on the Nassau County land and tax map as same existed on the date hereof.

The Property consists of a one story office and warehouse building containing approximately 116,000 square feet of gross building area on a site of approximately 4.0663 acres of land. There is also a parking area. The Property was originally leased by M. Fortunoff to FFJ for its warehouse and data processing services under the provisions of a written, triple net lease (the Lease) that commenced on March 1, 1989. The annual rental under the Lease was $554,232 and was payable in monthly installments of $46,186. In addition to the Lease, FFJ granted its affiliate, FIS, an exclusive right to use, for $3,850 per month, approximately 8,041 square feet in the building area for FIS's information systems and data processing operations. The term of the License coincided with the term of the Lease.

Upon the granting of PTE 93–8, the Plans purchased the Property, which was unencumbered by a mortgage, from M. Fortunoff for the total cash consideration of $6 million. The purchase price was less than the independently appraised value of the Property. The Property was then allocated among the Plans such that the Group A Plan and the Group B each acquired 40 percent interests in the Property with each Plan paying $2.4 million. The Profit Sharing Plan acquired the remaining 20 percent interest in the Property for $1.2 million. At the time of acquisition, the Property represented approximately 19 percent of the Group A Plan's assets, 22 percent of the Group B Plan's assets and 13 percent of the assets of the Profit Sharing Plan. With the exception of mandatory title insurance charges, no Plan paid any real estate fees or commissions in connection with its acquisition of an interest in the Property.

Following the purchase transaction, the Lease and License were assigned to the Plans. As modified by the Lease Assignment and Assumption Agreement, the Amended Lease between the Plans and FFJ, has a twelve year term that will expire on February 29, 2004. The annual rental under the Amended Lease, which is the same as that paid under the Lease, is $554,232 (the Base Rent). The Base Rent is payable in monthly installments of $46,186. Commencing on March 1, 1993 and including the year ending February 29, 2004, FFJ is required to pay, in addition to the Base Rent, and annual Escalation Amount based upon the fair market rental value of the Property as determined by a qualified, independent appraiser. Effective October 1, 1997, FFJ has commenced paying an annual Escalation Amount of $35,048 on a monthly basis in equal installments of $2,920.67. Therefore, the total rental amount being paid is $589,280 annually of $49,107 monthly. In the event that the fair market rental value of the Property should decline to an amount which is less than the Base Rent, the Amended Lease provides that the Plans will be paid the Base Rent. As with the Lease, the Amended Lease is also a triple net lease.

The License between FFJ and FIS, which was similarly modified by the Lease Assignment and Assumption Agreement, required FIS to pay its proportionate share of utilities as well as repair and maintain that portion of apace that it occupied, also on triple net basis. Although the License had a term that was commensurate with that of the Amended Lease and required that FIS pay FFJ a base fee that was proportional to the amount that FFJ paid the Plans under the Amended Lease, it was terminated on or about January 1, 1995 after FIS vacated the Property. Currently, FFJ occupies that space.

To secure its obligations under the Amended Lease, FFJ obtained a one year, irrevocable letter of credit (the Letter of Credit) in favor of the Plans. The Letter of Credit, which was in the face amount of $550,000, provided that Sanford Browde, the independent fiduciary for the Plans with respect to the transactions, could draw upon amounts available thereunder the FFJ ever defaulted in its rental payments under the Amended Lease and the default continued for more than ten days after notice of the default had been given. On February 25, 1994, the Letter of Credit expired.

To further secure FFJ's obligations to the Plans under the Amended Lease, M. Fortunoff entered into an escrow agreement (the Escrow Agreement) with the Plans whereby at least one year's rental under the Amended Lease would be maintained through the sixth anniversary date of the Property's assignment to the Plans. In this regard, M. Fortunoff established a $1.65 million special escrow account (the Escrow Account) over which it would have no withdrawing power or authority. If, at any time the Escrow Account were depleted, M. Fortunoff would be required to make up the shortfall.

Funds in the Escrow Account would not be disbursed if there had been a default under the Amended Lease during the initial six year term of the Escrow Agreement. Instead, the Escrow Agreement would continue until the end of the term of the Amended Lease. Assuming there were no defaults after this period, the balance of the Escrow Account would be delivered to M. Fortunoff after 1999.

As noted above, the transactions described in PTE 93–8 are being monitored by Mr. Browde, the independent fiduciary for the Plans. Further, as additional safeguards, the exemption contains a number of specific conditions. For example, (1) the terms of the transactions must be at least as favorable to the Plans as those obtainable in arm's length transactions with an unrelated party; (2) the independent fiduciary must (a) determine that the transactions are in the best interests of the Plans, (b) monitor and enforce compliance with the terms and the conditions of the transactions and exemption at all times, and (c) appoint one or more independent fiduciaries to resolve any conflicts of interest which may develop between the Plans with respect to the Amended Lease, the Escrow Agreement, the Property, or each Plan's interest therein; (3) the value of the proportionate interests in the Property that are acquired by each Plan must not exceed 25 percent of each Plan's assets; and (4) the Base Rent must be adjusted annually by the independent fiduciary based upon an independent appraisal of the Property.

II. Proposed Modification to PTE 93–8

According to the Applicants, the subject Property is irregularly-shaped and resembles a flagpole or a flag lot. Corporate Property Investors (CPI), which is not affiliated with either the

Applicants or Mr. Browde, is the owner of two neighboring lots to the immediate east and west of the ''pole'' area of the Property which has been designated by the Applicants for employee parking. The Property currently separates the two parcels owned by CPI.

By eliminating the pole portion of the Property, the Applicants represent that the Property will become regular in shape and more suitable for expansion. If reconfigured, the Property will also provide additional parking for employees of FFJ and for others using the warehouse facility.

Therefore, the applicants propose to modify PTE 93–8 by having the Plans exchange the pole portion of the Property (the Exchange Property) for nearly equivalent portions of the two lots that are owned by CPI (the Substitute Property).[1] The Substitute Property is contiguous with the existing northern border of the flag portion of the Property and is subject to a ground lease that is currently held by CPI as ground lessor. The Substitute Property is used by CPI for parking purposes and has the following legal description:

All that certain plot, piece or parcel of land, situate, lying and being near Westbury, Town of Hempstead, County of Nassau and State of New York, being the southerly 47.50 feet, more or less, of Lots 23 and 25 in section 44 Block 73 on the Nassau County Land and Tax Map as same existed on the date hereof.

The proposed exchange will be conducted on the basis of a tax free exchange of like-kind property under section 1031 of the Code. The Substitute Property will be acquired by the Plans in fee simple and will not be subject to the ground lease. At the time of closing, CPI will transfer the Substitute Property to the Plans free of the rights of any person or entity under the ground lease. After the land exchange, the total area of the Property will be essentially the same as at present but the land will be more regular in shape. As for CPI, the proposed exchange will allow it to own one continuous parcel of land, thus enhancing the utility of its land holdings.

The Plans propose to effect the real property exchange with CPI under the terms of a Real Estate Exchange Agreement. The proposed exchange is also contingent upon the Department's approval of the arrangement and requires that the parties warrant or adhere to environmental laws and regulations affecting the respective Properties. It is represented that the exchange will not affect the present use of the Property, the Amended Lease, or M. Fortunoff's obligations under the Escrow Agreement.

Because of the nature of the modification discussed above, the Department has determined that the exemptive relief provided under PTE 93–8 is no longer available. Therefore, the Department has decided to publish a new exemption which, if granted, would amend PTE 93–8 by allowing the Plans to lease the Substitute Property to FFJ along with the remaining Property under the provisions of the Amended Lease. In effect, the new proposed exemption will incorporate by reference many of the facts, representations and continuing conditions that are contained in PTE 93–8. However, the proposed exemption will not cover FIS's use of space in the Property pursuant to the terms of the License as such arrangement has been terminated.

III. Independent Appraisal

Bernard Goodman, MAI, CRE, and Matthew J. Guzowski, MAI, independent appraisers (the Appraiser), who are affiliated with the appraisal firm of Goodman-Marks Associates, Inc., located in Mineola, New York, have addressed the economic impact of the Exchange Property and the Substitute Property in an appraisal report dated September 9, 1997. The Appraisers note that the Exchange Property and the Substitute Property are currently part of larger parcels of real property that are zoned for industrial use. The Appraisers state that it is rare that parcels of such size are marketed in industrial-zoned areas and that their utility can only be realized by the adjoining land users. Further, because there are no comparable sales of similarly-sized parcels of real property in the area to formulate the basis for determining the fair market values of the Substitute Property and the Exchange Property, as ''standalone parcels,'' the Appraisers state that neither parcel would have any marketable value and that to determine such values would be very speculative. However, because both parcels are of virtually the same size and are located in the same immediate area, the Appraisers conclude that they are of equal value.

In addition to opining on the respective fair market values of the Exchange Property and the Substitute Property, the Appraisers have determined that as of September 6, 1997, the Property would have a fair market value of $6.2 million. Moreover, as of that date, the Appraisers have estimated the fair market rental value of the Property at $8.50, gross, per square foot of building area, or $5.08 net rent per square foot of building area.

Thus, as a result of the unmarketability of the Substitute Property as a stand alone strip of real property and its size in relation to the Property, the Appraisers have determined that the acquisition by the Plans of the Substitute Property will have a minimal effect on the fair market value or the fair market rental value of the Property. The Appraisers note that the benefit to be derived by the Plans from the exchange will be the availability of additional parking spaces which will be in closer proximity to the warehouse facility. The squaring off of the Property will create a more convenient use for those accessing the warehouse.

IV. Views of the Independent Fiduciary

Mr. Browde represents that he has investigated real estate and economic considerations relating to the proposed exchange transaction and has concluded that it will benefit the Plans by enhancing the value of the Property. In this regard, Mr. Browde notes that the Substitute Property and the Exchange Property are of nearly the same size. After the land exchange, the total land area of the Property essentially will be the same but will result in a net increase of approximately 2,300 square feet of space. By eliminating the pole, the Property will become regular in shape and more suitable for use.

Mr. Browde also states that a regular-shaped parcel of real estate has more value than one that is oddly-shaped. In this regard, he states that the Substitute Property would allow two rows of parking in the same space which formerly accommodated only one row of parallel parking, thereby increasing the number of legal parking spaces at the Property by 26. This additional benefit would be a desirable consequence of the exchange.

Further, Mr. Browde represents that the warehouse on the Property could be expanded to a greater extent than at present because the land exchange would now provide a greater distance between the new property line and the exterior walls of the building's north side. He also notes that the land exchange would be without cost to the Plans, other than transaction costs which are not expected to exceed $3,000.

Finally, Mr. Browde notes that since the granting of PTE 93–8, all of the terms and conditions of the Amended Lease, the Letter of Credit and the Escrow Agreement have been complied with by the parties. Mr. Browde also

[1] The Substitute Property that will be acquired by the Plans measures approximately 358 feet by 47 feet and 70 feet by 43 feet for a total of 19,836 square feet. The approximate dimensions of the Exchange Property are 50 feet by 367 feet or a total of 18,350 square feet.

represents that there have been no defaults or delinquencies under the Amended Lease.

V. Other Modifications

A. Plan Information

In addition to the above, the Applicants have provided updated information concerning the Plans. In this regard, the Applicants note that the Group A Plan had 1,328 participants as of December 31, 1996 and total assets having a fair market value of $19,983,124 as of August 31, 1997. In addition, the Applicants represent that the Group B had 1,302 participants as of December 31, 1996 and total assets having a fair market value of $10,680,155 as of August 31, 1997. Further, the Applicants state that the Profit Sharing Plan had 1,098 participants as of January 31, 1997 and total assets having a fair market value of approximately $10,471,276 as of August 31, 1997.[2]

B. Stock Ownership

The Applicants state that subsequent to the granting of PTE 93–8, FFJ underwent a stock reclassification to create two classes of stock—Class A voting stock and Class B non-voting stock. On June 24, 1994, a stock dividend of 408 Class B shares was declared to holders of Class A shares. Mr. Fortunoff gifted 236 of these shares to the Alan Fortunoff Grantor Retained Annuity Trust and sold seven shares to each of his six children. Mrs. Fortunoff gifted 88 Class B shares to the Helene Fortunoff Grantor Retained Annuity Trust and sold seven shares to each of the Fortunoff children. The Fortunoff children are beneficiaries under both trusts.

At present, the Applicants note that all of the Class A voting shares are owned by Alan and Helene Fortunoff. The FFJ Class B non-voting shares are distributed as follows: Alan Fortunoff Grantor Retained Annuity Trust, 236 shares; Helene Fortunoff Grantor Retained Annuity Trust, 88 shares; and each of the Fortunoff children, 14 shares. Leonard Leibman is the sole trustee of each of the trusts.

Also since PTE 93–8 was granted, the Applicants point out that M. Fortunoff has had a change in stock ownership. Although Mr. Fortunoff does not hold any elective offices with M. Fortunoff and does not directly own any shares of its capital stock, the Applicants explain that he is one of three co-executors of the Estate of Marjorie Mayrock, which owns 49.6 percent of M. Fortunoff's capital stock. The Applicants further explain that both Mr. and Mrs. Fortunoff are co-trustees under three trusts which each hold 5⅔ shares of Mr. Fortunoff's capital stock for the benefit of the Mayrock children. On July 31, 1996, a distribution of 4.25 shares was made from the Estate of Marjorie Mayrock to each of the Mayrock children for a total distribution of 12.75 shares.

Notice to Interested Persons

Notice of the proposed exemption will be sent by first class mail to each participant in the Plans within 15 days of the publication of the pending exemption in the Federal Register. The notice will contain a copy of the proposed exemption as published in the Federal Register and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Comments and hearing requests regarding the proposed exemption will be due 45 days from the publication of the notice of proposed exemption in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 93–8, as amended by this notice, accurately describe, where relevant, the material terms of the transactions consummated pursuant to that exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within 15 days after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 19, 1990).

If the proposed exemption is granted, restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the leasing by the Plans to FFJ, under the provisions of the Amended Lease described in PTE 93–8, of certain Substitute Property, acquired by the Plans through a third party exchange, as well as all remaining real estate which constitutes the Property, provided the following conditions are met:

(a) The terms of the Amended Lease remain at least as favorable to the Plans

[2] Based upon these valuations, it should be noted that the property, valued at $6.2 million by the Appraisers as of September 6, 1997, represents 12.41 percent of the assets of the Group A Plan, 23.22 percent of the assets of the Group B Plan and 11.84 percent of the assets of the Profit Sharing Plan.

as those obtainable in an arm's length transaction with an unrelated party.

(b) The independent fiduciary—

(i) Determines that the acquisition and subsequent leasing of the Substitute Property by the Plans under the Amended Lease are in the best interest of the Plans and their participants and beneficiaries;

(ii) Monitors and enforces compliance with the terms and conditions of the Amended Lease, the Escrow Agreement and the new exemption, at all times; and

(iii) Appoints one or more independent fiduciaries to resolve any conflicts of interest which may develop among the Plans with respect to the Amended Lease, the Escrow Agreement, the Property, or the Plans' respective interests therein.

(c) The fair market value of the proportionate interests held by each Plan in the Property as a whole following the exchange transaction does not exceed 25 percent of each Plan's assets.

(d) The Property, the Exchange Property and the Substitute Property are all appraised by qualified, independent appraisers prior to the consummation of the exchange transaction.

(e) The Base Rent for the Property is adjusted annually by the independent fiduciary based upon an independent appraisal of such Property.

(f) FFJ incurs all real estate taxes and other costs which are incident to the Amended Lease.

(g) The Escrow Agreement is maintained by M. Fortunoff, in favor of the Plans, as security for FFJ's rental obligations under the Amended Lease.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the application change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 93–8, refer to the proposed exemption, grant notice and technical correction notice which are cited above.

Signed at Washington, D.C., this 16th day of December 1997.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–33180 Filed 12–18–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Prohibited Transaction Exemption 97–63; Exemption Application No. D–10159, et al.; Grant of Individual Exemptions; State Street Bank

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have compiled with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975 of the Code, by reason of section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

State Street Bank and Trust Company Located in Boston, Massachusetts

[Prohibited Transaction Exemption 97–63; Application No. D–10159

Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1)(A) through (E) of the Code,[1] shall not apply to the lending of securities to State Street Bank and Trust Company (State Street), acting through its Financial Markets Group (FMG) (formerly the Money Market Division of the Capital Markets Area) or acting through any other division or U.S. affiliate of State Street that is a successor to the activities of FMG; and shall not apply to the lending of securities to any U.S. registered broker-dealers affiliated with State Street (the Affiliated Broker Dealers)[2] by employee benefit plans (the Client Plans or the Client Plan), including commingled investment funds holding plan assets for which State Street, through its Master Trust Services Division (the Trust Division) acts as directed trustee or custodian, and for which State Street, through its Global Securities Lending Division or any other similar division of State Street or U.S. affiliate of State Street or of its parent (collectively, GSL) acts as securities lending agent (or sub-agent); and shall not apply to the receipt of compensation by GSL in connection with the transactions; provided that the following conditions are met:

a. Neither State Street, the SSB Group, GSL, nor any other division or affiliate of State Street has or exercises

[1] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] FMG, any division or U.S. affiliate of State Street that becomes a successor to the activities of FMG, and the Affiliated Broker Dealers are collectively referred to, herein, as the SSB Group.

discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received) or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to such assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan;

b. Before a Client Plan participates in a securities lending program and before any loan of securities to the SSB Group is effected, the fiduciary of such plan who is independent of State Street, GSL, the SSB Group, and any other division or affiliate of State Street must have:

(1) Authorized and approved the securities lending authorization agreement with GSL (the Agency Agreement), where GSL is acting as the direct securities lending agent; or

(2) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where GSL is lending securities under a sub-agency arrangement with the primary lending agent [3]; and

(3) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and the borrower, the SSB Group, the specific terms of which are negotiated and entered into by GSL;

c. A Client Plan may terminate the Agency Agreement or the Primary Lending Agreement at any time, without penalty to such plan, on five (5) business days notice;

d. The Client Plan will receive from the SSB Group (either by physical delivery or by book entry in a securities depository, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to the SSB Group, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than State Street or an affiliate thereof, or any combination thereof, or other collateral permitted under PTCE 81–6 (as amended from time to time or, alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans);

e. The market value of the collateral must, as of the close of business on the preceding business day, initially equal at least 102 percent (102%) of the market value of the loaned securities. If the market value of the collateral falls below 100 percent (100%) (or such greater percentage agreed to by the parties) of the loaned securities, GSL will require the SSB Group to deliver additional collateral by the close of business on the following day such that the market value of the collateral will again equal at least 102 percent (102%). The Loan Agreement will give the Client Plans a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. GSL will monitor the level of the collateral daily;

f. All GSL's procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTCE 81–6 and PTCE 82–63;

g. State Street will agree to indemnify and hold harmless each lending Client Plan (including the sponsor and fiduciaries of such Client Plan) against any and all damages, losses, liabilities, costs, and expenses (including attorneys' fees) which the Client Plan may incur or suffer directly arising out of the lending of the securities of such Client Plan to the SSB Group;

h. The Client Plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of any loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

i. Prior to any Client Plan's approval of the lending of its securities to the SSB Group, a copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption will be provided to the Client Plan;

j. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the SSB Group;

k. The terms of each loan of securities by the Client Plans to the SSB Group will be at least as favorable to such plans as those of a comparable arm's-length transaction between unrelated parties;

l. Each Client Plan will receive monthly reports on the transactions, including but not limited to the information described in paragraph 26 of the Notice, so that an independent fiduciary of such plan may monitor the securities lending transactions with the SSB Group;

m. Before entering into the Loan Agreement and before a Client Plan lends any securities to the SSB Group, an independent fiduciary of such Client Plan will receive sufficient information, concerning the financial condition of State Street, including but not limited to audited and unaudited financial statements of State Street's parent corporation; and

n. The SSB Group will provide to a Client Plan prompt notice at the time of each loan by such plan of any material adverse changes in State Street's financial condition, since the date of the most recently furnished financial statements.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on October 2, 1997, 62 FR 51684.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Crown American Properties L.P., Retirement Savings Plan (the Plan), Located in Johnstown, PA

[Prohibited Transaction Exemption No. 97–64; Exemption Application No. D–10454]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2), and section 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase, holding or sale by participant-directed accounts in the Plan of shares of Crown American Realty Trust (the Crown REIT), an affiliate of Crown American Properties L.P. (Crown American), the Plan's sponsor and, as such, a party in interest with respect to the Plan, provided that the following conditions are met:

(A) Any purchase or sale of the Crown REIT shares by a participant account (an Account) is made solely in accordance with the directions of the participant whose account is making the purchase or sale;

(B) Immediately following any purchase of the Crown REIT shares by an Account, the percentage of the total value of the Account invested in the Crown REIT shares does not exceed 25 percent, as measured based on the value of the assets held by such Account as of the close of the prior business day;

[3] The Department, herein, is not providing relief for securities lending transactions engaged in by primary lending agents, other than GSL, beyond that provided, pursuant to Prohibited Transaction Class Exemption 81–6 (PTCE 81–6) and Prohibited Transaction Class Exemption 82–63 (PTCE 82–63). PTCE 81–6 was granted 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987. The Notice of Proposed Exemption for application numbers D–5598 and D–5776 was published at 46 FR 10570, February 3, 1981. PTCE 82–63 was granted 47 FR 14804, April 6, 1982. The Notice of Proposed Class Exemption was published at 46 FR 7518, January 23, 1981, as amended at 46 FR 10570, February 3, 1981.

(C) Compliance with the terms and conditions of this exemption, including the 25 percent limit described in Paragraph (B) above, is monitored by PNC Bank, National Association, as the Plan's trustee, which is independent of the Crown REIT and Crown American or any affiliate thereof;

(D) With respect to any decisions made by a Plan participant for a purchase or sale of Crown REIT shares by an Account, neither Crown American, PNC, nor any of their affiliates has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, other than as required for PNC to monitor and enforce compliance with the 25 percent limit described in Paragraph (C) above, or renders any investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to those assets;

(E) All purchases and sales of the Crown REIT shares by the Plan are executed:

(1) For cash;

(2) On the national exchange on which the Crown REIT shares are primarily traded (the Primary Exchange);[4] and

3) At the prevailing market price for the Crown REIT shares on the Primary Exchange at the time of the transaction;

(F) Notwithstanding the provisions contained in (E) above, purchases and sales of the Crown REIT shares may occur between the Accounts within the Plan in order to avoid brokerage commissions and other transaction costs, provided that the price received by each Account is equal to the closing price for the Crown REIT shares on the Primary Exchange on the date of the transaction;

(G) Crown American maintains for a period of six years the records necessary to enable the persons described below in paragraph (H) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Crown American, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Crown American or affiliate shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (H) below; and

(H)(1) Except as provided below in paragraph (H)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (G) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Plan or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (H)(1) (ii) and (iii) shall be authorized to examine trade secrets of crown American, or commercial or financial information which is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 2, 1997 at 62 FR 51693.

Written Comments: The applicant submitted a comment letter noting that Condition (F) in the notice of proposed exemption (the Proposal) refers to the NYSE, which is an undefined term in the text of the operative language of the Proposal. The term ''NYSE'' is defined in paragraph 3 of the summary of facts and representations for the Proposal (see 62 FR at 51694) as being the New York Stock Exchange, which is currently the Primary Exchange for purposes of the requirements contained in Condition (E)(2) and (E)(3) as well as Condition (F). Thus, the Department has deleted the reference to ''NYSE'' in Condition (F) and substituted the term ''Primary Exchange'' in order to be consistent with other references to that term in the exemption text (also see footnote).

The applicant's letter has also provided some minor clarifications for the record, as discussed in the summary of facts and representations for the Proposal, concerning the average daily trading volume of the Crown REIT shares, the current percentage ownership of Crown American, and the outstanding stock of the Crown REIT. Interested persons may obtain copies of this information from the exemption application file, which is available to the public in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Valley Forge Consulting Corporation, Profit Sharing Trust (the Plan), Located in King of Prussia, PA

[Prohibited Transaction Exemption 97–65; Exemption Application No. D–10466]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of a first mortgage note (the Note) by the individually-directed account (the Account) in the Plan of Steven R. Eyer to Mr. Eyer, provided—

(a) The terms of the transaction are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party.

(b) The Account is not required to pay any fees, commissions or other expenses in connection with the sale.

(c) The sale of Note represents a one-time transaction for cash.

(d) The fair market value of the Note is determined by a qualified, independent appraiser.

(e) As consideration for the Note, the Account receives an amount that is no less than the fair market value of the Note as of the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 20, 1997 at 62 FR 54478.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Profit Sharing Keogh Plan of Richard D. Wickerham, Esq. (the Plan), Located in Schenectady, New York

[Prohibited Transaction Exemption 97–66; Exemption Application No. D–10505]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) Two loans (the Loans) (the Loans) totaling $50,000 by the Plan to Mr. Richard D. Wickerham (Mr. Wickerham), a disqualified person with respect to the Plan, and (2) the personal guarantee of the Loans by Mr. Wickerham, provided the following conditions are satisfied: (1) The terms of the Loans are at least as favorable to the

[4] The Primary Exchange is currently the New York Stock Exchange (NYSE).

Plan as those obtainable in arm's-length transactions with an unrelated party; (b) the Loans do not exceed 25% of the assets of the Plan; (c) the first Loan (Loan 1) is secured by a second mortgage on certain real property which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of Loan 1 plus the balance of the first mortgage which it secures; (d) the second Loan (Loan 2) is secured by certain personal property which has a fair market value, as determined by a qualified independent appraiser, of not less than 200% of Loan 2; (e) the fair market value of the collateral remains at least equal to the percentages described in conditions (c) and (d), above, throughout the duration of the Loans; and (f) Mr. Wickerham is the only Plan participant to be affected by the Loan transactions.[5]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 4, 1997 at 62 FR 59742.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 16th day of December, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–33181 Filed 12–18–97; 8:45 am]

BILLING CODE 4510–29–M

[5] Since Mr. Wickerham is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sunshine Act Meeting

TIME, DATE, AND PLACE: 29 January 1998, 9:00 a.m. to 4:00 p.m.; 30 January 1998, 9:00 a.m. to 3:00 p.m.; Central Arkansas Library System, 100 Rock Street, Little Rock, Arkansas.

MATTERS TO BE DISCUSSED: NCLIS Planning Meeting; Day 1: Focus on the Commissioners; Day 2: Focus on the Commission's Action Plan; NCLIS Business Meeting.

To request further information or to make special arrangements for physically challenged persons, contact Barbara Whiteleather (202–606–9200) no later than one week in advance of the meeting.

Dated: 15 December 1997

Jane Williams,

Acting Executive Director.

[FR Doc. 97–33293 Filed 12–17–97; 9:22 am]

BILLING CODE 7527–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets an commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* January 5, 1998.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research for Ancient Civilizations submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

2. *Date:* January 6, 1998.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration for Interdisciplinary II, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

3. *Date:* January 6, 1998.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research for Non-Western Cultures, submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

4. *Date:* January 7, 1998.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research

for Literature and Related Studies, submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

5. *Date:* January 8, 1998.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration for Philosophy and Religion, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

6. *Date:* January 12, 1998.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration for Interdisciplinary I, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

7. *Date:* January 12, 1998.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Fellowship Programs at Independent Research Institutions, submitted to the Division of Research and Education, for projects at the September 1, 1997 deadline.

8. *Date:* January 14, 1998.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration for Anthropology, Archaeology, and Folklore, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

10. *Date:* January 21, 1998.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration for Literature, submitted to the Division of Research and Education, for projects at the October 1, 1997 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 97–33215 Filed 12–18–97; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of System of Records

AGENCY: National Labor Relations Board (NLRB).

ACTION: Revised publication of Notice of System of Records NLRB–1, Accounting Records—Financial.

SUMMARY: The Privacy Act of 1974, as amended, requires that each agency publish a notice of a proposed new system of records, as well as proposals to revise existing systems of records. This notice alters an existing Privacy Act system of records notice NLRB–1, Accounting Records—Financial, by deleting two routine uses; amending the language of five routine uses, adding one new routine use, updating the addresses of system locations; updating the citations referring to 29 CFR 102.117; as well as making several insignificant administrative language revisions.

EFFECTIVE DATE: The amended system of records notice will become effective without further notice January 20, 1998, unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: Written responses should be sent to the Executive Secretary, National Labor Relations Board, Room 11600, 1099 14th Street, NW, Washington, DC 20570–0001. Copies of such communications will be available for examination by interested persons during business hours (8:30 a.m. to 5 p.m., Monday through Friday, excluding Federal holidays), in the Office of the Executive Secretary, Room 11600, 1099 14th Street, NW, Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, Room 11600, 1099 14th Street, NW, Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The following changes have been made to the existing NLRB Notice of System of Records NLRB–1, Accounting Records—Financial

1. Routine uses Nos. 1 and 2 have been deleted because the specified ''need to know'' in them is authorized by 5 U.S.C. 552a(b)(1)(5). Routine uses Nos. 3, 4 and 5 were renumbered Nos. 1, 2 and 3.

2. Routine use No. 6 has been amended to specify more exactly the categories of users and the information that may be disclosed. Routine use No. 6 has been renumbered No. 4.

3. Routine use No. 7 has been renumbered No. 5.

4. The language of routine use No. 8 has been amended to specify that on disclosure to an inquiring congressional office, the subject individual must be a constituent about whom the records are maintained, Routine use No. 8 has been renumbered as No 6.

5. The language of routine use No. 9 has been amended to conform to the intent of routine use (e) in the Government-wide system of records OPM/GOVT–2, Employee Performance File System Records, to eliminate the NLRB requirement that the information that may be disclosed to a labor organization ''shall be furnished in depersonalized form, i.e., without personal identifiers.'' Routine use (e) is a Government-wide system of records OPM/GOVT–2 which provides that the information will be ''disclosed to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.'' The NLRB is deleting the requirement that ''wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers,'' a requirement not contained in OPM/GOVT–2 routine use (e). Routine use No. 9 has been renumbered as use No. 7.

6. Routine use No. 10 has been amended by changing reference from ''Agency'' to ''NLRB'' for more specificity. Routine use No. 10 has been renumbered as routine use No. 8.

7. Routine use No. 11 is amended to specify more exactly the information that may be disclosed to a court or an adjudicative body in the course of presenting evidence or argument including disclosure to opposing counsel of witnesses in the course of civil discovery. Routine use No. 11 has been renumbered as routine use No. 9.

8. Routine use No. 10 is new and has been added for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments, and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the NLRB in order to collect the debts under the provisions of the Debt Collection Act of 1982 (PL 97–365), and the Debt Collection Improvement Act of 1996 (PL 104–134) by voluntary repayment, or by administrative or salary offset procedures.

9. The address of system locations and managers in NLRB–1 has been changed from ''NLRB, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001'' to ''NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.''

10. References to 29 CFR 102.117 citations in NLRB–1 have been changed to read as follows for the paragraphs in Notification Procedures, 29 CFR 102.117(f); Records Access Procedures, 29 CFR 102.117 (g) and (h); Contesting Records Procedures, 29 CFR 102.117(i).

11. The Appendix has been completely updated to show all current NLRB office listings.

A report of this notice to amend NLRB–1, Accounting Records—Financial, was filed pursuant to 5 U.S.C. 552a(r) and OMB Circular A–130, Revised, with the Office of Management and Budget and with Congress. The revised text of NLRB–1 being amended (53 FR 17263–4, May 16, 1988) is set forth below.

Dated: Washington, DC, November 18, 1997.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–1

SYSTEM NAME:

Accounting Records—Financial.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Current records are maintained in: Finance Branch, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001. Each Washington and Field Office is authorized to maintain copies of records relating to reimbursements to employees of that office and other individuals covered within the system. See the attached appendix for addresses of these offices. Inactive records are stored in the Washington National Records Center in accordance with regulations issued by the National Archives and Records Administration (36 CFR 1228.152).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals reimbursed for expenses in connection with the official functions of the NLRB; i.e., travel on official business, witness fees, FOIA Request, and transportation expenses, and miscellaneous expenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name; home or office address; organizational unit number, purpose, duration, and cost for travel assignment of Agency employees; purpose, duration, points of travel, and cost for witnesses used by the Agency; and purpose, category, and cost of miscellaneous expenses incurred by Agency employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., 5701 et seq.; 29 U.S.C. 153, 155, 159, 106, and 161(4).

PURPOSE:

These records document financial transactions regarding reimbursement of expenses in connection with official NLRB functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records or information therefrom is disclosed to:

1. Individuals who need the information in connection with the processing of an appeal, grievance, or complaint.

2. The U.S. General Accounting Office for audit purposes or determination of validity claims.

3. The U.S. Department of Treasury for issuance of checks, or direct deposit.

4. Other agencies, offices, establishments, and authorities, whether Federal, state, or local, authorized or charged with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule, or order issued pursuant thereto.

5. Another agency, whether Federal, State, or local, or private organization where reimbursable arrangements exits between this Agency and such other agency or private organization.

6. A Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

7. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

8. The Department of Justice for use in litigation, when either: (a) The NLRB or any component thereof; (b) any employee of the NLRB in his or her official capacity; (c) any employee of the NLRB in his or her individual capacity, where the Department of Justice has agreed to represent the employee; or (d) the United States Government where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

9. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof; or (b) any employee of the NLRB in his or her official capacity; or (c) any employee of the NLRB in his or her individual capacity where the NLRB has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

10. The Defense Manpower Data Center, Department of Defense, and to the U.S. Postal Service, to conduct computer matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the NLRB in order to collect the debts under the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365), and Debt Collection Act of 1996 (Pub. L. 104–134) by voluntary repayment, or by administrative or salary offset procedures, and

Any other Federal agency for the purpose of effecting administrative or salary offset procedures against a person employed by that agency or receiving or eligible to receive some benefit payments from the agency when NLRB as a creditor has a claim against that person.

Disclosure of information about persons who are receiving Federal salaries or benefit payments and are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by NLRB may be made to other Federal agencies, only to the extent of determining whether or not the person is employed by that agency and, if so, effecting

administrative or salary offset procedures against that person.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

For the purpose of collecting delinquent debt, these records may be reported to a credit bureau to add to credit history.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on original source documents except travel summary cards, some of which are also maintained on microfilm, and electronic storage for computer matching programs.

RETRIEVABILITY:

Chronologically by year, and within each year alphabetically by name.

SAFEGUARDS:

Original source documents and microfiche are maintained in file cabinets. During duty hours cabinets and computers are under surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel with a need for access in order to perform their official functions.

RETENTION AND DISPOSAL:

Maintained and disposed of in accordance with the provisions of applicable General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESSES:

Finance Officer, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

See the attached appendix for the titles and addresses of officials at other locations responsible for this system at their locations.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORDS ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to him or her should contact the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117 (g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to such individual maintained in this system by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

Travel vouchers, witness vouchers, and lodging and miscellaneous receipts submitted by the individual; travel orders submitted by Agency officials; subpoenas; claims for reimbursements; and miscellaneous correspondence and information related thereto.

APPENDIX

Names and Addresses of NLRB Offices referenced in Notice of Records System shown above.

NLRB Headquarters Offices

1099 14th Street, NW, Washington, DC 20570–0001

Offices of the Board

Members of the Board, Executive Secretary, Office of the Executive Secretary, Director, Office of Representation Appeals, Director, Division of Information, Solicitor, Inspector General, Office of Inspector General

Chief Administrative Law Judge, 1099 14th Street, NW, Washington, DC 20570–0001

Associate Chief Administrative Law Judge, San Francisco Judges, 901 Market Street, Suite 300, San Francisco, California 94103–1779

Associate Chief Administrative Law Judge, New York Judges, 120 West 45th Street, 11th Floor, New York, New York 10036–5503

Associate Chief Administrative Law Judge, Atlanta Judges, Peachtree Summit Building, 401 W. Peachtree Street, NE, Suite 1708, Atlanta, Georgia 30308–3510

Offices of the General Counsel

General Counsel, Associate General Counsel, Division of Operations Management, Associate General Counsel, Division of Advice, Associate General Counsel, Division of Enforcement Litigation, Director, Division of Administration, Director, Equal Employment Opportunity

NLRB Field Offices

Regional Director, Region 1
Thomas P. O'Neal, Jr. Federal Office Building, 10 Causeway Street—6th Floor, Boston, Massachusetts 02222–1072

Regional Director, Region 2
Jacob K. Javits Federal Office Building, 26 Federal Plaza, Room 3614, New York, New York 10278–0104

Regional Director, Region 3
Dulski Federal Building, 111 West Huron Street, Room 901, Buffalo, New York 14202–2387

Resident Officer
Albany Resident Office, Leo W. O'Brien Federal Building, Clinton Avenue at N. Pearl Street—Room 342, Albany, New York 12207–2350

Regional Director, Region 4
One Independence Mall, 615 Chestnut Street—7th Floor, Philadelphia, Pennsylvania 19106–4404

Regional Director, Region 5
The Appraisers Store, 103 South Gay Street, 8th Floor, Baltimore, Maryland 21202–4026

Resident Officer
Washington Resident Office, 1099 14th Street, NW, Suite 5530, Washington, DC 20570–0001

Regional Director, Region 6
William S. Moorehead Federal Building, 1000 Liberty Avenue, Room 1501, Pittsburgh, Pennsylvania 15222–4173

Regional Director, Region 7
Patrick V. McNamara Federal Building, 477 Michigan Avenue—Room 300, Detroit, Michigan 48226–2569

Resident Officer
Grand Rapids Resident Office, The Furniture Company Building, 82 Ionia Northwest—Room 330, Grand Rapids, Michigan 49503–3022

Regional Director, Region 8
Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room 1695 Cleveland, Ohio 44199–2086

Regional Director, Region 9
John Weld Peck Federal Building, 550 Main Street, Room 3003, Cincinnati, Ohio 45202–3271

Regional Director, Region 10
Marietta Tower, Suite 2400, 101 Marietta Street NW., Atlanta, Georgia 30323–3301

Resident Officer
The Burger—Phillips Centre, 1900 Third Avenue North, Suite 311, Birmingham, Alabama 35203–3502

Regional Director, Region 11
Republic Square, Suite 200, 4035 University Parkway, Winston Salem, North Carolina 27106–3325

Regional Director, Region 12
First of America Plaza—Suite 530, 201 East Kennedy Boulevard, Tampa, Florida 33602–5824

Resident Officer
Miami Resident Office, Claude Pepper Federal Office Building–13th Floor, 51 Southwest 1st Avenue, Room 1320, Miami, Florida 33130–1608

Resident Officer
Jacksonville Resident Office, Federal Building, Room 214, 400 West Bay Street, Box 35091, Jacksonville, Florida 32202–4412

Regional Director, Region 13
Bank of America Building—Suite 800, 200 West Adams Street, Chicago, Illinois 60606–5208

Regional Director, Region 14
1222 Spruce Street, Room 8302, Saint Louis, Missouri 63103–2829

Regional Director, Region 15
1515 Poydras Street—Room 610, New Orleans, Louisiana 70112–3723

Regional Director, Region 16
Fritz G. Lanham Federal Office Building, 819 Taylor Street, Room 8A24, Fort Worth, Texas 76102–6178

Resident Officer

Houston Resident Office, Suite 550, Lyric Center, 440 Louisiana Street, Houston, Texas 77002–2649
Resident Officer
San Antonio Resident Office, U.S. Post Office/Courthouse Building—Room 565, 615 E. Houston Street, San Antonio, Texas 78205–2040
Resident Officer
El Paso Resident Office, P.O. Box 23159, El Paso, Texas 79923–3159
Regional Director, Region 17
8600 Farley Street, Suite 100, Overland Park, Kansas 66212–4677
Resident Officer
Tulsa Resident Office, Grantson Building—Suite 990, 111 West Fifth Street, Tulsa, Oklahoma 74103–4214
Regional Director, Region 18
Federal Building, 110 South 4th Street—Room 316, Minneapolis, Minnesota 55401–2291
Resident Officer
Des Moines Resident Office, Federal Building—Room 909, 210 Walnut Street, Des Moines, Iowa 50309–2116
Regional Director, Region 19
Henry Jackson Federal Building—Room 2948, 915 Second Avenue, Seattle, Washington 98174–1078
Resident Officer
Anchorage Resident Office, Federal Office Building, 222 West 7th Avenue, Room 510, Box 21, Anchorage, Alaska 99513–3546
Officer in Charge
Subregion 36, Koin Center—Room 401, 222 Southwest Columbia Street, Portland, Oregon 97201–6604
Regional Director, Region 20
901 Market Street—Suite 400, San Francisco, California 94103–1735
Officer in Charge
Subregion 37, Prince Kuhio Federal Building—Room 7318, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850–4980
Regional Director, Region 21
888 South Figueroa Street—9th Floor, Los Angeles, California 90017–5449
Resident Officer
San Diego Resident Office, Pacific Professional Center—Suite 302, 555 West Beech Street, San Diego, California 92101–2939
Regional Director, Region 22
20 Washington Place—5th Floor, Newark, New Jersey 07102–2570
Regional Director, Region 24
La Torre de Plaza—Suite 1002, 525 F.D. Roosevelt Avenue, San Juan, Puerto Rico 00918–1002
Regional Director, Region 25
Minton Capehart Federal Building—Room 238, 575 North Pennsylvania Street, Indianapolis, Indiana 46204–1577
Region Director, Region 26
Mid-Memphis Tower—Suite 800, 1407 Union Avenue, Memphis, Tennessee 38104–3627
Resident Officer
Little Rock Resident Office, TCBY Building—Suite 375, 425 West Capitol Avenue, Little Rock, Arkansas 72201–3489
Resident Officer
Nashville Resident Office, 8101 Broadway, 3rd Floor, Nashville, Tennessee 37203–3816
Regional Director, Region 27
Dominion Plaza, North Tower, 600 17th Street, 7th Floor, Denver, Colorado 80202–5433
Regional Director, Region 28
Security Building, Suite 440, 234 North Central Avenue, Phoenix, Arizona 85004–2212
Resident Officer
Albuquerque Resident Office, Western Bank Plaza—Room 1820, 505 Marquette Avenue, NW., Albuquerque, New Mexico 87102–2181
Resident Officer
Las Vegas Resident Office, Alan Bible Federal Building—Suite 400, 600 Las Vegas Boulevard, South, Las Vegas, Nevada 89101–6637
Regional Director, Region 29
One Metro Tech Center, Jay Street and Myrtle Avenue—10th Floor, Brooklyn, New York 11201–4201
Regional Director, Region 30
Henry S. Reuss Federal Plaza—Suite 700, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203–2211
Regional Director, Region 31
Federal Building/USPO—Room 12100, 11000 Wilshire Boulevard, Los Angeles, California 90024–3682
Regional Director, Region 32
Breuner Building, 2nd Floor, 1301 Clay Street, Room 300N, Oakland, California 94612–5211
Regional Director, Region 33
Hamilton Square Building—Suite 200, 300 Hamilton Boulevard, Peoria, Illinois 61602–1104
Regional Director, Region 34
1 Commercial Plaza—21st Floor, Church and Trumbull Street, Hartford, Connecticut 06103–3599

[FR Doc. 97–33162 Filed 12–18–97; 8:45 am]
BILLING CODE 7545–01–M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals To Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register.** Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 1996 and ending September 30, 1997.

Name and Title

Richard L. Ahearn—Regional Director, Region 9
Frank V. Battle—Deputy Director of Administration
Mary Joyce Carlson—Deputy General Counsel
Harold J. Datz—Chief Counsel to Board Member
Robert A. Giannasi—Chief Administrative Law Judge
Wayne R. Gold—Director, Office of Representation Appeals
Lester A. Heltzer—Deputy Chief Counsel to Board Member
John E. Higgins—Solicitor
Peter B. Hoffman—Regional Director, Region 34
Gloria Joseph—Director of Administration
Barry J. Kearney—Associate General Counsel, Advice
Linda R. Sher—Associate General Counsel, Enforcement Litigation
Richard A. Siegel—Acting Associate General Counsel, Operations-Management
Elinor H. Stillman—Chief Counsel to Board Member
John J. Toner—Executive Secretary
Dennis P. Walsh—Chief Counsel to Board Member
Alfred L. Wolff—Acting Chief Counsel to the Chairman

Dated: Washington, DC, December 15, 1997.

By Direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 97–33124 Filed 12–18–97; 8:45 am]
BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No.: 40–9027]

Notice of Consideration of Amendment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request for decommissioning the Cabot Performance Materials Revere, Pennsylvania, site, and opportunity for a hearing.

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Material License No. SMC–1562 to authorize decommissioning of Cabot Performance Materials (CABOT) Revere, Pennsylvania, site. This license is issued to CABOT to possess contaminated material at its Reading and Revere, Pennsylvania sites. NRC licenses this facility under 10 CFR part 40. Specifically, the license authorizes

CABOT to possess 100 tons of elemental uranium and thorium total at both sites. The contaminated material at the Revere site is in the form of soil located at four discrete locations. The contamination is the result of processing ores which contained uranium and thorium.

On November 19, 1997, the licensee submitted a site decommissioning plan (SDP) to NRC for review that summarized previous decommissioning efforts at the Revere site. The SDP concludes that long-term doses from the contaminated material at current levels meet the requirements of the Radiological Criteria for License Termination rule (62FR39058). Therefore, the licensee proposes that no additional decommissioning is required.

Prior to the issuance of the amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays; or

2. By mail or telegram addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Docketing and Services Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

In accordance with 10 CFR § 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Cabot Performance Materials, P.O. Box 1608, Boyertown, Pennsylvania 19512, Attention: Mr. Anthony T. Campitelli, and;

2. NRC staff, by delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch.

For further details with respect to this action, the application for renewal is available for inspection at NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Timothy E. Harris, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6613. Fax.: (301) 415–5398.

Dated at Rockville, Maryland, this 12th day of December 1997.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–33219 Filed 12–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456 AND STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–37, NPF–66, NPF–72 and NPF–77 issued to Commonwealth Edison Company (the licensee) for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois and Braidwood Station, Units 1 and 2, located in Will County, Illinois.

The amendment would amend the Technical Specifications (TS) related to ''Containment Vessel Structural Integrity,'' to incorporate the requirements of 10 CFR 50.55a(b)(2)(vi) and 10 CFR 50.55a(b)(2)(ix) and update the existing Containment Vessel Structural Integrity Programs to meet the requirements found in Subsection IWL of the 1992 Edition, 1992 Addenda of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code) Section XI. The proposed amendment would also incorporate Regulatory Guide 1.35.1, 1990, ''Determination Prestressing Forces for Inspection of Prestressed Concrete Containment.''

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes revise the surveillance requirements for containment reinforced concrete and unbonded post-tensioning systems inservice examinations as required by 10 CFR 50.55a(b)(2)(vi) and 10 CFR 50.55a(b)(2)(ix). The revised requirements affect the inservice inspection program designed to detect structural degradation of the containment reinforced concrete and unbonded post-tensioning systems program and do not affect the function of the containment reinforced concrete and the unbonded post-tensioning system components. The reinforced concrete and the unbonded post-tensioning system are passive components whose failure modes

could not act as accident initiators or precursors.

The proposed changes do not impact any accident initiators or analyzed events or assumed mitigation of accident or transient events. They do not involve the addition or removal of any equipment, or any design changes to the facility. Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve a modification to the physical configuration of the plant (i.e., no new equipment will be installed) or change in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements or introduce a new accident initiator or precursor or malfunction mechanism. The proposed changes provide an NRC-approved ASME Code inspection/testing methodology to assure age-related degradation of the containment structure will not go undetected. The function of the containment reinforced concrete and the unbonded post-tentioning system components are not altered by this change. Additionally, there is no change in the types or increase in the amounts of any effluent that may be released offsite; and there is no increase in individual or cumulative occupational radiation exposure. Therefore, the possibility of a new or different kind of accident from any previously evaluated has not been created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes revise the surveillance requirements for containment reinforced concrete and unbonded post-tensioning systems inservice examinations and tests contained in the referenced TS as required by 10 CFR 50.55a(b)(2)(vi) and 10 CFR 50.55a(b)(2)(ix). The proposed changes do not affect the ability of containment to mitigate design basis accidents, and, therefore, do not result in a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 20, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: for Byron, located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 17, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms: for Byron, located at the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 12th day of December, 1997.

For the Nuclear Regulatory Commission.

George Dick, Jr.,

Project Manager Project Directorate III–2 Division of Reactor Projects—III/IV Office of Nuclear Reactor Regulation.

[FR Doc. 97–33230 Filed 12–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454, STN 50–455, STN 50–456, and STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing Byron Station, Units 1 and 2 and Braidwood Station, Units 1 and 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–37, NPF–66, NPF–72, and NPF–77 issued to Commonwealth Edison Company (the licensee) for operation of the Byron Station, Units 1 and 2, located in Ogle County, Illinois and Braidwood Station, Units 1 and 2, located in Will County, Illinois.

The proposed amendment would revise technical specification (TS) 1.0, ''Definitions'', TS 3/4.6.1, ''Primary Containment'' and associated Bases; and TS 5.4.2, ''Reactor Coolant System Volume'' for Byron and Braidwood to support the steam generator replacement for Unit 1 at each site. The replacement steam generators increase the reactor coolant system volume which results in a higher calculated peak containment pressure (Pa) value. The staff's proposed no significant hazards consideration determination for the requested change was published on April 23, 1997 (62 FR 19826).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Each of the RSGs has a larger RCS primary side volume than the original steam generators (OSGs). As a result of the RCS volume increase, the mass and energy release during the blowdown phase of the large break loss of coolant accident (LBLOCA) is increased. Additionally, the heat transfer rate of the RSGs is greater than the OSGs, and the RSGs will operate at a slightly higher pressure than that for the OSGs. Consequently, the steam enthalpy exiting the break during the reflood period, for the RSGs, will be greater than for the OSGs. This results in an increase in the containment building peak pressure, P_a.

The proposed revisions to the Technical Specifications involve the corrected value of the current Unit 1 and Unit 2 RCS volume and the incremental change in RCS volume for the RSGs. The proposed revisions also involve the defined value of Unit 1 P_a following installation of the RSGs. Several editorial changes are also being made to improve clarity and consistency of the TS.

RCS volume is not an initiator for any event and an increase in volume does not affect any operating margin or requirements. Therefore, increasing the primary volume does not increase the probability of any event previously analyzed.

The current value of P_a for Unit 2 is unchanged due to conservatism in the original analysis. The revised value of P_a for Unit 1 continues to be less than the design basis pressure for the containment structure. The change represents only a revision to the containment test pressure for containment leakage testing. Such testing is only performed with the affected unit in the shutdown condition. Therefore, the proposed change in P_a for Unit 1 does not involve a significant increase in the probability of an accident previously evaluated.

All accidents in the Updated Final Safety Analysis Report (UFSAR) were evaluated to determine the effect of an increase in primary volume on accident consequences. The events identified that may be impacted by an increase in primary volume are the Waste Gas System Leak or Failure and LBLOCA. For the Waste Gas System Leak or Failure, the activity of the decay tank is controlled to Technical Specification limits which are unaffected by RCS volume. Therefore, an increase in RCS volume would not increase the offsite dose.

The offsite dose calculation for the LBLOCA is unaffected by the proposed

change. The license basis offsite dose calculation is in accordance with NRC Reg Guide 1.4 ''Assumptions Used for Evaluating The Potential Radiological Consequences of a Loss of Coolant Accident for Pressurized Water Reactors.'' This Regulatory Guide states, in part, ''* * * a number of appropriately conservative assumptions, based on engineering judgment and on applicable experimental results from safety research programs conducted by the AEC.'' These conservatisms include (but are not limited to) the following assumptions:

Twenty five percent of the equilibrium full power radioactive iodine inventory is immediately available for leakage from the primary containment. 100% of the equilibrium full power radioactive noble gas inventory is immediately available for leakage from the primary containment. The primary containment should be assumed to leak at the (maximum) leak rate specified in the technical specifications for the first 24 hours and at 50% of this value for the remaining 29 days of the accident duration.

The design basis leakage corresponding to a peak containment pressure of 50 psig utilized in the design basis accident analysis is 0.10% per day of the containment free air mass. Therefore, the offsite dose calculation was performed with a leakage of .1% per day for day one and .05% per day for days 2 through 30. Isotopic inventories are unaffected by the increase in reactor coolant volume. Thus, the offsite dose is unaffected by the increase in the peak containment pressure. Therefore, this proposed change to P_a does not involve a significant increase in the consequences of an accident previously evaluated.

The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not affect either the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in RCS volume is a change in a plant parameter within the ''Design Features'' section of the Technical Specifications. Increasing the RCS volume does not create any new or different failure modes. The existing RCS design requirements continue to be met.

The revised value of P_a for Unit 1 following replacement of steam generators continues to be less than the design basis pressure for the containment building structure. The change represents only a revision to the test pressure for containment leakage testing. Such testing is only performed with the affected unit in the shutdown condition. Therefore, no new or different failure modes are being introduced by modification of the testing parameters.

The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not result in any physical changes to the facility or how it is operated. No new or different failure modes are being introduced by these changes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Changing the RCS volume in the Technical Specifications does not reduce the margin of safety. RCS volume is a design feature. An evaluation of all UFSAR accidents was performed to determine the effect of an increase in RCS volume. This evaluation is summarized as follows:

An evaluation of the Chemical and Volume Control System Malfunction was performed to determine the effect of the increased RCS volume. The larger RCS volume reduces the reactivity insertion for a given dilution flow rate. Therefore, the UFSAR analyses remain bounding for Byron and Braidwood and there is no reduction in the margin of safety.

An evaluation of the Inadvertent Actuation of the Emergency Core Cooling System During Power Operation Event was performed to determine the effect of the increased RCS volume due to the RSGs. For this event, the injection of borated water causes a negative reactivity insertion, which increases DNBR. For a given Refueling Water Storage Tank (RWST) boron concentration, the larger RCS volume will cause a reduction in the negative reactivity insertion rate as compared to the current UFSAR analysis. However, negative reactivity would still be inserted and no fuel pins would experience DNB. Additionally, the increased RCS volume was evaluated to determine the effect on pressurizer level following the inadvertent actuation of ECCS and was found to be acceptable. Therefore, there is no reduction in the margin of safety.

An evaluation of the Small Break LOCA was performed to determine the effect of increased RCS volume. The additional RCS volume will cause a delay in the loop seal clearing which in turn delays the core uncovery as compared with the UFSAR analysis. A delay in core uncovery reduces the amount of core heatup which results in a lower peak clad temperature (PCT) because the core decay heat would be less than in the UFSAR analysis. The benefit is considered small, but there is still a benefit. Therefore, the increased RCS volume does not result in a reduction in the margin of safety.

An evaluation of the Large Break LOCA was performed to determine the effect of increased RCS volume for the RSGs. For a LB LOCA, the increased RCS volume causes the blowdown phase of the event to be longer. Increased blowdown phase, alone, could potentially result in a higher PCT. However, the RSGs also have less resistance to flow due to increased primary side steam generator flow area, which results in a higher blowdown flow compared to the OSGs. The increased blowdown flow will compensate for the longer blowdown phase associated with the increased RCS volume. The net effect is that the blowdown time (end of bypass) for the RSG will be the same or decrease compared to the OSG. Reduced resistance to break flow for the RSG compared to the OSG will result in a lower PCT for the RSG compared to the OSG.

The increase in the current value of RCS volume in Unit 2 is significantly less than the increase associated with the replacement of the steam generators in Unit 1. The small increase in the RCS volume will likely result in a slight increase in the blowdown period. This slight increase in the blowdown period will have no significant impact on the peak clad temperature (PCT) calculation for Unit 2. Any small changes in the PCT due to this small increase in the RCS volume can be easily accommodated for Unit 2 because of the significant margin in the PCT (over 100 degrees) available to the Appendix K 10 CFR 50.46 acceptance criteria of 2200 °F. Therefore, there is no reduction in the margin of safety.

An evaluation of the Gas Waste System Leak or Failure was performed to determine the effect of the increased RCS volume. Because the activity of the decay tank is controlled within Technical Specification limits, an increase in RCS volume would not change the results of the event. Therefore, there is no reduction in the margin of safety.

An evaluation was performed to determine the effect of the increased RCS volume (associated with the RSGs) on the peak containment pressure following a LBLOCA. The increased RCS volume caused the peak containment pressure to increase to 47.8 psig. This is still below the containment design pressure of 50.0 psig. Therefore, there is no reduction in the margin of safety. The increase in RCS volume for the existing units (without RSGs) remains within the conservative volume used in the calculation of the current peak containment pressure value of 44.4 psig. Therefore, there is no reduction in the margin of safety.

This proposed change involves testing requirements designed to demonstrate acceptable leakage rates are maintained. If acceptable leakage rates are maintained as outlined in the Technical Specifications, there will be no reduction in the margin of safety. In the event of degradation of a containment seal that results in unacceptable leakage, plant shutdown will occur as required by Technical Specifications and administrative requirements in accordance with approved plant procedures. Therefore, this proposed change does not involve a significant reduction in a margin of safety. The editorial changes proposed are for clarity and consistency within the Technical Specifications and do not result in any physical changes to the facility or how it is operated. Therefore, the changes have no effect on the margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the

amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 20, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 30, 1997, as revised on December 9, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms: for Byron, located at the Byron Public Library District, 109 Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 15th day of December, 1997.

For the Nuclear Regulatory Commission.

George Dick, Jr.,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–33231 Filed 12–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Policy Statement on Cooperation With States at Commercial Nuclear Power Plants and Other Production or Utilization Facilities: Notice of Approval

On February 22, 1989 (54 FR 7530) as revised on February 25, 1992 (57 FR 6462), the NRC published a policy statement addressing cooperation between the NRC and States concerning commercial nuclear power plants and other utilization facilities. The NRC has received a renewal of the clearance from the Office of Management and Budget (OMB) for the information collection requirements under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35). The policy statement is approved under OMB control number 3150–0163.

Dated at Rockville, Maryland this 15th day of December, 1997.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 97–33220 Filed 12–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

State of New Mexico Relinquishment of Sealed Source and Device Evaluation and Approval Authority and Reassumption by the Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of reassumption of sealed source and device evaluation and approval authority from the State of New Mexico.

SUMMARY: Notice is hereby given that effective January 1, 1998, the Nuclear Regulatory Commission will reassume regulatory authority for sealed source and device evaluations and approvals in the Agreement State of New Mexico in response to a request from the Governor of the State of New Mexico to relinquish this authority.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Cardelia H. Maupin, Senior Project Manager, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–2312, Internet: CHM@NRC.GOV.

SUPPLEMENTARY INFORMATION: Currently, the State of New Mexico has an Agreement with the Nuclear Regulatory Commission (NRC) which grants the State authority to regulate specific categories of radioactive materials formerly regulated by the NRC. This Agreement was entered into on May 1, 1974, pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

Recently, the NRC received a letter from New Mexico Governor Gary E. Johnson (September 8, 1997) requesting relinquishment of the State's authority to evaluate and approve sealed source and devices, and assumption of this authority by NRC. The requested action would involve reassertion of regulatory authority by NRC over activities currently regulated by New Mexico pursuant to its Agreement with NRC.

The Governor of New Mexico noted there are two manufacturers in the State and there has been no sealed source and device evaluations conducted since 1988. Governor Johnson indicated that it would not be cost effective to fund and maintain staff to conduct sealed source and device evaluations.

The Commission has agreed to the request and has notified New Mexico that effective January 1, 1998, the NRC will reassume authority to evaluate and approve sealed source and device applications within the State of New Mexico. The State of New Mexico will retain authority to regulate the manufacture and use of sealed sources and devices within the State in accordance with its Section 274b Agreement with the NRC.

Dated at Rockville, Maryland this 12th day of December, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–33218 Filed 12–18–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Privacy Act of 1974, Proposed Changes to System of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of a proposed routine use.

SUMMARY: The purpose of this document is to give notice of a proposed routine use to one of the RRB's Privacy Act systems of records.

DATES: The new routine use will be effective 30 calendar days from the date of this publication unless comments are received before this date which would result in a contrary determination.

ADDRESSES: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4548.

SUPPLEMENTARY INFORMATION:

I. Discussion of Proposed Routine Use

Pursuant to Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Railroad Retirement Board (RRB) will disclose data from its system of records RRB–19, Payroll Record System, to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services (HHS) for use in the National Database of New Hires, part of the Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. A description of the Federal Parent Locator Service may be found at 62 FR 51663 (October 2, 1997).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. On October 1, 1997, the FPLS was expanded to include the National Directory of New Hires, a database containing information on employees recently hired, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. On October 1, 1988, the FPLS will be expanded further to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

When individual are hired by the RRB, we may disclose to the FPLS their

names, social security numbers, home addresses, dates of birth, dates of hire, and information identifying us as the employer. We may also disclose to the FPLS names, social security numbers, and quarterly earnings of each RRB employee within one month of the end of the quarterly reporting period.

Information submitted by the RRB to the FPLS will be disclosed by the Office of Child Support Enforcement to the Social Security Administration for verification to ensure that the social security number provided is correct. The datea disclosed by the RRB to the FPLS will also be disclosed by the Office of Child Support Enforcement to the Secretary of the Treasury for use in verifying claims for the advance payment of the earned income tax credit or to verify a claim of employment on a tax return.

II. Compatibility of Proposed Routine Use

We are proposing this routine use in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)). The Privacy Act permits the disclosure of information about individuals without their consent for a routine use where the information will be used for a purpose which is compatible with the purpose for which the information was originally collected. The Office of Management and Budget has indicated that a ''compatible'' use is a use which is necessary and proper. Since the proposed uses of the data are required by Public Law 104–193, they are clearly necessary and proper uses, and therefore ''compatible'' uses which meet the requirement of the Privacy Act.

III. Altered System Report

On December 11, 1997, the Railroad Retirement Board filed an altered system report for this system with the chairman of the designated Senate and House committees and with the Office of Management and Budget. This was done to comply with Section 3 of the Privacy Act of 1974 and OMB Circular No. A–130, Appendix I.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–19

SYSTEM NAME: PAYROLL RECORD SYSTEM—RRB

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Paragraph ''j'' is added to read as follows:

j. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act, Pub. L. 104–193).

[FR Doc. 97–33202 Filed 12–18–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39444; File Nos. SR–DTC–97–16, SR–NSCC–97–08, SR–Philadep–97–04, SR-SCCP–97–04]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Philadelphia Depository Trust Company; Stock Clearing Corporation of Philadelphia; Order Granting Partial Permanent Approval and Partial Temporary Approval of Proposed Rule Changes Relating to a Decision by the Philadelphia Stock Exchange, Incorporated to Withdraw From The Securities Depository Business and to Restructure and Limit its Clearance and Settlement Business

December 11, 1997.

In August and September, 1997, The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), Philadelphia Depository Trust Company (''Philadep''), and Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') proposed rule changes pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] concerning the decision by the Philadelphia Stock Exchange, Incorporated (''PHLX'') to withdraw from the securities depository business and to restructure its clearance and settlement business.[2] Notices of the proposals were published in the **Federal Register** on October 15 and 16, 1997.[3] The Commission received one comment letter, which pertained to DTC and which expressed concern that PHLX's decision to withdraw from the clearance and settlement and securities depository businesses reduced competition in the market.[4] The Commission also received DTC's letter responding to the comment letter.[5] For the reasons discussed below, the Commission is approving the proposed rule changes.

I. Description

PHLX is withdrawing from the securities depository business currently offered through its wholly owned subsidiary, Philadep, and is restructuring and limiting its clearance and settlement business currently offered through its wholly owned subsidiary, SCCP. DTC, NSCC, PHLX, Philadep, and SCCP have entered into an agreement dated as of June 18, 1997, governing arrangements relating to PHLX's decision (''Agreement''). Pursuant to the Agreement, as discussed below, most of the current day-to-day depository and clearance services of Philadep and SCCP will now be provided by DTC and NSCC.

A. Agreement

Under the Agreement, the parties are working to assure an orderly transition with respect to the cessation of Philadep's operations and the restructuring of SCCP's operations. Philadep and DTC have agreed to assist sole Philadep participants in becoming DTC participants to the extent that they meet DTC qualifications and desire to become DTC participants. Philadep and DTC also have agreed to cooperate in the transfer of securities from the custody of Philadep to the custody of DTC.

After the closing date of the Agreement, SCCP no longer will maintain its continuous net settlement (''CNS'') system for conducting

[1] 15 U.S.C. 78s(b)(1).

[2] On August 5, 1997, DTC filed its proposed rule change with the Commission (File No. SR–DTC–97–16). On August 6, 1997, NSCC filed with the Commission and on August 28, 1997, amended its proposed rule change (File No. SR–NSCC–97–08). On September 25, 1997, Philadep filed its proposed rule change with the Commission (File No. SR–Philadep–97–04). On September 30, 1997, SCCP filed its proposed rule change with the Commission (File No. SR–Philadep–97–04).

PHLX submitted a rule filing on November 14, 1997 (File No. SR-PHLX–97–59) in connection with its withdrawal from the clearance and settlement and securities depository businesses. PHLX's rule filing is being addressed in a separate notice and order.

[3] Securities Exchange Act Release Nos. 39222 (October 8, 1997), 62 FR 53847 (DTC); 39220 (October 8, 1997), 62 FR 53848 (NSCC); 39223 (October 8, 1997), 62 FR 53681 (SCCP); 39221 (October 8, 1997), 62 FR 53681 (Philadep).

[4] Letter from P. Howard Edelstein, President, Electronic Settlements Group, Thomson Financial Services, Inc., (November 4, 1997).

[5] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC (November 14, 1997).

settlements between SCCP and its participants. As a result, SCCP will cease providing the cash settlement services attendant to Philadep's same-day funds settlement system and the Philadep settlement process. However, pursuant to the Agreement, SCCP may continue to offer limited clearing and settlement services to PHLX members. SCCP intends to provide trade confirmation and recording services for PHLX members that carry out transactions through regional interface operations (''RIO'') accounts and ex-clearing accounts. Under the amended versions of SCCP Rules 10 and 11, SCCP will not provide clearing guarantees on such transactions.

SCCP will continue to offer margin services for certain participants in a special account established by SCCP at NSCC. Pursuant to the Agreement, SCCP will establish an omnibus account at NSCC and will abide by NSCC's rules and procedures as a participant of NSCC. Under the Agreement, SCCP may offer margin services only to: (i) PHLX equity specialists for their specialists and alternate specialists transactions, as well as for their proprietary transactions in securities for which they are not appointed as specialists or alternate specialists and (ii) PHLX members listed on a schedule that are not PHLX equity specialists for their proprietary transactions.[6]

Under the Agreement, PHLX, Philadep, and SCCP will not directly or indirectly engage in or compete in the business of providing securities depository services or clearance and settlement services for a period of five years. This prohibition does not apply to PHLX's equity ownership interest in The Options Clearing Corporation and does not apply to SCCP's providing of margin services.

B. SCCP Rule Changes[7]

A new definition of ''margin member'' is established in SCCP Rule 1 to reflect those PHLX floor firms entitled to clear through a SCCP margin account.[8] Pursuant to the amended version of SCCP Rule 9, SCCP may provide margin accounts for margin members that clear and settle their transactions through SCCP's omnibus clearance and settlement account. SCCP will margin such accounts based on its procedures and on Regulation T of the Board of Governors of the Federal Reserve System.[9]

At any time, SCCP may demand a margin member to provide additional margin based upon its review of the margin member's security positions held by SCCP. SCCP will retain its margin thresholds as currently specified in its procedures and may require adequate assurances or additional margin in addition to the minimum margin thresholds in order to protect SCCP in issues deemed by SCCP to warrant additional protection. SCCP may demand any such margin payments in federal funds in accordance with its procedures.

SCCP may issue margin calls to any margin member whose margin requirement exceeds the account equity of the margin member's margin account.[10] SCCP may waive any amount that would trigger a margin call not exceeding $500. A margin member that fails to meet a margin call will be subject to SCCP Rule 22 (formerly SCCP Rule 23) which governs disciplinary proceedings and penalties. SCCP may cease to act for delinquent margin members and will retain a lien on all delinquent margin members' accounts and securities therein.

SCCP will segregate and maintain records on each individual margin account and will maintain the omnibus account so as to reflect all positions in SCCP's margin accounts. SCCP also will guarantee the settlement obligations of the omnibus account to NSCC. Pursuant to the Agreement, PHLX will guarantee SCCP's obligations to NSCC.

SCCP's books and records for the omnibus clearance and settlement account will reflect all activity that occurs in the account at NSCC and DTC. At any time prior to midnight (Eastern Time) on the next business day after SCCP receives a margin member's trade, SCCP will be entitled to reverse such a trade from such margin member's account. SCCP will settle the omnibus clearance and settlement account with NSCC each business day in accordance with NSCC's rules and procedures. Accordingly, SCCP will be subject to NSCC's rules including, but not limited to, the following: (i) Daily mark-to-market requirements, (ii) allocations of long and short securities positions, (iii) dividend and reorganization settlement activities, and (iv) pledging of collateral and stock loans. Dividends, reorganizations, adjustments, and buy-ins will be passed through to margin members in accordance with SCCP's procedures. SCCP will continue to provide margin members with purchase and sales reports, bookkeeping reports, dividend and reorganization reports, and preliminary equity reports in accordance with SCCP's procedures.

SCCP will have one composite settlement per day with NSCC through the omnibus clearance and settlement account. SCCP will maintain line of credit (''LOC'') arrangements with one or more commercial banks sufficient to support anticipated funding needs of the underlying margin accounts. In order to cover all such margin debits, SCCP anticipates obtaining an aggregate of $5 million in committed and $5 million in uncommitted LOCs from each of two separate lending institutions, totaling $20 million.

SCCP is amending its Rule 14 (formerly SCCP Rule 15) to provide that mark-to-market funds may not be used to finance margin members' account activity. SCCP also is amending Rule 14 to provide that any mark-to-market funds collected by SCCP will be segregated and invested in accordance with analogous procedures set forth in SCCP Rule 4. Under the amended version of SCCP Rule 13, SCCP will pass through any buy-ins submitted by NSCC to SCCP or by a SCCP participant to NSCC in accordance with NSCC's buy-in rules and procedures.

To ensure that margin members have an efficient way to obtain securities depository services after the closure of Philadep's depository service, NSCC will sponsor SCCP in opening a depository account at DTC to benefit margin members. If margin members carry out trades in securities that are not eligible for custodial services in DTC's book-entry system, SCCP will use NSCC's direct clearing service to settle the transactions. SCCP will continue to perform bookkeeping and reconciliation services for the omnibus clearance and settlement account and its related DTC custody account pursuant to SCCP procedures.

In accordance with NSCC's participants fund formulae, SCCP, as a NSCC participant and as a sponsored participant of DTC, will be required to provide NSCC and DTC with participants fund contributions. SCCP is deleting its participants fund formulae applicable to inactive accounts, full service CNS accounts, and layoff accounts. SCCP will establish a fixed

[6] Under the Agreement, SCCP may add other PHLX members to this schedule subject to NSCC's approval. The Commission understands that at this time SCCP will be offering margin services only to PHLX members that are PHLX equity specialists.

[7] SCCP included the text of its revised rules as an exhibit which is available for inspection and copying at the Commission's public reference room and through SCCP.

[8] Under the rule change, the term ''margin member'' is defined to include participants that are PHLX specialists, alternate specialists, and other PHLX floor members specifically approved by NSCC to effect trading in a margin account.

[9] 12 CFR 220.

[10] Under the rule change, SCCP Rule 1 defines the term ''account equity'' as the total net current market value of security positions held in the margin account plus or minus cash balances in such account.

$35,000 contribution for each of the following account categories: specialist margin and non-specialist margin. No changes will be made to the RIO account formula. Accordingly, RIO account participants will continue to be subject to a contribution of $10,000 to $75,000 depending upon monthly trading activity. SCCP will continue to use its current procedure under which a participant engaging in more than one account type activity will be subject only to the formula that would generate the highest participants fund contribution.

SCCP may allocate any portion of its participants fund to satisfy NSCC's and DTC's participants fund requirements with respect to the omnibus account. Any excess SCCP participants fund cash not used to fund SCCP's NSCC and DTC participants fund requirements will be segregated and invested by SCCP in accordance with SCCP Rule 4. If SCCP's participants fund formulae do not provide for contributions that equal those which would be required pursuant to the NSCC and DTC participants fund formulae, SCCP reserves the right to collect from each participant an additional pro rata charge to meet any such deficit.

SCCP is amending SCCP Rule 4 to specify that no participants fund contributions may be used in financing margin members' margin account activity.[11] In addition SCCP is amending Rule 4 to provide for the establishment by SCCP and Philadep of a reserve fund that will be used to provide a liquid fund to draw on as necessary to meet certain specified expenses. The reserve fund will be funded with deposits of $1,000,000 by August 11, 1998; $1,000,000 by August 11, 1999; and $1,000,000 by August 11, 2000. The reserve fund will be held and invested in accordance with the procedures set forth in SCCP Rule 4 for the holding and investment of the participants fund. Amounts drawn from the reserve fund must be replenished within sixty days following the date of each such withdrawal. SCCP Rule 4 also is being amended to provide that no portion of the reserve fund may be used in financing margin members' margin account activity.

SCCP is amending its schedule of fees to delete those fees associated with services no longer to be offered. SCCP will now charge RIO Accounts fees of $0.05 per $1,000 of contract value.

[11] As previously stated, SCCP is establishing separate sources of funding, including bank LOCs, to serve the operation of its margin members' margin accounts.

II. Comment Letters

The Commission received two comment letters in response to the notice of DTC's proposed rule change: one was a comment letter from Thomson Financial Services (''Thomson'') pertaining to DTC and one was a response from DTC to Thomson's letter.[12] Thomson stated that it did not object to DTC's proposal to offer depository services to former sole Philadep participants; however, Thomson also stated its belief that the cessation of Philadep's services might adversely affect competition.

DTC stated in response that it is strongly committed to competition. DTC noted that the regional stock exchanges have decided independently that maintaining their own securities depositories was no longer in their members' best interests. In addition, DTC stated that when the regional stock exchanges have decided to close their securities depositories, DTC always has responded promptly by expending resources to ensure the safe transfer of funds and securities.

III. Discussion

Section 17A(b)(3)(F) of the Act[13] requires that the rules of a clearing agency be designed to promote prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule changes by DTC, NSCC, Philadep, and SCCP are consistent with the requirements of Section 17A(b)(3)(F) because they should facilitate prompt and accurate clearance and settlement of securities transactions by providing More efficient and less expensive clearing and depository services. Moreover, because the proposals provide for the orderly transfer of open positions and securities from SCCP to NSCC and from Philadep to DTC, the Commission believes the proposals are consistent with the obligations of DTC, NSCC, Philadep, and SCCP to safeguard securities and funds in their custody and control and to provide for the prompt and accurate clearance and settlement of securities transactions.

Section 19(b) of the Act[14] provides that the Commission shall approve proposed exchange and clearing agency rule changes if it finds that the proposals are consistent with the requirements of the Act and the rules and regulations thereunder that govern those organizations. Competition among clearing agencies is a factor that the Commission must consider in its examination of any proposal.[15] However, the Commission is not required to achieve its regulatory objectives in the least anticompetitive manner and is at most required to decide that any anticompetitive effects of its actions are necessary or appropriate to the achievement of its objectives.[16] Therefore, in assessing the anticompetitive effect, the Commission is required to balance the maintenance of fair competition along with a number of other equally important express purposes of the Act such as the protection of investors and the safeguarding of securities and funds.[17]

Despite the dominant market position of DTC and NSCC, the Commission believes the current regulatory scheme and the particular structure and nature of the clearing and depository industries provide ample means of avoiding the potential negative effects of a monopoly. Sections 17A and 19 of the Act and the rules thereunder provide the Commission appropriate and effective regulatory authority over DTC and NSCC. The Commission believes that after the consummation of the proposed arrangements, securities industry members will continue to have access to high quality, low cost depository and clearing services provided under the mandate of the Act. Accordingly, the Commission believes that the proposed transaction advances the objectives of the national clearance and settlement and system without an inappropriate or unnecessary burden upon competition.

Thus, the light of the above, the Commission finds that approval of the proposals is warranted. However, because a part of SCCP's proposed rule change concerns the restructuring of SCCP's operations to enable SCCP to offer limited clearing and settlement services to certain PHLX members, the Commission finds that it is appropriate to grant only temporary approval to the portion of SCCP's proposed rule change that amends SCCP's By-laws, Rules, or Procedures. This will allow the Commission and SCCP to see how well SCCP's restructured operations are functioning under actual working conditions and to determine whether any adjustments are necessary. Thus, the Commission is approving the portion of SCCP's proposal that amends

[12] *Supra* Notes 4 and 5.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] 15 U.S.C. 78s(b).

[15] See Exchange Act Section 17A(b)(3)(I), 15 U.S.C. 78q–1(b)(I).

[16] 15 U.S.C. 78c(f). *Bradford National Clearing Corp.* v. *SEC*, 590 F.2d 1085, 1105 (D.C. Cir. 1978).

[17] *Id.* at 1106.

its By-laws, Rules, or Procedures through December 31, 1998.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes of Philadep (File No. SR–Philadep–97–04), of DTC (File No. SR–DTC–97–16), and of NSCC (File No. SR–NSCC–97–08) and the portion of SCCP's proposed rule change dealing with its entering into the Agreement (File No. SR–SCCP–97–04) be and hereby are approved.

It is further Ordered, pursuant to Section 19(b)(2) of the Act, that the portion of SCCP's proposed rule change that amends its By-laws, Rule, or Procedures (File No. SR–SCCP–97–04) be and hereby is approved through December 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33194 Filed 12–18–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39442; File No. SR–NASD–97–78]

Self-Regulatory Organizations; Order Granting Partial Approval on an Accelerated Basis of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Amended Interpretation of IM–8310–2, Release of Disciplinary Information

December 11, 1997.

I. Introduction

On October 17, 1997, National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change which amends the Interpretation on the Release of Disciplinary Information, IM–8310–2 of Rule 8310 of the Procedural Rules of the NASD (''Interpretation'' or ''IM–8310–2''). A notice of the proposed rule change was published in the **Federal Register** on November 21, 1997.[3] The Commission, to date, has received no comment letters on the proposed rule change. For the reasons discussed below, the Commission is granting partial accelerated approval of the proposed rule change.

In its notice, filed on October 17, 1997, the NASD Regulation, Inc. (''NASDR'') proposed to amend IM–8310–2 to include the phrase ''electronic inquiry'' in the rule language so that it could respond to electronic inquiries, as well as written or telephonic inquiries. In the notice, the NASDR also proposed to amend the rule language to include the additional information required to be reported on the amended Forms U–4, U–5, and BD. The NASDR has requested that the Commission approve, on an accelerated basis, only that portion of the amended rule language that allows it to respond to electronic inquiries.[4] Hence, the Commission is partially approving, on an accelerated basis, that portion of the NASDR's request which will give the NASD the option of responding to the electronic inquiries of persons or entities requesting employment and disciplinary history of its members and their associated persons.

II. Description of Proposal

Under the NASD's Public Disclosure Program (''PDP''),[5] the NASD, in response to a written inquiry or telephonic inquiry via a toll-free telephone listing, releases certain information contained in the Central Registration Depository (''CRD'') regarding the employment and disciplinary history of its members and their associated persons. When an inquiry is made, if the broker-dealer or associated person has a disciplinary history, the NASD responds by sending the inquirer a copy of the disclosable information (*e.g.*, information regarding past and present employment history with Association members).[6] If there is no history, the NASD responds by informing the caller of this and following up with a written record of same, if so requested.[7]

In past months, the NASD has undertaken a reassessment of the CRD to take advantage of developing technology and to improve its performance meeting the NASD's changing business needs. As a result of this reassessment, the NASD determined that the Internet should be a component of its PDP. In an effort to expand its PDP and make it more accessible and convenient for investors, the NASD's proposal amends the Interpretation to enable the NASD to receive electronic inquiries as well as written and telephonic inquiries.[8]

III. Discussion

NASDR has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act,[9] for approving, prior to the 30 day after publication in the **Federal Register**, that part of the proposed rule change that permits the NASD to respond to electronic inquiries.[10] The Commission has reviewed the NASDR's proposed rule change and believes, for reasons set forth below, that the proposal is consistent with the requirements of the Act[11] and the rules and regulations thereunder applicable to the NASD. Specifically, the Commission believes the proposal is consistent with Sections 15A(b)(6) and 15A(i) of the Act. Section 15A(b)(6) provides in relevant part that the rules of the association be designed to foster cooperation and coordination with persons engaged in regulating and processing information with respect to securities and not to permit unfair discrimination among customers, issuers, brokers or dealers. Section 15A(i) of the Act requires the Association to promptly respond in writing to inquiries regarding disciplinary actions involving its members or associated persons.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. By amending IM–

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[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Rel. No. 39322 (Nov. 13, 1997), 62 FR 62391.

[4] Telephone conversation with Alden S. Adkins, General Counsel and Mary M. Dunbar, Assistant General Counsel, NASDR, and Belinda Blaine, Associate Director, Katherine A. England, Assistant Director, and Mignon McLemore, Staff Attorney, Division of Market Regulation, November 26, 1997.

[5] See Securities Exchange Act Rel. No. 30629 (April 23, 1992), 57 FR 18535 (April 30, 1992); and Securities Exchange Act Rel. No. 32568 (July 1, 1993), 58 FR 36723 (July 8, 1993).

[6] See *supra* note 3. The notice contains a complete list of disclosable disciplinary information.

[7] If the request is written and there is no disclosable history, a record indicating same is sent to the inquirer.

[8] See *supra* note 3.

[9] 15 U.S.C. 78s(b)(2).

[10] See *supra* note 4.

[11] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. The ability to use electric media will most likely enhance efficiency by decreasing the time between when the request is made and when the response is received. Additionally, the ready accessibility of CRD information should positively affect competition in the marketplace; disciplinary histories will be more accessible to the public. 15 U.S.C. 78c(f).

8310–2 to include the phrase ''electronic inquiry,'' the NASD has made it easier and more convenient for interested persons to inquire about the employment and disciplinary history of its members and their associated persons. The Commission commends any effort made to improve investor access to information that could help investors determine whether to conduct or continue to conduct business with a particular broker-dealer or associated person. The Commission understands, however, that the NASD intends to disseminate responses to some inquiries electronically. As with developing and instituting information systems technology, the Commission expects the NASD, consistent with its statutory duties, to assure itself that security concerns (*i.e.*, the security of its systems and the immutability of the records after transmittal) have been addressed. Thus, in granting this partial accelerated approval, the Commission notes that it is approving only the NASD's ability to respond to electronic inquiries as if they were either written or telephonic inquiries.

Based on the foregoing, the Commission deems it appropriate to partially approve the proposed rule change on an accelerated basis, pursuant to Section 19(b) of the Act and the rules and regulations thereunder.[12]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the aforementioned portion of proposed rule change SR–NASD–97–78 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33128 Filed 12–18–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39441; File No. SR–NASD–97–83]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Listing Fees for Nasdaq National Market Issuers

December 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 13, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend NASD Rule 4510 to revise the annual fees for Nasdaq National Market issuers and to make conforming changes to Rule 4520. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

Rule 4510. The Nasdaq National Market

(a) Entry Fee

(1) When an issuer submits an application for inclusion of any class of its securities in the Nasdaq National Market, it shall pay to The Nasdaq Stock Market, Inc.:

(A) a one-time company listing fee of $5,000 (which shall include a $1,000 non-refundable processing fee); and

[(B) for each class of security listed, a fee calculated on a graduated rate of $.005 per share for the first 5 million shares, $.0025 per share for each share between 5,000,001 and 15 million, inclusive, and $.001 per share for each share over 15 million, based on the total number of shares outstanding. Entry fees paid by a company for all classes of securities listed on the Nasdaq National Market, regardless of the date those securities are listed, shall not exceed $50,000 (inclusive of the $5,000 company listing fee).[2]]

(B) a fee calculated on total shares outstanding according to the following schedule:

Up to 1 million shares—$29,525
1+ to 2 million shares—$33,750
2+ to 3 million shares—$43,750
3+ to 4 million shares—$48,750
4+ to 5 million shares—$55,000
5+ to 6 million shares—$58,725
6+ to 7 million shares—$61,875
7+ to 8 million shares—$64,375
8+ to 9 million shares—$67,875
9+ to 10 million shares—$70,625
10+ to 11 million shares—$73,875
11+ to 12 million shares—$76,625
12+ to 13 million shares—$79,875
13+ to 14 million shares—$82,000
14+ to 15 million shares—$83,500
15+ to 16 million shares—$85,500
Over to 16 million shares—$90,000

[The entry fee shall be based on the total number of] *Total shares* outstanding *means the aggregate of all classes of equity* securities [of the class] to be included in the Nasdaq National Market as shown in the issuer's most recent periodic report *or in more recent information held by Nasdaq* or, in the case of new issues, as shown in the offering circular, required to be filed with the issuer's appropriate regulatory authority. [and received by The Nasdaq Stock Market, Inc.]

(3) no change

(4) no change

(b) Additional Shares

(1) The issuer of each class of security, other than the American Depositary Receipts, which is listed in the Nasdaq National Market shall pay to The Nasdaq [National] Stock Market, Inc. the fee set forth in subparagraph (2) below in connection with the issuance of additional shares of each class of listed security set forth In subparagraph (3) below.

(2) no change

(3) no change

(4) Payment of the fee to The Nasdaq Stock Market, Inc. shall be included with the issuer notification to [the Association] *Nasdaq* of the issuance of additional shares of securities as required under provisions of Rule 4310(c)(17) and Rule [4320(e)(16)] *4320(e)(15).*

(c) Annual Fee—Domestic and Foreign Issues

(1) As of January 1, [1993] *1998*, the issuer of each class of securities that is a domestic or foreign issue listed in the Nasdaq National Market shall pay to The Nasdaq Stock Market, Inc. an annual fee [(comprised of a base annual fee and a variable annual fee) to be computed as follows:] *calculated on total shares outstanding according to the following schedule:*

[(A) The base annual fee shall be calculated on total shares outstanding[3] according to the following schedule:
Up to 1 million shares—$5,250

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[12] 15 U.S.C. 78s.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[1] On December 3, 1997, the NASD, through Nasdaq, submitted Amendment No. 1 to the filing. See letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated December 3, 1997.

[2] [For purposes of the Rule 4500 Series, the term ''shares'' shall include common and preferred stock, American Depositary Receipts (ADRs), warrants, partnership interests, or any other security listed on the Nasdaq National Market.]

[3] Total shares outstanding shall be the aggregate of all classes of securities listed on the NNM calculated at year end.

1+ to 2 million shares—$5,750
2+ to 3 million shares—$6,250
3+ to 4 million shares—$6,750
4+ to 5 million shares—$7,250
5+ to 6 million shares—$7,750
6+ to 7 million shares—$8,250
7+ to 8 million shares—$8,750
8+ to 9 million shares—$9,250
9+ to 10 million shares—$9,750
10+ to 11 million shares—$10,250
11+ to 12 million shares—$10,750
12+ to 13 million shares—$11,250
13+ to 14 million shares—$11,750
14+ to 15 million shares—$12,250
15+ to 16 million shares—$12,750
Over 16 million shares—$13,250]
Up to 1 million shares—$10,710
1+ to 2 million shares—$10,960
2+ to 3 million shares—$11,210
3+ to 4 million shares—$11,460
4+ to 5 million shares—$11,710
5+ to 6 million shares—$11,960
6+ to 7 million shares—$12,210
7+ to 8 million shares—$12,460
8+ to 9 million shares—$12,710
9+ to 10 million shares—$12,960
10+ to 11 million shares—$17,255
11+ to 12 million shares—$17,505
12+ to 13 million shares—$17,755
13+ to 14 million shares—$18,005
14+ to 15 million shares—$18,255
15+ to 16 million shares—$18,505
16+ to 20 million shares—$18,755
20+ to 25 million shares—$22,795
25+ to 50 million shares—$26,625
50+ to 75 million shares—$32,625
75+ to 100 million shares—$43,125
Over 100 million shares—$50,000

[(B) The variable annual fee shall be calculated at the rate of $.025 per $1,000 of market capitalization,[4] but only for market capitalization above $100 million.

(C) The annual fee (comprised of the base and variable fee) shall be capped as follows:

For companies with 10 million shares or less—$10,000
For companies with 10+ to 20 million shares—$15,000
For companies with more than 20 million shares—$20,000

(2) no change
(3) no change.

(d) Annual Fee—American Depositary Receipts (ADRs)

(1) no change
(A) no change
(B) the sum of $500 or $.0005 per share outstanding, whichever is higher, up to a maximum of $6,000 of *each* class of securities listed in the Nasdaq National Market.

(2) The annual fee shall be based on the total [amount of] *shares* outstanding [securities] of the class included in the Nasdaq National Market as shown in the issuer's most recent periodic report required to be filed with *the* issuer's appropriate regulatory authority *or in more recent information held by Nasdaq.* [and received by the Nasdaq Stock Market, Inc.]
(3) no change
(4) no change

Rule 5420. The Nasdaq SmallCap Market

(a) Entry Fee

(1) no change
(A) no change
(B) no change
(i) Equity Securities
$1,000 or $.001 per share outstanding, whichever is higher. For purposes of this subparagraph, the term ''equity securities'' includes all securities eligible for inclusion in the Nasdaq SmallCap Market not covered by subparagraph (ii) hereof[5]
(2) no change
(3) The entry fee shall be based on the total *shares* [number of] outstanding [securities] of the class to be included in the Nasdaq SmallCap Market as shown in the issuer's most recent period report *or in more recent information held by Nasdaq* or, in the case of new issues, as shown in the offering circular, required to be filed with the issuer's appropriate regulatory [and received by The Nasdaq Stock Market, Inc].
(b) no change
(c) no change
(d) no change
(1) no change

(A) Equity Securities
$500 or $.0005 per share outstanding, whichever is higher. For purposes of this subparagraph, the term ''equity securities'' includes all securities eligible for inclusion in the Nasdaq SmallCap Market not covered by paragraph [(ii)] *(B)* of this section.[6]

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 NASD 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 NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will adjust both the Entry Fee and the Annual Fee for Nasdaq National Market issuers, effective January 1, 1998. Nasdaq has determined that an increase in the Entry Fee and the Annual Fee for issuers included on the Nasdaq National Market is necessary. Nasdaq has not filed an adjustment to its fee rates since the fall of 1991. Since that time, Nasdaq has committed increased resources in efforts to strengthen market qualifications, to communicate with investors, and to prepare for closer integration of the world's equity markets. In particular, during the last eighteen months, substantial incremental annual expenses have been incurred in the development and operation of new information services for issuers and investors. These new information services include nasdaq.com and Nasdaq Online. Such additional services, while adding considerable value to a Nasdaq listing, were not envisioned when the 1991 fee filing was put in effect.

Through nasdaq.com, the market provides valuable information for investors and prospective investors at all levels. The Nasdaq website provides internet access to pricing from all markets. It also includes news, analyst information, tear sheets, hot links to EDGAR and other information which is important to all investors. With Nasdaq Online, companies now have access to the information they need to better serve their shareholders. Nasdaq Online provides companies with market and transaction data, analyst estimates, institutional ownership data, and fundamental financial information in an integrated system accessible through the internet. This service is important in helping issuers fulfill their responsibilities to shareholders.

The proposed fee increase will also be used to support the continued expansion and technological enhancements of Nasdaq's qualification and market surveillance systems and programs. Initiatives include the development of an automated issuer risk assessment system and an automated

[4] Market capitalization is calculated by multiplying total shares outstanding at year end (except that convertible bonds, rights and warrants are not included) times the price at year end.

[5] [See footnote to Rule 4510(a)(1(B) defining ''shares.''] *The term ''shares'' shall include common and preferred stock, American Depositary Receipts (ADRs), warrants, partnership interests, or any other security listed on the Nasdaq SmallCap Market.* In the case of units, each component, but not the unit itself, shall be considered separately as an ''equity security'' for fee purposes.

[6] See notes to Rule [4510(a)(1)(B) and] 4520(a)(1)(B)(i), above.

Internet surveillance system. Additional resources will be committed to additional listing qualifications staff to insure compliance with the recently approved increase in Nasdaq's listing requirements.[7] These initiatives, in concert with the additional services provided to companies and investors, will enhance the overall quality of companies listed on Nasdaq, foster the protection of investors and promote the integrity of The Nasdaq Stock Market.

The Nasdaq Stock Market expects to witness the continuing rapid growth and integration of the world's equity capital markets in the next few years. Nasdaq plans to be in the position to meet the growing demand of global investors for ownership of U.S. securities. This will require refinements to the market and further development of the global positioning of U.S. companies. The proposed fee increase will be used to cover costs that Nasdaq is incurring by providing these extra services to Nasdaq issuers, their shareholders and potential investors.

The proposed rule change also deletes references to filings received by Nasdaq because the receipt by Nasdaq is not the determinative test for which periodic report is most recent. Furthermore, it makes other conforming changes to clarify the text of the applicable rules.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) and (6) of the Act. The proposed rule change is consistent with Section 15A(b)(5) as it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers using the Nasdaq system. The proposed rule change is consistent with section 15A(b)(6) as it is designed to promote just and equitable principles of trade and does not permit unfair discrimination between customers, issuers, brokers or dealers. As noted above, the fee increase reflects additional costs that Nasdaq incurs for services provided to issuers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–83 and should be submitted by January 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33193 Filed 12–18–97; 8:45 am]

BILLING CODE 8010–01–M

[7] See Securities Exchange Act Release No. 38961 (Aug. 22, 1997), 62 FR 45895 (Aug. 29, 1997).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–39445; File No. SR–PHLX–97–59

Self-Regulatory Organizations; Philadelphia Stock Exchange, Incorporated, Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Decision to Limit its Clearance and Settlement Business and to Withdraw From the Securities Depository Business

December 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 14, 1997, the Philadelphia Stock Exchange, Incorporated, (''PHLX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PHLX–97–59) as described in Items I and II below, which items have been primarily prepared by PHLX. The Commission is publishing this notice and order to solicit comments from interested parties and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposal Rule Change

The proposed rule change will allow PHLX to limit its clearing services and to stop providing depository services that it currently operates through its wholly owned subsidiaries, Stock Clearing Corporation of Philadelphia (''SCCP'') and Philadelphia Depository Trust Company (''Philadep''), respectively, in order to focus its resources on the operation of the exchange. PHLX has entered into an agreement with SCCP, Philadep, The Depository Trust Company (''DTC''), and the National Securities Clearing Corporation (''NSCC''), dated June 18, 1997, that set forth the arrangements relating to PHLX's decision (''Agreement'').[2]

[1] 15 U.S.C. 78s(b)(1).

[2] SCCP, Philadep, DTC, and NSCC have submitted rule filings relating to the Agreement which are being addressed in a separate order. Securities Exchange Act Release Nos. 39220 (October 8, 1997, 62 FR 53848 (October 16, 1997) [File No. SR–NSCC–97–08]; 39221 (October 8, 1997), 62 FR 53680 (October 15, 1997), [File No. SR–Philadep–97–04]; 39222 (October 8, 1997), 62 FR 53847 62 FR 53847 (October 16, 1997) [File No. SR–DTC–97–16]; and 39223; (October 8, 1997), 62 FR 53681 (October 15, 1997) [File No. SR–SCCP–97–04].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, PHLX included statements concerning the purpose of, and the basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements have been examined at the places specified in Item IV below. PHLX has prepared summaries, as set forth in sections A, B, and C below, of the most significant aspects of these statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

PHLX seeks to limit its clearance and settlement business and to close its securities depository business offered through its wholly owned subsidiaries, SCCP and Philadep, respectively, in order to focus its resources on the operations of the Exchange itself and to settle an administrative proceeding initiated against SCCP and Philadep by the Commission.[4] The purpose of the Agreement is to enable PHLX, SCCP, and Philadep to achieve this objective while affording participants of SCCP and Philadep the opportunity to become participants of NSCC or DTC, respectively, or to utilize the services of other clearing and depository service providers.

Under the Agreement, for a period of five years PHLX, Philadep, and SCCP may not engage in the clearance and settlement and securities depository businesses. However under the Agreement, SCCP will be permitted to offer certain clearing services to PHLX members. In this regard, SCCP has proposed in a separate filing to amend its rules to restrict participation in SCCP to PHLX members.[5] SCCP will provide margin accounts to certain PHLX floor members and will settle their transactions through a SCCP sponsored omnibus account at NSCC. The PHLX will guarantee to NSCC all liabilities and obligations arising in connection with the SCCP omnibus account, including any such liabilities which may arise as a result of NSCC sponsoring a SCCP account at DTC. Such guarantee shall be signed in a form satisfactory to NSCC.

PHLX, SCCP, and Philadep will cooperate with NSCC and DTC in assuring an orderly transition regarding PHLX's limiting its clearance and settlement services and withdrawal from the securities depository business. In this regard, NSCC will offer sole SCCP participants an opportunity to become NSCC participants if they meet NSCC's qualifications and desire to become NSCC members. Moreover, PHLX and Philadep will assist DTC and sole Philadep participants in having the latter become DTC participants if they meet DTC qualifications and desire to become a DTC participant. The parties will cooperate to effect the orderly transfer of securities positions and securities from SCCP to NSCC and from the custody of Philadep to the custody of DTC.

PHLX believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[6] insofar as it will enable PHLX to concentrate its efforts on its core business, the exchange. Thus, PHLX believes that this proposal promotes just and equitable principles of trade, remove impediments to, and perfects the mechanism of a free and open market and a national market system, and, in general, protects the investors and public interest. In addition, PHLX believes that the proposal will foster cooperation and coordination with persons engaged in clearing and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHLX believes that the proposed rule change will not impose an impermissible burden on competition as contemplated by the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received with respect to the proposed rule change.[7]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 6(b)(5) of the Act[8] requires, among other things, that the rules of an exchange be designed to prevent further fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, setting, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Commission believes that PHLX's proposed rule change is consistent with Section 6(b)(5) of the Act in that it will enable PHLX to focus its resources and efforts on implementing a more viable and profitable long-term strategy for its core business, the exchange, and to settle the administrative proceeding initiated against SCCP and Philadep by the Commission.[9] The Commission anticipates that the proceeds of the proposed transaction also will help provide liquidity for the operations of the exchange and that the transaction will allow PHLX to avoid significant future capital expenditures for the businesses of SCCP and Philadep. Consequently, the Commission believes that the proposal should help promote just and equitable principles of trade, remove impediments and perfect the mechanism of a free and open market and a national market system, and in general, protect investors and the public interest.[10] In addition, the Commission believes the proposal provides for an orderly closing of services by SCCP and Philadep and an orderly transition for participants to other clearing and depository service providers. Thus, the proposal fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

PHLX has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after

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[3] The Commission has modified the text of the summaries prepared by PHLX.

[4] Securities Exchange Act Release No. 38918 (August 11, 1997) (Administrative Proceeding File No. 3–9360).

[5] Securities Exchange Act Release No. 39223 (October 8, 1997), 62 FR 53681. Pursuant to the Agreement, SCCP shall no longer open or maintain Continuous Net Settlement (''CNS'') account for its participants. SCCP may only continue to offer clearing and margin services to: (i) PHLX equity specialists for their specialist and alternate specialist transactions, and for their proprietary transactions in securities for which they are not appointed as specialists or alternate specialists and (ii) those PHLX members listed on schedule who are not PHLX equity specialists for their proprietary transactions. SCCP may add other PHLX members to such schedule subject to NSCC's approval.

[6] 15 U.S.C. 78f(b)(5).

[7] The Commission received one comment letter, which pertained to DTC and NSCC, expressing concern that PHLX's decision to withdraw from the clearance and settlement business reduced competition in the market. The comment letter was from P. Howard Edelstein, President, Electronic Settlement Group, Thomson Financial Services, Inc. (November 4, 1997). DTC responded to the Comment letter in a letter from Richard S. Nesson, Executive Vice President and General Counsel (November 14, 1997).

[8] 15 U.S.C. 78f(b)(5).

[9] Securities Exchange Act Release No. 38918 (August 11, 1997) (Administrative Proceeding File No. 3–9360).

[10] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because by so approving PHLX will be able to close on the Agreement and move forward on its plans to limit its clearance and settlement services and withdraw from the securities depository business.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making such submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of PHLX. All submissions should refer to the File No. SR–PHLX–97–59 and should be submitted by January 9, 1998.

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PHLX–97–59) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–33195 Filed 12–18–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01–0337]

Pioneer Ventures Limited Partnership; Notice of Request for Exemption

On November 25, 1997, Pioneer Ventures Limited Partnership (the ''Licensee''), a Massachusetts limited partnership and SBIC Licensee number 01/01–0337 filed a request to the SBA pursuant to Section 107.730(d) of the Regulations governing small business investment companies (13 CFR 107.730(d)(1997)) for an exemption allowing the Licensee to invest in Vibrint Corporation (Vibrint), of Bedford, Massachusetts. Vibrint received prior financial assistance from an Associate (as defined by Section 107.50 of the SBA Regulations) of the Licensee, and has itself become an Associate of the Licensee.

Vibrint is currently in need of additional capital, however, the Licensee can only offer this assistance to Vibrint upon receipt of a prior written exemption from SBA. The exemption requested is the basis for this notice, and is required pursuant to § 107.730(g) of the Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on this exemption request to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416. A copy of this Notice will be published in a newspaper of general circulation in Bedford, Massachusetts.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: December 12, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–33123 Filed 12–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2996]

Commonwealth of the Northern Mariana Islands

As a result of the President's major disaster declaration on December 8, 1997, I find that the Islands of Saipan, Tinian, and Rota in the Commonwealth of the Northern Mariana Islands constitute a disaster area as a result of damages caused by Super Typhoon Keith which occurred November 2–3, 1997. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on February 6, 1998 and for economic injury until the close of business on September 8, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

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 299606 and for economic injury the number is 967600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 9, 1997.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–33163 Filed 12–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2997]

Commonwealth of Virginia (and Contiguous Counties in North Carolina)

Pittsylvania County and the contiguous Counties of Bedford, Campbell, Franklin, Halifax, and Henry in the Commonwealth of Virginia, and Caswell and Rockingham Counties in the State of North Carolina constitute a disaster area as a result of damages caused by a fire which occurred on November 27, 1997 in the Cabin Lake Condominium Complex in Danville, Virginia. Applications for loans for physical damage may be filed until the close of business on February 9, 1998 and for economic injury until the close of business on September 10, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.812

[11] 17 CFR 200.30–3 (a)(12).

	Percent
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 damages are 299705 for Virginia and 299805 for North Carolina. For economic injury the numbers are 967700 for Virginia and 967800 for North Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 10, 1997.

Ginger Lew,

Acting Administrator.

[FR Doc. 97–33164 Filed 12–18–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with PL. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Report by Former Representative Payee—0960–0112. The Social Security Administration (SSA) collects the information on Form SSA–625 when a mental facility is terminating its payee services and a successor payee is to be named. The information is needed to determine the proper disposition of any conserved funds. The respondents are State institutions or agencies which are no longer serving as representative payee for beneficiaries who are incapable of managing benefits.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 2,000 hours.

2. Pre-1957 Military Service Federal Benefit Questionnaire—0960–0120. Form SSA–2512 is used by SSA to solicit sufficient information to make a determination of eligibility for military wage credits. Sections 217(a) and (e) of the Social Security Act provide for crediting military service to the wage earner's record and for using the data in the claims adjudication process to grant gratuitous military wage credits, when applicable. The respondents are individuals who are applying for Social Security benefits on a record where the wage earner has pre-1957 military service.

Number of Respondents: 56,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 9,333 hours.

3. Request for Earnings and Benefit Estimate Statement—0960–0466. Form SSA–7004 is used by members of the public to request information about their Social Security earnings records and to get an estimate of their potential benefits. SSA provides information, in response to the request, from the individual's personal Social Security record. The respondents are Social Security numberholders who have covered earnings on record.

Number of Respondents: 3,350,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Average Burden: 279,167 hours.

4. Certificate of Support—0960–0001. The information collected on Form SSA–760–F4 is used to determine whether the deceased worker provided one-half support required for entitlement to parent's or spouse's benefits. The information will also be used to determine whether the Government pension offset would apply to the applicant's benefit payment. The respondents are parents of deceased workers or spouses who may be subject to Government pension offset.

Number of Respondents: 18,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 4,500 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB:

1. Request to Resolve Questionable Quarters of Coverage (SSA–512); Request for Quarters of Coverage History Based on Relationship (SSA–513)—0960–0575. The Personal Responsibility and Work Opportunity Reconciliation Act states that aliens admitted for lawful residence who have worked and earned 40 qualifying quarters of coverage (QCs) for Social Security purposes can generally receive State benefits. QCs can also be allocated to a spouse and/or to a child under age 18, if needed to obtain 40 qualifying QCs for the alien. Form SSA–512 is used by the States to request clarification from SSA on questionable QCs. Form SSA–513 is used by States to request QC information for an alien's spouse or parent in cases where the spouse or parent does not sign a consent form giving permission to access his/her social security records. The respondents are State agencies which require QC information in order to determine eligibility for benefits.

	SSA–512	SSA–513
Number of Responses	200,000	350,000.
Frequency of Response	1	1.
Average Burden Per Response	2 minutes	2 minutes.
Estimated Annual Burden	6,667 hours	11,667 hours.

2. Application for Retirement Insurance Benefits—0960–0007. The information on Form SSA–1 is used by SSA to determine an individual's entitlement to retirement insurance

benefits. The respondents are applicants for retirement benefits.

Number of Respondents: 1,600,000.

Frequency of Response: 1.

Average Burden Per Response: 10.5 minutes.

Estimated Annual Burden: 280,000 hours.

3. Physician's/Medical Officer's Statement, Patient's Capability to Manage Benefits—0960–0024. SSA uses the information on Form SSA–787 to determine whether an individual is capable of handling his/her benefits. The information is also used for leads in selecting a representative payee. The respondents are physicians of the beneficiaries or medical officers of institutions where beneficiaries reside.

Number of Respondents: 120,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 20,000 hours.

4. Claimant's Statement When Request for Hearing Is Filed and The Issue Is Disability—0960–0316. SSA requires that applicants for disability benefits provide the updated medical information requested on Form HA–4486, to facilitate processing their Old Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) claims. This information also enables the Administrative Law Judge hearing the case to fully inquire into the claimant's medical condition. The respondents are applicants for OASDI and SSI Benefits.

Number of Respondents: 283,460.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 70,865 hours.

5. Representative Payee Report of Benefits and Dedicated Account—0960–0576. Form SSA–6233 is used by SSA to ensure that payment of SSI benefits is made to a relative, another person, or an organization when the best interests of the beneficiary would be served. The form is also used to ensure that the representative payee is using the benefits received for the beneficiary's current maintenance and personal needs and that expenditures of funds from the dedicated account are in compliance with the law. The respondents are individual and organizational representative payees required by law to establish a separate (''dedicated'') account in a financial institution for certain past-due SSI monthly benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 10,000 hours.

6. Application for a Social Security Card—0960–0066. The information collected by SSA on Form SS–5 is used to assign a Social Security Number and issue a card. The Social Security Number is used to keep an accurate record of each individual's earnings for the payment of benefits and for administrative purposes as an identifier for health-maintenance and income-maintenance programs, such as the OASDI Programs, the SSI Program and other programs administered by the Federal government including Black Lung, Medicare and veterans compensation and pension programs. The Social Security Number is also used by the Internal Revenue Service as a taxpayer identification number for those individuals who are eligible to be assigned a Social Security Number. The respondents are applicants for a Social Security Card.

Number of Respondents: 16 million.

Frequency of Response: 1.

Average Burden Per Response: 8½ minutes-9 minutes.

Estimated Annual Burden: 2,275,000 hours.

7. Questionnaire for Children Claiming SSI Benefits—0960–0499. The information collected on form SSA–3881 is used by SSA to evaluate disability in children who apply for SSI payments. The respondents are individuals who apply for SSI benefits for a disabled child.

Number of Respondents: 978,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 489,000 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget,
OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503

(SSA)

Social Security Administration,
DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: December 11, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–32967 Filed 12–18–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2667]

Determination With Respect to Countries Providing Sanctuary to Indicted War Criminals

Pursuant to the authority vested in me by section 573(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), I hereby determine that Serbia and Montenegro and the Republika Srpska Entity of Bosnia and Herzegovina and failed to take necessary and significant steps to apprehend and transfer to the International Criminal Tribunal for the Former Yugoslavia (the ''Tribunal'') all persons who have been publicly indicted by the Tribunal.

This determination shall be provided to the Congress and published in the **Federal Register**.

Dated: December 4, 1997.

Madeleine Albright,

Secretary of State.

[FR Doc. 97–33204 Filed 12–18–97; 8:45 am]

BILLING CODE 4710–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Orange County, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT), New York State Thruway Authority (NYSTA).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge/highway project in Orange County, New York.

FOR FURTHER INFORMATION CONTACT: Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone (518) 431–4127.

or

Philip J. Clark, Director, Design Division, New York State Department of

Transportation, State Campus, 1220 Washington Avenue, Albany, New York 12232, Telephone: (518) 457–6452.
or

Duane L. Dodds, Director, Office of Facilities Design, New York State Thruway Authority, 200 Southern Boulevard, Albany, New York 12209, Telephone: (518) 436–2916.

SUPPLEMENTARY INFORMATION: The New York State Thruway Authority (NYSTA) and the New York State Department of Transportation (NYSDOT), in cooperation with the Federal Highway Administration (FHWA), will be preparing an Environmental Impact Statement (EIS) for a proposed intermodal project in the Towns of New Windsor, Montgomery and Newburgh, Orange County, New York. The project will involve the construction of an interchange on Interstate 84 with Drury Lane, the construction of an east/west connector road between Drury Lane and the Stewart Airport and the widening and reconstruction of Drury Lane between Route 207 and Route 17K. Improvements are necessary to develop a more direct access between Stewart Airport and the regional highway system and to stimulate the local and regional economy through the development of the Stewart Airport Properties in the vicinity of Drury Lane and the development of the airport in accordance with the Stewart Airport Master Plan.

Alternatives under consideration include (1) taking no action; (2) construction of an interchange on Interstate 84 with Drury Lane, construction of a four lane connector road between Drury Lane and the Stewart Airport and the widening and reconstruction of Drury Lane between its intersections with Route 207 and Route 17K, including the widening of Drury Lane to four lanes between the Stewart Airport connector road and I84. Incorporated into and studied with the build alternative will be variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal NEPA scoping meeting will be held for federal, state and local officials on January 14, 1998 at 2:00 P.M. at the New Windsor Town Hall and for the public on January 14, 1998 at 7:00 P.M. at the Little Britain Elementary School Auditorium in the Town of New Windsor. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS, when prepared, will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, NYSDOT, or NYSTA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: December 10, 1997.

Harold J. Brown,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 97–33138 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) §§ 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal railroad safety regulations. The individuals petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Northeast Illinois Railroad Corporation

[FRA Waiver Petition No. WPS 97–10]

Northeast Illinois Railroad Corporation, (''Metra,'') seeks a permanent waiver of compliance from certain provisions of the Federal Roadway Worker Protection Standards, Subpart C of 49 CFR, part 214.

Metra requests relief of 49 CFR 214.337 to the extent that lone workers would be permitted to use individual train detection as a method of on-track safety while operating powered snow blowers on and near the tracks at station platforms and related crosswalks.

In support of the petition, Metra states that:

''Snowfalls which begin prior to or during the rush hours require extensive lone worker participation utilizing powered snow blowers to make the platforms and crosswalks safe for our customers * * *

During the times when lone workers utilize I.T.D. (Individual train detection) as their form of protection with powers tools being used the following procedure is required:

1. Will conduct a statement of on track safety. Will contact the train dispatcher and determine if any unscheduled trains are in the area.

2. Will determine that scheduled trains are on time.

3. When blowing snow from the platform within the 4 foot envelope will face the direction a train will approach from and keep a vigilant lookout for such trains.

4. Will blow snow from crosswalks only when safe to do so.

FRA should look at the safety risks to passengers as platforms where snow removal is not completed within the envelope of danger due to the constraints placed on lone workers when using power tools.''

Interested parties are invited to participate in this proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number WPS–97–10) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on December 15, 1997.

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–33178 Filed 12–18–97; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20914]

Greyhound Lines, Inc.—Control—Gonzalez, Inc., d/b/a Golden State Transportation Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Greyhound Lines, Inc. (Greyhound or applicant) has filed an application under 49 U.S.C. 14303 to acquire control of Gonzalez, Inc., d/b/a Golden State Transportation Company (Golden State).[1] Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart B. The Surface Transportation Board (Board) has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by February 2, 1998. Applicants may reply by February 17, 1998. If no comments are received by February 2, 1998, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB No. MC–F–20914 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: Greyhound is a nationwide motor common carrier of passengers over regular routes that currently controls seven regional interstate motor carriers of passengers: Valley Transit Company, Inc.; Carolina Coach Company, Inc.; Texas, New Mexico & Oklahoma Coaches, Inc.; Continental Panhandle Lines, Inc.; Vermont Transit, Inc.; Los Rapidos, Inc.; and Grupo Centro, Inc. (Grupo). Golden State operates as a motor carrier of passengers in regular-route service primarily in California, Arizona, New Mexico, and Colorado.

Greyhound states that, as a result of this control transaction, Golden State will remain a separate corporation, controlled indirectly through Sistema Internacional de Transporte de Autobuses, Inc., Greyhound's wholly owned noncarrier holding company. Golden State will initiate trans-border service to passengers traveling between points in the United States and points in Mexico through Greyhound's interest in Autobuses Crucero S.A. de C.F., a large Mexican bus line, and Greyhound's subsidiary, Los Rapidos. By acquiring control of Golden State, Greyhound will be allied with a motor carrier of passengers with an established reputation for accommodating the travel requirements of Hispanic/Latino passengers traveling between points of entry along the United States/Mexican border and points in the United States.

Applicant asserts that the aggregate gross operating revenues of Greyhound and its affiliates exceeded $2 million during the 12 months preceding the filing of this application. Applicant also states that the proposed transaction will have no adverse competitive effects, and that the operations of the carriers involved will remain unchanged; that the total fixed charges associated with the proposed transaction are well within Greyhound's financial means; and that there will be no change in the status of any employees. Applicant certifies that: (1) Greyhound and its affiliates (except Grupo, which is not yet rated) hold ''satisfactory'' safety ratings from the U.S. Department of Transportation; (2) Golden State has a ''conditional'' rating and will procure and maintain sufficient liability insurance to meet the established fitness requirements; (3) neither Greyhound nor Golden State is domiciled in Mexico, and neither is owned or controlled by a citizen of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicant's representative.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

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

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on February 2, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: December 12, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–33281 Filed 12–18–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Greyhound will acquire 51% of the stock of Golden State and will exercise control of Golden State through its wholly owned subsidiary, Sistema Internacional de Transporte de Autobuses, Inc. Mr. Gonzalez and members of his family will retain the remaining 49% stock interest through a trust, the Francisco & Josefa Gonzalez Family Limited Partnership.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (98–1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board; DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the rebased first quarter 1998 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. As required by statute, the RCAF was rebased using the fourth quarter 1997 index value as the denominator and first quarter 1998 index value as the numerator (10/1/97=1.00). Rebasing is required every five years. The rebased first quarter 1998 RCAF (Unadjusted) is 0.996. The rebased first quarter 1998 RCAF (Adjusted) is 0.657. The rebased first quarter 1998 RCAF–5 is 0.640.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1549. TDD for the hearing impaired: (202) 565–1695.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Suite 210, 1925 K Street, NW, Washington, DC 20423, telephone (202) 289–4357. (Assistance for the hearing impaired is available through TDD services (202) 565–1695.)

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

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: December 12, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–33235 Filed 12–18–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 556X)]

CSX Transportation, Inc.—Abandonment Exemption—in Raleigh County, WV

On December 1, 1997, CSX Transportation, Inc. filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon that portion of its C&O Business Unit, Jarrolds Valley Subdivision, between milepost CLP–15.3 at R.O. Junction and milepost CLP–18.3 at the end of track at Picard, a distance of 3.0 miles in Raleigh County, WV. The line traverses U.S. Postal Service Zip Codes 25008 and 25044.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 20, 1998.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a $900 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 8, 1998. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 556X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street NW., Washington, DC 20423–0001, and (2) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: December 10, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–33073 Filed 12–18–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 10, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0116.
Form Number: ATF F 2145 (5200.11).
Type of Review: Extension.
Title: Notice of Release/Return of Tobacco Products, Cigarette Papers and Tubes.
Description: Documents removal or release of tobacco products without payment of tax from U.S. Customs custody or return by a U.S. Government agency to bonded tobacco products factories and manufacturers of cigarette papers and tubes.
Respondents: Business or other for-profit, Federal Government.
Estimated Number of Respondents: 153.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 306 hours.

OMB Number: 1512–0118.
Form Number: ATF F 2148 (5200.17).
Type of Review: Extension.
Title: Bond—Drawback Tax on Tobacco Products, Cigarette Papers, or Tubes.
Description: ATF F 2148 (5200.17) is necessary to secure payment of tax on tobacco products or cigarette papers or tubes on which a drawback of tax has been claimed and paid.
Respondents: Not-for-profit institutions.
Estimated Number of Recordkeepers: 50.
Estimated Burden Hours Per Recordkeeper: 1 hour.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 50 hours.

OMB Number: 1512–0333.
Recordkeeping Requirement ID Number: ATF REC 5130/1.

Type of Review: Extension.
Title: Usual and Customary Business Records Maintained by Brewers.
Description: ATF audits brewers' records to verify production of beer and cereal beverage and to verify the quantity of beer removed subject to tax and removed without payment of tax.
Respondents: Business of other for-profit.
Estimated Number of Recordkeepers: 1,400.
Estimated Burden Hours Per Recordkeeper: 0 hours.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 1 hour.
OMB Number: 1512–0390.
Form Number: ATF Form 5020.29.
Type of Review: Extension.
Title: Request for Disposition of Offense.
Description: The information provided on this form determines whether an applicant is eligible to receive a Federal license or permit. If an applicant applies for a license or permit and has an arrest record charged with a violation of Federal or State law and there is no record present of the disposition of the case(s), the form is sent to the custodian or records or to ascertain the disposition of the case.
Respondents: Individuals or households, business or other for-profit.
Estimated Number of Respondents: 3,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,500 hours.
OMB Number: 1512–0478.
Recordkeeping Requirement ID Numbers: ATF REC 5130/3 and ATF REC 5130/4.
Type of Review: Extension.
Title: Marks on Equipment and Structures (ATF REC 5130/3); and Marks and Labels on Containers of Beer (ATF REC 5130/4).
Description: Marks, signs and calibrations are necessary on equipment and structures for identifying major equipment for accurate determination of tank contents, and segregation of taxpaid and nontaxpaid beer. Marks and labels on containers of beer are necessary to inform consumers of container contents, and to identify the brewer and place of production.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 1,400.
Estimated Burden Hours Per Recordkeeper: 0 hours.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 1 hour.
OMB Number: 1512–0518.
Form Number: ATF F 7CR (5310.16).
Type of Review: Extension.
Title: Application for License, Collector of Curios and Relics.
Description: This form is used by the public when applying for a Federal firearms license to collect curios and relics in interstate and foreign commerce. The information requested on the form establishes eligibility for the license.
Respondents: Individuals or households.
Estimated Number of Respondents: 6,000.
Estimated Burden Hours Per Respondents: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 1,500 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–33129 Filed 12–18–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

December 10, 1997.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1559.
Revenue Procedure Number: Revenue Procedure 97–44.
Type of Review: Extension.
Title: LIFO Conformity Requirement.
Description: Revenue Procedure 97-44 permits automobile dealers that comply with the terms of the revenue procedure to continue using the LIFO inventory method despite previous violations of the LIFO conformity requirements of section 472(c) or (e)(2).
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 5,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 20 hours.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 100,000 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–33130 Filed 12–18–97; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

December 12, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0390.
Form Number: IRS Form 5306.
Type of Review: Extension.
Title: Application for Approval of Prototype or Employer Sponsored Individual Retirement Account.
Description: This application is used by employers who want to establish an individual retirement account trust to be used by their employees. The application is also used by persons who want to establish approved prototype individual retirement accounts or annuities. The data collected is used to determine if plans may be approved.
Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 600.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	11 hr., 58 min.
Learning about the law or the form.	24 min.
Preparing and sending the form to the IRS.	37 min.

Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 7,782 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–33131 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 12, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in January 1998, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by December 24, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: M:SP:V 97–033–G.
Type of Review: Revision.
Title: Business Information Center Survey.
Description: The purpose of this survey is to help determine the efficiency of a pilot that is being undertaken by the Internal Revenue Service (IRS) and the Small Business Administration (SBA). In an effort to enhance the opportunity and ability for small business owners/opertors to obtain tax materials and understand tax requirements and responsibilities, eleven separate IRS small business edcuation products will be offered at selected SBA facilities known as Business Information Centers (BIC). Initially, five ''high traffic'' BICs will participate in the pilot program. Education materials will be stocked at each of these BICs and restocked as needed. The pilot will run for up to one year. During the one year period, a decision will be made to either expand or end the program. The IRS plans to conduct a survey to determine the effectiveness of this program.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 100 (at 5 sites).
Estimated Burden Hours Per Response: 3 minutes.
Frequency of Response: Other (one time only).
Estimated Total Reporting Burden: 3,250 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–33132 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) for review an information collection titled Survey of Financial Activities and Attitudes.

DATES: Comments regarding this information collection are welcome and should be submitted to the OMB Reviewer and the OCC. Comments are due on or before January 20, 1998.

ADDRESSES: A copy of the submission may be obtained by calling the OCC Contact listed. Direct all written comments to the Communications Division, Attention: 1557–0209, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

SUPPLEMENTARY INFORMATION:

OMB Number: 1557–0209.
Form Number: Not applicable.
Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.
Title: Survey of Financial Activities and Attitudes.
Description: The OCC encourages national banks to provide fair access to financial services for all. Last fall, the OCC initiated a major project to learn more about why millions of households have no banking relationships (nonbanked), and whether some banks have found ways of profitably serving them.

As the first part of this initiative, the OCC prepared the Preliminary Survey of Nonbanked Status. The OCC now plans to conduct a Survey of Financial Activities and Attitudes (Final Survey) to learn more about how nonbanked households conduct their financial activities and what factors may keep them from using banking services.

The OCC will conduct the Final Survey through a contractor, in several urban locations, in English and Spanish. The Final Survey will involve both personal contacts and telephone surveys.

The Final Survey will provide the OCC, as well as national banks and the general public, with information on diversity within the nonbanked population; how nonbanked households currently conduct their financial activities; their experience with, and interest in, banking services; and the financial service costs they incur.

The OCC will use this information to better assess national bank efforts to serve nonbanked households. Further, the OCC and the industry will use this information to identify effective methods for better serving nonbanked

households and to identify barriers to financial services they face. The OCC will also use the results of the Final Survey as background information in its policymaking process.

Respondents: Individuals or households.

Number of Respondents: 2,000.

Total Annual Responses: 2,000.

Frequency of Response: One time only.

Estimated Total Annual Burden: 833 burden hours.

OCC Contact: Jessie Gates, (202)874–5090, Legislative and Regulatory Activities Division, Control Number 1557–0209, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202) 395–7340, Paperwork Reduction Project 1557–0209, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

The OCC may not conduct or sponsor, and respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Comments: Comments are invited on: (a) Whether the proposed revisions to the following collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility; (b) the accuracy of the OCC's estimate of the burden of the information collection as it is proposed to be revised, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 12, 1997.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 97–33192 Filed 12–18–97; 8:45 am]

BILLING CODE 4810–33–P]

DEPARTMENT OF THE TREASURY

Customs Service

Extension of National Customs Automation Program Test Regarding Presentation of Electronic Cargo Declarations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to extend the test program to allow the electronic submission of certain inward vessel manifest information with one modification and invites additional members of the vessel carrier community to apply for participation in the test. The test was originally announced in the **Federal Register** on September 10, 1996, and began on February 11, 1997. Public comments are invited on any aspect of the test as set forth in the September 10, 1996, announcement as modified by today's announcement.

DATES: To apply for participation in the test, parties must submit the necessary information as outlined in this notice to Customs by January 20, 1998. Comments concerning the test must be received on or before January 20, 1998.

ADDRESSES: Written comments regarding this notice and letters requesting participation in the test program should be addressed to Cargo Release Processing, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.2b, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: For operational or policy matters: William Scopa (202) 927–3112.

For systems or automation matters: Kim Santos (202) 927–0651.

For legal matters: Larry L. Burton (202) 927–1287.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 1996, Customs published a document in the **Federal Register** (61 FR 47782) announcing a plan to conduct a test program to allow the electronic submission of certain inward vessel manifest information. The notice described the test, informed interested members of the public of the eligibility requirements for participation in the test and requested comments concerning any aspect of the test. The announcement stated that the test would commence no sooner than December 9, 1996, and would last for approximately one year; the actual commencement date of the test was February 11, 1997.

In today's document Customs is announcing that the test will be extended and that there is an additional opportunity for members of the vessel carrier community to request participation in the test. The test will be extended for at least another year.

Test Modification Regarding Manifesting of Empty Containers

The parameters of the original test are spelled out in the September 10, 1996, **Federal Register** notice. The extension of the test will operate under the same parameters with one modification. The manifesting of empty containers will be treated differently than the original test notice states.

Pursuant to the modified procedures, empty containers shall be manifested either by transmitting in the Automated Manifest System (AMS) a list of the empty containers on board the vessel by port of discharge, or by providing the same list on a CF 1302 Cargo Declaration. The manifesting of empty containers is subject to all other current regulatory requirements.

Foreign Freight Remaining on Board

Because many comments have been received concerning one of the test requirements set forth in the September 10 notice, Customs is reiterating in this document that requirement which reads as follows:

> In the case of Foreign Freight Remaining On Board (FROB) a vessel entering the United States and not intended for discharge in this country, test participants are required to transmit all bill of lading cargo data pertaining to such shipments at the first U.S. port of arrival. Such bills of lading shall be automatically released in AMS upon transmission of the data unless placed on hold with the test participant by Customs through electronic or other means. FROB bill of lading cargo data is subject to all of the same requirements and standards set forth in this document (the September 10, 1996 notice) which apply to other bill of lading cargo data.

Comments have been received regarding this requirement requesting that FROB cargo on a vessel entering the United States from Canada not have to be transmitted electronically and not be subject to the same data element requirements as required for discharge cargo. Further, the commenters have requested that the data regarding FROB cargo not have to be transmitted in English. These changes are requested because the commenters contend that the voyage from Canada is too short to provide sufficient time for the data to be ready for submission at the first U.S. port of arrival and because foreign subsidiaries do not provide the required data.

Customs is maintaining the requirements for FROB cargo as set forth in the September 10, 1996, notice. Customs cannot accommodate the requested changes because Customs considers all cargo on board a vessel as potentially being used to facilitate the smuggling of narcotics and other contraband into the United States. Expressly stated, full bill of lading data is required for FROB cargo originating in Canada or from any other country and the data must be transmitted in English by the time of arrival.

Application Process

Parties desiring to participate in this test program must submit a written statement to the United States Customs Service, Cargo Release Processing, 1300 Pennsylvania Avenue, NW., Room 5.2b, Washington, DC 20229–0002, on or before 30 days from the date of publication of this notice in the **Federal Register**. The document, signed by an authorized official of the carrier, must state that the carrier wishes to voluntarily participate in the test and that the carrier meets all qualifications as outlined in the September 10, 1996, **Federal Register** notice as modified by today's document. The statement must acknowledge that all submissions made to Customs as part of the test are required to be accomplished electronically. The document must also designate a national point of contact and telephone number, and shall also identify local contacts and telephone numbers for the use of Customs personnel at individual ports.

Basis for Participant Selection

Eligible importing carriers will be considered for participation in the test. Customs is looking for a variety of circumstances and participants in the test. Customs stresses that those not selected for participation are invited to comment on the test and to participate in its evaluation.

Selection will be based on the depth of an applicant's electronic interface capabilities and the ability to meet all the user requirements in the CAMIR and in this notice. Participants selected will be notified by means of the Customs Electronic Bulletin Board.

Dated: December 11, 1997.

Robert S. Trotter,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 97–33172 Filed 12–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–1]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and parts 111.52 and 111.74 of the Customs Regulations, as amended (19 CFR 111.52 and 111.74), the following Customs broker licenses are canceled without prejudice.

Port	Individual	License No.
San Francisco	Caliber Customs Brokers & Freight Forwarders, Inc	11460
Seattle	Azuma Multi-Trans U.S.A. Inc	13686
Seattle	Universal Freight Forwarders, Ltd	10429
Seattle	C.G. Staff International Inc	12817
New Orleans	Southern Cargo Logistics a Division of Barbara Chopin Enterprises, Inc	15487
New Orleans	Philbin, Cazalas & St. John, Inc	03759
Boston	D.E. Reardon & Co., Inc	09280
New York	Freight Express Int'l, Inc	04802
New York	United Freight Systems	12842
New York	Paul E. Dixon	07971
New York	M.C.B. Customhouse Brokers, Inc	09264
New York	James E. Fox	01208
New York	Steven M. Davis	07229
New York	John Louis Rossi	02759

Dated: December 15, 1997.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 97–33171 Filed 12–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–2]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Broker license revocation.

Amended

Notice is hereby given that the Commissioner of Customs, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and §§ 111.52 and 111.74 of the Customs Regulations, as amended (19 CFR 111.52 and 111.74), the following Customs broker license is canceled with prejudice.

Port	Individual	License Number
Houston	Sam Martinez	6282

Dated: December 15, 1997.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 97–33170 Filed 12–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8861

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning Form 8861, Welfare-to-Work Credit.

DATES: Written comments should be received on or before February 17, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Welfare-to-Work Credit.

OMB Number: 1545–1569.

Form Number: Forms 8861.

Abstract: Section 51A of the Internal Revenue Code allows employers an income tax credit of 35% of the first $10,000 of first-year wages and 50% of the first $10,000 of second-year wages paid to long-term family assistance recipients. Form 8861 is used to compute the credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 9 hours, 2 minutes.

Estimated Total Annual Burden Hours: 4,520.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33100 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–8–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–8–90 (TD 8478), Consolidated Return Regulations—Deferred Gain or Loss (§ 1.1502–13).

DATES: Written comments should be received on or before February 17, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Consolidated Return Regulations—Deferred Gain or Loss.

OMB Number: 1545–1161.

Regulation Project Number: CO–8–90.

Abstract: This regulation relates to deferred intercompany transactions and distributions of property among members of a consolidated group of corporations. The regulation requires a statement to be attached to a consolidated income tax return by those groups which entered into certain intercompany transactions before March 15, 1990, to ensure the appropriate tax consequences of the transactions.

Current Actions: There is no change in this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 20.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33101 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–V

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–OID

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–OID, Original Issue Discount.

DATES: Written comments should be received on or before February 17, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Original Issue Discount.

OMB Number: 1545–0117.

Form Number: 1099–OID.

Abstract: The form is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 4,500,000.

Estimated Time Per Response: 10 min.

Estimated Total Annual Burden Hours: 765,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33102 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 976

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 976, Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust.

DATES: Written comments should be received on or before February 17, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust.

OMB Number: 1545–0045.

Form Number: 976.

Abstract: Form 976 is filed by corporations that wish to claim a deficiency dividend deduction. The deduction allows the corporation to use the payment of dividends to reduce taxes imposed after the tax return is filed. The IRS uses Form 976 to determine if shareholders have included the dividend amounts in gross income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 7 hr., 28 min.

Estimated Total Annual Burden Hours: 3,730

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33103 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form T, Forest Activities Schedules.

DATES: Written comments should be received on or before February 17, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Forest Activities Schedules.

OMB Number: 1545–0007.

Form Number: T.

Abstract: Form T is filed by individuals and corporations to report income and deductions from the operation of a timber business. The IRS uses Form T to determine if the correct amounts of income and deductions are claimed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 37,000.

Estimated Time Per Respondent: 38 hr., 53 min.

Estimated Total Annual Burden Hours: 1,438,930.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–33104 Filed 12–18–97; 8:45 am]

BILLING CODE 4830–01–U

Federal Register

Friday
December 19, 1997

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 416, 482, 485, and 489
Medicare and Medicaid Programs; Hospital Conditions of Participation; Provider Agreements and Supplier Approval; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 416, 482, 485, and 489

[HCFA–3745–P]

RIN 0938–AG79

Medicare and Medicaid Programs; Hospital Conditions of Participation; Provider Agreements and Supplier Approval

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The revised requirements focus on patient care and the outcomes of that care, reflect a cross-functional view of patient treatment, encourage flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are necessary to reflect advances in patient care delivery and quality assessment practices since the requirements were last revised in 1986. They are also an integral part of the Administration's efforts to achieve broad-based improvements in the quality of care furnished through Federal programs and in the measurement of that care, while at the same time reducing procedural burdens on providers. In addition, in an effort to increase the number of organ donations, we are proposing changes in the interaction between hospitals and organ procurement organizations. The proposed rule also would specify that HCFA may terminate the participation agreement of a hospital, skilled nursing facility, home health agency, or other provider if the provider refuses to allow access to its facilities, or examination of its operations or records, by or on behalf of HCFA, as necessary to verify that it is complying with the Medicare law and regulations and the terms of its provider agreement.

DATES: Comments will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on February 17, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–3745–P, P.O. Box 7517, Baltimore, MD 21207–0517.

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

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

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

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–3745–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1530 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Frank Emerson, (410) 786–4656, Doris Jackson, RN, (410) 786–0095, Rachael Weinstein, RN, (410) 786–6775.

SUPPLEMENTARY INFORMATION:

I. Introduction

As part of the President's and Vice President's regulatory reform initiative, the Health Care Financing Administration (HCFA) is committed to changing current regulations that focus largely on requirements for measuring procedural standards. One of HCFA's key initiatives in Reinventing Government (REGO) is to revise many of its conditions of participation (COPs) to focus on outcomes of care and to eliminate unnecessary procedural requirements. HCFA is working in partnership with the rest of the health care community to institute better, more commonsense ways of operating. On March 10, 1997 we published a proposed rule (62 FR 11004) that includes revisions for COPs for HHAs. Within the coming year, HCFA plans to propose revisions to the COPs for hospitals and end stage renal disease (ESRD) facilities and also to mount additional research in the area of ESRD to provide the basis for future changes.

What these efforts have in common is—

1. Reinventing Government (REGO) Initiative

To meet our REGO commitment, we are focusing on an approach for all sets of COPs that are:

- Transitional toward a patient outcome based system.
- Intended to stimulate improvements in processes, outcomes of care, and patient satisfaction.
- Patient centered.
- Supported by patient outcomes data.
- Interdisciplinary in the approach to care delivery, reflecting the team approach to health care delivery.

The COPs generally adhere to these basic requirements, varying in some degree due to the unique environment and patient case mix of the provider type.

2. Transitional Framework

The transitional framework for each set of COPs—

- Begins shifting the oversight focus toward patient health outcomes and away from burdensome and costly procedural requirements, restructures the traditional COPs along essential conditions centered on patient care, and reflects an interdisciplinary team approach to patient care.
- Prepares the foundation for provider adoption and use of more detailed patient outcome measures developed through private sector experience and research.
- Provides a flexible framework for incorporating better measures as they are developed and tested.

3. Structure

The basic structure of all of the COP follows the Joint Commission on Accreditation of Healthcare Organizations' (JCAHOs) ''Agenda for Change.'' This structure involves reducing the number of conditions; focusing on comprehensive assessment and patient outcomes; and deleting,

where possible, process requirements that are not specifically mandated by the statute or believed likely to produce outcomes vital to the protection of patient safety.

Each set of COPs has the same essential four conditions that reflect the cycle of patient-centered care. The essential four conditions are:

- Patient rights.
- Patient assessment.
- Care planning and coordination of services.
- Quality assessment and performance improvement.

Each of the sets of COP requirements are tailored to specific statutory requirements, the historical context of the provider type, and the unique form of care delivery and patient case mix.

4. Professional Input

For each set of COP, national meetings of provider and practitioner groups and beneficiary representatives were held. Our partners in State survey agencies were also consulted about our approach and provided comments. Each proposed set of COP reflects extensive consultation with these groups. We recognize the importance of collaboration and communication with the industry and invite further comment on the proposed COP and related rules.

II. Background

A. Statutory Basis

Sections 1861(e) (1) through (8) of the Social Security Act (the Act) provide that a hospital participating in the Medicare program must meet certain specified requirements. Section 1861(e)(9) of the Act specifies that a hospital also must meet such other requirements as the Secretary finds necessary in the interest of the health and safety of the hospital's patients. Under this authority, the Secretary has established the requirements that a hospital must meet to participate in Medicare in regulations at 42 CFR Part 482, Conditions of Participation for Hospitals.

Section 1905(a) of the Act provides that Medicaid payments may be applied to hospital services. Under regulations at 42 CFR 440.10(a)(3)(iii), hospitals generally are required to meet the Medicare conditions of participation in order to participate in Medicaid.

The purposes of these conditions are to protect patient health and safety and to ensure that quality care is furnished to all patients in Medicare-participating hospitals. Surveyors use the conditions to determine whether a hospital qualifies for a provider agreement under Medicare and Medicaid. Under section 1865 of the Act and 42 CFR 488.5 of the regulations, hospitals that are accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA) are not routinely surveyed for compliance with the conditions but are deemed to meet most of the requirements in the hospital conditions of participation based on their accreditation. (See 42 CFR part 488, Survey and Certification Procedures.)

B. Why Revise the Conditions of Participation

The current conditions of participation (COPs) were adopted in 1986 and for the most part have not been revised since that time. They are organized according to the types of services a hospital may offer, and include specific, process-oriented requirements for each hospital service or department. Since the current conditions were developed, however, significant innovations in hospital patient care delivery systems and quality assessment practices have emerged, as evidenced by the JCAHO's recent revision of its accreditation standards and redesign of its survey process.

Moreover, as discussed above, the revision of the hospital requirements is part of a larger effort by HCFA to bring about improvements in the quality of care furnished to Federal beneficiaries through a new approach to our quality of care responsibilities. The existing hospital COPs do not provide patient-centered, outcome-oriented standards, nor do they provide for the operation of a quality assessment and performance improvement program. Historically, we set requirements for participation in the Medicare program by establishing requirements that address the structures and processes of health care. These requirements are largely the result of professional consensus, since there are no data supporting the link between structure and process requirements and positive patient outcomes. The combination of process-oriented requirements with an enforcement approach that focuses on identifying providers that do not have the required structures and procedures in place no longer represents the best available method for assessing and improving hospital quality of care. Thus, we have concluded that significant revisions to the hospital conditions of participation are essential.

C. Transforming the Hospital Conditions of Participation

We are committed to working with affected parties to implement revised COPs that impose the minimum burden on hospitals and allow hospitals maximum flexibility in meeting the Federal requirements necessary to fulfill our quality of care responsibilities. Thus, in developing revised conditions, we have solicited suggestions from organizations representing hospitals, practitioners, patients, and States, including distributing an informal, preliminary draft of the proposed hospital COPs to approximately 70 groups for comment. We have used those comments in the development of the revised COPs contained in this proposed rule.

The fundamental principles that guided the development of the proposed COPs were the need to:

- Focus on the continuous, integrated care process that a patient experiences across all aspects of hospital services, centered around patient assessment, care planning, service delivery, and quality assessment and performance improvement.
- Adopt a patient-centered approach that recognizes the contributions of various skilled professionals and how they interact with each other to meet the patient's needs. Thus, we would eliminate requirements that encourage ''stovepipe'' administrative and enforcement structures.
- Stress quality improvements, incorporating to the greatest possible extent an outcome-oriented, data-driven quality assessment and performance improvement program. Thus, the new COPs would invest our principal expectations for performance in an overarching requirement that each hospital participate in its own quality assessment and performance improvement program.
- Facilitate flexibility in how a hospital meets our performance expectations, and eliminate process requirements unless there is consensus or evidence that they are predictive of desired outcomes for patients.
- Require that patient rights are assured.

Based on these principles, we are proposing new hospital conditions of participation that revise or eliminate many existing requirements and incorporate critical requirements into four ''core conditions.'' These four COPs—Patient Rights; Patient Admission, Assessment, and Plan of Care; Patient Care; and Quality Assessment and Performance Improvement—would focus both

provider and surveyor efforts on the actual care delivered to the patient, the performance of the hospital as an organization, and the impact of the treatment furnished by the hospital on the health status of its patients. The first, Patient Rights, emphasizes a hospital's responsibility to respect and promote the rights of each hospital patient. The second proposed core COP, Patient Admission, Assessment, and Plan of Care, reflects the critical nature of a comprehensive assessment and a resulting plan of care in determining appropriate treatments and accomplishing desired health outcomes. It also would incorporate the need for a coordinated, team approach to planning care. The third proposed core COP, Patient Care, focuses on the actual delivery of care. Finally, the proposed Quality Assessment and Performance Improvement COP would charge each hospital with responsibility for carrying out a performance improvement program of its own design to effect continuing improvement in the quality of care furnished to its patients.

In the revised COPs, we are proposing to include process-oriented requirements only where we believe they remain highly predictive of ensuring desired outcomes or are necessary to deter or prevent fraud and abuse (for example, the requirement for error-free medication administration under the pharmaceutical services COP). Far more frequently, however, we have eliminated process details from the existing requirements and instead included the related area of concern as a component that must be evaluated as part of the hospital's overall quality assessment and performance improvement responsibilities. For example, we would no longer specify that a hospital must make available to medical staff a written description of its laboratory services. However, we would continue to require that a hospital provide laboratory services needed to meet its patients' needs and would specify under the proposed quality assessment and performance improvement condition that a hospital's assessment and performance improvement program must include evaluation of its diagnostic services. The practical effect of this approach would be to stimulate the hospital to find its own performance problems, fix them, and continuously strive to improve patient outcomes and satisfaction, as well as efficiency and economy.

We believe that the proposed COPs based on these principles reflect a fundamental change in HCFA's regulatory approach, a change that to a large extent establishes a shared commitment between HCFA and Medicare providers to achieve improvements in the quality of care furnished to their patients. The proposed COPs invest hospitals with internal responsibility for improving their performance, rather than relying on an externally-based approach in which prescriptive Federal requirements are enforced through the punitive aspects of the survey process. This change would enable HCFA and the States to focus more resources on joining with hospitals (in this case, principally non-accredited hospitals) in partnerships for improvement. It should result in fewer compliance surveys and the reduced need to threaten or take adverse actions that could jeopardize a hospital's reputation, financial viability, and participation in the Medicare and Medicaid programs.

Yet these requirements provide the Secretary and State Medicaid agencies with more than adequate regulatory basis for compelling improved performance or termination of participation based on failure to correct seriously deficient performance that can or does threaten the health and safety of patients, or seriously impairs the hospital's capacity to provide needed care and services to patients. Under the current regulations, termination actions are initiated based on the evidence found during the survey. We foresee no changes in that regard in applying the new COPs.

Thus, as with the current COPs, the enforceability of the proposed COPs will be rooted in the evidence found during the onsite survey when poor performance is identified and corrective action is not taken. We believe that if there is a need to seek a provider agreement termination based on the proposed COP, although a hospital may argue that its performance met the regulatory standards, HCFA will be successful at arguing that based on the evidence found during a survey the requirements of the regulation were not met. In fact, we believe the enforceability is strengthened by standards that establish outcome-oriented performance expectations. When poor performance is documented from the evidence found during a survey and compared to the performance expectations embodied in these patient-centered, outcome-oriented COPs, we believe the contrast between the poor performance identified and the performance expectation of the COP will be clear.

We recognize that an important part of the successful implementation of these proposed regulations will depend on how effectively State and Federal surveyors are able to learn and internalize this patient-centered, outcome-oriented approach and incorporate it into the survey process. The proposed approach embodied in these regulations, in fact, parallels the approach that we have taken in survey and certification, beginning as early as 1985 (for intermediate care facilities for the mentally retarded) and 1986 (for nursing homes). In concert with the States, we have trained surveyors to develop information from the survey process that leads to conclusions about how the provider's performance has impacted—positively and negatively—on patients, especially in terms of what the patients actually experience. For example, for nearly a decade, nursing home surveyors have been trained to interview residents and family members, seeking information that contributes to their assessment of how the nursing home's performance is experienced by the residents and their families. Before the use of outcome-oriented surveys, surveyors focused almost exclusively on record reviews and observing care processes and organizational structures.

These proposed regulations contain two critical improvements that support and extend the change to patient-centered, outcome-oriented surveys. First, the proposed regulations are designed to enable surveyors to focus explicitly on assessing outcomes of care, because the regulations would specify that each individual receive the care her or his assessed needs show is necessary, rather than requiring that certain services and processes be in place. Also, the addition of a strong, quality assessment and performance improvement requirement not only stimulates the provider to continuously monitor its performance and to find opportunities for improvement, it affords the surveyor the opportunity to assess how effectively the provider has pursued a continuous quality improvement agenda. All of these changes are directed toward improving outcomes of care and satisfaction for patients.

We have already begun the process of identifying the tasks necessary to train surveyors and their supervisors and managers effectively in this refined, expanded approach. In addition, HCFA is implementing a new State survey agency quality improvement program that is designed to help State survey agencies increase their focus on improvement strategies in the survey and certification process. As more sources of performance data become available, we will be helping State survey agencies to learn how to use

these data effectively to target scarce survey resources and to identify and implement opportunities for improvement (e.g., reduction in falls or in nosocomial infection rates).

The proposed COPs are designed to decrease the regulatory burden on hospitals and provide them with greatly enhanced flexibility. At the same time, the proposed requirement for a program of continuous quality assessment and performance improvement would increase performance expectations for hospitals in terms of achieving needed and desired outcomes for patients and increasing patient satisfaction with services provided. We invite public comment on this fundamental shift in our regulatory approach. We are especially interested in comments that address how HCFA could improve this approach, what additional flexibility could be provided, what process requirements are critical to patient care and safety and how well HCFA's investment in the hospital's participation in a strong continuous quality assessment and performance improvement program of their own design will achieve our intended goal of improving the efficiency, effectiveness and quality of patient outcomes and satisfaction.

D. Development of National Outcome-Based Performance Measures for Hospitals

Before proceeding to a detailed discussion of the proposed requirements, we want to touch briefly on the prospects for standard outcome-based performance measures for hospital services. As mentioned above, HCFA is committed, through its Strategic Plan, to increasing the amount and quality of information about health care to beneficiaries, providers, plans, and the public at large. The purpose of this effort is to improve the ability of:

- Beneficiaries to make informed choices about their health care;
- Providers to improve the effectiveness and efficiency of their services, improve the outcomes of care they provide, and increase beneficiary satisfaction with their services;
- Organizations such as health maintenance organizations and insurance companies to choose providers, and evaluate and improve the performance of providers with which they contract; and
- The public to know more about the availability and quality of health care services in their communities.

Through various initiatives, such as the Consumer Information Program's mammography screening initiative, HCFA is implementing its broad-based information strategy. A strong quality assessment and performance improvement (QAPI) requirement in the proposed hospital conditions of participation, as well as similar requirements in proposed HHA, hospice, and ESRD conditions, is intended to stimulate providers to develop and use a wide variety of information and data, from internal and external sources, to inform their improvement efforts. We go into more detail on this and industry efforts to implement QAPI later in the discussion on the QAPI conditions in section II.B.5 of the preamble.

We have proposed requiring that HHAS and we are contemplating requiring that ESRD facilities report certain standard core data to HCFA to serve as the basis of a national performance measures data base, which could then be used for provider improvement, consumer information and other purposes. We are able to suggest this for HHAs and ESRD facilities because extensive work has been done on performance measures in both areas. However, with hospitals the challenge is greater and sufficient similar work has not been done on hospital measures, as described later in section II.B.5 of this preamble (§ 482.25), that could produce common agreement on measures that would be acceptable for use on a national basis.

Therefore, we have decided not to include in the hospital COPs any requirement for hospitals to collect and report certain standard data items (for example, nosocomial infection rates, medication errors, reports of falls and other injuries, restraint use, various patient characteristic data elements, etc.) that could produce quality of care predictors in the future. Although we eventually intend to move in that direction in hospitals, we do not believe it is reasonable to establish any related requirements at this time, in view of the lack of any current consensus or science that could establish a reliable and valid set of measures.

However, we invite comments from the public in response to the following questions:

1. Should HCFA (either separately or in a public/private partnership of some sort) assume a leadership role in developing and implementing hospital-based performance measures that would serve as the basis of a national quality assessment and performance improvement data base?

2. If so, how should HCFA proceed to develop and implement this system?

3. If HCFA does not assume a leadership role in this area, individual hospitals invest in the development of multiple systems, and those systems are later superseded by a single required system, would the overall burden be greater than if a single system had been imposed at the outset?

4. If HCFA does not assume a leadership role in this area and individual hospitals adopt multiple systems that produce nonstandardized data, to what extent would it be difficult or impossible to use these data to make comparisons between hospitals?

5. Should HCFA require or encourage hospitals to use the standardized measures that some accredited hospitals are using? The advantage would be that hospitals using such standardized choices would not have to develop their own measures and their results could be compared to other hospitals with similar characteristics. Examples include: (1) Number of days from initial surgery to discharge for patients undergoing isolated coronary artery bypass graft procedures; and (2) time from the emergency department arrival to procedure for trauma patients undergoing specified abdominal surgical procedures.

6. Would it be appropriate for HCFA to include any ''placeholder'' language in the revised COPs concerning the eventual need for hospitals to report relevant data, or is this premature?

7. If HCFA should include placeholder language, what changes should we make to these proposed requirements to set the stage for the development and implementation of such a system?

Even without a performance measure-based national system, we expect hospitals to develop and use their own measures and other available external information to inform their own quality assessment and improvement programs, and to participate in any external quality improvement programs (such as a national program to reduce the use of inappropriate psychoactive medications in hospitals) as the Secretary may direct.

II. Provisions of the Proposed Rule

A. Overview

Under our proposal, the hospital conditions of participation would continue to be set forth in regulations under 42 CFR part 482. However, since the majority of the existing requirements in part 482 would be revised, consolidated with other requirements, or eliminated, we are proposing a complete overhaul of the organizational scheme. The most significant change would be our proposal to group together all COPs directly related to patient care in Subpart B, Patient Care Activities. Then, in Subpart C, Organizational

Environment, we would group together those organizational activities the hospital must perform to support the delivery of patient care. We believe that this proposed format would embody the patient-centered focus of our proposed changes, emphasizing the continuous, integrated care processes that a patient experiences across all aspects of the hospital environment. Also, because functions and processes for delivering patient care often require interdisciplinary teamwork involving many hospital departments and services, the proposed regulations would incorporate a functional framework for the COPs rather than maintaining a stovepipe approach that gives the appearance that patient care activities can occur in isolation.

The complete proposed new organizational format for part 482 is as follows:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

Subpart A—General Provisions

482.5 Basis and scope.
482.10 Condition of participation: Patient rights.

Subpart B—Patient Care Activities

482.15 Condition of participation: Patient admission, assessment, and plan of care.
482.20 Condition of participation: Patient care.
482.25 Condition of participation: Quality assessment and performance improvement.
482.30 Condition of participation: Diagnostic and therapeutic services or rehabilitative services.
482.35 Condition of participation: Pharmaceutical services.
482.40 Condition of participation: Nutritional services.
482.45 Condition of participation: Surgical and anesthesia services.
482.50 Condition of participation: Emergency services.
482.55 Condition of participation: Discharge planning.

Subpart C—Organizational Environment

482.110 Condition of participation: Administration of organizational environment.
482.115 Condition of participation: Infection control.
482.120 Condition of participation: Information management.
482.125 Condition of participation: Human resources.
482.130 Condition of participation: Physical environment.
482.135 Condition of participation: Life safety from fire.
482.140 Condition of participation: Blood and blood product transfusions.
482.145 Condition of participation: Potentially infectious blood and blood products.
482.150 Condition of participation: Utilization review.

Subpart D—Requirements for Specialty Hospitals

482.155 Special provisions applying to psychiatric hospitals.
482.160 Condition of participation: Special medical record requirement for psychiatric hospitals.
482.165 Condition of participation: Special staff requirements for psychiatric hospitals.
482.170 Special requirements for hospital providers of long-term care services (''swing-beds'').

We note that although we are proposing no changes to the requirements for specialty hospitals, the existing requirements would be redesignated numerically to accommodate the proposed changes to the preceding COPs.

B. Discussion of Proposed Conditions

1. Basis and Scope (§ 482.1)

We are proposing to add a new paragraph (a)(6) to the statutory basis section for part 482 that sets forth, under section 1138 of the Act, requirements for hospital protocols for organ procurement and standards for organ procurement agencies' agreements with hospitals for organ procurements. This provision will further the authority governing organ procurements.

2. Patient Rights (§ 482.10)

Under section 1861(e)(9) of the Act, an institution may be recognized by Medicare as a hospital only if, in addition to meeting the specific requirements in the preceding sections of that provision, it meets such other requirements as the Secretary finds necessary in the interest of patient health and safety. In our view, patient health and safety cannot be protected simply by avoiding obvious risk factors such as poor infection control practices or inadequate nurse staffing (as documented in recent literature on the effects of Nursing on patient outcomes such as morbidity, mortality, length of stay, and cost—see Keeler, E., *et al.*, ''Hospital Characteristics and Quality of Care,'' *JAMA* 268 (1992): 1709–1714.; and Krakauer, H., *et al.*, ''Evaluation of the HCFA for the Analysis of Mortality Following Hospitalization,'' Health Services Research 27 (1992): 317–335). Patient rights dealing with freedom from physical or verbal abuse, harassment, or inappropriate restraints are examples of direct protections of patients' physical and emotional health and safety. In addition, patients' successful recoveries from illness or injury depend on many factors related to their psychological and emotional health, including their general feeling of well-being. Because of the importance of these psychological and emotional factors, we believe patient health and safety can be protected adequately only if patient care is delivered in an atmosphere of respect for the individual patient's comfort, dignity, and privacy.

This view is shared by other parties involved in the development of these conditions of participation, many of whom expressed strong support for the inclusion of specific provisions addressing patient rights. Therefore, we propose to set forth a new condition of participation that would recognize explicitly that a hospital must protect and promote certain patient rights.

The proposed condition is composed of five standards. The first proposed standard would require that a hospital inform each patient of his or her rights in advance of furnishing care. It also would require that a hospital have a grievance process and must indicate who a patient should contact if he or she desires to express a grievance. We are not proposing a specific method as to how a hospital should notify each patient of his or her rights, or establishing structural or procedural expectations about how a hospital's patient grievance process should be set up. Instead, we believe each hospital should implement a patient rights policy that reflects its specific manner of operations and minimizes administrative burden, as long as the hospital meets the underlying expectation that it informs patients about their rights and about whom to contact when patients believe these rights have been violated.

The remaining four proposed standards under the patient rights condition would establish a minimum set of required patient rights. In developing these provisions, we closely examined the regulations concerning patient rights for other provider types, such as nursing homes and HHAs. Because the nature of patient care varies among provider types, we are proposing only those patient rights that we believe are appropriate and necessary in the hospital setting. Based on the strong support from all parties involved in the development of these proposed hospital conditions, we are proposing that a patient should have the following rights:

- The right to be informed of his or her rights, to participate in the development and implementation of the individual's plan of care, and to make decisions regarding that care.

- The right to formulate advance directives and to have those directives followed.
- The right to privacy and to receive care in a safe setting.
- The right to be free from verbal or physical abuse or harassment.
- The right to confidentiality of his or her clinical records.
- The right to access information contained in his or her clinical records within a reasonable time.
- The right to be free from the use of seclusion and restraints as a means of coercion, convenience, or retaliation by staff. If seclusion or restraints are used (including psychopharmacological drugs used as restraints) they must be used in accordance with a patient's plan of care and may be used only as a last resort and in the least restrictive manner possible, to protect the patient or others from harm. Restraints must be removed or seclusion ended at the earliest possible time.

We believe these proposed patient rights are clearly necessary in the interest of patient health and safety and are for the most part self-explanatory. We note that the rights concerning advance directives are tied directly to the statute (section 1866(f) of the Act), and the hospital's responsibilities in these areas are more fully described in other sections of the regulations (see existing § 489.102). However, we believe it is appropriate to reference advance directives in the proposed patient rights section, consistent with the reference to advance directives in the patient rights sections of the existing regulations for both nursing homes and HHAs.

We considered proposing a specific time period within which a hospital would be required to provide access to requested medical records under proposed § 482.10(d)(2), but concluded that the proposed requirement that a hospital provide access to such information within a ''reasonable'' time is more feasible. If a former patient requests access to 3-year-old closed medical records, which could be in storage, a ''reasonable'' time to retrieve them likely would be longer than if the spouse (with appropriate power of attorney) of an inpatient requests to see the medical records of her or his spouse who is still in the hospital. In the former case, a ''reasonable'' time might be measured in days, whereas it could be hours in the latter example. Thus, we believe that ''reasonable'' must be defined in terms of the individual circumstances. Most important, we believe that ''reasonable'' means that the hospital will not frustrate the legitimate efforts of individuals to gain access to their own medical records and will actively seek to meet those requests as quickly as its recordkeeping system permits. If a hospital receives complaints from patients or their legal representatives about delays in gaining access to properly requested records, we would expect that the hospital would both respond quickly to resolve the complaints and consider the complaints as an opportunity for improvement as part of its quality assessment and performance improvement program. In summary, we believe that the use of the word ''reasonable'' sets the proper performance standard for the hospital without imposing an arbitrary burden, while at the same time enabling surveyors to take action if a hospital is systematically frustrating legitimate efforts to gain access to medical records. We welcome comments on the appropriateness of our decision not to propose any specific timeframe for providing access to a patient's records.

We also strongly considered expanding the proposed patient rights provisions (or establishing separate requirements) to provide further detail related to a patient's right to be free from seclusion or restraints. We recognize that the use of restraints or seclusion has the potential to produce serious consequences for a patient's health and safety, such as physical and psychological harm, loss of dignity, violation of civil rights, and even death. Thus, our expectation is that a hospital would impose restraints or seclusion only when absolutely necessary to prevent immediate injury to the patient or others and when no alternative means are sufficient to accomplish this purpose. We also expect that when restraints or seclusion are used, the plan of care should address how and when such practices are to be employed, and patients placed under restraints or in seclusion would be released as soon as they no longer pose an immediate threat of injury to themselves or others. Although we have built these expectations into the proposed patient rights provisions, the question remains whether it would be advisable to add further, more prescriptive requirements concerning the use of seclusion or restraints. One possibility would be to incorporate into the regulations a series of specific requirements governing the use of restraints and seclusion, as detailed below:

- Seclusion or restraints may only be used to the extent authorized by the signed order of a physician. Written authorization must include the date and time of the order, and the reason for seclusion or restraint. For restraint, the order must include the type of restraint(s) and the number of restraint points.
- Each order for seclusion or restraints must be in writing, must be time-limited and specify start and end times. Implementing a time-limited order does not require applying the intervention for the entire period if the patient demonstrates a reduction or change in the behavior that led to being placed in restraint or seclusion.
- A renewal order may be issued if the physician clinically assesses the patient face to face and determines that seclusion or restraint continues to be necessary to prevent injury to self or others, and there is no less restrictive method of preventing the injurious behavior.
- Orders for seclusion or restraint must never be written on a standing or as needed basis.
- Written orders for restraint and seclusion for adults must be valid for no more than 6 hours; written orders for restraint and seclusion for children and adolescents must be valid for no more than 2 hours.
- A patient in seclusion or restraint must be checked by a person trained in the use of restraints and seclusion at least every 15 minutes for comfort, body alignment, circulation, hydration, feeding, and toilet needs. A patient in seclusion or restraint must have vital signs checked a minimum of every 2 hours. Written documentation of checks must include, at a minimum, the name of the person doing the check, the date and time of the check, and the patient's condition.

For purposes of this proposed rule, we have opted not to set forth these kinds of detailed requirements in the regulations but instead to require that a hospital achieve the intended outcome that restraints or seclusion are never imposed inappropriately, without limiting a hospital's flexibility in how it meets this requirement. However, we welcome comments on the prevalence of the use of restraints and seclusion in the hospital setting and whether the above standards, or alternative requirements, are needed to ensure patient health and safety.

Subpart B—Patient Care Activities

3. Patient Admission, Assessment, and Plan of Care (§ 482.15)

The first proposed condition under proposed Subpart B, Patient Care Activities, would combine the requirements for patient admission, assessment, and care plan development in a single condition, which would be followed by a separate condition on patient care. We believe this

organization is in keeping with the patient centered orientation of these regulations and would help illustrate our view that patient assessment and planning is a prerequisite for the delivery of high quality care.

The underlying requirements of this COP would be first that a hospital ensure that each patient receives a comprehensive assessment of his or her care needs, including an initial estimate of posthospital needs, if any, and then that the hospital establish a coordinated plan for how all relevant hospital disciplines will meet those needs. A comprehensive assessment of patient care needs is critical for planning patient care and achieving desired health care outcomes. Because patient assessment activities are performed by various disciplines within the hospital setting, coordination of the information obtained during patient assessment activities is vital to assuring a well-developed plan for meeting the patient's identified care needs. Moreover, a coordinated plan for care delivery is increasingly important in a health care environment where payment incentives encourage shorter hospital stays. We note for an assessment to be truly ''comprehensive,'' it must address all of a patient's anticipated care needs; thus, we believe it is appropriate to include a reference to posthospital needs under the proposed assessment COP. The inclusion of posthospital needs in a comprehensive assessment does not constitute an added burden on hospitals but simply reflects current, accepted practice in patient assessment activities. For example, in conducting a comprehensive assessment on a 17-year-old male with no history of medical problems who will undergo surgery to repair a fractured femur resulting from a football injury, it would be appropriate to gather information on who will be available to assist the patient at home, who is available to take the patient to follow-up medical appointments, and necessary instructions for posthospital needs (e.g., crutch walking, body positioning, medication administration, etc). (We note that, in accordance with section 1861(ee) of the Act, the proposed COPs would continue to address separately the formal discharge planning procedures required to ensure that patients receive appropriate posthospital care and services. As explained in further detail later in this preamble, we are proposing to retain the existing discharge planning COP (now codified at § 482.43) and redesignate it as proposed § 482.55.)

Under the first proposed standard, ''Admission and comprehensive assessment'' (proposed § 482.15(a)), we propose to retain the current flexible requirement (at existing § 482.12(c)(2)) under which patients can be admitted to the hospital by any licensed practitioner allowed by the State to do so. Then, with respect to assessment, we would revise the requirement under existing § 482.22(c)(5) that a physical examination and medical history be done no more than 7 days before or 48 hours after an admission. Instead, we propose to require that each patient receive a comprehensive assessment that identifies the patient's condition and care needs as well as an initial estimate of posthospital needs, if any, at the time of admission and is placed in the patient's medical record within 24 hours of admission.

We propose to provide the hospital and medical staff the flexibility to define the content and activities of the comprehensive patient assessment. We recognize that to require, for example, that every patient have an evaluation of rehabilitation potential or nutritional status, is not necessarily appropriate. The information to be included in the comprehensive assessment would be determined by the hospital based on the characteristics and needs of the specific patient. For example, when the patient's condition or symptoms indicate possible alcohol or drug abuse, an alcohol or drug abuse assessment should be performed as part of a mental status assessment. Again, the performance expectation is that a hospital would ensure that each patient's assessment is comprehensive relative to the reason the patient is in the hospital. We do not believe it is appropriate to prescribe how a hospital meets this responsibility.

We are proposing that the comprehensive assessment must be completed in a timely manner consistent with the patient's immediate needs and placed into a patient's medical record within 24 hours of admission. We believe that this proposed requirement sets a clear expectation for a close, effective relationship between assessment and care planning, a relationship that is essential to achieving desired health care outcomes. We view the maximum 24-hour timeframe for completion of the assessment as essential for adequate patient care and safety, since by definition a patient being admitted to a hospital is at a point of immediate need. The 24-hour timeframe should pose no burden for the well-managed hospital, since in all likelihood it would already be performing assessments within this timeframe for initial care planning and decision making purposes.

We are also proposing a 12-hour timeframe for placement into the patient's medical record of any assessment information collected before admission to the hospital. For example, a patient may have had a health history and physical examination completed in the physician's office before admission. Allowing a copy of a previously completed health history and physical examination to be placed in the hospital records would eliminate duplication in the creation of these records, especially if the findings during the physician office visit were the basis of the admission to the hospital. Unlike under existing regulations, which permit use of a physical examination or medical history done within 7 days of a patient's admission, the proposed requirements would not establish an arbitrary limit on the use of such information. Instead, we would require that any comprehensive assessment information recorded before admission be updated to reflect the patient's condition on admission. That is, a hospital would be expected to reassess the necessity of the patient's admission to the hospital and document, as appropriate, any changes in the patient's condition at the time of admission. We believe this requirement would reduce the hospital's information collection burden without compromising patient health and safety. Because, in such a case, the history taking and physical examination activities essentially are completed before admission, we believe that 12 hours is a reasonable timeframe for placement of that assessment information into the medical record. That is, it should take the hospital less time to update the assessment information than the proposed 24-hour timeframe for a comprehensive assessment performed after admission.

The second standard under this COP, proposed § 482.15(b)(1), would require that each patient have an initial written plan of care that meets the needs identified in the comprehensive assessment and that the plan of care must be placed in the medical record within 24 hours of admission. Thus, each patient would be assured of having a comprehensive assessment and an initial care plan within 24 hours of admission to the hospital. We believe that this 24-hour timeframe for care planning is both reasonable and necessary, given the continuing decreases in average lengths of stay in hospitals.

Presently, responsibility for a patient's plan of care is addressed under various separate COPs, including governing body, medical staff, and nursing services. In place of this

fragmented approach, we would focus on the need for coordination in care planning for hospital patients by requiring that the plan include care to be delivered by all disciplines. We would not specify which disciplines must be involved in care planning; instead, the hospital would have the flexibility to determine which disciplines should be involved based on the nature of a patient's illness or injury. Similarly, we are not proposing to require that a hospital have a single care plan that documents interdisciplinary care planning needs, but only that care planning by all relevant disciplines be included in the medical record using whatever organizational structure or format the hospital believes is appropriate.

Under proposed § 482.15(b)(2), we would require that the patient's plan of care be modified to meet any changes in the patient's condition that affects the patient's needs. We believe this requirement is preferable to a mandate that reassessments be conducted at specified time intervals on all patients. Instead, each practitioner involved in a patient's care may perform reassessments and modify the plan of care, as needed.

We welcome comments on whether the specific proposed timeframes in the regulation text are reasonable and consistent with current medical practice and whether the timeframes should be used as benchmarks to reflect patient health and safety concerns involving the timeliness of the assessment components.

4. Patient Care (§ 482.20)

Patient care activities occur in all areas and departments of a hospital. These activities are carried out by a variety of staff and licensed practitioners from the medical, nursing, pharmacy, dietetics, rehabilitation, and other departments and services. Rather than describing distinct patient care responsibilities for each service or department, we have organized these regulations to reflect the integrated way in which a patient experiences care, by establishing a single, unified patient care condition. Thus, by consolidating patient care activities into one COP, the proposed regulations would no longer support a ''stovepipe'' approach to patient care and instead foster a hospital's efforts to integrate, coordinate, and evaluate patient care in the same way as the patient experiences care in a contemporary hospital setting.

Overall, the proposed patient care COP would require that each Medicare patient be under the care of an appropriately qualified practitioner, and that the care provided to each patient be coordinated and based on the plan of care required under proposed § 482.15. The first standard under the proposed patient care COP (§ 482.20(a)) concerns the assignment of a practitioner responsible for each Medicare patient's care. Under this standard, we would retain, with only minor editorial changes and one substantive change (discussed below) the current requirements in § 482.12(c)(1), (3), and (4). These requirements, while specific and detailed, are needed to implement section 1861(e)(1) of the Act, which defines a hospital as an institution that provides services by or under the supervision of physicians, and section 1861(e)(4) of the Act, which requires that every Medicare patient be under the care of a physician. It is necessary to implement the latter requirement in a way that recognizes the many types of practitioners who are authorized by State scope of practice laws and hospital staff bylaws to treat patients in hospitals.

Within this standard, the only substantive change from current requirements appears at proposed § 482.20(a)(1)(vi), which would permit a clinical psychologist to admit and treat patients receiving qualified psychologist services (as defined in section 1861(ii) of the Act), to the extent this is permitted under State law. This change is needed to implement a change in section 1861(e)(4) of the Act that was made by section 104 of Public Law 103–432, the Social Security Act Amendments of 1994.

Proposed paragraphs (a)(2) and (3) of this standard restate current requirements under § 482.12(c)(3) and (4) concerning the presence of doctors and their responsibilities toward patients.

The second proposed standard, delivery of patient care (§ 482.20(b)), would require that each patient be provided care and treatment interventions that are coordinated by all relevant disciplines and conform to the plan of care. We then would require a hospital to evaluate the patient's progress and adjust care when appropriate progress is not being achieved. That is, in keeping with the requirement under proposed § 482.15(b)(2) that the plan of care be modified as needed, we believe it is essential to include under this COP the companion requirement that actual care provided also be changed as needed, thus establishing the essential linkage between evaluation of treatment results and care plan modification.

We also propose that patient care services are provided only on the order of qualified practitioners with delineated clinical privileges. This proposed provision is in keeping with the overall approach of the patient care COP, that is, the focus on the integration and coordination of hospital services rather than the former ''stovepipe'' approach. Thus, rather than specifying under the nutrition services COP that therapeutic diets must be prescribed by the responsible practitioner (now required under § 482.28(b)(1)), we intend that such department-specific requirements would be encompassed within the hospital's overall responsibility to ensure that all patient care services be provided in accordance with the orders of qualified practitioners. So, if a surveyor finds evidence that therapeutic diets were prescribed inappropriately, the hospital could then be cited for a deficiency under this standard and, if applicable, under proposed § 482.40 (Nutrition services) if the outcome of this problem was that patients' nutritional needs were not met.

Finally, if a hospital provides care to outpatients, it would be responsible for ensuring that outpatient care meets the same quality of care requirements as inpatient care and that inpatient and outpatient services are coordinated to promote continuity of care for patients who move between levels of care. Inpatient and outpatient care should be coordinated, so that a patient does not experience any disruption of care or duplication of services simply because of a change from inpatient to outpatient status, or vice versa. We recognize that some procedures can appropriately be done only on an inpatient basis, and we do not intend to require that every service be available on either an inpatient or outpatient basis. The intent of this proposed provision is to ensure that if a service is provided in both the inpatient and outpatient settings, the level of quality in each setting is the same, so that there is a uniform level of care throughout the hospital. For example, infection control procedures and practices should be followed uniformly throughout the hospital, not merely in inpatient areas, and we would expect a hospital to investigate adverse outcomes among outpatients as thoroughly as those among inpatients. Thus, as noted below, we would expect a hospital's quality assessment and performance improvement program to encompass outpatient services, if the hospital provides those services.

5. Quality Assessment and Performance Improvement (§ 482.25)

The current quality assurance condition of participation (§ 482.21)

relies on a problem-focused approach to identify and correct problems in patient care delivery. During the last decade, the health care industry has moved beyond the problem-focused approach of quality assurance in favor of focusing on systemic quality improvements, as evidenced by the JCAHO's overhaul of its accreditation standards over the last few years. We propose to follow suit by requiring a Medicare-participating hospital to participate in a continuous effort to improve its performance, incorporating to the greatest extent possible an approach that focuses on the hospital's performance in improving patient outcomes and satisfaction. Specifically, we are proposing a new COP that would require that each hospital develop, implement, maintain, and evaluate an effective data-driven quality assessment and performance improvement program.

We do not propose to prescribe specific methodologies to achieve this objective, with the exception of retaining the current rule on autopsies (see below). Instead, we would specify that a hospital's quality assessment and performance improvement program should reflect the complexity of the hospital's organization and services. Thus, each hospital would be free to pursue quality improvement in a manner best suited to its individual characteristics and resources. However, every hospital would be responsible for implementing actions that result in performance improvements across the full range of the hospital's services to patients. Also, we would require that a hospital's quality assessment and performance improvement program must use objective measures that make it possible to track performance to ensure that improvements are sustained over time.

The proposed quality assessment and performance improvement condition (§ 482.25) contains three standards, the first addressing the scope and direction of the performance improvement program, the second on responsibility for the program, and the third on autopsies. The first proposed standard would require that a hospital's quality assessment and performance improvement program include the use of objective measures to evaluate performance changes and would delineate the minimum items that must be included in the hospital's program. Specifically, we would require that a hospital objectively evaluate the following areas that we believe are critical to hospital performance: Access to care; patient satisfaction; staff, administrative, and practitioner performance; complaints and grievances; diagnostic and therapeutic services provided; medication error incidents, achievement of drug therapy goals, and incidents of adverse drug effects; nutritional services, including, if applicable, patient's responses to therapeutic diets and parenteral nutrition; surgery and anesthesia services; safety issues, including infection control and physical environment; emergency services (if provided); discharge planning activities; and the results of autopsies. We included the first 11 items as the minimum elements of the performance improvement program because we believe they comprise the fundamental building blocks of a well-managed hospital, whose primary business is achieving desired outcomes for patients and ensuring their satisfaction. We are proposing the twelfth item, ''results of autopsies,'' because we believe that autopsies can be an important source of information to both individual practitioners and hospitals that can point to opportunities for improvement in both practitioner and hospital performance. We are asking for comments on the minimum content of the Quality Assessment and Improvement Program as well as the twelve elements that are part of the Whole Quality Assessment standard.

The next standard (proposed § 482.25(a)(2)) would then state that for each of the areas listed above, and any others the hospital includes, the hospital must measure, analyze, and track quality indicators or other aspects of performance that the hospital adopts or develops that reflect processes of care and hospital operations. These measures must be shown to be predictive of desired outcomes or be the outcomes themselves. As explained below, we also would require a hospital to use hospital-specific data, as well as Peer Review Organization (PRO) and other relevant data, in its quality assessment and performance improvement strategy.

Again, when we use the word ''measure,'' we mean that the hospital must use objective means of tracking performance that enable a hospital (and a surveyor) to identify the differences in performance between two points in time. For example, we would not consider a hospital's subjective statement that it is ''doing better'' in a given performance area as a result of an improvement process to be an acceptable measure. There must be identifiable units of measure that any reasonably knowledgeable person would be able to distinguish as evidence of change. Not all objective measures must have been shown to be valid and reliable (that is, subjected to scientific development) to be useable in improvement projects, but they must at least identify a start point and end point stated in objective terms, most often, numbers, that actually relate directly to the objectives and expected/desired outcomes of the improvement project.

We do not believe it is feasible at this time to propose that a specific set of quality indicators or objective performance measures be used. However, systematic collection and analysis of quality indicators or performance measures that each hospital identifies should foster the eventual development of a data-driven system of hospital indicators. Many hospitals are already very active in this area. We recognize that collection and analysis of clinical outcome data may represent an increased burden on some hospitals, particularly on the subset of hospitals that are routinely subject to HCFA's survey process. These non-accredited hospitals typically are smaller than JCAHO-accredited hospitals, are located in more sparsely populated areas, and may not have the resources for extensive data gathering and reporting. However, rather than mandating specific performance measures, we would allow each hospital the flexibility to identify its own measures of performance for the activities it identifies as priorities in its quality assessment and performance improvement strategy. With this in mind, we believe the proposed quality assessment and performance improvement condition would lay the foundation for specific hospital quality indicators that might be developed by consensus in the future.

We anticipate that hospitals, both large and small, rural and urban, will or already use a variety of performance measures to inform their internal quality assessment and performance improvement programs. Some of these measures may be designed by the hospital itself, while others will be developed through research or by consensus groups or other sources outside the hospital. Regardless, HCFA intends, through its survey process, to assess the hospital's success in using performance measures principally in terms of whether the hospital can demonstrate with objective data that sustained improvements have taken place in: (1) Actual care outcomes, patient satisfaction levels, or other performance data, and/or (2) processes of care and hospital operations that are predictive of improved outcomes of care and satisfaction for patients. HCFA does not intend and would not be in a position to judge the measures themselves; instead, we would assess

their utility for the hospital in its own efforts to improve its performance.

While we recognize that there is no single system available for the measurement of a hospital performance, we are also aware of efforts in the hospital industry to find ways to increase the use of intra- and inter-hospital performance measurement systems. For example, under programs called ORYX and ORYX PLUS JCAHO plans to require hospitals to use a defined number of performance measures that evaluate care to a percentage of patients in an initiative to integrate performance measures with the accreditation process. Initially, we understand these programs set forth an initial framework for evaluating a wide range of performance measurement systems. The specific attributes of the measurement systems that will be evaluated include: the performance measures and data elements (how they focus on processes and/or outcomes related to patient care and organizational performance); the construction of the database; the quality of the database; the extent of risk adjustment/stratification for patient factors; performance-related feedback; and the relevance of the performance measurement system for accreditation.

Under this proposed rule, we would require a hospital to engage in a quality assessment and performance improvement program that uses objective measures, but we are not proposing that a hospital be required to participate in a system of performance measurement with other hospitals. However, we intend to develop such a requirement for inclusion in our final rule, and welcome public comments addressing the appropriateness of such a requirement or how it could best be structured. For example, one possibility is that the final rule would set forth the requirement as suggested above, and would include the evaluation criteria for the system or systems the hospitals might use. We do not envision that we would require the use of a specific system. Again, we are not proposing any specific provisions at this time, but we invite comment on whether HCFA should require non-accredited hospitals to participate in one or more performance measurement systems as part of their overall quality assessment and performance improvement program (both internally and externally).

Example of a quality improvement project. HCFA wants to assure hospitals, particularly smaller, more rural hospitals, that our expectations for the use of performance measures are commensurate with the size and resources available to the hospital. Powerful improvement programs can be and are often premised on simple, straightforward designs, using measures that are direct and uncomplicated. For example, a hospital might collect information on a routine, sampled basis about the rate of utilization of psychoactive medications that are initiated during a hospital stay, when none were used by the patient prior to hospitalization. This data collection could be a part of the hospital's quality assessment and performance improvement program associated with the proposed drug management requirements (proposed § 482.35(b)). The data could be collected manually or electronically and could be analyzed by case mix, age, physician specific prescribing patterns, the shift most likely to request medication orders, etc. This data would fulfill our requirement that it be an ''objective measure'' because the unit of measure in this example is the number of patients for whom psychoactive medications are prescribed after admission. If this data is taken for 1 month as a start period, and taken again 6 months later as an end period, the differences in the number of patients for whom psychoactive medications were prescribed after admission (both increase and decrease) would inform the hospital staff responsible for this project how well (or poorly) their intervention plan worked.

The hospital's quality assessment and performance improvement team could then use that data to design a specific improvement project, implement it, and continue to collect data to demonstrate, in a nonstatistical way change over time (for example, a steady reduction in orders for psychoactive medications during a hospital stay). The performance measures for a project like this are immediate and simple to collect, and well within the reach of any hospital. Hospitals that have more resources could be expected to produce more sophisticated measures that involve more complicated issues, but the key expectation of these requirements is that the hospital make an aggressive and continuous effort to improve its performance across the board. HCFA is more interested in the outcomes of such an effort than in the specific processes the hospital uses to achieve the performance improvements. We recognize that: (1) There is not yet a wide menu of available performance measures that have been shown to be reliable and valid that could be offered to a hospital to use to meet these requirements; (2) a hospital cannot control many related nonpatient care outcomes (such as substance abuse practices of the patient, or lack of adequate support systems to ensure lasting positive outcomes from the hospital stay, etc.); and (3) many hospitals will need more experience with data collection methods and in the design implementation and monitoring of improvement projects. However, experience in many hospitals, other health care providers, and business and industry in general has shown convincingly that creating an expectation for continuous improvement is a far more powerful performance incentive than maintaining a set of process and structural requirements.

Therefore, we want to stress that our emphasis at this time is on the improvement of processes. The process of improvement entails: (1) Identification of an organization's critical patient care and services components; (2) application of performance measures that are predictive of quality outcomes that would result from delivery of the patient care and services; and (3) continuous use of a method of data collection and evaluation that identifies or triggers further opportunities for improvement. We do not intend for hospitals to collect data from performance measures for the sake of meeting a regulatory requirement. The hospital must have the flexibility to identify the processes targeted for improvement based on the unique needs and priorities of the facility and its patients. Moreover, we would expect the processes targeted for improvement to change over time as the hospital makes the necessary improvement efforts.

As stated by W. Edwards Deming, the late quality management expert, ''* * * quality comes from * * * improvement of process(es)'' and the degree to which improvement occurs is measured through analysis of collected data. (Katz, Jacqueline, Managing Quality, St. Louis: Mosby Year Book, 1992, p. 122). Likewise, the intent of this requirement is that each hospital will engage in improvement activities, based on its own analysis of data, that improve care outcomes and patient satisfaction and lead to greater efficiency and economy of operation.

How to Measure Hospital Quality Improvement Efforts—Options for Establishing a Required Minimum Level of Improvement Projects Per Year. As the preceding discussion illustrates, even small, rural hospitals and those without sophisticated ''research'' capabilities can develop and manage effective quality assessment and

improvement programs that demonstrate sustained improvement over time. However, we are concerned that some hospitals may make token efforts to meet this requirement, efforts that are aimed primarily at avoiding adverse enforcement action resulting from a survey, rather than at improving processes and outcomes of care and satisfaction for patients. Thus, depending on the comments we receive, we intend to develop for the final regulation a requirement that a hospital engage in a minimum number of improvement projects that are based upon the hospital's own quality assessments of its performance and that show measured, sustained results that actually benefit patients.

We are not proposing specific language in the regulation text at this time because we recognize there are many ways in which a minimum level of effort can be set.

We are inviting comment not only on the advisability and necessity of such a requirement, but also on the best approaches to achieve this minimum level of effort. At a minimum, we would require under the quality assessment and performance improvement condition of participation that the number of distinct successful improvement activities to be conducted annually must be proportional to the scope and complexity of the hospital's program. The success of the activity would be measured in terms of demonstrated sustained improvement over time. We intend to then supplement this underlying requirement with a more precise explanation of what would be expected of each hospital. Among the possible alternatives that we are considering are the following:

(1) Require the hospital to engage in a specific number of improvement projects equal to not less than 1 project per 1,000 patient discharges.

(2) Require a minimum set number of projects (e.g., five) that are hospital-wide and most broadly affect patient outcomes and satisfaction.

(3) Require a minimum set number of projects (e.g., five) that are not hospital-wide, but that are developed and implemented in various areas of the hospital's range of care and services (e.g., one project might reduce waiting time in the emergency room, another might focus on improving the accuracy of medication administration, etc.).

(4) Require a minimum number of projects based on bed-size, rather than discharges (e.g., 8 projects in a 600-bed hospital, 2 in a 50-bed hospital).

(5) Rather than requiring a minimum number of projects, require the hospital to demonstrate (e.g., to the PRO and/or survey agency) what projects they are doing and what progress is being achieved.

(6) Again, rather than specifying minimum number of projects, establish a minimum set of types of projects that must be done (e.g., hospital operational processes that are predictive of positive outcomes, such as infection control measures, or condition-specific projects that improve certain clinical outcomes, such as emergency room responses to heart attack patients).

We are certain there are many other ways to approach the ''minimum effort'' discussion. The examples noted above illustrate some of the possible approaches to ensuring that hospitals invest substantial efforts in quality assessment and improvement. The purpose of these examples is to elicit comment and suggestions in this regard, and we welcome alternative approaches. We note that although our intention is to specify in the final rule a minimum level of effort, it is also possible that after reviewing all the comments we may conclude that it is neither feasible nor desirable to do so.

Other Elements of the Proposed Quality Assessment and Performance Improvement Condition. We propose a new requirement at § 482.25(a)(3) that a hospital must use hospital-specific as well as PRO data and any other available relevant data, as an integral part of its quality assessment and performance improvement strategy, to develop its improvement plans and projects. However, if a hospital elects not to participate in an improvement project with its PRO, we propose at § 482.25(a)(4) that it must be able to demonstrate a level of achievement through its own quality assessment and performance improvement strategy comparable to or better than that to be expected from such participation. Thus, we intend that each hospital have the responsibility to engage in improvement projects that are vigorous and needed to improve performance across the range of hospital activities that affect patient outcomes. For example, if a PRO proposes a cooperative project to improve the outcomes for Medicare patients with pneumonia, and the hospital chooses not to participate, HCFA surveyors would expect to find that projects that the hospital designed and implemented on its own (e.g., an improvement project to reduce the use of psychoactive medications and physical restraints as patient management tools) achieved improvements that were demonstrably as important as the expected outcomes that would have been expected from the pneumonia study had the hospital chosen to participate in that cooperative study. (In assessing the comparability of a hospital project with a PRO project, we would consider the number of patients affected, the projected magnitude of the benefit to individual patients, and the actual changes achieved by the project to the changes achieved by participants in the PRO project.)

We also would require that a hospital set priorities for performance improvement, based on the prevalence and severity of identified problems. Of course, we expect that a hospital will immediately correct problems that are identified through its quality assessment and performance improvement program that actually or potentially affect the health and safety of patients. For example, if a hospital's quality assessment and performance improvement process identifies problems with accuracy of medication administration, it is not enough for the hospital to consider this area a candidate for an improvement program that may or may not be chosen from a priority list of potential projects. Rather, since accuracy of medication administration is critical to the health and safety of patients, the hospital must intervene with a correction and improvement program immediately. Overall, a hospital would be expected to give priority to improvement activities that most affect clinical outcomes.

As noted above, perhaps the most fundamental change proposed in the new quality assessment and performance COP in comparison to the present condition on quality assurance is the focus on taking action to correct problems identified through the hospital's quality assessment and performance improvement program. This change is reemphasized in the proposed requirement at § 482.25(a)(6) that a hospital must take actions based on measurement and tracking that result in demonstrable, sustained improvements. We envision a hospital meeting this requirement by conducting a systems/process analysis when adverse outcomes are identified and then taking action to afford long-term correction and improvement of the identified problems, as illustrated in the above example concerning medication administration.

The second proposed standard under this COP, proposed § 482.25(b), basically builds on the current requirement under § 482.21 that the hospital's governing body ensures that there is an effective, hospital-wide quality assessment and performance improvement program, as well as on the current requirements concerning

medical staff responsibilities under § 482.22(b) and (c). Under the new proposed standard, we would state that the hospital governing body, medical staff, and administration officials are responsible for ensuring that the hospital-wide quality assessment and performance improvement efforts address identified priorities in the hospital and for implementing and evaluating improvement actions. We would, however, eliminate several procedural requirements under the current medical staffing provisions, such as those concerning the organization of the medical staff.

Finally, in keeping with the cross-cutting, hospital-wide approach to quality improvement that we believe represents current best practices, the standard includes a requirement that all programs, departments, and functions be involved in the hospital's quality assessment and performance improvement program. This would include services that are carried out under contract or by arrangement.

Under the third standard in this COP, we would retain the current requirement on autopsies (existing § 482.22(d)). Under this requirement a hospital's medical staff must attempt to secure autopsies in cases of unusual deaths or of medical, legal, or educational interest. Although this requirement is somewhat prescriptive, we believe it is necessary because autopsies are a valuable educational tool that contribute to the quality of care in a hospital and, as we stated above, can be used by the hospital to improve its performance.

6. Diagnostic and Therapeutic Services or Rehabilitative Services (§ 482.30)

We are proposing to restate and consolidate current standards from several COPs that relate to required and optional diagnostic and therapeutic services into one COP. The condition would have four standards. The first standard would require that a hospital be primarily engaged in providing, by or under the supervision of one of the practitioners described in 42 CFR 410.20(b) (which specifies by whom physician services must be furnished to be eligible for Medicare Part B payment), either diagnostic and therapeutic services to inpatients, or rehabilitative services to inpatients. This standard would implement the statutory requirement at section 1861(e)(1) of the Act. If a hospital does not meet this standard, it would be found out of compliance and would risk termination of its participation in the Medicare program.

The second standard of this condition at proposed § 482.30(b) would require that a hospital furnish diagnostic radiology services, as required under existing § 482.26. We would expect a patient's initial needs for radiology services would be identified in the comprehensive assessment performed at admission. In addition we are proposing that a hospital that furnishes emergency services on a full-time basis must provide diagnostic radiology services on a full-time basis.

Separate mention is not made in this condition of the personnel, safety, and record standards that are now found under § 482.26(b), (c), and (d). As discussed earlier in this preamble, under our proposed reorganization of these COPS, we try to deal with such common elements in one place instead of repeating them for each condition. Therefore, the personnel and safety standards accompanying these conditions are now encompassed in the proposed Human Resources and Physical Environment conditions, respectively.

In the next standard, proposed § 482.30(c), we would require hospitals to furnish laboratory services, including 24 hour-a-day emergency laboratory services, as presently required under existing regulations (see § 482.27). We are also proposing to retain the current requirement at § 482.27(a) that laboratory services provided to patients in the hospital must meet the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), as codified in 42 CFR part 493. We propose to delete the requirements of existing § 482.27(b)(2), (3) and (4). Section 482.27(b)(3) requires the hospital laboratory to make provisions for the proper receipt and reporting of specimens the laboratory handles. Since this requirement is covered under CLIA provisions, it would be redundant to place it in the proposed hospital COP. We are requesting comment on our proposal to eliminate the current requirements at § 482.27(b)(2) which requires that a written description of laboratory services be available to the medical staff and at § 482.27(b)(4) which requires the medical staff and a pathologist to determine which tissue specimens require a microscopic and/or macroscopic examination. We recognize that it is essential for practitioners to know what laboratory services are available for diagnosing and delivering care. However, we believe that hospitals make their services known to their practitioners, and we are not convinced that a regulation is necessary to assure that this process occurs. In addition, although microscopic and macroscopic examination of tissue specimens may provide valuable information, we are requesting comment on whether it is necessary to have a regulation which states who can determine what tissue specimens require these examinations.

The fourth proposed standard at § 482.30(d) would state that a hospital may elect to offer services in addition to these required diagnostic and therapeutic services, such as nuclear medicine, ultra sound, rehabilitation medicine services, psychology services, respiratory care services, speech and language pathology services, audiology services, social work and vocational rehabilitation services, to name a few. This listing illustrates but does not limit the range of diagnostic and therapeutic services a hospital may provide. If the hospital elects to offer such additional optional services, those services must be delivered in accordance with the requirements of part 482.

7. Pharmaceutical Services (§ 482.35)

Overview. Under the proposed condition on pharmaceutical services, which would replace current § 482.25, we would require the hospital to provide needed medication therapy through a safe, accurate, and effective system that minimizes adverse drug events and evaluates the patient's response to the therapy.

In general, we propose to adopt requirements that integrate drug therapy services and support a coordination of services by the various disciplines that provide them (medicine, nursing, and pharmacy). This integration of services is intended to protect patients by establishing a four-layer ''safety net'' to prevent adverse drug events (including medication errors). It is intended also to detect system errors that result from the multiple nodes in the drug distribution process: Ordering, transcription, dispensing, and administration.

The first layer of this safety net is a peer review activity for the identification of events that are predictive of adverse drug events (see § 482.35(a)(1)). The second layer is the detection of medication errors (see § 482.35(a) (2) and (3)). This layer focuses on the more objective errors of transcription, dispensing, and administration, and leaves the more subjective drug error issues to peer review and nurse review mechanisms. The third layer of the net is the comprehensive drug information resource, which endeavors to provide vital drug and patient information at keys points in the drug distribution process (see § 482.35(b)(4)). The fourth layer of the net relies on nursing personnel to review drug orders for

accuracy of the entire system before drugs are administered (see § 482.35(b)(5)).

As a consequence, we are proposing to delete a number of narrowly focused, structure and process-oriented requirements, as follows:

In existing § 482.25(a)—

(1) Requiring a full-time, part-time or consultant pharmacist.

(2) Requiring the pharmaceutical service to have adequate personnel.

In existing § 482.25(b)—

(1) All compounding, packaging, and supervision of drugs must be under the supervision of a pharmacist.

(2) All drugs must be kept in a locked storage area. (Note: Locked storage of only controlled drugs is proposed at § 482.35(b)(1).)

(3) Outdated, mislabeled or otherwise unusable drugs are not available for patient use.

(4) When the pharmacist is not available, drugs and biologicals may only be removed from the pharmacy or drug storage area by a designated person.

(6) Drug administration errors, adverse drug reactions and incompatibilities are immediately reported to the attending physician and the quality assurance program.

(9) A drug formulary system must be established by the medical staff to assure quality pharmaceuticals at a reasonable cost.

A drug formulary is a system for determining the best quality and least expensive drugs, listing them in a formulary, and restricting the medical staff to the drugs listed in the formulary. This is a vastly different document than the ''comprehensive drug information resource'' referred to under § 482.25(b)(4) of this proposed rule. A drug formulary is a cost control and quality mechanism. We do not think it would be a wise investment of survey agency time to pursue this cost control mechanism through enforcement of the COPs, since current efforts at cost controls and an emphasis on managed care will probably be far more effective at constraining drug costs in hospitals.

Finally, we plan to eliminate the explicit, process-oriented requirements for administration of drugs, and acceptance of telephone and other oral orders for drugs, that are now set forth in our nursing services requirements at § 482.23(c)(2).

Description of Standards. The first proposed standard has to do with monitoring of adverse drug events (ADEs) and with eliminating or minimizing medication errors. We believe a separate standard covering ADE monitoring is needed because of its importance to patient care quality and patient health and safety. This standard is based on Journal of the American Medical Association (JAMA) papers on adverse drug events (see Bates, D. W., *et al.*, ''Incidence of Adverse Drug Events and Potential Adverse Drug Events,'' *JAMA*, 274 (1995): 29–34, and Leape, L. L., *et al.*, ''Systems Analysis of Adverse Drug Events,'' *JAMA*, 274 (1995): 35–43).

These papers make the following salient points:

- Forty-two percent of serious and life-threatening ADEs were preventable (Bates, page 33).
- Adverse drug events have multiple etiologies, but the lack of readily accessible and current drug information along with patient care information is a significant part of the problem with adverse drug events (Leape, page 40).
- Computerized detection programs that search for events likely to be associated with an ADE (e.g., naloxone, an opiate antagonist), supplemented by spontaneous reporting using the computerized information system and a dedicated person or group with responsibility for evaluating these events have been found to represent an effective, relatively inexpensive method for identifying ADEs and will probably be the strategy of the future (Bates, page 33).
- The most common defects were in systems to disseminate knowledge about drugs and to make drug and patient information readily accessible at the time it is needed. System changes to improve dissemination and display of drugs and patient data should make errors in the use of drugs less likely (Leape, page 35).

We have endeavored to implement the principles established in these papers in the first standard, ''Adverse Drug Monitoring.'' First we propose that the facility must establish a system of evaluation of ADEs by searching current clinical records for events that are predictive of an ADE and reporting them to the quality assessment and performance program for action. We have not proposed to require that a computerized system be used by all hospitals since these regulations primarily will affect small, rural, nonaccredited hospitals who may not have the resources to develop such a computer system.

The second and third parts of the ADE standard deal with medication errors. A longstanding body of research exists concerning medication errors in hospitals. In a paper by Allan and Barker (Allan, Elizabeth L. and Barker, Kenneth N., ''Fundamentals of Medication Error Research,'' American Journal of Hospital Pharmacy, 47 (1990): 555–71), the authors documented medication error studies in approximately 40 hospitals and nursing homes in the United States and Canada. These studies covered a period of time from 1962 to 1987. The hospitals' medication error rates ranged from a high of 20.6 percent to a low of 1.6 percent when wrong timing errors were excluded. When wrong timing errors were included, the range was 42.9 percent to 4.4 percent.

This proposal would permit an overall medication error rate in a hospital of no greater than 2 percent and require zero tolerance for significant medication errors. Significant medication errors are defined as errors that jeopardize or cause serious potential for jeopardizing the health and safety of the patient. HCFA has used this concept for many years in long-term care facilities, and has considerable experience at defining what would constitute a significant medication error. The overall error rate would include significant as well as nonsignificant (e.g., wrong timing) errors and would result in a deficiency citation. Setting an overall limit on medication errors, including significant errors, does not mean significant errors are tolerated if they remain below 2 percent. Rather, even though the regulation provides zero tolerance for significant errors, if significant errors do occur, and they are added to the nonsignificant errors, a deficiency occurs where the result is greater than 2 percent. This deficiency is in addition to the separate deficiency for the significant errors. We are proposing the 2-percent standard because research and expert opinion has determined that this is a reasonable medication error rate to achieve, given modern drug packaging and drug information systems. (See Barker, Kenneth N., *et al.*, ''Consultant Evaluation of a Hospital Medication System: Analysis of the Existing System,'' American Journal of Hospital Pharmacy, 41 (1984): 2013).

In the Bates, et al, paper, adverse drug events are categorized as follows: Ordering, Transcription, Dispensing and Administration. It is important to point out that the medication error regulation proposal would examine all these categories except ADEs occurring from physician ordering questions. For this issue we would rely on the licensed nurse (that is, a registered nurse (RN), licensed practical nurse (LPN), or licensed vocational nurse (LVN)) review, as proposed under § 482.35(b)(5). This is necessary because physician ordering questions dealing with the drug, the dose, the route of

administration, etc., frequently require consultation before a positive determination about the occurrence of an ADE.

The second standard, ''Drug Management Procedures,'' has seven parts. The first one requires that drugs and biologicals be kept in secure areas; however, those drugs that are ''controlled'' must be stored in locked areas as required by the Comprehensive Drug Abuse Prevention and Control Act. (We are not requiring that biologicals be stored in locked areas because this Act does not include ''biologicals'' in its provisions.) We are not requiring that the areas where the controlled drugs are stored be double locked, since what is usually found in most facilities is an individual with a ring of keys containing both keys to the double locked compartment. In this case ''double locked'' is hardly an added security feature. The key to the locked compartment should be restricted strictly to individuals who have an identified need to access these drugs.

The requirement for the facility to maintain a record of receipt and disposition of controlled drugs may be met in ways other than the use of proof of use sheets for each controlled drug. For example, the facility may use existing patient records such as the medication administration record as a record of disposition of controlled drugs. If the facility wishes to maintain records of receipt and disposition of controlled drugs by using existing patient care records, it will reduce its paperwork burden considerably.

Proposed § 482.35(b)(3) requires that discrepancies in the record of controlled drugs be reported to the individual responsible for pharmaceutical services and to the hospital administrator. Discrepancies in these records indicate that controlled drugs are being used for unauthorized purposes. Proposed § 482.35(b)(3) would require that these discrepancies be reported to responsible individuals in the hospital, who will then decide whether the local police or the Drug Enforcement Agency should be involved.

The fourth part of the Drug Management Procedures standard would require the hospital to establish a computerized or hard copy ability to merge patient information with current comprehensive drug information at the points of drug ordering, dispensing, and administration. This system would promote the development of information systems that bring patient information and drug information together at critical junctures in the drug ordering and distribution process. Comprehensive drug information resources would include the United States Pharmacopoeia-Drug Information, American Medical Association Drug Evaluations, and the American Hospital Formulary Service—Drug Information. (These drug information resources are those used to establish Medicaid drug use review under the provisions of section 1927(g)(1)(B) of the Social Security Act. Drug information resources would not include the Physician Desk Reference since this reference is not considered comprehensive and was not listed in the statute.)

The fifth part of this standard would require that before medications are administered, a licensed nurse, or a physician if he or she is personally administering the drug, review the patient's information and the drug order. (The comprehensive drug information would also be available for review if there was a need for this information.) The purpose of this proposal is to support the established practice of nursing personnel questioning the drug order from the standpoint of the correctness of the order itself in relation to specific patient and drug information that must be readily available before or at the point of drug administration. In reviewing this information to prevent drug errors, a nurse would be acting only within the scope of her or his State licensure. The expectation is that the nurse would report any potential errors in drug prescribing to the physician, so the physician could determine whether the order needed to be changed. This proposed requirement is consistent with current research. Leape identified a total of 334 adverse drug events that were identified by review of all admissions in 11 medical and surgical units in 2 tertiary hospitals for a period of 6 months. Of the 334 adverse drug events, 91 or 27 percent were intercepted (prevented). Of these 91 prevented adverse drug events, 86 percent were prevented by nurses and 12 percent by pharmacists. This proposed regulation is intended to strengthen the potential for nurses and pharmacists to intercept adverse drug events of all kinds by providing them with readily available information necessary to prevent these events.

The sixth part of the Drug Management Procedures standard deals with positive identification of medication. The current regulations do not contain a requirement for positively identifying drugs brought to the facility by the patient and then obtaining physician orders before they can be administered. We are proposing such a requirement here because when an individual is hospitalized it indicates a considerable change in their status. ''Positively identified'' in the context of this proposed rule means that a pharmacist or someone with similar drug identification skills must make sure that the drugs brought to the facility are in fact the same drugs that the label represents. This is necessary because patients often mix drugs within one container, or they separate drugs from their proper labeling. The drugs that the individual was taking prior to this hospitalization should be reviewed by competent medical personnel to determine if these drugs are still necessary, or if they may interfere with other therapies that are underway in the hospital.

Unlike current regulations, this proposed rule would make it clear that self-administration of drugs is permitted, but only under orders and hospital policy. This proposed rule is important for patients being prepared for discharge. These patients should become familiar with self-administration of drugs (especially eye drops, inhalers, intramuscular injections), so they become well-practiced with this task while still under competent supervision.

Regarding our seventh proposal, existing § 482.25(b)(5) requires that orders for drugs and biologicals be automatically stopped after a reasonable period of time as predetermined by the medical staff. This proposed rule endeavors to achieve the same objective as the current rule, that is, the cessation of drug therapy when it is no longer necessary. However, our proposal would not limit the hospital to the option of automatic stop orders, which discontinue drug therapy (especially on holidays and weekends) by administrative fiat without any medical assessment as to whether the drug therapy has achieved its therapeutic objectives. The proposed rule allows the hospital to develop its own approaches for achieving this objective.

The last standard of the Pharmaceutical Services COP (proposed § 482.35(c)) deals with discharge orders for psychopharmacological drugs. Under this standard, we would require that orders for psychopharmacological drugs be discontinued upon the patient's discharge unless the patient has been diagnosed (using standard criteria for such diagnoses) with a mental illness. This will prevent the use of these drugs (which may be temporarily necessary during a hospitalization) from becoming routine after discharge unless a valid reason for their use is established. This is particularly necessary in patients

transferred to long-term care facilities, who can suffer considerable adverse effects from long-term use of antipsychotic and antianxiety drugs that may have been started in the hospital for very valid reasons but that may no longer be valid after discharge. A study by Garrard (Garrard, Judith, *et al.*, ''Evaluation of neuroleptic drug use by nursing home elderly under proposed Medicare and Medicaid regulations,'' *JAMA*, 265 (1991): 463–467) showed that the rate of use of neuroleptic (antipsychotic) drugs among nursing home admissions was: 16 percent when admitted from hospitals, 18 percent from the community, and 21 percent from other nursing homes. Regulation of the use of these drugs (in the absence of proper differential diagnoses) in nursing homes have been in effect since 1990 (see 42 CFR 483.25), and we have been criticized because similar rules were not imposed on hospital and community practice (Thurston, Ronald G., Letters, *JAMA*, 265 (1991): 2962). We believe this proposed requirement represents a fair way to address this issue, but invite public comment on alternatives for achieving the same objective.

8. Nutritional Services (§ 482.40)

Currently, the food and dietetic services requirements that a hospital must meet are found at § 482.28. These requirements emphasize the organizational aspects of a hospital's food and dietetic services program, including provisions that specify allowable contractual arrangements, employee qualifications, and other process-oriented details.

We are proposing extensive revisions to these provisions under a new nutritional services condition of participation. In keeping with the principles discussed above, the new condition of participation would promote a patient-centered approach to nutrition. Thus, the introductory language for these proposed requirements states explicitly that each patient must receive adequate nutrition, including therapeutic diets or parenteral nutrition if needed.

The proposed condition includes only two standards. The first standard, ''Sanitary conditions,'' requires that food provided to patients be obtained, stored, prepared, distributed and served under sanitary conditions. (Note that the term ''food'' is intended to include all forms of nutrition, liquid or solid, provided to patients.) Although this requirement is not contained in the current hospital conditions of participation, we believe that it clearly is an underlying necessity for any acceptable nutritional services program. Thus, we are proposing to include it explicitly under the nutritional services condition. The only other standard would require that menus be prepared in advance and meet the nutritional needs of patients based on the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences. We believe the Board's guidelines can appropriately be used here because they represent accepted best practices and are already in widespread use among hospitals.

In developing the proposed requirements, we have attempted to incorporate straightforward statements of a hospital's responsibilities, while eliminating procedural requirements and avoiding unnecessary details of how the hospital should carry out its nutritional services function. We believe that the requirements largely incorporate current best practices in hospital nutrition services, while eliminating several burdensome process requirements that are not central to meeting the patient's dietary needs (such as the requirement under current § 482.28(b)(3) that a current therapeutic diet manual approved by the dietitian and medical staff be readily available to all medical, nursing, and food service personnel.) We considered supplementing the requirements with additional provisions concerning staffing requirements or qualifications. Instead, however, we decided that the staffing requirements set forth under the proposed human resources condition of participation are sufficiently broad to ensure that a hospital has adequate qualified staff to carry out its nutritional services function. Rather than prescribing how a hospital should organize itself to meet its nutritional services responsibilities, we prefer to allow each hospital as much flexibility as possible in this regard, so that it can focus on incorporating its nutritional services program into a cross-cutting approach toward achieving optimal patient outcomes. Finally, as discussed above in section II.B.4 of this preamble, we note that the existing requirement under § 482.28(b)(1) that a therapeutic diet be prescribed by the responsible practitioner would now be encompassed within the hospital's responsibility under proposed § 482.20(b) to ensure that all patient care services be provided in accordance with the orders of qualified practitioners.

9. Surgical and Anesthesia Services (§ 482.45)

The proposed condition on surgical and anesthesia services would replace the existing regulations at § 482.51 (Condition of participation: Surgical services) and § 482.52 (Condition of participation: Anesthesia services). We have decided to address both areas under a single condition in order to simplify the organization of part 482, and to emphasize the close relationship between surgery and anesthesia.

In the new condition, we would delete current process-oriented standards having to do with the organization and staffing of the hospital's surgical and anesthesia departments or services (existing § 482.51(a) and § 482.52(a)), and with hospital policies governing surgical and anesthesia care (existing § 482.51(b) and § 482.52(b)). In particular, we propose to delete the current specific requirements regarding the types of personnel who can serve as scrub nurses or perform circulating duties in the operating room. We also would eliminate current rules on which practitioners can administer anesthesia, and what level of supervision must be provided to them. We also propose to delete current prescriptive requirements specifying the types of equipment that must be maintained in operating suites (existing § 482.51(b)(3)). We believe those requirements should be eliminated in favor of those that focus more directly on outcomes.

In place of the current requirements, we propose two basic rules on staffing. We would require that surgical procedures be performed only by practitioners with appropriate clinical privileges, and that anesthesia be administered only by a licensed practitioner permitted by the State to administer anesthetics.

One effect of our proposed staffing and equipment requirement would be to allow more flexibility to certified registered nurse anesthetists (CRNAs) to practice without oversight by another practitioner. Currently, the anesthesia condition (§ 482.52(a)(4)) requires that a CRNA administer anesthesia only under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed. To allow greater flexibility to hospitals and practitioners and to give deference to State scope of practice law, we propose to delete this supervision requirement and allow the CRNA to function without supervision by another practitioner, where this is in accordance with State law. We emphasize that CRNAs are allowed to practice in this way only where doing so is consistent with State law. If State law establishes a more stringent rule, the hospitals (42 CFR 482.110) would be required to furnish care in a way that is consistent with that rule.

To ensure that our requirements are consistent across the settings in which surgery may be performed, we propose also to eliminate the supervision requirement for CRNAs in ambulatory surgical centers (ASCs) (42 CFR 416.42) and in critical access hospitals (CAHs) (formerly rural primary care hospitals) (RPCHs) (42 CFR 485.639) and allow the CRNA to function without supervision by another practitioner, where this is in accordance with State law. In addition, if State law establishes a more stringent rule, the ambulatory surgical centers (42 CFR 416.40) and critical access hospitals (42 CFR 485.608) would be required to furnish care in a way that is consistent with that rule.

We believe it is critical to the health and safety of surgical patients to have accurate information on each patient's condition before anesthesia is administered and a surgical procedure is undertaken. Therefore, we would require under proposed § 482.45(b) that a comprehensive assessment be performed before surgery (with a modified assessment being permitted in emergency cases) and that a preanesthesia evaluation be done by an individual qualified to administer anesthesia. We also would require that a postanesthesia evaluation for proper recovery be done by an individual qualified to administer anesthesia. We propose to delete the current prescriptive rule under which the postanesthesia evaluation must be done by the same individual who administered the anesthesia.

In the standard on documentation of care, we have included requirements for entry of specified information in the medical record. The information that would be required includes a report of the comprehensive or modified pre-surgical assessment, a properly executed informed consent form, an operative report describing complications, reactions, length of time, techniques, findings, tissues removed or altered, a record of intraoperative anesthesia, and a report of the postanesthesia evaluation. By ''properly executed informed consent,'' we mean only that the patient understands the information the hospital wishes to convey. The pre-surgical assessment and informed consent form would have to be entered in the record before surgery except in emergency cases, while the operative report, intraoperative anesthesia record, and a report of the postanesthesia evaluation would have to be entered in the record promptly following surgery. (The postanesthesia evaluation report combines the current requirements for an inpatient postanesthesia followup report (§ 482.52(b)(3)), and for an outpatient postanesthesia evaluation (§ 482.52(b)(4)) into a single new requirement.) The hospital also would be required to maintain a complete, up-to-date operating room register. We recognize that our proposal for the documentation requirements for the surgical and anesthesia services COP is more extensive and specific than many other requirements in these proposals. However, such documentation is common to current practice and imposes no additional burden to hospitals as these documentation requirements are part of the existing COPs.

10. Emergency Services (§ 482.50)

We propose to delete the existing regulations at § 482.2 (Condition of participation: Provision of emergency services by nonparticipating hospitals), and to add a single new emergency services condition that would replace both current § 482.12(f) (Condition of participation: Governing body; Standard: Emergency services) and current § 482.55 (Condition of participation: Emergency services). We believe § 482.2 need not be retained since the regulations at 42 CFR 424.101 set forth a definition of ''hospital'' that is used for purposes of payment for services to Medicare patients that are furnished on an emergency basis by a hospital that does not participate in the program. By addressing the two latter areas under a single regulation, we hope to simplify the organization of the regulations and eliminate the need for the user of the regulations to refer to separate sections to review the rules on closely related services. For the reasons explained below, we also are proposing to add a separate standard for hospitals that offer emergency services on less than a full-time basis.

In the standard on hospitals providing full-time emergency services, we have emphasized requirements that most directly affect the safety of patients. These are the requirements regarding the personnel who furnish the services, the appropriateness of the services to patient needs, and the integration of emergency services with those of other hospital departments. Regarding the proposed requirement for sufficient numbers of personnel, we note that some hospitals may choose to meet patient needs by using a comparatively smaller, but more highly trained and skilled staff. In assessing compliance with this requirement, our primary concern will be to determine whether emergency service staffing is adequate to produce good treatment outcomes.

We are proposing the second standard, which is applicable only to hospitals providing part-time emergency services, in order to allow more flexibility to hospitals that find it necessary, because of staffing limitations, low emergency room volumes, or other factors, to limit the times during which emergency services can be offered. Because of the nature of emergency services, it clearly would be desirable to have them available on a 24-hour per day, 7-day per week basis. However, many hospitals, particularly those that are small and are located in remote rural areas, find it difficult to recruit and pay staff to furnish emergency services on this schedule. To avoid a situation in which these hospitals find it necessary to terminate emergency services altogether, we propose that hospitals that are located in rural areas and have fewer than 100 beds may offer emergency services on a part-time basis. We propose to use the definition of ''rural area'' now set forth in our regulations at 42 CFR 412.62(f)(1)(ii). Under that definition, an area is considered ''rural'' if it is located outside any Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA), and outside specified New England counties.

We emphasize that this flexibility is not intended to foster development of dual standards of care—during its stated hours of operation, a hospital emergency department or service must meet exactly the same standards as full-time departments or services. However, at the times when it chooses not to offer emergency services, the hospital would be required to meet only the standard for hospitals that do not offer emergency care.

Section 1867 of the Act (Examination and Treatment of Emergency Medical Conditions and Women in Labor) imposes certain obligations on Medicare-participating hospitals that have emergency departments. If an individual comes to the hospital's emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide, within the capability of its emergency department, an appropriate medical screening examination and, if necessary, either stabilizing treatment or an appropriate transfer. Section 1867 of the Act does not deal explicitly with the situation of a hospital that opens its emergency department on only a part-time basis. However, it is our policy that a hospital that offers emergency services on a regular, part-time basis is not considered to have an emergency department under section 1867 at the scheduled times when emergency

services are not available. At those times only, the hospital is not subject to the requirements of section 1867 of the Act. The hospital would remain obligated at those times to meet the requirements of proposed § 482.50(c) for appraisals of emergency cases, initial treatment, and referral when appropriate. At all other times (that is, when emergency care is offered), the hospital is fully responsible for compliance with the statute (and with the implementing regulations at 42 CFR 489.24) and also would be obligated to meet the emergency services requirements set forth in proposed § 482.50(a) and (b).

We expect that a hospital offering part-time emergency services will do so in good faith, and not ''open'' and ''close'' its emergency department selectively, in an attempt to avoid meeting its statutory obligations to some patients based on their perceived inability to pay. We will continue to investigate all allegations we receive of violations of section 1867 of the Act and will not hesitate to initiate termination proceedings, or to refer cases to the Office of Inspector General, if it is clear that a violation has occurred. We welcome comments on this proposal.

The third proposed standard deals with hospitals not offering emergency services. We propose to continue to require such a hospital to provide for appraisal of emergencies, initial treatment, and referral of patients when appropriate. However, we propose to delete current process-oriented requirements having to do with the organization of the hospital's emergency services (§ 482.55(a)(1)) and with policies and procedures for the medical care provided in the emergency department (§ 482.55(a)(3)). We believe those requirements should be eliminated in favor of those that focus on activities more directly related to outcomes.

11. Discharge Planning (§ 482.55)

Section 1861(e)(6) of the Act requires that a hospital have in place a discharge planning process that meets the requirements of section 1861(ee) of the Act. Under section 1861(ee), a discharge planning process must apply to services furnished by the hospital to Medicare beneficiaries, and meet the guidelines and standards established by the Secretary of HHS to ensure a timely and smooth transition to the most appropriate type of setting for posthospital or rehabilitative care. Section 1861(ee)(2) further requires that the Secretary's standards and guidelines include seven specific elements, as listed in that provision. On December 13, 1994, we published a final rule to implement the requirements of sections 1861(e)(6) and 1861(ee) of the Act by adding new § 482.43 (Condition of participation: Discharge planning) (59 FR 64141). For the reasons explained in the preamble to that final rule, we elected under the authority in section 1861(e) of the Act to require a discharge planning process that applies to all patients, not just to Medicare beneficiaries.

On October 31, 1994, Congress enacted Public Law 103-432, the Social Security Act Amendments of 1994 (SSAA'94). Section 107 of that legislation amended section 1861(ee)(2) effective November 1, 1995, to require that a discharge planning evaluation for a Medicare patient include an evaluation of the need for hospice care as well as other posthospital care.

Congress included in the Balanced Budget Act of 1997 (BBA '97), Public Law 105–33, enacted August 5, 1997, several amendments to section 1861(ee)(2) to address concerns about reports of some hospitals referring patients only to HHAs with which they have financial ties. Subsection 4321(a) of that legislation, effective November 3, 1997, amended the discharge planning evaluation requirements in section 1861(ee)(2)(D) and added a subparagraph (H) to section 1861(ee)(2). These changes are consistent with patient rights, the first core condition of patient-centered care in this regulation. As a result of these changes a Medicare participating hospital now must: (1) Include in a patients's discharge planning evaluation the availability of home health services through Medicare participating HHAs which serve the patient's geographic area and which request the hospital to be listed; and (2) ensure that a patient's discharge plan does not specify or otherwise limit the qualified participating HHAs and identify any HHA with which the hospital has a ''disclosable financial interest'' if the patient is referred to such entities.

We propose to redesignate § 482.43 as new § 482.55, and to republish it with only the changes discussed below. In keeping with the shift in focus of these regulations from process to outcome, we propose to delete the requirement that a hospital's discharge planning policies and procedures be specified in writing, and to add the requirement that the discharge planning process assure that appropriate posthospital services are obtained for each patient, as necessary.

To implement section 107 of SSAA'94, we would specify under proposed § 482.55(b)(3) that hospitals must evaluate the need for hospice as well as other posthospital care. To implement section 4321(a) of the BBA '97 we would specify under proposed 482.55(b)(7) that the discharge planning evaluation must include a list of home health agencies that participate in the Medicare program and whose services are available to the patient, serve the area in which the patient resides, and request to be listed. Since, section 4321(a) requires listing the availability of individuals and entities, we have been questioned as to who those individuals and entities are. We have determined that since section 1861(m) of the Act identifies home health services as items or services furnished by a home health agency, or by others under arrangement with the agency, section 4321(a) is referring to Medicare participating home health agencies. Also in § 482.55(b)(7), we have proposed that the HHA should determine the geographic area in which the patient resides. We believe the HHA should determine the geographic area because the HHA is in the best position to know its service area and presumably, would not misrepresent its services by requesting to be listed for an area it does not serve. Discharge planning is effective if there are resources available to the patients at discharge. A hospital's ability to provide patients with outside resources for posthospital care are essential to allow many patients to stay at home which is a much less expensive alternative than institutionalization.

Under proposed 482.55(c)(6), we propose to require that the hospital tailor the plan, where possible, to the preferences of the patient and family. Specifically, we would state that the discharge plan must inform the patient (or patient's family) of their freedom to choose among available Medicare-participating providers that are capable of furnishing the needed services (such as SNF or HHA services) and must, if possible, respect the patient's or family expressed preference. Also, the discharge plan shall not specify or otherwise limit the qualified providers that are available to the patient. The intent of this change is to provide the patient with the freedom of choice to determine which HHA will provide care in accordance with Section 1802 of the Act, which states that beneficiaries may obtain health services from any Medicare participating provider. As written, section 1861 (ee) of the Act requires Medicare participating hospitals, as part of their discharge evaluation, to provide patients with a list of Medicare-certified home health agencies that serve a patient's

geographic area and request to be listed by the hospital.

Hospitals and managed care organizations (MCO) have expressed concern as to whether the BBA'97 change was intended to apply to patients in managed care plans. MCO members are limited as to what services they may obtain from sources other than through the MCO. Therefore, providing members with a standardized list of all HHAs in the area can be misleading and potentially, financially harmful since MCO enrollees may be liable for services that they obtain from sources other than the MCO, and patients may interpret a list of HHAs that are not available to them under their health plan to mean that they are authorized by the MCO. This does not mean that Medicare MCO members in particular are denied the freedom of choice they are entitled to under section 1802 of the Act. Medicare beneficiaries exercise their freedom of choice when they voluntarily enrolle in the MCO and agree to adhere to the plans provisions on coverage.

To alleviate the confusion, hospitals can provide MCO patients with a list of available and accessible HHAs approved by the MCO. Another option is, when discussing discharge planning with patients, hospitals can determine whether the beneficiary has made any prior commitments through enrollment in a managed care organization. Where this is the case, the patient should be informed of the potential consequences of going outside the plan for services. The discharge planning process is initiated when a patient is admitted to the hospital. The collection of data includes verifying the patient's health insurance. At this time, the hospital personnel responsible for discharge planning activities can retrieve this information and initiate communication with the MCO to coordinate available and accessible posthospital care. We solicit the public for comments on this issue.

HCFA has received a number of questions concerning section 4321(a). These questions include: How does the hospital compile the list of agencies? What is the hospital's responsibility and liability for providing a list? Is there a form for home health agencies to complete to request placement on a hospital's list? We welcome public comments on these questions and we will take these comments into consideration when developing the final rule.

The process of making a choice includes being provided options to make an informed and confident decision. Hospital providing a list of available Medicare-certified home health agencies will assist patients in making such decisions. Although a hospital is free to design the list's format, the list is neither a recommendation nor endorsement by the hospital of any particular home health agency's quality of care. If HHAs do not meet all criteria, the hospitals are under no obligation to place that HHA on the list. The list should be legible and should not be used to specify or limit the choice of a HHA.

Under proposed § 482.55(c)(7), we would state that the discharge plan must identify those entities to whom the patient is referred in which the hospital has a disclosable financial interest or those entities which have a financial interest in the hospital. ''Disclosable financial interest'' will be defined in the rule-making process which implements section 1866(a)(1)(S) of the Act. In the interim, we suggest that hospitals reference the Disclosure of Ownership and Control provisions of 42 CFR 420 subpart C, which sets forth requirements for providers to disclose ownership and control information and identities of managing employees. If a hospital refers patients about to be discharged and in need of services, only to entities it owns or controls, then the hospital is infringing on the rights of the patient to choose the facility they would like to go to for services. The proposed disclosable financial interest requirement is an effort to increase the beneficiary's awareness of the actual or potential financial incentive a hospital may receive as a result of the referral. This regulation supports and extends our focus on patient-centered outcomes of care. We invite comments on this proposed requirement and other concerns hospitals may have regarding their ability both operationally and financially to undertake this approach.

In proposed § 482.55(e), we propose to add the requirement that the hospital's discharge planning process be an integral part of the hospital's quality assessment and performance improvement program. We believe this change is needed to enhance the effectiveness of the hospital's discharge planning program and to emphasize the important role of discharge planning in contributing to overall quality of care in a hospital.

We are not proposing any other changes in the current discharge planning COP. In view of the specificity of section 1861(ee) of the Act and the relatively recent implementation of that legislation through notice and comment rulemaking, we do not believe there is any further benefit to the public to be obtained by again requesting public comment on the parts of the regulation that we are republishing without change. Thus, with the exception discussed below, we are soliciting comments only on the proposed changes to the discharge planning requirements, rather than on the entire discharge planning COP.

Proposed § 482.55(b) (5) and (6) require that hospital personnel must complete the required discharge planning evaluation on a timely basis and include it in the medical record, thus ensuring that appropriate arrangements for posthospital care are made before discharge and avoiding unnecessary delays in discharge. We believe these requirements, which has been carried over without change from existing § 482.43(b) (5) and (6), are useful because they emphasize the need for prompt action to assess and act on the discharge planning needs of patients. We note that we considered including under proposed § 482.55(c) similar requirements about the discharge plan itself; however, we decided not to do so because we believe the existing requirements will ensure that a discharge plan is completed and available far enough in advance of discharge to allow it to be put into practice. Nevertheless, it is conceivable that some may interpret the absence of an explicit rule on the timing of the plan as an indication that it would be acceptable to have only a partial or incomplete plan at the time of discharge, or even to develop an after-the-fact ''plan'' that does not anticipate needs and try to meet them, but instead merely records and attempts to rationalize the postdischarge care already received. We welcome comments on whether the possibility of a misunderstanding of this point is strong enough to warrant adding, in the final rule, an explicit requirement that the discharge plan itself must be completed on a timely basis and entered into the medical record. We will consider the comments received on this issue, and may add an explicit requirement on this point to the final rule.

Possible Use of the Uniform Needs Assessment Instrument. In 1986, Congress directed the Secretary to develop a uniform needs assessment instrument (UNAI), or instruments, to serve primarily as a standardized means of evaluating an individual's needs for posthospital or supportive care. Congress also envisioned the possibility of the UNAI being used for determining whether individuals should receive services provided under publicly funded programs (that is, linking the individual's health status per the UNAI

to decisions regarding the scope and duration of services to be covered). In addition, the UNAI was envisioned as a vehicle for tracking individual patients across different Medicare service providers (primarily HHAs and SNFs). Although Congress directed the Secretary to produce the UNAI, there was no direction concerning its implementation. Thus, there is no statutory obligation to use the UNAI in practice.

The Secretary appointed a panel of experts, with HCFA providing the staff support services, to develop the UNAI. The expert panel was successful in devising a consensus tool that was brief, described the patient's functional status, nursing and other care requirements, and available family/care giver supports. The UNAI was seen as having content validity and clinical utility as judged by the comments of a group of experts and a stratified random sample of providers. The final UNAI and a comprehensive report about its development were submitted to the Congress in 1992. While the panel was enthusiastic about the potential for the UNAI as a posthospital discharge planning tool and a means of tracking a patient across provider types, the panel did not believe the UNAI could be used to evaluate an individual's eligibility for posthospital services under the current Medicare benefit structure.

The UNAI and the Report to Congress have been widely disseminated, and many hospitals have chosen to begin using the tool because it provides a useful method to organize their discharge planning processes. Currently, HCFA is preparing to field test the UNAI in hospitals, HHAs, and SNFs. The field test will rely on provider staff to complete the UNAI, and will provide information on the UNAI's reliability, validity, and administrative feasibility. HCFA's contractor for the field test, Research Triangle Institute, is also developing a ''high risk screener,'' which will be used to identify those Medicare patients in need of an intensive discharge planning evaluation and thereby reduce the number of patients who would be subject to the UNAI. For example, a Medicare patient who has a minor operation and will return to the home with support from an able spouse and adult children nearby likely would pass the screener and not receive the UNAI as part of the hospital's discharge planning effort for that patient. However, an elderly beneficiary who suffers a severe stroke, and has a spouse in frail health and no children nearby would certainly fail the screener and would receive the UNAI as part of the hospital's discharge planning for that patient.

In the preamble to our December 13, 1994 final rule on discharge planning (59 FR 64141), we discussed our work on the UNAI, but we did not establish a requirement for its use. Now, with a comprehensive effort to change the hospital conditions of participation to a more patient-centered, outcome-oriented approach, and a strong emphasis on quality assessment and performance improvement, coupled with HCFA's intention to use data—particularly functional assessment data—more widely in care giving, quality improvement, and consumer information, we are considering requiring hospitals to use the UNAI to assess Medicare patients who are at-risk of needing posthospital services. The purposes of imposing the UNAI as a standard hospital discharge planning tool for Medicare patients would be to: (1) Ensure that all relevant factors are considered in evaluating an individual's needs for continuing care; (2) foster more uniform decisionmaking about the need for posthospital care services; (3) direct those patients to the most effective and efficient approach to posthospital care services; (4) provide posthospital care service providers with more complete and consistent baseline information about the patient in order to facilitate continuity of care and early assessment and care planning by the posthospital provider; and (5) enable managed care organizations and HCFA to track the course of outcomes of individual patients across provider types within the same health care episode. One primary benefit of standardizing the needs assessment process is that the use of common language and definitions enables the type of quality monitoring and improvement efforts that depend on consistent data and health status/outcome measures.

The establishment of common data elements will also allow the same types of measures to be used across care settings. Another advantage associated with using the UNAI across provider types is that we intend that it ''map'' to other assessment tools, such as the Minimum Data Set in SNFs and the standard core assessment data set we plan to propose shortly for use in HHAs. Thus, if a UNAI accompanies a patient to an HHA, the HHA can use most of the information on the UNAI to complete a number of items on the HHA standard assessment data set. This ultimately would decrease provider burden by streamlining the assessment processes and eliminating the need for assessing and reporting redundant information. It also would enable providers and managed care entities to track and understand care outcomes more fully.

The UNAI is not a comprehensive assessment tool, nor is it adequate for comprehensive care planning. Rather, it gives a snapshot view of the patient's functional status and support systems in the home and community to help caregivers direct the patient to the next source of care and to give the continuing care provider baseline information to make initial assessment, care planning, and service delivery more efficient and individualized.

Although we are not now formally proposing to require use of the UNAI, we invite comment from the hospital community, especially discharge planners, as well as from SNFs, HHAs, and others, about the desirability of having a standard approach to posthospital discharge planning for Medicare patients who fail the high-risk screener. We invite comment on the following questions, as well as any other related comments:

(1) Would the use of a standard posthospital discharge planning tool for Medicare patients be helpful to the hospital, the patients, and the posthospital care providers in their efforts to ensure the patient receives the most effective, efficient, and desirable posthospital services necessary to address the patients' continuing care needs? If so, why, and if not, why not?

(2) Would a proposal that limits the required use of the UNAI to Medicare patients only (the States could impose it separately if they wished for Medicaid patients) create duplicate or multiple systems within a hospital and create more problems than benefits? Should the UNAI be used for every patient over a certain age (e.g., 50) for whom discharge planning is necessary? How would other payers (e.g., fee-for-service or managed care plans) be affected by a Federal requirement to use the UNAI?

Subpart C—Organizational Environment

12. Administration of Organizational Environment (§ 482.110)

The proposed condition on administration of organizational environment would replace the existing regulations at § 482.11 (Condition of participation: Compliance with Federal, State, and local laws) and § 482.12 (Condition of participation: Governing body). Combining these provisions would simplify the structure of the regulations. In addition, it would emphasize that if State or local law provides for the licensing of hospitals, and an institution in the State wishes to

participate in Medicare as a separate hospital (rather than as an organizational unit of another provider), that institution must also show that it is regarded as a separate entity by the State for licensure purposes.

In developing the proposed new condition, we have relocated three of the standards previously in the current governing body COP. These are the standard on medical staff (§ 482.12(a)), the standard on care of patients (§ 482.12(c)), and the standard on emergency services (§ 482.12(f)). Under the cross-functional approach we are following in these proposed rules, medical staff issues would be covered by the proposed new condition on human resources (§ 482.125), and patient care issues would be covered in the new COP that includes patient care (§ 482.20). As discussed above, we propose to create a new condition on emergency services which would include the rules now stated under § 482.12(f) with respect to appraisal, initial treatment, and referral of emergency patients by hospitals that do not provide emergency services.

The primary requirement under the proposed governing body COP is that a hospital's governing body, other organized group, or an individual (hereafter ''governing body'') is legally responsible for the management and provision of all care furnished to hospital patients, including the structure needed to administer the hospital effectively. Thus, the governing body must create an environment that helps ensure the provision of high quality care that is consistent with patient needs and the effective administration of the hospital. In the proposed new condition, we emphasize the responsibility of the hospital governing body for the entire operation of the hospital, including care furnished under contracts and arrangements, the appointment of an administrator, the appointment of the medical staff and its bylaws, and the implementation of effective budgeting, accounting, and quality control programs. Although these requirements necessitate the use of certain processes, they are essential to ensuring that the entity with which the Secretary has entered into a participation agreement is in fact able to ensure patient health and safety. To help ensure this accountability, we have specified the responsibility of the governing body for the hospital's compliance with all applicable conditions of participation and standards. In addition, performance of these basic organizational functions is, in our view, a minimum condition for the creation of an environment in which appropriate patient-centered activity can occur.

We are proposing that a hospital must notify HCFA or the State survey agency whenever the hospital adds a new service category to the list of services it offers (proposed § 482.110(b)(2)(i)). We believe this is necessary so that the State survey agency may determine whether an onsite survey of the new service is necessary and to ensure that the survey team may have the correct number and type of qualified members when it next visits the hospital. This should then improve the speed and efficiency with which the hospital's certification process can be accomplished.

In addition, we are proposing to require that a hospital notify HCFA (through its regional offices) whenever it adds a new service site (proposed § 482.110(b)(2)(ii)). For example, a hospital would need to notify us if it were to acquire a physician's office and consider it an offsite hospital outpatient clinic. We believe this is necessary so that we may decide whether an onsite survey is necessary to assure that the addition does not alter the previous certification decision regarding the hospital. Further, HCFA would need to review the new service site to assure that it meets the level of integration required for inclusion of the new site as a part of the provider. This will ensure that appropriate payment is made. We have issued instructions outlining the criteria that must be met in order to demonstrate integration inherent in classification of an offsite service as part of the hospital in Program Memorandum A–96–7.

Proposed § 482.110(b)(3) and (4) restate with only minor editorial changes current requirements concerning the governing body's responsibilities for an institutional plan and budget, as well as the medical staff's bylaws. We propose to retain these requirements, in accordance with section 1861(e) of the Act.

Under proposed § 482.110(c), we would redesignate, with changes, the requirements under existing § 482.12(c)(5) concerning a hospital's responsibility to identify potential organ donors. We recognize that these provisions, in particular the requirement that a hospital have written protocols addressing various aspects of its organ procurement responsibilities, are more prescriptive and process-oriented than other parts of these proposed rules. However, we believe it is necessary to retain these regulations in their existing form to implement section 1138 of the Act, which specifically requires written hospital protocols for organ procurement. The changes to this section are discussed below.

We are revising § 482.110(c)(ii) (formerly § 482.12(c)(5)(i)(A)) and adding new requirements under § 482.110(c)(1)(iv) concerning organ procurement organizations (OPOs) and hospitals. The development of these requirements is in response to issues raised during public hearings held by the Department on December 11 through 13, 1996, to examine the allocation policies for liver transplantation and to receive comments regarding methods to increase organ donation. During those hearings, it became abundantly clear that there is a critical shortage of organs available for lifesaving transplantation. While the science of transplantation has made progress over the last two decades, lives that could be saved continue to be lost because of an inadequate supply of donor organs. For example, an estimated 12,000 to 15,000 deaths occur in the United States each year that could yield suitable donor organs, yet in 1996 no more than 5,400 resulted in donations. In April 1997, approximately 52,000 Americans were waiting for organ transplants. Therefore, we believe it is appropriate to propose revisions to the current hospital conditions relating to organ donation because we expect these revisions will result in a significant number of lives being saved.

The existing regulations merely repeat the language in section 1138 of the Social Security Act which requires hospitals to assure that families are advised of the right to donate or not donate organs, encourage discretion and sensitivity to family values, and notify an OPO of potential donors. We are proposing to revise the hospital conditions of participation regarding organ donation to emphasize the role and relationship of the OPO in the process. Although the proposed changes increase the importance of the OPO, our aim is that they will result in a more collaborative organ donation process which achieves positive results. That is, we hope hospitals and OPOs will work together in dealing with their individual and unique circumstances and, using the best available practices, achieve significant increases in the rate of organ donations.

Specifically, we are proposing to specify that the hospital must ensure that the family is advised, in collaboration with the OPO with which the hospital has an agreement, of their right to donate or decline to donate (§ 482.110(c)(1)(ii)). This proposal is based on research in the field of organ donation that indicates that consent to donation is highest when the request is

made by the staff of the OPO rather than the hospital. OPO staff are specialty trained medical personnel. They have training in bereavement counseling and extensive experience in dealing with families undergoing the loss of a loved one. They have knowledge of brain death and are particularly skilled in making complicated medical terminology understandable to a grieving family. Most importantly, organ donation is their principal field, whereas hospital staff have numerous other responsibilities. Further, donor consent rates tend to be higher when there is a time lapse between the hospital notifying the family of a death and the request for organ donation.

In proposing this change, we considered the possibility that we might be viewed as holding hospitals responsible for ensuring that a function, such as advising a family of their organ donation rights, be performed without providing them with the ability to control the situation. That is, the hospital cannot control the OPO and may consider that it may be a victim of poor OPO performance. However, the conditions of coverage for OPOs include performance standards that hold OPOs accountable for achieving a specified number of donors and organs based on the size of the population it serves. We believe these performance standards will motivate OPOs to provide satisfactory service to hospitals. Moreover, we note that the proposed hospital conditions hold hospitals accountable for ensuring that they have written protocols and do the following:

- Identify potential organ donors as defined by the OPO with which the hospital has an agreement;
- Notify the OPO of such potential donors;
- Assure, in collaboration with the OPO with which the hospital has an agreement, that the family of each potential organ donor knows of its option either to donate organs or tissues or to decline to donate;
- Encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the families of potential donors; and
- Ensure that the hospital works cooperatively with the OPO with which the hospital has an agreement, in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs take place.

We expect that if the hospitals and OPOs are not achieving the desired results the hospitals would reevaluate and revise their protocols. Hospitals would not be cited for a deficiency of this standard if the hospital has appropriate protocols, regardless of the success of OPO staff in acquiring donors.

We also are proposing to revise an existing requirement that specifies that the hospital must notify OPOs of potential organ donors. There is a good deal of variability among hospitals in referral patterns. Some hospitals do not call the OPO unless they have determined that the patient is medically suited to be a donor and the family has consented. On the other hand, some hospitals refer all deaths to the OPO. Most hospitals have established criteria, such as age or absence of systemic disease, to determine if a potential donor should be referred to the OPO.

In evaluating the organ donor shortage and the actions that hospitals may take with regard to donor referral, we considered the following options:

- Maintain the current requirement which provides hospitals with the flexibility to determine appropriate referrals through their written protocols;
- Require mandatory reporting of all death of patients under age 75 to the OPOs; and
- Require mandatory reporting of deaths to OPOs using protocols defined by the OPOs.

During our analysis, we identified a number of advantages and disadvantages to each of these alternatives before we concluded with the proposal to require mandatory reporting of deaths to OPOs using protocols defined by the OPO as discussed below. However, we are specifically soliciting comments on the advantages and disadvantages of the various options, and inviting identification of additional alternatives and empirical data supporting various opinions, during the public comment period.

The advantages of the current requirement, which specifies that hospitals have a protocol for referring potential donors, are that it provides hospitals with desired flexibility and it reiterates the language of the statute. However, there are significant disadvantages to this approach. The primary concern is that many hospitals have never referred a potential donor. As noted above, we believe that there has been a large number of potential donors that have been missed; that is, we believe the number of potential donors is double to triple the number of current donors. We are concerned that this flexibility has resulted in a significant number of hospitals failing to refer all potential donors and some hospitals not referring any donors. Some hospitals view as potential donors only those in whom consent to donate has already been obtained and do not even attempt to ask other families about the possibility of donating; others refer only when they consider the deceased to be a good candidate or when they believe the family may consent to the donation. This leads to a loss of opportunity for families for whom the gift of a loved one's organ may be the first step in the healing process as well as the loss of a substantial number of life-saving organs.

We also considered the alternative of requiring referrals of all deaths to the OPO. The State of Pennsylvania has implemented this practice. The resulting increase in donation in Eastern Pennsylvania has been at least 10-percent. We believe telecommunication technology currently exists to permit low-cost and efficient implementation of a policy requiring referrals of all deaths. OPOs that have implemented such programs indicate that reporting of an individual's death and relevant medical information takes only 5 to 10 minutes of time by hospital staff. Under such a system of mandatory death reporting, it is reasonable to assume that no potential donor will go unidentified and few, if any, families of potential donors will go without being given the opportunity to donate. This system also has the advantage of relieving hospital staff of the burden of making any assessment of donor suitability or the families' willingness to donate. Finally, as more families are educated about organ donation, even if they decide not to donate, myths that inhibit organ donation may be dispelled.

Despite the major advantages to this alternative, there are potential problems. There is clearly a significant cost involved in providing and interpreting information on over 1 million deaths annually. Conservative implementation estimates of this alternative are about $4 million annually (1 million deaths times 5 minutes of hospital and OPO time at an assumed average salary cost of $50,000), and may be as great as $8 to $10 million. Arguably, the saving of even a single statistical life would justify such a cost, using standard benefit-cost analysis assumptions. Nonetheless, we recognize that these costs should not be imposed if less costly approaches can also achieve increased organ donation. In discussing this alternative with the OPO industry, we have been advised by some OPOs that they are concerned about implementing such a system because they would have to handle a large number of unproductive referrals. That is, of the approximately 1 million deaths

annually, only about 12,000 to 15,000 are potential organ donors.

This proposed regulation includes the requirement that hospitals report all potential donors using protocols as defined by the OPO. This alternative has the advantage of providing support for OPOs in dealing with low referral hospitals, while providing a great deal of flexibility for OPOs to respond to local community situations and resource limitations. As noted above, we solicit comments on alternatives that could be more responsive to the national organ shortage. We are also considering whether to propose in the OPO conditions of coverage a performance standard that could be used to determine the extent of organ donations. In principle, procedural standards related to organ procurement could be replaced by an outcome standard related to organ recovery. However, since we are not clear as to how to design or implement the most cost-effective, low-cost standard we would welcome public comment.

We are aware that this proposal, by giving the OPO responsibility for defining potential organ donors and the protocol for referring such donors to the OPO, raises questions about the impact that it will have on the donation and retrieval of a variety of tissues that are also used in patient care. Tissue transplants also are important procedures that improve, and sometimes save, the lives of recipients. It is our expectation that hospitals, OPOs, eye, and tissue banks will work cooperatively and effectively to facilitate and enhance both organ and tissue donation. We recognize that there is considerable local variation in how these arrangements are currently carried out and how they might be done under our proposed changes. We will appreciate receiving comments on how these proposed changes are likely to impact on tissue donation, as well as suggestions on what measures we could appropriately take to maximize both tissue and organ donation.

Finally, we are proposing to add a new requirement that specifies that hospitals work cooperatively with the designated OPO in educating hospital staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining patients while necessary testing and placement of potential donor organs take place (proposed § 482.110(c)(1)(iv)). We do not believe this requirement is unduly burdensome on hospitals since all reasonable hospital costs incurred with respect to any organ procurement effort are paid. To further the cooperative efforts between hospitals and OPOs, we are also proposing to add a requirement that hospitals must provide requested data related to patients eligible for transplantation either directly to the Department or through the Organ Procurement or Transplantation Network. This requirement is explained further in § 482.120 ''Information Management''. We invite comments on the content of this new requirement.

13. Infection Control (§ 482.115)

The present requirements on infection control (§ 482.42) were promulgated as a separate COP largely due to the seriousness of the problem of Nosocomial infections. Nosocomial infections subject patients to significant additional pain and risk, prolong hospital stays, and lead to significant additional costs in health care spending.

We propose to maintain a separate COP on infection control because we believe it is vital for protecting patient health and safety. We propose to retain most of the standards under the current COP, but we would strengthen its focus by requiring hospitals to take appropriate actions that result in improvement when problems are identified in their infection control programs. This is in concert with the proposed quality assessment and performance improvement COP, of which infection control must be an integral part.

The proposed infection control condition places accountability on hospitals to prevent, control, and investigate infections and communicable diseases, and take actions that result in improvements. However, the proposed condition allows flexibility for hospitals to determine how to meet these objectives. This includes the flexibility to determine how much training in infection control is necessary for the hospital's personnel.

We propose to delete the present requirement that the hospital maintain a log of incidents related to infections and communicable diseases. In keeping with the outcome-oriented approach of this rule, we propose that the hospital must have a method of identifying problems in its infection control program and take appropriate actions that result in improvement. Although use of a log may be one method to identify problems, we do not intend to prescribe how a hospital should identify problems.

We considered requiring hospitals to meet Centers for Disease Control and Prevention (CDC) and Occupational Safety and Health Administration (OSHA) standards for providing an environment to avoid sources of infections and communicable diseases. However, such a requirement would raise questions as to which CDC or OSHA standards must be met. Moreover, where alternative sets of professionally recognized standards exist, we do not wish to restrict hospital flexibility by mandating compliance with a particular body of standards. Therefore, we are not mandating that hospitals follow any specific set of infection control guidelines; however, such guidelines are published by CDC, the Association of Practitioners in Infection Control (APIC), the American Hospital Association (AHA), and the JCAHO and are available as resources on infection control practices.

We also considered including specific requirements concerning employee health status issues. However, we believe the hospital's obligation to protect patients from employees with communicable diseases is covered in the proposed language that states that the hospital maintains an effective infection control program that protects patients and hospital staff by preventing and controlling infections and communicable diseases. Adequate assessments of employee health status fall under this language as part of the protective responsibilities of the hospital.

14. Information Management (§ 482.120)

We propose to consolidate current § 482.24 ''Condition of participation: Medical record services'', and record requirements in several other COPs into a new ''Information management'' COP which would reflect the increasing automation and integration of patient care data. This new COP would require that a hospital maintain an information system to record, communicate, and measure hospital performance in order to assure that patient needs are documented and met. The information system is also needed to support the hospital's quality assessment and performance improvement program.

The condition consists of two standards. In both standards, we have not retained many current process-oriented requirements concerning how a hospital must maintain its medical records; instead, we have kept only those requirements needed for accurate documentation of a patient stay and for quality assessment and performance improvement purposes. These requirements should help ensure that orders are communicated and documented accurately, thus reducing the risk of errors that could jeopardize patients' health and safety.

The first standard, ''Health Information System'', focuses on patient

care and outcomes. First, we would require the hospital to maintain clinical records on all patients. This requirement not only implements a specific statutory requirement (section 1861(e)(2) of the Act), but also provides a basis for the quality assessment and performance improvement activities that we expect will lead to a high standard of care for all patients. We have retained the current record retention requirement of 5 years because we believe access to records during this period is essential to protect the health and safety of current patients, since clinicians may well need the details of prior treatment to assess and treat current conditions. Five years has been the minimum requirement since 1986 and it has proved to be a clear, workable, and not overly burdensome standard.

One part of this standard on which we especially seek comment concerns the authentication of record entries. Under proposed § 482.120(a)(5), we would consolidate the present requirements at § 482.24(c)(1)(i) and (ii) regarding authentication of entries in the medical record to state that all entries must be legible, dated, and authenticated in written or electronic form by whomever is responsible for ordering or providing the service. We are proposing to delete the current requirement at § 482.23(c)(2)(ii) on verbal orders because we believe our proposed requirement at § 482.120(a)(5) would cover authentication of verbal orders. The present requirement at § 482.24(c)(1)(ii), which states that authentication may include signatures, written initials or computer entry, would also be deleted. Although these are accepted standards of practice, we do not believe it is necessary that the regulations include this level of prescriptive detail.

We are seeking comment from as broad a range of interests as possible on the issue of authentication of medical record entries. We recognize that there is a strong interest in the hospital industry in modifying, if not eliminating, the requirement for authentication, because of questions about whether authentication adds value to the quality of the medical record, especially when the countersignature comes after the service has been delivered to the patient. However, others believe that absence of authentication leads to questions of accountability. Therefore, we request comment and suggested language, as appropriate, on this issue.

Regarding the issue of verbal orders, the present requirement at § 482.23(c)(2)(ii) states that verbal orders must be signed or initialed by the prescribing practitioner as soon as possible. We invite comment on the issue of whether a timeframe should be specified for signing verbal orders. We believe that many States have laws governing timeframes in which verbal orders must be signed; therefore a Federal specification may not be necessary.

Currently, transplant centers report data to the Organ Procurement and Transplantation Network, the Scientific Registry, and organ procurement organizations regarding the disposition of organs made available for transplant. These data include information regarding patients waiting for transplants, information on those who have received a transplant, follow-up data on patients who have received a transplant, and information on those offered an organ for transplant but declining to use the organ at the time. Moreover, the information submission is voluntary on the part of the transplant centers.

For the most part, this system of information exchange has worked very well. However, from time to time, some concerns have arisen regarding the voluntary nature of the data submission, ownership of the data, and public access of the information. In an effort to overcome any confusion surrounding this information system and to assure that all facilities submit appropriate data timely, we are proposing to include a provision in section 482.120, information management, related to transplantation data.

Specifically, we are proposing to add a requirement that hospitals that perform transplants, whether they are approved by Medicare for coverage of the transplant or not, must provide requested data related to patients eligible for transplantation either directly to the Department or through the Organ Procurement and Transplantation Network. The proposal clarifies that data submission is no longer voluntary, but is a requirement for the hospital's participation in the Medicare program.

We believe there is authority in both section 1861(e)(9) and section 1138 of the Act for this requirement. First, section 1861(e)(9) provides that the Secretary may require hospitals participating in the Medicare program ''to meet such other requirements that the Secretary finds necessary in the interests of the health and safety of individuals who are furnished services in the institution.'' When we determine whether hospitals are fit for inclusion (or continued inclusion) in the Medicare program, we have an interest in knowing how well the hospital is performing the full range of services it provides to its patients. A hospital's history with respect to the transplant services it provides is one area, among many, that helps tell us whether the institution is providing high quality services in the safe and healthful environment the statute requires, and we believe that reviewing data from this area of operation is no less useful for this purpose than evaluating other surgical or care areas of the hospital. Second, section 1138 requires hospitals to abide by the rules and requirements of the Organ Procurement and Transplantation Networks (OPTNs). Where OPTNs require hospitals to furnish the kind of data addressed in this proposed rule, hospitals would be obligated to provide it.

The second standard in the Information Management COP, ''Management of the Information Systems'', contains requirements on the integrity, effectiveness, confidentiality, and security of the hospital's data systems that are similar to current requirements shorn of their process-oriented details. We are also proposing in this standard to expand the current requirement in § 482.25(b)(8), which discusses the dissemination of a patient's drug profile to the hospital's professional staff. We propose building on this to require that all medical information on a patient be available to all authorized professional staff who provide medical care to the patient. This is consistent with the emphasis on an interdisciplinary plan of care for each patient, and an integrated approach towards a patient's needs, both of which depend on practitioners having accurate and current information to deliver appropriate and necessary care.

15. Human Resources (§ 482.125)

Current regulations, which are organized on a department-by-department basis, contain scattered requirements concerning the qualifications and numerical staffing standards for nursing and other hospital staff, and for doctors of medicine or osteopathy and other practitioners with privileges to treat hospital patients. For example, there is a separate condition on medical staff at § 482.22, and several COPs, including nursing services (§ 482.23), medical record services (§ 482.24), pharmaceutical services (§ 482.25), and others, contain requirements for screening and credentialling of medical staff members and for employment of (or contracting with) adequate numbers of qualified nursing and other nonphysician staff.

Under the integrated, interdisciplinary approach inherent to these proposed regulations, we are consolidating these scattered references into a single condition of participation on human resources. The overall goal of the new proposed COP would be to ensure that all hospital areas are staffed with sufficient qualified personnel to meet the needs of the hospital's patients. We also propose to eliminate many process-oriented requirements, in particular those currently set forth in §§ 482.12(a) and 482.22, relating to the composition, organization, and conduct of a hospital's medical staff. Although a process-oriented requirement, we have retained the current requirement that the medical staff operate under bylaws because section 1861(e)(3) of the Act explicitly requires them.

In proposing these changes to the current medical staff requirements, we do not intend to discount the value to a hospital of having a carefully selected and well-organized medical staff. On the contrary, we believe it is self-evident that the medical staff has a critical role in ensuring that high quality care is delivered consistently and that any hazards to patients are promptly detected and eliminated. However, individual hospitals, their employees or contractors, and the professionals who have been granted practice privileges may choose to have medical staff functions performed in a variety of appropriate ways, and we do not believe it is necessary to prescribe to a hospital what the composition or organization of its medical staff should be. For example, existing § 482.12(a)(7) has been interpreted by some to prohibit hospitals from requiring specialty board certification or eligibility as a necessary condition for medical staff membership. However, there is considerable disagreement between hospitals and physicians as to whether board certification or eligibility is an important indicator of professional competence. In view of this diversity of opinion and absent any indication that the quality of care would decline if the current requirement were deleted, we are proposing to eliminate the current requirement and to allow each hospital to determine, in consultation with its medical staff, whether requiring certification, fellowship, or membership in a specialty body or society would enhance the quality of care for the hospital's patients.

The proposed new condition consists of three standards that support the COP's aim that the hospital be staffed with sufficient qualified personnel. The first of these has to do with the qualifications of those individuals who furnish health care services to patients of the hospital. We wish to emphasize that the requirement would apply to all such persons, whether or not they are employed or compensated by the hospital and, if they are compensated, without regard to whether they are salaried employees or contractors. The standard also applies to those separately licensed practitioners, such as doctors of medicine or osteopathy, who typically practice independently and bill patients or their insurers, rather than the hospital, for their services.

This proposed standard reflects our view that the conditions of participation should not prescribe specific Federal personnel qualification requirements for nonphysician personnel, or attempt to limit or specify the functions they may perform, unless the Medicare statute requires us to do so. We believe this is the best course of action for several reasons. First, most States have in effect laws and regulations governing licensure and scope of practice for health care workers. We believe individual hospitals and their medical staffs, working within the context of applicable State law and regulations, are best able to determine which personnel to use and how to use them. Moreover, the emphasis of the proposed requirements in this area, as in other areas affected by these regulations, is not on whether staff have specific credentials or were selected under formalized procedures, but on whether the outcome of the hospital's staffing practices is the delivery of safe, high quality care.

We recognize that there may be some cases in which the absence of any State requirements for a category of hospital worker in a particular State may mean that no specific credential is required for performance of the function in that State. However, the hospital would remain obligated under proposed § 482.125(a) to ensure that personnel are qualified to provide or supervise services, and would be fully accountable under this section as well as under other relevant parts of the regulations (such as § 482.20, Patient Care) for the quality of care provided. Individual hospitals are free to develop their own specific credential requirements if they believe that doing so is in the best interest of their patients.

In addition, we note that among the resources a hospital has in acquiring and maintaining qualified staff is the National Practitioner Data Bank, which was authorized by the Health Care Quality Improvement Act (HCQIA) of 1986 (Pub. L. 99–660). The HCQIA requires that hospitals request information from the National Practitioner Data Bank at the time a physician, dentist, or other health care practitioner applies for a position on its medical staff (courtesy or otherwise) or for clinical privileges at the hospital; and every 2 years (biennially) on all physicians, dentists, and other health practitioners who are on its medical staff (courtesy or otherwise) who have clinical privileges at the hospital.

The HCQIA requires that hospitals report to the National Practitioner Data Bank all professional review actions, based on reasons related to professional competence or conduct, adversely affecting clinical privileges of physicians and dentists for a period longer than 30 days; or voluntary surrender or restriction of clinical privileges for physicians and dentists while under, or to avoid, investigation.

We recognize that some may ask whether the hospital's responsibility to use qualified personnel is sufficient to assure that qualified staff are used in States with weak licensure programs and, in such States, whether Medicare should impose additional requirements or undertake a larger role. Therefore, we specifically invite public comments on this issue especially with regards to specific examples where States have weak or no licensure requirements for hospital health professions. We hope that commenters who believe Medicare should issue additional requirements would offer specific suggestions and any available empirical data to support such suggestions.

The second proposed standard, ''Staffing (§ 482.125(b)), retains all of the nurse staffing requirements in current regulations at § 482.23(b) that are essential to the professional role and importance of nurses in a hospital. Of the six requirements in this standard, the first two are general in nature and the remaining four deal with specific nursing needs. Under the first requirement a hospital's staffing must reflect the volume of patients, patient acuity, and intensity of the services provided to ensure desirable patient care outcomes. To enforce this requirement, and because we are concerned about an apparent trend in the country toward reductions in hospital nurse staffing, we also propose as a second requirement that a hospital must develop and use consistently an explicit process to determine on an ongoing basis the level of nursing staff (including registered nurses, licensed practical nurses, and nursing assistants) needed to effectively implement the general requirement for appropriate staffing. This methodology and evidence of its use in meeting the nursing staffing needs of the patients must be available

for public inspection. We are interested in receiving comments on this proposal, specifically:

(1) Is this process-oriented requirement needed and is it strongly predictive of the desired quality outcomes one would associate with the proposed staffing requirement at § 482.125(b)(1)?

(2) If not, are there other requirements (such as specific numerical ratios) that would better achieve the desired outcomes?

The third requirement under the staffing standard is that a hospital maintain 24-hour registered nurse coverage if it does not have a waiver in effect under 42 CFR 405.1910(c). Twenty-four hour nursing coverage is required under section 1861(e)(5) of the Act, and thus we are continuing to include this requirement. The remaining three requirements under this staffing standard discuss the availability of registered nurses for bedside care, the responsibility of a registered nurse for managing nursing care for patients, adherence of nurses to hospital policies and procedures, and hospital management of nonemployee nursing personnel. We recognize that some of the other nurse staffing requirements are prescriptive and process-oriented, but we believe that they help ensure adequate staffing levels in hospitals. We welcome comments on how these requirements could be revised or simplified without jeopardizing attainment of this goal.

The third proposed standard is ''Education, Training and Performance Evaluation'' (§ 482.125(d)). The education and training sections are intended to ensure that hospital staff are aware of their job responsibilities and capable of meeting them, and that reassigned personnel receive the orientation or training needed to help them adapt to new or additional job demands. We emphasize that under this standard the hospital would be responsible only for ensuring that the individual adequately knows the nature of his or her specific job duties in the hospital. The individual would continue to be responsible for his or her own basic professional education, and for any continuing education needed to retain licensure or professional certification, unless the hospital chooses to assume this responsibility as part of a compensation or incentive arrangement.

The second part of this standard requires that all personnel who furnish health care services in the hospital demonstrate in practice the skills and techniques necessary to perform their assigned duties and responsibilities. While we believe that process requirements that focus on providing training and education to those who provide care and services in the hospital are predictive of positive outcomes and satisfaction for patients (and protection from negative outcomes), we also believe that the real outcome expectation of the requirements is reflected in the demonstrated skills and techniques staff actually use on a routine basis. This is why we are proposing that all personnel furnishing health care services (which would include hospital employees, contractors, and individuals working under arrangements) demonstrate in routine practice the skills and techniques necessary to perform their jobs.

Such a requirement closes the training and education loop. It is not enough for the hospital to demonstrate that individuals have received training, or how much training has been offered and provided. For effective patient care, it is critical that when the staff perform their duties, they actually use the necessary skills and techniques they have been taught to do their jobs correctly. For example, every hospital employee who comes into contact with patients is taught infection control techniques, one of which is hand washing in between patient contacts. If a surveyor observes staff who do not wash their hands between patient contacts, it is of little value that the hospital can show that staff were taught to wash their hands. One of the tasks of the survey process will be to determine if a lapse in performance is simply an isolated failure of one employee (although that can be so serious as to pose a threat to patient health and safety) or if it represents a systemic failure posing a widespread danger. Regardless, this requirement poses no extraordinary burden on the hospital, since the performance expectation of all staff—especially those who directly or indirectly serve patient needs—is that they perform their duties competently and efficiently. This outcome-oriented requirement simply makes explicit this expectation.

16. Physical Environment (§ 482.130)

We propose to replace the requirements on physical environment now at § 482.41 with a new physical environment COP that would require in general that a hospital maintain a physical environment that is free of hazards for patients. The current requirements consist of three safety standards containing separate requirements for buildings, life safety from fire, and facilities. Each of these standards contains requirements on the process of implementing safety standards as well as the physical structures and property that must be available in the hospital.

Based on our experience with applying these current requirements and suggestions from the parties involved in the development of these proposed hospital conditions, we are proposing to reorganize these requirements into two physical environment standards and a separate COP for life safety issues, as discussed below. We believe this reorganization emphasizes the role of physical structures and property in ensuring the delivery of high quality care.

In the first proposed standard, ''Safety management'' (§ 482.130(a)), we have set forth four requirements that we believe are fundamental to effective management of a hospital's physical environment. These include preventing, reporting, and correcting threatening situations, equipment failures, and actual incidents that involve injury to patients or that involve damage to property. Also, we believe proper safety management should include a requirement that a hospital must have an emergency preparedness system to respond to power failures, natural disasters, or other emergencies that disrupt the hospital's ability to provide care. We have chosen not to prescribe the frequency of reporting safety initiatives, such as quarterly reports to the governing body, because we believe the wide range of hospital structures and property requires each hospital to define its own internal reporting practices. We considered specifying which personnel should be responsible for safety management initiatives, but we believe no staff should be exempt from ensuring that the hospital environment is free of hazards. We also believe hospitals commonly employ safety engineers and others who contact all types of personnel when designing and managing safety initiatives.

The second proposed standard, ''Physical Plant and Equipment'' (§ 482.130(b)), combines three current general requirements for a hospital's physical structures and property, but does not include the level of detail in current regulations. (For example, a requirement concerning the location of diagnostic and therapeutic facilities has been deleted.) The requirements simply state that there must be proper storage and disposal of trash and medical waste, proper temperature control, light and ventilation throughout the hospital, adequate power, light, gas and water for patient care during emergencies, and that equipment used for patient care services must be properly maintained.

The inclusion of medical waste and air exchanges is new. These items reflect health and safety concerns in recent years over unsafe medical waste disposal, the proper care of tuberculosis patients, and the prevention of airborne particles and bacteria in hospitals, concerns which led to the publication of CDC guidelines on the disposal of medical waste and the prevention of transmission of mycobacterium tuberculosis (see Occupational Exposure to Bloodborne Pathogens, 56 FR 64004, December 6, 1991 (Final Rule), and Preventing the Transmission of Mycobacterium Tuberculosis in Health Care Facilities, 59 FR 54242, October 28, 1994 (Notice). The requirement on maintaining equipment is a consolidation of several references in the current regulations.

17. Life Safety From Fire (§ 482.135)

The Life Safety Code (LSC) developed by the National Fire Protection Association serves as the basis for many Federal, State, and local fire safety regulations, including those contained in the Medicare conditions of participation for hospitals. The LSC is a nationally recognized standard that includes fire protection requirements necessary to protect patients and residents in health care facilities. Designed to provide a reasonable degree of safety from fire and similar emergencies, the LSC covers construction, fire protection, and occupancy features needed to minimize danger to life from fire, smoke, and fumes. The code may be applied to both new and existing buildings. The National Fire Protection Association revises the LSC periodically to reflect advancements in fire protection.

In the current hospital COPs, the physical environment COP includes a standard, ''Life safety from fire,'' that requires that hospitals comply with the 1985 edition of the Life Safety Code (§ 482.41(b)(1)). Section 482.41(b)(1)(i) then sets forth a ''grandfather'' clause specifying that, under certain circumstances, a hospital that originally complied with the 1967 or 1981 edition of the LSC hospitals may be considered to be in compliance with the life safety standard. The existing regulations also provide that HCFA may waive specific provisions of the LSC that would result in unreasonable hardship upon a facility, as long as the waiver has no adverse effect on patient health and safety. In addition, the regulations permit a hospital to meet a fire and safety code imposed by State law if HCFA finds that the State-imposed code adequately protects patients in hospitals.

In the proposed hospital COPs, we would continue to incorporate the LSC by reference. However, in order to stress the importance of fire safety standards for patient health and safety, we propose to establish a separate condition, ''Life safety from fire,'' at proposed § 482.135. We also propose to update this requirement to specify that hospitals must meet the 1994 edition of the LSC, with no ''grandfathering'' under any of the earlier codes. However, we are also currently considering adoption of the later 1997 edition of the LSC instead of the 1994 edition. We welcome comments on the proposed adoption of the 1997 edition also and will address this issue in the final rule for this proposed rule.

We consider compliance with the LSC to be essential to the safety of patients. As noted above, however, compliance with the LSC currently is a standard within the existing Physical Environment condition of participation. The surveyor that inspects a hospital for LSC purposes often works separately from the team that conducts the rest of the hospital survey, including those portions of the survey that involve other physical environment issues. When the LSC surveyor determines that the LSC is not met, the entire Physical Environment COP is found to be out of compliance. In practice then, the LSC standard essentially is treated as a condition level requirement. Therefore, we believe that establishing a separate COP for the Life Safety Code would accurately reflect its importance for patient health and safety.

We are proposing to adopt the 1994 edition of the LSC because we believe that it provides the highest available level of protection for patients and staff in hospitals, with little or no additional burden to providers in existing facilities and at a lower cost in new construction. The 1994 edition of the LSC contains distinct sets of requirements for new construction and existing facilities. Newly constructed health care facilities must have automatic sprinklers throughout, allowing them to meet somewhat less rigorous standards in other areas. For example, under the 1994 LSC, exits may be 150 feet apart rather than 100 feet, interior finish may be Class C rather than Class B. Thus, it may actually cost less to construct a new building in conformance with the 1994 LSC than under the 1985 LSC.

The 1994 LSC does not impose any additional requirements for existing buildings beyond those specified in the 1985 LSC. Thus, an existing hospital that is in compliance with the 1985 LSC would not have to make any changes to come into compliance with the 1994 LSC. Only hospitals that still comply only with the 1967 LSC may require some additional features to achieve compliance with the 1994 LSC. For such hospitals, we believe it is inappropriate to require compliance with a code that relies on outmoded fire protection methods. We note that we are proposing to retain both the waiver provision from the existing regulations and the provision permitting use of a State code if HCFA finds that it adequately protects patients, which should ensure that hospitals that can demonstrate an ability to protect patient health and safety are not faced with unreasonable burdens to comply with the LSC requirements.

18. Blood and Blood Product Transfusions (§ 482.140)

We propose establishing this requirement as a separate COP because of its importance for patient health and safety. The transfusion of blood and blood products requires a high degree of coordination between medical and nursing staff. Therefore, it is critical that a hospital demonstrate practices that ensure safe and accurate transfusions with a minimum of transfusion-related reactions.

Currently, specific, process-oriented requirements for pre-transfusion testing of blood and blood products are set forth at 42 CFR Part 493 (§§ 493.1271, 493.1273, 493.1275, 493.1277, 493.1279, 493.1283, and 493.1285). We considered proposing to include all these CLIA requirements in the hospital COPs as well as requirements for transfusions, maintaining the same degree of prescriptiveness. However, we believe that the transfusion COP should incorporate the same approach used in the rest of the proposed rule, that is, a balanced approach that combines HCFA's and the hospital's responsibility to ensure that essential health and safety standards are met. Moreover, many of the requirements set forth under part 493 are already stated broadly in the proposed hospital COPs. For example, the requirement that transfusion facilities are administered only by qualified personnel already appears in general terms in the proposed rule at § 482.125, Human Resources. Likewise, the requirement that blood and blood products be stored under appropriate conditions, including proper temperature, is implicit in § 482.130, Physical Environment.

Therefore, we are proposing under § 482.140 a new COP on blood transfusions that would require that hospitals—

(1) Have procedures for averting, responding promptly to, investigating, tracking, and reporting blood

transfusion reactions to the laboratory and, as appropriate, to Federal and State authorities; and

(2) Take appropriate measures to ensure the positive identification of the blood or blood product and the recipient, that blood and blood products are stored at the appropriate conditions, including temperature, to prevent deterioration, and that blood and blood products are readily accessible to the appropriate medical and nursing staff.

As noted above, we have included these requirements because they are essential to patient safety.

19. Infectious Blood and Blood Products (§ 482.145)

This condition specifies the steps hospitals must take when they become aware that they have administered potentially HIV (human immunodeficiency virus)-positive blood or blood products to a patient. These requirements restate without change the requirements in existing § 482.27(c), Potentially infectious blood and blood products, which were set forth in our September 9, 1996 final rule (61 FR 47423). Because these requirements were so recently established through notice and comment rulemaking, and would merely be redesignated under this proposed rule, we are not accepting comments on this section.

20. Utilization Review (§ 482.150)

We propose to maintain the present utilization review (UR) COP as presently set forth in § 482.30. We believe this is appropriate because when the current UR COP was revised in 1986 (51 FR 22010), we strove to delete overly burdensome requirements and reflect only the statutory obligations of hospitals for utilization review. These obligations have not changed since that time.

Since all Medicare-participating hospitals must have an agreement with the Utilization and Quality Control Peer Review Organization (PRO) in the State in which the hospital is located as a condition of payment in accordance with the regulations at § 466.86(b), PRO review activities fulfill the UR requirements for hospitals. Therefore, the UR COP has limited applicability in the survey process. However, in unusual cases where a PRO does not in fact perform review provided for in its contract with the hospital, these regulations would ensure that the provisions of sections 1861(e)(6) and (k) of the Act concerning utilization review can be applied.

21. Provider Agreement—Surveyor Access to Provider Records (§ 489.53)

In addition to the changes described elsewhere in this document, which would affect only hospitals, we propose to add a new provision that would apply to all providers participating in Medicare. Under this new provision, which would amend our provider agreement regulations at 42 CFR 489.53, HCFA would be authorized to terminate a provider's participation in Medicare if the provider refused to allow access to its facilities, or examination of its operations or records, by or on behalf of HCFA, as necessary to verify that it is complying with the provisions of title XVIII and the applicable regulations of Chapter IV of Title 42 of the Code of Federal Regulations, or with the provisions of its provider agreement.

Under Medicare, the surveys needed to verify compliance with health and safety requirements or other Medicare rules are not mere paperwork reviews, but instead require State surveyors or HCFA personnel to perform firsthand observations of facilities and operations as well as to review relevant records. The great majority of hospitals and other providers recognize the need for these surveys and cooperate willingly with them. However, in rare cases a provider may attempt to thwart the survey process by refusing to allow access to its facilities, operations, or medical or other records. Without this access, it may be difficult or impossible to document provider noncompliance with applicable conditions of participation or other requirements.

We believe that a provider that has agreed to participate in Medicare and accept payment for treating Medicare patients has an inherent obligation to allow access to its facilities, operations, and records to the extent that access is needed to verify that the provider is complying with all applicable Medicare requirements. If this access were denied, we would be unable to carry out our obligations to administer the Medicare program. In addition, the health and safety of both Medicare and other patients might be jeopardized, since we would not be able to detect unsafe practices and identify them for corrective action. However, our current regulations do not make this longstanding obligation explicit. The proposed rule would correct this problem by adding new § 489.53(a)(6) to specify that HCFA may terminate a provider agreement if the provider refuses to allow access to its facilities, or examination of its operations or records, to verify compliance with applicable Federal law and regulations.

The specific statutory basis for the proposed rule is section 1871(a)(1) of the Act, which authorizes the Secretary to prescribe such regulations as may be necessary to carry out the administration of the Medicare program. However, we emphasize that this provision does not create a new obligation for providers, but merely codifies an existing obligation. For this reason, the proposed rule would not increase the compliance burden for facilities. Existing limits on the types of information requested and the uses to which it can be put would be maintained. For example, as part of the review of the hospital's quality assessment and performance improvement program, we would expect to have access to hospital incident reports only as a nonpunitive review function to determine how the hospital analyzes and tracks these data and incorporates the data into its quality assessment and performance improvement program.

III. Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a proposed rule such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all non-profit hospitals and other hospitals with revenues of $5 million or less annually are considered small entities. States and individuals are not considered small entities.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operation of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. Although the provisions proposed in this rule do not lend themselves to a quantitative impact estimate, we do not anticipate that they would have a substantial economic impact on most hospitals. However, to the extent that our proposals may have significant effects on providers or beneficiaries, or be viewed as controversial, we believe it is desirable to inform the public of our projections of the likely effects of the proposals.

As discussed in detail above, this proposed rule sets forth new hospital conditions of participation that revise or

eliminate many existing requirements and incorporate critical requirements into four ''core conditions.'' These four COPs—Patient Rights; Patient Admission, Assessment, and Plan of Care; Patient Care; and Quality Assessment and Performance Improvement—would focus both provider and surveyor efforts on the actual care delivered to the patient, the performance of the hospital as an organization, and the impact of the treatment furnished by the hospital on the health status of its patients. In developing these proposed COPs, we have retained structure and process-oriented requirements only where we believe they are essential to achieving desired patient outcomes or preventing harmful outcomes (for example, requiring error free medication administration). More often though, we have eliminated structural or process-oriented requirements that we no longer believe are necessary (such as the prescriptive details concerning bylaws, medical staff composition, medical record services, etc.), in favor of an approach that, through the proposed core COP on quality assessment and performance improvement, invests hospitals with internal responsibility for improving their performance. This approach is intended to incorporate into our regulations current best practices in well-managed hospitals, relying on the hospital to identify and resolve its performance problems in the most effective and efficient manner possible.

We believe that the proposed COPs would decrease the administrative burden on hospitals to comply with detailed Federal requirements, thus reducing the costs incurred by the typical hospital in meeting the Medicare conditions of participation. (See the information collection section below for examples of specific changes in the recordkeeping and paperwork burden of hospitals that would be associated with this proposed rule.) Instead, the proposed COPs would provide hospitals with much more flexibility to determine how best to pursue our shared quality of care objectives in the most cost-effective manner. We expect hospitals to develop different approaches to compliance based on their varying resources and patient populations, differences in laws in various localities (such as those concerning personnel standards), and other factors.

Given the uncertain readiness of some individual hospitals to comply with performance expectations under the proposed COPs, quantitative analysis of the effects of these proposed changes is not possible. Hospitals with quality assessment and performance improvement programs already in place that meet these proposed requirements may see a reduction in administrative burden because they would no longer have to comply with many of the process-oriented requirements of the current COPs. Other hospitals that do not currently meet the proposed requirements for quality assessment and performance improvement may encounter an increased burden in the short term because resources would have to be devoted to the development of a quality assessment and performance improvement program that covers the complexity and scope of the particular hospital's services. However, even in situations where the proposed requirements could result in some immediate costs to an individual hospital, we believe that the changes that the hospital would make would produce real but difficult to estimate long-term economic benefits to the hospital (such as cost-effective performance practices or higher patient satisfaction that could lead to increased business for the hospital).

We are considering strengthening organ procurement standards and we welcome suggestions for an outcome standard. However, with or without such a standard, we believe the resource implications of the proposed changes are minimal and may even reduce hospital costs. When hospitals use organ procurement organization staff to make the required requests to the families of potential donors, it is OPO staff rather than the hospital staff that must spend time with the family. As to the option of reporting all or most deaths to OPOs, this relieves the hospital of making the suitability decision. Fewer than 400 patients a year die in an average hospital. Assuming five minutes a telephone call, only a few person-days would be needed to report all such deaths.

For the reasons explained above, the Secretary certifies that this proposed rule will not have a significant economic impact on a substantial number of small providers, and that preparation of an Initial Regulatory Flexibility Analysis is not required.

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

IV. Information Collection and Recordkeeping Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3505(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

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

This proposed rule contains information collection requirements that are subject to OMB review under the Paperwork Reduction Act of 1995. These information collection requirements are discussed below.

This proposed rule revises the hospital conditions of participation contained in existing 42 CFR part 482 (§§ 482.1 through 482.66) that are applicable under the Medicare and Medicaid programs. The information collection requirements contained in these existing regulations are approved by OMB under approval number 0938–0328, which expires on July 31, 2000 (§§ 482.12, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.53, 482.56, 482.57, 482.60, and 482.62) and 0938–0698, which expires on January 31, 2000 (§ 482.27(c)). For the most part, these requirements have been in effect for over 9 years. In this proposed rule, we would delete some of these requirements, retain others, and add some new ones. On balance, the proposed regulations would result in a significantly smaller information collection burden on hospitals.

A. Proposed Deleted Requirements

The existing information collection requirements that we propose to delete are:

- § 482.12(e)(2)—The requirement that a hospital maintain a list of all contracted services.
- § 482.12(f)(2)—The requirement that the governing body ensure that the medical staff has written policies and procedures for appraisal of emergencies, initial treatment, and referrals when appropriate.
- § 482.22(c)—The requirement that a hospital must have written bylaws for medical staff.
- § 482.27(a)(2)—The requirement that a hospital must have written description of laboratory services.

• § 482.41(b)—The requirement that a hospital use the applicable provisions of the Life Safety Code of the National Fire Protection Association. (We are including application of a later edition of the Code in proposed § 482.140.)

• § 482.53(d)—The requirement that a hospital maintain signed and dated reports of nuclear medicine interpretations, consultations, and procedures. (We proposed to delete the requirement specific to nuclear medicine records, but expand recordkeeping requirements to apply to all services under a new information management requirement in proposed § 482.120.)

B. Proposed Retained Requirements

The existing information collection requirements that we propose to retain are:

• § 482.12(c)(5)(i)—The requirement that a hospital must have written protocols related to the identification of potential organ donors (proposed § 482.110(c)).

• § 482.12(d)(1), (2), and (4)—The requirement that a hospital must have an institutional plan and budget (proposed § 482.110(b)(3)).

• § 482.27—The requirement that a hospital undertake certain activities when it learns that it has received blood and blood products that are at increased risk of transmitting HIV, including the requirement that the hospital have specified notifications procedures in place and retain certain documentation in the medical record (proposed § 482.145).

• § 482.30(c)(1) and (d)(3)—The requirement that a hospital must have in effect a utilization review plan that provides for review of services furnished by the institution and by members of the medical staff to patients entitled to benefits under the Medicare and Medicaid programs (proposed § 482.150).

For those information collection requirements for which we have current OMB approvals that will expire sometime in the future (as specified earlier under this section), we are asking for public comments only as they pertain to the overall requirements under the new proposed structure of these regulations.

C. Standard Industry Practice

Under 5 CFR 1320.3(b)(2), the burden associated with the time, effort, and financial resources that would be necessary to comply with a collection of information that would be incurred by persons in the normal course of business will be excluded from an information collection that is subject to OMB approval. The burden in connection with these types of collection activities can be disregarded if an agency can demonstrate that the collection activities are usual and customary. The collection requirements referenced below are usual and customary in the conduct of hospital business. Thus, they fall under this exclusion:

• § 482.15(a)—The requirement that a hospital must ensure that each patient receives a comprehensive assessment that identifies the patient's condition and care needs at the time of admission as well as an initial estimate of posthospital needs, if any. Should the needs of a patient change, the assessment must be updated to reflect these changes.

• § 482.15(b)—The requirement that a hospital must create a plan of care for all newly admitted patients. The initial plan of care must be placed in the medical record within 24 hours of admission and must include, although not necessarily in one location in the medical record, care to be delivered by all relevant disciplines. This plan must be modified to meet any changes in the patient's condition that affect the patient's needs.

• § 482.43—The requirement that a hospital must have in effect a discharge planning process, with written policies and procedures (proposed § 482.55).

• § 482.110(c)(1)(ii)—The requirement that a hospital must assure, through the OPO with which the hospital has an agreement, that the family of each potential organ donor knows of its option either to donate organs or tissues or to decline to donate.

• § 482.120—The requirement that a hospital must maintain information systems to record, communicate, and measure hospital performance. The information systems may include manual systems, automated systems, or both, depending on the complexity of the hospital, to record and maintain the clinical and operations data necessary for patient care.

• § 482.140—The requirement that a hospital must administer blood and blood product transfusions according to approved medical staff and nursing policies and procedures, and ensure the safety of individuals being transfused within the facility.

D. New Information Collection Requirements

The proposed regulations allow hospitals greater flexibility in the utilization of their staff and resources while strengthening quality control requirements to assure patient health and safety. The new proposed information collection requirements that are subject to OMB approval represent minimal, if any, burden on hospitals.

As we have discussed earlier in this preamble, in order to participate in Medicare and Medicaid, hospitals must be certified as meeting the conditions of participation (and hence the information collection requirements contained in the conditions). There are approximately 6,700 hospitals that participate in Medicare or Medicaid. Approximately 5,200 of these hospitals are accredited by JCAHO or AOA. HCFA deems these JCAHO and AOA accredited hospitals to meet the conditions of participation, except for utilization review requirements. The remaining 1,500 non-accredited hospitals must be surveyed to ensure compliance with the conditions of participation. Therefore, only those hospitals that are not accredited by JCAHO or AOA would incur burden from the new information collection requirements listed below. The hospitals that would be subject to the information collection requirements would include new hospitals (approximately 2 per year) and current ones undergoing a recertification (currently a hospital is resurveyed approximately every 5 years, so an average of 20 percent of the 1,500 hospitals (300) are resurveyed each year). However, we believe that, of the 302 hospitals subject to a survey each year, the actual number surveyed would only be 250. We reached this conclusion because at least 52 of the hospitals are already implementing these three new requirements and would incur no additional burden.

Included in the estimate of burden for the new information requirements listed below is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. § 482.10(a)—Standard: Notice of Rights

a. Requirement: This section requires a hospital to have in effect a grievance process for patients to follow if they want to file a grievance. The hospital must also indicate who the patient should contact to express a grievance.

b. Burden: We believe the requirement for a grievance process will impose an estimated burden of 2 hours per hospital for a total of 500 annual burden hours.

2. § 482.25—Condition of Participation: Quality Assessment and Performance Improvement

a. Requirement: This section requires a hospital to have a quality assessment and performance improvement program that reflects the complexity of the hospital's organization and services (including those services provided under contract or arrangements) and implements actions that result in improvements across the full range of the hospital's services to patients.

b. Burden: We believe this requirement would impose an estimated burden of 3 hours per hospital for a total of 750 annual burden hours.

3. § 482.125(b)—Standard: Staffing

a. Requirement: This section requires a hospital to have an explicit process to determine on an ongoing basis the needed level of nurse staffing needs. This methodology and evidence of its use in meeting the nurse staffing needs of the patient must be available for public inspection.

b. Burden: We believe this requirement would impose an estimated burden of 3 hours per hospital for a total of 750 annual burden hours.

The total annual burden hours for implementation of the new proposed information collection requirements for hospitals is estimated to be 2,000 hours.

The paperwork burden for the proposed new information collection requirements would not be effective until it has been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on this paperwork burden should direct them to the Office of Management and Budget, Human Resources and Housing Branch, Room 10235, New Executive Office Building, Washington, D.C., 20503; Attention: Allison Herron Eydt, HCFA Desk Officer.

V. Responses to Comments

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

List of Subjects

42 CFR Part 416

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 482

Grant programs-health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements

42 CFR Part 485

Grant programs-health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

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

A. Part 416 is amended as follows:

PART 416—AMBULATORY SURGICAL SERVICES

1. The authority citation for part 416 continues to read as follows:

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

Subpart C—Specific Conditions for Coverage

2. Section 416.42(b) is revised to read as follows:

§ 416.42 Condition for coverage—Surgical services.

* * * * *

(b) *Standard: Administration of anesthesia.* Anesthesia is administered only by a licensed practitioner permitted by the State to administer anesthetics.

* * * * *

B. Part 482 is amended as follows:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

1. The authority citation for part 482 continues to read as follows:

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

Subpart A—General Provisions

§ 482.1 [Redesignated as § 482.5]

2. Section 482.1 is redesignated as § 482.5 in subpart A and is amended by adding a new paragraph (a)(6) to read as follows:

§ 482.5 Basis and scope.

(a) *Statutory Basis.*

* * * * *

(6) Section 1138 of the Act sets forth requirements for hospital protocols for organ procurement and standards for organ procurement agencies' agreements with hospitals for organ procurement.

§ 482.5 [Removed]

* * * * *

3. Section 482.2 is removed.

4. A new § 482.10 is added to subpart A to read as follows:

§ 482.10 Condition of participation: Patient rights.

A hospital must protect and promote each patient's rights.

(a) *Standard: Notice of rights.* A hospital must inform each patient of his or her rights in advance of furnishing patient care. The hospital must have a grievance process and must indicate who the patient can contact to express a grievance.

(b) *Standard: Exercise of rights.*

(1) The patient has the right to be informed of his or her rights and to participate in the development and implementation of his or her plan of care.

(2) The patient has the right to make decisions regarding his or her care.

(3) The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with those directives, in accordance with § 489.100, § 489.102, and § 489.104.

(c) *Standard: Privacy and safety.*

(1) The patient has the right to personal privacy and to receive care in a safe setting.

(2) The patient has the right to be free from verbal or physical abuse or harassment.

(d) *Standard: Confidentiality of patient records.*

(1) The patient has the right to confidentiality of his or her clinical records.

(2) The patient has the right to access information contained in his or her clinical records within a reasonable timeframe.

(e) *Standard: Seclusion and restraint.* The patient has the right to be free from the use of seclusion or restraint, of any form, as a means of coercion, convenience, or retaliation by staff. If seclusion or restraints are used (including psychopharmacological drugs used as restraints), they must be used in accordance with a patient's plan of care. Restraints or seclusion may be used only as a last resort and in the least restrictive manner possible, to protect the patient or others from harm, and must be removed or ended at the earliest possible time.

Subparts B and C [Removed]

5. Subparts B (§§ 482.11 and 482.12), C (§§ 482.21 through 482.43), and D (§§ 482.51 through 482.77) are removed.

6. New subparts B and C are added to read as follows:

Subpart B—Patient Care Activities

Sec.

Subpart C—Organization Environment

§ 482.15 Condition of participation: Patient admission, assessment, and plan of care.

The hospital must conduct a comprehensive assessment of the care needs of each patient, including an initial assessment of posthospital needs, and must establish a coordinated plan for how all relevant hospital disciplines will meet those needs.

(a) *Standard: Admission and comprehensive assessment.*

(1) A patient is admitted to the hospital only on the recommendation of a licensed practitioner permitted by the State to admit patients to a hospital.

(2) The hospital must ensure that each patient receives a comprehensive assessment that identifies the patient's condition and care needs at the time of admission as well as an initial estimate of posthospital needs, if any. The assessment must be completed in a timely manner consistent with the patient's immediate needs and placed in the patient's medical record within 24 hours of admission. If an assessment is recorded before a scheduled admission, the hospital must document any changes in the patient's condition on admission and place the updated assessment in the medical record within 12 hours of admission. The comprehensive assessment must be updated when the patient's needs change.

(b) *Standard: Plan of care.*

(1) Each patient must have an initial written plan of care that meets the needs identified in the comprehensive assessment. The initial plan of care must be placed in the medical record within 24 hours of admission and must include, although not necessarily in one location in the medical record, care to be delivered by all relevant disciplines.

(2) The plan of care must be modified to meet any changes in the patient's condition that affect the patient's needs.

§ 482.20 Condition of participation: Patient care.

The hospital ensures that each Medicare patient is under the care of an appropriately qualified practitioner. The care provided to each patient is coordinated and based on the plan of care.

(a) *Standard: Assignment of responsible practitioner for Medicare patients.*

(1) Every Medicare patient is under the care of:

(i) A doctor of medicine or osteopathy who may delegate tasks to other qualified health care personnel to the extent recognized under State law or a State's regulatory mechanism;

(ii) A doctor of dental surgery or dental medicine who is legally authorized to practice dentistry by the State and who is acting within the scope of his or her license;

(iii) A doctor of podiatric medicine, but only with respect to functions which he or she is legally authorized by the State to perform;

(iv) A doctor of optometry, but only with respect to functions which he or she is legally authorized by the State to perform;

(v) A chiropractor who is licensed by the State or legally authorized to perform the services of a chiropractor, but only with respect to treatment by means of manual manipulation of the spine to correct a subluxation demonstrated by x-ray to exist; or

(vi) In the case of a patient receiving qualified psychologist services as defined in section 1861(ii) of the Act, a clinical psychologist, but only with respect to such qualified psychologist services and only to the extent permitted by State law.

(2) A doctor of medicine or osteopathy is on duty or on call at all times.

(3) A doctor of medicine or osteopathy is responsible for the care of each Medicare patient with respect to any medical or psychiatric problem that is present on admission or develops during hospitalization and is not specifically within the scope of practice of one of the other practitioners listed in paragraph (a)(1) of this section, as that scope is defined by the medical staff, authorized by State law, and limited, under paragraphs (a)(1)(v) and (a)(1)(vi) of this section, with respect to chiropractors and clinical psychologists, respectively.

(b) *Standard: Delivery of patient care.*

(1) For each patient, the hospital provides care and treatment interventions that are coordinated by all relevant disciplines and conform to the plan of care.

(2) The hospital evaluates the patient's progress as appropriate to the patient's condition and adjusts care, as necessary, when progress is not being achieved.

(3) Patient care services are provided in accordance with the order of practitioners who are qualified and have delineated clinical privileges as specified under § 482.125(a).

(4) If the hospital provides care to outpatients, that care meets the same requirements that apply to inpatient care. Inpatient care and outpatient care are coordinated to ensure continuity of care for patients who move between levels of care.

§ 482.25 Condition of participation: Quality assessment and performance improvement.

The hospital must develop, implement, maintain, and evaluate an effective, data-driven, quality assessment and performance improvement program. The program must reflect the complexity of the hospital's organization and services (including those services provided under contract or arrangement). The hospital must implement actions that result in improvements across the full range of the hospital's services to patients.

(a) *Standard: Program scope.*

(1) The hospital's quality assessment and performance improvement program must include, but not be limited to, the use of objective measures to evaluate—

(i) Access to care;

(ii) Patient satisfaction;

(iii) Staff, administrative and practitioner performance;

(iv) Complaints and grievances;
(v) Diagnostic and therapeutic services;
(vi) Medication error incidents, achievement of drug therapy goals and incidents of adverse drug effects;
(vii) Nutritional services, including patient's responses to therapeutic diets and parenteral nutrition, if used;
(viii) Surgery and anesthesia services;
(ix) Emergency services, if provided;
(x) Discharge planning activities;
(xi) Safety issues, including infection control and physical environment; and
(xii) Results of autopsies.

(2) In each of the areas listed in paragraph (a)(1) of this section, and any others the hospital includes, the hospital must measure, analyze, and track quality indicators or other aspects of performance that the hospital adopts or develops that reflect processes of care and hospital operations. These performance measures must be shown to be predictive of desired outcomes or be the outcomes themselves.

(3) The hospital must use hospital-specific data, as well as PRO data and any other available relevant data, as an integral part of its quality assessment and performance improvement strategy.

(4) Although a hospital is not required to participate in a PRO cooperative project, the hospital must be able to demonstrate a level of achievement through its own quality assessment and performance improvement strategy comparable to or better than that to be expected from such participation.

(5) The hospital must set priorities for performance improvement, considering prevalence and severity of identified problems, and giving priority to improvement activities that affect clinical outcomes.

(6) The hospital must take actions that result in performance improvements and must track performance to assure that improvements are sustained.

(b) *Standard: Program responsibilities.*

(1) The hospital governing body (or organized group or individual who assumes full legal authority and responsibility for operations of the hospital), medical staff and administration officials are responsible for ensuring that the hospital-wide quality assessment and performance improvement efforts address identified priorities in the hospital and are responsible for the development, implementation, maintenance and evaluation of improvement actions.

(2) All hospital programs, departments and functions, including contracted services and services provided under arrangement, must be involved in developing, implementing, maintaining, and evaluating the hospital's program of quality assessment and performance improvement.

(c) *Standard: Autopsies.* The hospital must attempt to secure autopsies in all cases of unusual deaths and of medical-legal and educational interest. The mechanism for documenting permission to perform an autopsy must be defined. There must be a system for notifying the medical staff, and specifically the attending practitioner, when an autopsy is being performed.

§ 482.30 Condition of participation: Diagnostic and therapeutic services or rehabilitative services.

(a) The hospital is primarily engaged in providing, by or under the supervision of one of the practitioners described in § 410.20(b) of this chapter, either diagnostic and therapeutic services to inpatients, or rehabilitative services to inpatients.

(b) The hospital must provide diagnostic radiology services, including 24-hour emergency diagnostic radiology services, if the hospital provides full-time emergency services (see § 482.50(a)).

(c) The hospital must provide laboratory services, including 24-hour emergency laboratory services, to meet the needs of patients. The laboratory services must be furnished in accordance with part 493 of this chapter.

(d) If the hospital elects to offer other services in addition to the required services, they must be delivered in accordance with the requirements of this part.

§ 482.35 Condition of participation: Pharmaceutical services.

The hospital provides medication therapy, as needed, through a safe, accurate, effective system that minimizes adverse drug events and evaluates the patient's response to the medication therapy.

(a) *Standard: Adverse drug event monitoring.*

(1) The hospital develops and operates a system (manual or electronic) to search active clinical records for events that are likely to be associated with adverse drug events and refers these events to the hospital's quality assessment and performance program for action.

(2) The hospital must ensure that its overall medication error rate is no higher than 2.0 percent.

(3) The hospital must ensure that its patients experience no significant medication errors. For purposes of this section, medication errors are considered ''significant'' if they actually jeopardize or cause serious potential for jeopardizing the health and safety of the patient.

(b) *Standard: Drug management procedures.*

(1) All drugs and biologicals are stored in secure areas. In addition, all drugs listed in Schedules II, III, IV, and V of the Comprehensive Drug Abuse Prevention and Control Act of 1976 must be stored in locked compartments within secure storage areas. Only authorized personnel may have access to keys.

(2) The hospital keeps current and accurate records of receipt and disposition of all controlled drugs.

(3) Discrepancies in controlled drugs are reported to the individual responsible for pharmaceutical services and to the administrator of the hospital.

(4) A comprehensive drug information resource (computerized or hard copy) is available to professional staff for ordering, dispensing, and administering of medications. This information resource is readily available at common points of drug ordering, dispensing and administration in the facility, and is merged with, or located in close proximity to, individual patient information at those common points.

(5) Before medications are administered, a licensed nurse (that is, a registered nurse, licensed practical nurse, or licensed vocational nurse) or a doctor of medicine or osteopathy must review the individual patient's information, and the orders of the practitioner who prescribed the medication.

(6) Medications brought into the hospital by the patient are administered only after positive identification of the medications, and only on the order of the practitioner responsible for the care of the patient under § 482.15(a)(1), in accordance with hospital policy.

(7) The hospital has policies for discontinuing medications that are not specifically limited as to time and/or number of doses to be administered.

(c) *Standard: Discharge orders for psychopharmacological drugs.* Orders for psychopharmacological drugs are discontinued upon discharge of the patient, unless the patient has a psychiatric diagnosis listed in the Third or Fourth Edition of the American Psychiatric Association's Diagnostic and Statistical Manual (DSM–III or DSM–IV), or in Chapter Five (Mental Disorders) of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) which is available through the Government Printing Office, Washington, DC, stock number 017–022–01392–4 (1977).

§ 482.40 Condition of participation: Nutritional services.

The hospital must provide each patient with adequate nutrition, including therapeutic diets or parenteral nutrition if needed.

(a) *Standard: Sanitary conditions.* The hospital must provide food to the patient that is obtained, stored, prepared, distributed and served under sanitary conditions.

(b) *Standard: Menus.* The hospital must prepare menus prepared in advance and meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

§ 482.45 Condition of participation: Surgical and anesthesia services.

If the hospital provides surgical or anesthesia services, they are provided through the use of qualified staff. The patient receives appropriate pre- and post-procedure evaluations, and all care is accurately documented.

(a) *Standard: Staffing.*

(1) Surgical procedures are performed only by practitioners with appropriate clinical privileges.

(2) Anesthesia is administered only by a licensed practitioner permitted by the State to administer anesthetics.

(b) *Standard: Evaluations.*

(1) A comprehensive assessment of the patient's condition is performed before surgery, except in emergency cases where a modified assessment is acceptable.

(2) A preanesthesia evaluation by an individual qualified to administer anesthesia is performed prior to the administration of anesthesia.

(3) A postanesthesia evaluation for proper anesthesia recovery is performed by an individual qualified to administer anesthesia.

(c) *Standard: Documentation of care.*

(1) The comprehensive or modified presurgical assessment described in paragraph (b)(1) of this section is entered in the patient record before surgery, except in emergency cases, where the assessment may be entered following surgery.

(2) A properly executed informed consent form for the operation is entered in the patient's record by the hospital before surgery, except in emergency cases where the delay needed to obtain consent would place the health or safety of the patient in serious jeopardy.

(3) The hospital maintains a complete, up-to-date operating room register.

(4) The hospital writes or dictates an operative report describing complications, reactions, length of time, techniques, findings, and tissues removed or altered immediately following surgery enters it in the patient's record promptly following surgery.

(5) The hospital maintains an intraoperative anesthesia record enters it in the patient's record promptly following surgery or any other procedures requiring anesthesia.

(6) The hospital writes a report of the results of the postanesthesia evaluation described in paragraph (b)(3) of this section and enters it in the patient's record promptly following completion of the procedure for which anesthesia was required.

§ 482.50 Condition of participation: Emergency services.

The hospital provides, within its capabilities and its stated mission, services appropriate to the needs of persons seeking emergency care. If the hospital provides emergency services on a full-time or part-time basis, it meets the applicable standard in paragraph (a) or paragraph (b) of this section, respectively; if the hospital does not provide any emergency services, it meets the standard in paragraph (c) of this section.

(a) *Standard: Hospitals providing full-time emergency services.* If the hospital provides emergency services on a 24-hour-per-day, 7-day per week basis, the hospital meets the following requirements at all times:

(1) The hospital has sufficient numbers of personnel, including doctors of medicine or osteopathy, other practitioners and registered nurses, to meet patient needs for emergency care.

(2) The services are appropriate to patient needs.

(3) The emergency services provided are integrated with other departments of the hospital.

(b) *Standard: Hospitals providing part-time emergency services.* If the hospital provides emergency services, but not on a 24-hour per day, 7-day per week basis, the hospital meets the following requirements:

(1) The hospital has fewer than 100 beds and is located in a rural area as defined in § 412.62(f)(1)(iii) of this chapter.

(2) The hospital establishes regular hours and days when the emergency services are available, and actually has services available at all of those times.

(3) The hospital notifies local emergency services personnel, law enforcement agencies, physician offices, and other health facilities of when it does and does not offer emergency services, and provides those it has notified with at least 5 calendar days' advance notice of any changes in its emergency services schedule.

(4) The hospital posts its days and hours of operation of emergency services in a conspicuous place where the public most commonly is informed of the hospital's location.

(5) The hospital complies with the requirements of paragraphs (a)(1) through (a)(3) of this section at all times when it does offer emergency services.

(6) The hospital complies with the requirements of paragraph (c) of this section at all times when it does not offer emergency services.

(c) *Standard: Hospitals not providing emergency services.* If the hospital does not provide emergency services, the hospital must provide for appraisal of emergencies, initial treatment, and referral when appropriate.

§ 482.55 Condition of participation: Discharge planning.

The hospital must have in effect a discharge planning process that applies to all patients. This process assures that appropriate posthospital services are obtained for each patient, as necessary.

(a) *Standard: Identification of patients in need of discharge planning.* The hospital must identify, at an early stage of hospitalization, all patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning.

(b) *Standard: Discharge planning evaluation.*

(1) The hospital must provide a discharge planning evaluation to the patients identified in paragraph (a) of this section, and to other patients upon the patient's request, the request of a person acting on the patient's behalf, or the request of the physician.

(2) A registered nurse, social worker, or other appropriately qualified personnel must develop, or supervise the development of the evaluation.

(3) The discharge planning evaluation must include an evaluation of the likelihood of a patient needing posthospital services, including hospice services, and of the availability of those services.

(4) The discharge planning evaluation must include an evaluation of the likelihood of a patient's capacity for self-care or of the possibility of the patient being cared for in the environment from which he or she entered the hospital.

(5) The hospital personnel must complete the evaluation on a timely basis so that appropriate arrangements for posthospital care are made before discharge, and to avoid unnecessary delays in discharge.

(6) The hospital must include the discharge planning evaluation in the patient's medical record for use in establishing an appropriate discharge plan and must discuss the results of the evaluation with the patient or individual acting on his or her behalf.

(7) The evaluation must include a list of HHAs that are available to the patient, that participate in the Medicare program, the geographic area (as defined by the HHA) in which the patient resides, and that request to be listed by the hospital as available to provide home health services to patients the hospital discharges.

(c) *Standard: Discharge plan.* (1) A registered nurse, social worker, or other appropriately qualified personnel must develop, or supervise the development of, a discharge plan if the discharge planning evaluation indicates a need for a discharge plan.

(2) In the absence of a finding by the hospital that a patient needs a discharge plan, the patient's physician may request a discharge plan. In such a case, the hospital must develop a discharge plan for the patient.

(3) The hospital must arrange for the initial implementation of the patient's discharge plan.

(4) The hospital must reassess the patient's discharge plan if there are factors that may affect continuing care needs or the appropriateness of the discharge plan.

(5) As needed, the patient and family members or interested persons must be counseled to prepare them for posthospital care.

(6) The discharge plan must inform the patient or patient's family as to their freedom to choose among participating Medicare providers of care when a variety of willing providers is available and must, when possible, respect patient and family preferences when they are expressed. However, the discharge plan must not specify or otherwise limit qualified providers that are available to the patient.

(7) The discharge plan must identify, in a form and manner specified by the Secretary, any home health agency to whom the patient is referred in which the hospital has a disclosable financial interest, as specified by the Secretary consistent with section 1866(a)(1)(S) of the Act, or those entities that have a financial interest in the hospital.

(d) *Standard: Transfer or referral.* The hospital must transfer or refer patients, along with necessary medical information, to appropriate facilities, agencies, or outpatient services, as needed, for followup or ancillary care.

(e) *Standard: Reassessment.* (1) The hospital must reassess its discharge planning process on an ongoing basis. The reassessment must include a review of discharge plans to ensure that they are responsive to discharge needs.

(2) The hospital's discharge planning process must be an integral part of the hospital's quality assessment and performance improvement program.

Subpart C—Organizational Environment

§ 482.110 Condition of participation: Administration of organizational environment.

A governing body, other organized group, or an individual has full legal authority and responsibility for the management and provision of all hospital services, and develops and implements policies and procedures necessary for the effective administration of the hospital. This includes care furnished under contracts or arrangements, fiscal operations, continuous quality assessment and performance improvement, and appointing a qualified administrator who is responsible for the day-to-day operations of the program.

(a) *Standard: Federal, State and local laws.* The hospital is in compliance with applicable Federal, State and local laws related to the health and safety of patients and licensure of hospitals.

(b) *Standard: Administrative responsibilities.* (1) The governing body, other organized group, or responsible individual is responsible for all services furnished to the hospital's patients, including outpatient services and those provided under contract or arrangements (including those for shared services and joint ventures), and ensures that the hospital is in compliance with all applicable conditions of participation and standards.

(2) The governing body, other organized group, or responsible individual must notify HCFA or the State survey agency when the hospital—

(i) Adds a new service category to the list of services it offers; or

(ii) Adds a new service site.

(3) The governing body, other organized group, or individual that assumes full legal authority and responsibility for the operation of the hospital is responsible for development, implementation, and administration of the institutional plan and budget. The institutional plan and budget must include, but are not limited to:

(i) An annual operating budget that includes all anticipated income and expenses related to items that would, under generally accepted accounting principles, be considered income and expense items. (This paragraph does not require the preparation, in connection with any budget, of an item-by-item identification of the components of each type of anticipated expenditure or income.)

(ii) A capital expenditures plan for at least a 3-year period (including the year to which the operating budget described is applicable) that includes and identifies in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $600,000 (or such lesser amount as may be established by the State in which the hospital is located, in accordance with section 1122(g)(1) of the Act) related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment that would, under generally accepted accounting principles, be considered capital items.

(iii) A plan submitted to the agency designated under section 1122(b) of the Act, or if no such agency is designated, to the appropriate health planning agency in the State (but this shall not apply in the case of a facility exempt from review under section 1122 by reason of section 1122(j)).

(iv) Review and updating at least annually.

(v) Preparation, under the direction of the governing body, other organized group, or responsible individual, by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff of the institution or agency.

(4) The governing body, other organized group, or individual that assumes full legal authority and responsibility for the operation of the hospital appoints the medical staff's members and approves its bylaws.

(c) *Standard: Organ procurement responsibilities.* (1) The governing body, other organized group, or responsible individual must ensure that the hospital has written protocols that—

(i) Identify potential organ donors as defined by the OPO with which the hospital has an agreement;

(ii) Assure, in collaboration with the OPO with which the hospital has an agreement, that the family of each potential organ donor knows of its option either to donate organs or tissues or to decline to donate;

(iii) Encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the families of potential donors; and

(iv) Ensure that the hospital works cooperatively with the OPO with which the hospital has an agreement, in

educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs take place;

(2) The hospital must notify the OPO designated by the Secretary under § 486.316(c) of this chapter of all potential organ donors using protocols defined by the OPO.

(3) A hospital in which organ transplants are performed must be a member of the Organ Procurement and Transplantation Network (OPTN) established and operated in accordance with section 372 of the Public Health Service (PHS) Act (42 U.S.C. 274) and abide by its rules. The term ''rules of the OPTN'' means those rules provided for in regulations issued by the Secretary in accordance with section 372 of the PHS Act. No hospital is considered to be out of compliance with section 1138(a)(1)(B) of the Act, or with the requirements of this paragraph, unless the Secretary has given the OPTN formal notice that he or she approves the decision to exclude the hospital from the OPTN and has notified the hospital in writing.

(4) For purposes of this standard, the term ''organ'' means a human kidney, liver, heart, lung, or pancreas.

§ 482.115 Condition of participation: Infection control.

The hospital maintains an effective infection control program that protects patients and hospital staff by preventing and controlling infections and communicable disease.

(a) *Standard: Sanitary environment.* The hospital must provide a sanitary environment by following acceptable standards of practice to avoid sources and transmission of infections and communicable diseases.

(b) *Standard: Infection control program.* The hospital must maintain an active program for the prevention, control, and investigation of infections and communicable diseases that—

(1) Is under the direction of a designated infection control officer;

(2) Is an integral part of the hospital's quality assessment and performance improvement program; and

(3) Includes a method of identifying problems and taking appropriate actions that result in improvement.

§ 482.120 Condition of participation: Information management.

The hospital maintains information systems to record, communicate, and measure hospital performance. The information systems may include manual systems, automated systems, or both, depending on the complexity of the hospital, to record and maintain the clinical and operations data necessary for patient care.

(a) *Standard: Health information system.* (1) The hospital maintains clinical records on all patients.

(2) The patient record must document the patient stay (whether inpatient or outpatient). This includes recording, to the extent they are performed or used, the diagnosis, comprehensive assessment and plan of care, evaluations, consent forms, notes on treatments, nursing, medications, reactions, a summary report with provisions for followup care, and any other relevant reports.

(3) The interdisciplinary plan of care is a part of the patient record, and any revisions to the plan of care are accurately documented by the hospital.

(4) The patient record must note, within 30 days of discharge, the final diagnosis and clinical outcomes of the patient stay.

(5) All patient record entries, including those made as a result of verbal orders, must be legible, dated, and authenticated in written or electronic form by whomever is responsible for ordering or providing the service.

(6) Patient records must be retained in a reproducible format for at least 5 years.

(7) The hospital must retain original films, scans, and other image records (or copies), as appropriate, for at least 5 years.

(8) If a hospital performs any type of transplants, it must provide requested transplant-related data to the Organ Procurement and Transplantation Network, the Scientific Registry, the organ procurement organizations, and the Department of Health and Human Services as requested by the Secretary.

(b) *Standard: Management of the information systems.*

(1) The information systems must be maintained to provide for the timely recording, integration, and retrieval of data as well as the transmission of data to authorized parties.

(2) The information systems must contain system standards and procedures to ensure the integrity, efficiency, confidentiality, and security of data.

(3) Medical information about the patient (inpatient or outpatient) must be available to all authorized professional personnel providing medical care to the patient.

§ 482.125 Condition of participation: Human resources.

All hospital areas are staffed with qualified personnel, who are present in sufficient numbers to meet the needs of the hospital's patients.

(a) *Standard: Credentials/qualifications.* (1) The hospital ensures that individuals who supervise and/or furnish services to hospital patients, including services furnished under contracts or arrangements, are qualified to provide or supervise the services, and that types of practitioners allowed to practice without direct supervision have delineated clinical privileges for these services.

(2) The hospital grants clinical privileges, and periodically reappraises and renews (or denies renewal of) those privileges. If State law requires that an employee, contractor, or a practitioner with practice privileges be licensed, the hospital verifies (and periodically reverifies) compliance with applicable licensure requirements, and documents that verification.

(3) The medical staff operates under bylaws that are approved by the governing body, establishes the criteria for selection of its members, examines the credentials of candidates and recommends eligible candidates to the governing body.

(b) *Standard: Staffing.* (1) Staffing for all services provided by the hospital reflects the volume of patients, patient acuity, and the level of intensity of the services provided to ensure that desired outcomes of care are achieved and negative outcomes are avoided.

(2) In implementing the requirements of paragraph (b) (1) of this section, the hospital must develop and use consistently an explicit process to determine on an ongoing basis the needed level of nursing staff (including registered nurses, licensed practical nurses, and nursing assistants). This methodology and evidence of its use in meeting the nursing staffing needs of the patients must be available for public inspection.

(3) The hospital must provide 24-hour nursing services furnished or supervised by a registered nurse, and have a licensed practical nurse or registered nurse on duty at all times, except for rural hospitals that have in effect a waiver of the 24-hour nursing service requirement granted under § 488.54(c) of this chapter.

(4) A registered nurse must be immediately available for bedside care of any patient, when needed.

(5) A registered nurse must be responsible for the provision and evaluation of nursing care for each patient and must assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the specialized

qualifications and competence of the nursing staff available.

(6) The hospital must ensure that all licensed nurses working in the hospital adhere to the policies and procedures of the hospital. The hospital must provide for the adequate supervision and evaluation of the clinical activities of nonemployee nursing personnel.

(c) *Standard: Education, training, and performance evaluation.* (1) The hospital must ensure that all personnel furnishing health care services in the hospital are provided with the necessary education and training on the nature of their duties so that they can furnish services effectively, efficiently, and competently. This education and training includes, but is not limited to, the individual job description, performance expectations, applicable organizational policies and procedures, safety responsibilities, infection control program, and quality assessment and performance improvement activities within the hospital.

(2) All personnel furnishing health care services in the hospital must demonstrate in practice the skills and techniques necessary to perform their duties and responsibilities.

§ 482.130 Condition of participation: Physical environment.

The hospital must maintain a safe physical environment free of hazards for patients.

(a) *Standard: Safety management.* (1) The hospital must prevent situations that pose a threat to health or property whenever possible; when they do occur, the hospital must report and correct them promptly.

(2) The hospital must prevent equipment failures whenever possible; when they do occur, the hospital must report and correct them promptly.

(3) The hospital must promptly report and investigate all incidents that involve injury to patients or that involve damage to property.

(4) The hospital must have an emergency preparedness system for managing the consequences of power failures, natural disasters or other emergencies that disrupt the hospital's ability to provide care.

(b) *Standard: Physical plant and equipment.* (1) There must be procedures for the proper routine storage and prompt disposal of trash and medical waste.

(2) There must be proper light, temperature, and ventilation controls throughout the hospital including appropriate air exchanges for patient care.

(3) There must be emergency power and lighting for life-support equipment, regardless of location, and for emergency exit areas and stairwells. The hospital must make available in all other areas not served by the emergency supply source, battery lamps and flashlights. The hospital must make available facilities for emergency gas and water supply.

(4) All equipment used to furnish patient care services must be properly maintained.

§ 482.135 Condition of participation: Life safety from fire.

Except as provided in paragraphs (a) and (b) of this section, the hospital must meet the applicable provisions of the 1994 edition of the Life Safety Code of the National Fire Protection Association (LSC), which is incorporated by reference. Incorporation by reference of the LSC, 1994 edition, was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.[1]

(a) *Waivers.* After consideration of State survey agency findings, HCFA may waive specific provisions of the Life Safety Code that, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of patients.

(b) *Exception.* The provisions of the Life Safety Code do not apply in a State where HCFA finds that a fire and safety code imposed by State law adequately protects patients in hospitals.

§ 482.140 Condition of participation: Blood and blood product transfusions.

The hospital must administer blood and blood product transfusions according to approved medical staff and nursing policies and procedures, and ensure the safety of individuals being transfused within the facility.

(a) *Standard: Transfusion reactions.* The hospital must have procedures for identifying, averting, responding promptly to, investigating, tracking, and reporting blood and blood product transfusion reactions to the laboratory and, as appropriate, to Federal and State authorities.

(b) *Standard: Safety and accessibility.* The hospital must take appropriate measures to ensure the positive identification of the blood or blood product and the recipient. Blood and blood product must be stored at the appropriate conditions, including temperature, to prevent deterioration. Blood and blood products must be readily accessible to the appropriate medical and nursing staff.

§ 482.145 Condition of participation: Potentially infectious blood and blood products.

(a) *Potentially HIV infectious blood and blood products.* Potentially HIV infectious blood and blood products are prior collections from a donor who tested negative at the time of donation but tests repeatedly reactive for the antibody to the human immunodeficiency virus (HIV) on a later donation, and the FDA-licensed, more specific test or other follow-up testing recommended or required by FDA is positive and the timing of seroconversion cannot be precisely estimated.

(b) *Services furnished by an outside blood bank.* If a hospital regularly uses the services of an outside blood bank, it must have an agreement with the blood bank that governs the procurement, transfer, and availability of blood and blood products. The agreement must require that the blood bank promptly notify the hospital of the following:

(1) If it supplied blood and blood products collected from a donor who tested negative at the time of donation but tests repeatedly reactive for the antibody to HIV on a later donation.

(2) The results of the FDA-licensed, more specific test or other follow-up testing recommended or required by FDA completed within 30 calendar days after the donor's repeatedly reactive screening test. (FDA regulations concerning HIV testing and lookback procedures are set forth at 21 CFR 610.45—et seq.)

(c) *Quarantine of blood and blood products pending completion of testing.* If the blood bank notifies the hospital of the repeatedly reactive HIV screening test results as required by paragraph (b)(1) of this section, the hospital must determine the disposition of the blood or blood product and quarantine all blood and blood products from previous donations in inventory.

(1) If the blood bank notifies the hospital that the result of the FDA-licensed, more specific test or other followup testing recommended or required by FDA is negative, absent other informative test results, the hospital may release the blood and blood products from quarantine.

(2) If the blood bank notifies the hospital that the result of the FDA-licensed, more specific test or other followup testing recommended or required by FDA is positive, the hospital

[1] When this proposed rule is adopted, the 1994 edition of the Life Safety Code will be available for inspection at the HCFA Information Resource Center, 7500 Security Boulevard, Central Building, Baltimore, MD, and at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC. Copies of this publication may be purchased from the National Fire Protection Association, Battermarch Park, Quincy, MA 02269.

must dispose of the blood and blood products in accordance with 21 CFR 606.40 and notify patients in accordance with paragraph (d) of this section.

(d) *Patient notification.* If the hospital has administered potentially HIV infectious blood or blood products (either directly through its own blood bank or under an agreement described in paragraph (b) of this section) or released such blood or blood products to another entity or appropriate individual, the hospital must take the following actions:

(1) Promptly make at least three attempts to notify the patient's attending physician (that is, the physician of record) or the physician who ordered the blood or blood product that potentially HIV infectious blood or blood products were transfused to the patient.

(2) Ask the physician to immediately notify the patient, or other individual as permitted under paragraph (h) of this section, of the need for HIV testing and counseling.

(3) If the physician is unavailable, declines to make the notification, or later informs the hospital that he or she was unable to notify the patient, promptly make at least three attempts to notify the patient, or other individual as permitted under paragraph (h) of this section, of the need for HIV testing and counseling.

(4) Document in the patient's medical record the notification or attempts to give the required notification.

(e) *Timeframe for notification.* The notification effort begins when the blood bank notifies the hospital that it received potentially HIV infectious blood and blood products and continues for 8 weeks unless—

(1) The patient is located and notified; or

(2) The hospital is unable to locate the patient and documents in the patient's medical record the extenuating circumstances beyond the hospital's control that caused the notification time frame to exceed 8 weeks.

(f) *Content of notification.* The notification given under paragraphs (d) of this section must include the following information:

(1) A basic explanation of the need for HIV testing and counseling.

(2) Enough oral or written information so that the transfused patient can make an informed decision about whether to obtain HIV testing and counseling.

(3) A list of programs or places where the patient can obtain HIV testing and counseling, including any requirements or restrictions the program may impose.

(g) *Policies and procedures.* The hospital must establish policies and procedures for notification and documentation that conform to Federal, State, and local laws, including requirements for confidentiality and medical records.

(h) *Notification to legal representative or relative.* If the patient has been adjudged incompetent by a State court, the physician or hospital must notify a legal representative designated in accordance with State law. If the patient is competent, but State law permits a legal representative or relative to receive the information on the patient's behalf, the physician or hospital must notify the patient or his or her legal representative or relative. If the patient is deceased, the physician or hospital must continue the notification process and inform the deceased patient's legal representative or relative.

§ 482.150 Condition of participation: Utilization review.

The hospital must have a utilization review (UR) plan that provides for review of services furnished by the institution and by members of the medical staff to patients entitled to benefits under the Medicare and Medicaid programs.

(a) *Standard: Applicability.* The provisions of this section apply except in either of the following circumstances—

(1) A Utilization and Quality Control Peer Review Organization (PRO) has assumed binding review for the hospitals.

(2) HCFA has determined that the UR procedures established by the State under title XIX of the Act are superior to the procedures required in this section, and has required hospitals in that State to meet the UR plan requirements under §§ 456.50 through 456.245 of this chapter.

(b) *Standard: Composition of utilization review committee.* A UR committee consisting of two or more practitioners must carry out the UR function. At least two members of the committee must be doctors of medicine or osteopathy. The other members may be any of the other types of practitioners specified in § 482.20(a).

(1) Except as specified in paragraphs (b)(2) and (3) of this section, the UR committee must be one of the following—

(i) A staff committee of the institution.

(ii) A group outside the institution that is established—

(A) By the local medical society and some or all of the hospitals in the locality; or

(B) In a manner approved by HCFA.

(2) If, because of the small size of the institution, it is impracticable to have a properly functioning staff committee, the UR committee must be established as specified in paragraph (b)(1)(ii) of this section.

(3) The committee's or group's reviews may not be conducted by any individual who—

(i) Has a direct financial interest (for example, an ownership interest) in that hospital; or

(ii) Has been professionally involved in the care of the patient whose case is being reviewed.

(c) *Standard: Scope and frequency of review.*

(1) The UR plan must provide for review for Medicare and Medicaid patients with respect to the medical necessity of each of the following—

(i) Admissions to the institution.

(ii) The duration of stays.

(iii) Professional services furnished, including drugs and biologicals.

(2) Review of admissions may be performed before, at, or after hospital admission.

(3) Except as specified in paragraph (e) of this section, reviews may be conducted on a sample basis.

(4) Hospitals that are paid for inpatient hospital services under the prospective payment system set forth in part 412 of this chapter must conduct review of duration of stays and review of professional services as follows:

(i) For duration of stays, these hospitals need review only cases that they reasonably assume to be outlier cases based on extended length of stay, as described in § 412.80(a)(1)(i) of this chapter; and

(ii) For professional services, these hospitals need review only cases that they reasonably assume to be outlier cases based on extraordinarily high costs, as described in § 412.80(a)(1)(ii) of this chapter.

(d) *Standard: Determination regarding admissions or continued stays.*

(1) The determination that an admission or continued stay is not medically necessary—

(i) May be made by one member of the UR committee if the practitioner or practitioners responsible for the care of the patient, as specified in § 482.20(a), concur with the determination or fail to present their views when afforded the opportunity; and

(ii) Must be made by at least two members of the UR committee in all other cases.

(2) Before making a determination that an admission or continued stay is not medically necessary, the UR committee must consult the practitioner or practitioners responsible for the care of the patient, as specified in § 482.20(a), and afford the practitioner

or practitioners the opportunity to present their views.

(3) If the committee decides that admission to or continued stay in the hospital is not medically necessary, written notification must be given, not later than 2 days after the determination, to the hospital, the patient, and the practitioner or practitioners responsible for the care of the patient, as specified in § 482.20(a).

(e) *Standard: Extended stay review.* (1) In hospitals that are not paid under the prospective payment system, the UR committee must make a periodic review, as specified in the UR plan, of each current inpatient receiving hospital services during a continuous period of extended duration. The scheduling of the periodic reviews may—

(i) Be the same for all cases; or

(ii) Differ for different classes of cases.

(2) In hospitals paid under the prospective payment system, the UR committee must review all cases reasonably assumed by the hospital to be outlier cases because the extended length of stay exceeds the threshold criteria for the diagnosis, as described in § 412.80(a)(1)(i). The hospital is not required to review an extended stay that does not exceed the outlier threshold for the diagnosis.

(3) The UR committee must make the periodic review no later than 7 days after the day required in the UR plan.

(f) *Standard: Review of professional services.* The committee must review professional services provided, to determine medical necessity and to promote the most efficient use of available health facilities and services.

Subpart E—[Redesignated as Subpart D]

Subpart E—Requirements for Specialty Hospitals is redesignated as Subpart D. Sections 482.60, 482.61, 482.62,and 482.66 are redesignated as §§ 482.155, 482.160, 482.165, and 482.170, respectively.

C. Part 485 is amended as follows:

PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

1. The authority citation for part 485 continues to read as follows:

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

Subpart F—Conditions of Participation: Critical Access Hospitals (CAHs)

2. Section 485.639(c) is revised to read as follows:

§ 485.639 Condition of participation: Surgical services.

* * * * *

(c) *Administration of Anesthesia.* The CAH designates the person who is allowed to administer anesthesia to CAH patients in accordance with its approved policies and procedures and with State scope of practice laws. Anesthesia is administered only by a licensed practitioner permitted by the State to administer anesthetics.

* * * * *

D. Part 489 is amended as follows:

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

1. The authority citation for part 489 continues to read as follows:

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

2. Section 489.53 is amended by republishing paragraph (a) introductory text, redesignating paragraphs (a)(6) through (a)(14) as paragraphs (a)(7) through (a)(15), respectively, and adding a new paragraph (a)(6), to read as follows:

§ 489.53 Termination by HCFA.

(a) *Basis for termination of agreement with any provider.* HCFA may terminate the agreement with any provider if HCFA finds that any of the following failings is attributable to that provider:

* * * * *

(6) It refuses to allow access to its facilities, or examination of its operations or records, by or on behalf of HCFA, as necessary to verify that it is complying with the provisions of title XVIII and the applicable regulations of this chapter, or with the provisions of this agreement. (However, this paragraph is not to be construed to require the disclosure of the records of a skilled nursing facility quality assessment and assurance committee, if such disclosure would be inconsistent with § 483.75(o) of this chapter.)

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare Hospital Insurance; Program No. 93.778, Medical Assistance Program)

Dated: November 26, 1997.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: December 10, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–32793 Filed 12–15–97; 8:45 am]

BILLING CODE 4120–01–P

Friday
December 19, 1997

Part III

Library of Congress

Copyright Office

Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; List Identifying Copyrights Restored Under the Uruguay Round Agreements Act for Which Notices of Intent To Enforce Restored Copyrights Were Filed in the Copyright Office; Notice

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 97–3B]

Copyright Restoration of Works In Accordance With the Uruguay Round Agreements Act; List Identifying Copyrights Restored Under the Uruguay Round Agreements Act for Which Notices of Intent To Enforce Restored Copyrights Were Filed in the Copyright Office

AGENCY: Copyright Office, Library of Congress.

ACTION: Publication of Sixth List of Notices of Intent to Enforce Copyrights Restored Under the Uruguay Round Agreements Act.

SUMMARY: The Copyright Office is publishing its sixth list of restored copyrights for which it has received and processed Notices of Intent to Enforce a copyright restored under the Uruguay Round Agreements Act. Publication of the lists creates a record for the public to identify restored copyright owners and works for which Notices of Intent to Enforce have been filed with the Copyright Office. Copyright owners from countries eligible to file on January 1, 1996, must file Notices of Intent to Enforce copyright in their restored works in the Copyright Office by no later than December 31, 1997.

EFFECTIVE DATE: December 19, 1997.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, Post Office Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

The Uruguay Round Agreements Act (URAA) (Pub.L.No. 103–465; 108 Stat. 4809 (1994)) provides for the restoration of copyright in certain works that were in the public domain in the United States. Under section 104A of title 17 [1] of the United States Code as provided by the URAA, copyright protection was restored on January 1, 1996, in certain works by foreign nationals or domiciliaries of World Trade Organization (WTO) or Berne countries that were not protected in the United States for the reasons listed below. 17 U.S.C. 104A (1994). Specifically, to qualify for restoration, a work must be an original work of authorship that:

(1) is not in the public domain in its source country through expiration of term of protection;

(2) is in the public domain in the United States due to:

(i) noncompliance with formalities imposed at any time by United States copyright law, including failure to renew, publishing the work without a proper notice, or failure to comply with any manufacturing requirements;

(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

(iii) lack of national eligibility (e.g., the work is from a country with which the United States did not have copyright relations at the time of the work's publication); and

(3) has at least one author (or in the case of sound recordings, rightholder) who was, at the time the work was created, a national or domiciliary of an eligible country. If the work was published, it must have been first published in an eligible country and not published in the United States within 30-days of first publication. See 17 U.S.C. 104A(h)(6).

A work meeting these requirements is protected ''for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.'' 17 U.S.C. 104A(a)(1)(B).

Under the URAA, copyright in restored works vests automatically on the date of restoration. 17 U.S.C. 104A(a)(1)(A). That date is January 1, 1996, if the particular nation was already a member of the World Trade Organization (WTO) or the Berne Convention. Otherwise, the effective date of restoration is the date of a particular nation's adherence to the WTO or the Berne Convention or the date when the President issues a proclamation extending copyright restoration to that nation.

Although the copyright owner may immediately enforce the restored copyright against individuals who infringe his or her rights on or after the effective date of restoration, the copyright owner's right to enforce the restored copyright is delayed against reliance parties. Typically, a reliance party is one who was already using the work before December 8, 1994, the date the URAA was enacted. See 17 U.S.C. 104A(h)(4). Before a copyright owner can enforce a restored copyright against a reliance party, the copyright owner must first file or serve a Notice of Intent to Enforce (NIE) on such parties.

A copyright owner may file an NIE in the Copyright Office within 24 months of the date of restoration of copyright. Alternatively, an owner may serve an NIE on an individual reliance party at any time during the term of copyright; however, such notices are effective only against the party served and those who have actual knowledge of the notice and its contents. NIEs appropriately filed with the Copyright Office and published herein serve as constructive notice to all reliance parties.

II. Administrative Processing

Pursuant to the URAA, the Office is publishing its sixth four month list identifying restored works and the ownership for Notices of Intent to Enforce a restored copyright filed with the Office. 17 U.S.C. 104A(e)(1)(B). The earlier lists were published between May 1, 1996, and August 22, 1997. 61 FR 19372 (May 1, 1996), 61 FR 46134 (Aug. 30, 1996), 61 FR 68454 (Dec. 27, 1996), 62 FR 20211 (April 25, 1997) and 62 FR 44842 (August 22, 1997). To allow for processing NIE information, the Office closes the record for publication approximately two weeks before publication. Accordingly, the NIEs listed herein are those entered into the public records of the Office between August 8, 1997, and December 5, 1997. NIEs received after the current Office processing cutoff date, but on or before the cutoff date of December 31, 1997, will be published on January 30, 1998.[2]

NIEs for works restored to copyright on January 1, 1996, must be postmarked on or before December 31, 1997, to be accepted in the Copyright Office for publication in the **Federal Register**. See 17 U.S.C. 104A(d)(2). Owners of works that are still within their eligible filing period may continue to file such notice with the Copyright Office and receive constructive notice, and the Office will continue to publish a list of eligible NIEs in the **Federal Register**.

III. Correction of Previously Filed NIEs

Correction NIEs for major errors on any NIE filed must be submitted within the eligibility period. 37 CFR 201.34(d)(6)(i). Minor errors may be corrected at any time without regard to eligibility for filing, pursuant to the interim regulation on Correction NIEs, published at 62 FR 55736 (October 28, 1997).

[1] The URAA's amendment of 17 U.S.C. 104A replaces section 104A under the North American Free Trade Agreement Implementation Act (Pub.L.No. 103–182, 107 Stat. 2057, 2115 (1993)). The Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, H.R. Doc. No. 316, 103d Cong., 2d Sess. 324 (1994). See 60 FR 50414 (Sept. 29, 1995).

[2] NIE's received in the Copyright Office after January 26, 1998, that were postmarked no later than December 31, 1997, will be published in the appropriate four month list.

IV. Online Availability of NIE Lists

NIEs are located in what is known as the Copyright Office History Documents (COHD) file which is available from computer terminals located in the Copyright Office itself or from terminals located in other parts of the Library of Congress NIE information through the Library of Congress Information System (LOCIS). The hours of availability are Monday through Friday 8:30 a.m.–5:00 p.m. U.S. Eastern Time (Copyright Office) or over the Internet Monday–Friday 6:30 a.m.–9:30 p.m. U.S. Eastern Time, Saturday 8:00 a.m.–5:00 p.m., and Sunday 1:00 p.m.–5:00 p.m. Alternative ways to connect through Internet are: (i) use the Copyright Office Home Page on the World Wide Web at: http://www.loc.gov/copyright; (ii) connect directly to LOCIS through the telnet address at locis.loc.gov or (iii) use the Library of Congress gopher LC MARVEL at: marvel.loc.gov port 70. LC MARVEL and WWW are available 24 hours a day. LOCIS is available 24 hours a day Monday through Friday, Eastern Time; Saturday, until 5 p.m.; and Sunday after 11 a.m.[3]

Information available online includes: the title or brief description if untitled; an English translation of the title; the alternative titles if any; the name of the copyright owner or owner of one or more exclusive rights, the date of receipt of the NIE in the Copyright Office; the date of publication in the **Federal Register**; and the address, telephone and telefax number of the copyright owner. If given on the NIE, the online information will also include the author, the type of work, and the rights covered by the notice. See 37 CFR 201.33(f). For the purpose of researching the full Office record of NIEs on the Internet, the Office has made online searching instructions accessible through the Copyright Office Home Page. Researchers can access them through the Library of Congress Home Page on the World Wide Web by selecting the copyright link. Select the menu item ''Copyright Office Records'' and/or ''URAA, GATT Amends U.S. law.'' Finally, images of the complete NIEs as filed are on optical disc and available from the Copyright Office.

The following restored works are listed alphabetically by copyright owner; multiple works owned by a particular copyright owner are listed alphabetically by title. Works having more than one copyright proprietor are listed under the first owner and cross-referenced to the succeeding owner(s). A cross-reference to the composite owner (e.g., Title I owned by ''A B & C'') will state, ''SEE A B & C'' at the listing for each individual owner, (e.g., for Owner A, for Owner B and for Owner C).

[3] Not all files are available after 9:30 p.m. on weekdays. On Sundays, all files may not be available from 5 p.m.–8 p.m.

V. Sixth List of Notices of Intent To Enforce

Alameda Films, SA.
- Los amores de una viuda.
- El ataud del vampiro.
- El aviador fenomeno.
- Una bala es mi testigo.
- El Baron del Terror.
- La cabeza viviente.
- Cadena de mentiras.
- Casi casados.
- El caso de la mujer asesinadita.
- Chabelo y Pepito detectives.
- Chabelo y Pepito vs. los monstruos.
- Las cinco advertencias de satanas.
- Cinco asesinos esperan.
- Cinco mil dolares de recompensa.
- Comicos y canciones.
- Corona de lagrimas.
- El crepusculo de un Dios.
- Cuando acaba la noche.
- Cuando regrese mama.
- Cucurrucucu Paloma.
- Del suelo no paso.
- El diablo no es tan diablo.
- Los diablos del terror.
- Un dorado de Pancho Villa.
- La edad de la tentacion.
- El espejo de la bruja.
- La flecha envenenada.
- Futbol Mexico 70.
- Una Gringuita en Mexico.
- El grito de la muerte.
- Los hermanos Diablo.
- El hombre de la ametralladora.
- El hombre y el monstruo.
- Hora y media de balazos.
- El indomable.
- Jovenes y Bellas.
- Juego peligroso.
- La maldicion de la llorona.
- Manana seran hombres.
- Manos arriba.
- La marca del muerto.
- El Mariachi canta.
- Me ha besado un hombre.
- Mi desconocida esposa.
- Mi esposa y la otra.
- Mi vida es una cancion.
- Misterios de ultratumba.
- La muerte es puntual.
- El mundo de los vampiros.
- Nadie muere dos veces.
- Negra consentida.
- El pantano de las animas.
- El pecado de Laura.
- Pension de artistas.
- Pepito y la lampara maravillosa.
- Pistoleros del oeste.
- Policias y ladrones.
- El potro salvaje.
- Principio y fin.
- Punos de roca.
- Raffles Mexicano.
- Los recuerdos del porvenir.
- El renegado blanco.
- Rio hondo.
- El robo al tren correo.
- Rosario.
- Serenata en Mexico.
- Los sheriffs de la frontera.
- Soy un golfo.
- Te vi en television.
- Tiempo de morir.
- Los tres amores de Lola.
- Tres hermanos.
- Triangulo.
- Twist locura de juventud.
- Vacaciones en Acapulco.
- El vampiro.
- Venganza apache.
- Las visitaciones del diablo.
- Una viuda sin sosten.
- Yo quiero ser mala.
- Yo quiero ser torero.
- El Zorro vengador.

Argos Films S.A.R.L.
- Hiroshima, mon amour.

Ariane. SEE Cogelda & Ariane.

Ariane. SEE Cogelda, Ariane & Pretoria.

Authors Rights Restoration Corporation, Inc.
- 24 horas de placer.
- 800 leguas por el Amazonas.
- 96 horas de amor (en la vida de Guty Cardenas).
- A calzon quitado.
- A donde van nuestros hijos?
- A gozar, a gozar que el mundo se va a acabar.
- A la orilla de un palmar.
- A la prima se le arrima.
- A lo macho.
- A media luz los tres.
- A paso de cojo.
- A que le tiras cuando suenas, Mexicano.
- A ritmo de salsa.
- A ritmo de twist.
- A sablazo limpio.
- A tiro limpio.
- A volar, joven.
- Abajo el telon.
- Las abandonadas.
- El abanico de Lady Windermere.
- Abismos de pasion.
- Abnegacion.
- Los aboneros del amor.
- Abrigo de mink.
- La abuelita.
- Aca las tortas.
- Acapulco a go go.
- Acapulco gigolo.
- Acapulco.
- Acapulquena.
- Accion sobre ruedas.
- Acorralado.
- Acorralados.
- Acuerdate de vivir.
- Adan y Eva.
- Adan, Eva y el Diablo.

Adios, cunado.
Adios, juventud.
Adios, mi chaparrita.
Adios, Nicanor.
Adorables criminales.
Adriana Del Rio, actriz.
El aduanal.
La adultera.
Agapito no me las des.
Agarrando parejo.
El agente 00-sexy.
Agente viajero.
Agente secretisimo.
La agonia de ser madre.
La agonia de ser madre.
Aguila descalza.
El aguila descalza.
El aguila negra.
El aguila negra en la ley de los fuertes.
Aguila negra vs. enmascarados de la muerte.
El aguila negra vs. los diablos de la pradera.
El aguila real.
Aguilas de America.
Ahi esta el detalle.
Ahi viene Martin Corona.
Ahi viene Vidal Tenorio.
Ahi vienen los Argumedo.
Ahi vienen los gorrones.
El ahijado de la muerte.
Ahora es cuando chile verde.
Ahora mis pistolas hablan.
Ahora soy rico.
El ahorcado.
Al cabo que ni queria.
Al compas del rock'n roll.
Al diablo con la musica.
Al diablo las mujeres.
Al fin a solas.
Al fin solos.
Al margen de la ley.
Al rojo vivo.
Al son de la metralleta.
Al son del mambo (El rey del mambo).
Aladino y la lampara maravillosa.
Alarma.
Alas doradas.
El alazan y el rosillo.
Alazan y enamorado.
Los albaniles.
Albur de amor.
Los albureros.
Albures rancheros.
La alegre casada.
Los alegres aguilares.
La alegria de vivir.
Alejandra.
Algo flota sobre el agua.
Alguien tiene que morir.
Alias el rata.
Alicia en ldel el pais del dolar.
Alla en el Bajio.
Alla en el rancho grande (36).
Alla en el rancho grande (48).
Alla en el tropico.
Alla en la Plaza Garibaldi.
Alla en la Plaza Garibaldi II.
Alma de acero.
Alma grande en el desierto.
Alma grande, el Yaqui justiciero.
Alma Jarocha.
Alma llanera.
Alma Nortena.
Amanda, levantate y anda.
Amaneci en tus brazos.
Un amante anda suelto.
La amante perfecta.
Los amantes.
Los amantes frios.
Amar fue su pecado.
La amargura de mi raza.
Ambicion mortal.
Ambicion sangrienta.
Ambicion sangrienta (67).
Ambiciosa.
Amigo.
Los amigos.
Las amiguitas de los ricos.
Amok.
Amor a balazo limpio.
Amor a la mexicana.
Amor a ritmo de go-go.
Amor con amor se paga.
Amor de adolescente.
Amor de la calle.
Amor de lejos.
Amor de locura.
El amor de los amores.
El amor de Maria Isabel.
El amor de mi vida.
Amor de mis amores.
Amor del bueno.
Amor en cuatro tiempos.
Amor en la sombra.
Amor en las nubes.
Un amor extrano.
El amor las vuelve locas.
El amor llego a Jalisco.
El amor loco.
El amor no es negocio.
El amor no es pecado.
Amor prohibdo.
El amor tiene cara de mujer.
Amor vendido.
El amor y esas cosas.
Amor y pecado.
Amor y sexo.
Amorcito corazon.
Amor entre nubes.
Amores de ayer.
Los amores de Chucho El Roto.
Los amores de Juan Charrasqueado.
Los amores de Marieta.
Amores de Satanas.
Los amores de una viuda.
Anacleto se divorcia.
El analfabeto.
Anatomia de una violacion.
Andante.
Ando volando bajo.
Andres de barba azul.
Angelitos negros.
Angel del barrio.
Angel del infierno.
El angel exterminador.
Angel negro.
Angel river.
El angel y yo.
Angeles de arrabal.
Los angeles de Puebla.
Angelica.
Angelitos del trapecio.
Angelitos negros.
Anillo de compromiso.
El anima de sayula.
El anima del ahorcado contra el latigo negro.
Animas trujano.
Anita De Montemar.
Anonimo mortal.
Los anos han pasado.
Anos verdes.
Los anos verdes.
Ansiedad.
Ante el cadaver de un lider.
Antesala de la silla electrica.
El apenitas.
Aprendiendo a vivir.
Apsionada.
Apuesta contra la muerte.
Los apuros de dos gallos.
Los apuros de mi ahijada.
Los apuros de un mafioso.
Aquel famoso Remington.
Aquella Rosita Alvirez.
Aqui esta Heraclio Bernal.
Aqui estan los Villalobo.
Aqui llego el valenton.
Aqui esta tu enamorado.
Aranas infernales (cerebros diabolicos).
Los arboles mueren de pie.
El ardiente deseo.
Arizona.
Arma infernal.
Arrabalera.
Arriba el norte.
Arriba el telon (los parperos).
Arriba las manos, Texano.
Arriba las mujers.
Arriba, Michoacan.
Arrullo de Dios.
Arruza.
El arte de enganar.
El as de oros.
El as negro.
Asalto en Tijuana.
El asalto.
Asesinato en la Plaza Garibaldi.
Asesinato en los estudios.
El asesino.
El asesino de metro.
Asesino de tontos.
El asesino enmascarado.
Asesino invisible.
Asesino por instinto.
El asesino se embarca.
El asesino X.
Los asesinos.
Asesinos de la lucha libre.
Asesinos de otros mundos.
Asesinos en la noche.
Asesion a sueldo.
Asi amaron nuestros padres.
Asi era Pancho Villa.
Asi es mi Mexico.

Asi se quiere en jalisco.
Asi son ellas.
Los astronautas.
Atacan las brujas (Santo en la casa de las brujas).
El ataud del vampiro.
Los atracadores.
Atras de las nubes.
Audaz bravero.
La ausente.
Los automatas de la muerte.
El automovil girls.
Autopsia de un fantasma.
Ave sin nido (Anita de Montemar).
Ave sin rumbo.
Aventura en el centro de la tierra.
Las aventuras de Carlos Lacroix.
Aventuras de chucho el roto.
Aventuras de Juliancito.
Aventuras de la pandilla.
Las aventuras de las hermanas X.
Las aventuras de Pito Perez.
Aventuras de un caballo blanco y un nino.
Aventuras de un nuevo rico.
Aventuras en Rio.
Aventureas de joselito y pulgarcito.
Aventurera.
Los aventureros.
El aviador fenomeno.
El aviso inoportuno.
Ay amor como me has puesto!
Ay chabela!
Ay chaparros como abundan!
Ay Jalisco no te rajes! (46).
Ay Jalisco no te rajes! (64).
Ay que tiempos, senor Don Simon.
Azahares para tu boda.
Azahares rojos.
Baila conmigo.
Baila mi amor.
Bailando cha-cha-cha.
Baile de graduacion.
Baile mi rey.
Baileras, palabras tristes.
Bajo el cielo de Mexico.
Bajo el imperio del hampa.
Bajo la influencia del miedo.
Bajo la mertralla.
Bala de plata en el pueblo maldito.
Bala de plata.
Una bala es mi testigo.
Bala perdida.
Balum canan.
Balun canan.
Baname mi amor.
Bancazo en los mochis.
La banda de la sotana negra.
Banda de los contrabandistas.
La banda del acordeon.
La banda del carro rojo.
Banda del polvo maldito.
Banda del terror.
La banda dela sotana negra.
Bandera rota.
La bandida.
Los bandidos (66).
Los bandidos (77).
Bandidos de Rio Frio.
Bang, bang...al hoyo.
El bano de afrodita.
El barba azul.
Los Barbaros del norte.
El barbero prodigioso.
La barca de oro.
El baron del terror.
Barrack's coup.
La barranca de la muerte.
Barranca sangrienta.
El barrendero.
Barridos y regados.
Barrio bajo.
Barrio de pasiones.
Barrio salvaje.
Baru, el hombre de la selva.
Bashful.
El bastardo (37).
Bastardo, el (65) (Rancho solo II).
Bataclan Mexicano.
La batalla de los pasteles.
Bellas de noche.
El bello durmiente.
Bendito entre las mujeres.
Benjamin Argumedo.
Besame mucho.
Besito a papa.
El beso de ultratumba.
Un beso en la noche.
El beso mortal.
Besos en la arena.
Besos prohibidos.
Besos, besos y mas besos.
La bestia negra.
Bestias jovenes.
Los Beverly de Peralvillo.
La bien amada.
Bikinis y rock.
Blanca Nieves y sus siete amantes.
Blessed among women.
Bloody Marlene.
Blue Demon contra el poder.
Blue Demon contra las diabolicas.
Blue Demon contra las invasoras.
Blue Demon contra los cerebros infernales.
Blue Demon el demonio azul (El demonio azul).
Blue Demon en pasaporte a la muerte.
Blue Demon y la mafia amarilla.
Blue Demon y Zovek.
Blue Demon, el destructor de espias.
Blue Demon, el destructor de.
Bodas de fuego.
Bodas de oro.
Bodas tragicas.
Bohemio de aficion.
El bolero de Raquel.
Bolero inmortal.
El Bombero atomico.
El Bombero atomico.
Bonitas las tapatias.
Las borrachas.
Borrasca en las almas.
Borrasca humana.
El boxeador.
Braceras y mojados.
Las braceras.
El bracero Delano.
Las bravuconas.
El brazo fuerte.
Bromas S.A.
El bronco.
El bronco reynosa.
The brothel.
La bruja.
El bruto.
El buen ladron.
El buena suerte.
La buena, la mala y la golfa.
Buenas noches, ano nuevo.
Buenas y con movidas.
Bueno para nada.
Buenos dias, Acapulco.
Bugambilia.
Burdel.
Burlada.
Burlesque.
El buscabullas.
Buscando un campeon.
Buscando una sonrisa.
Cabalgando a la luna.
El caballito volador.
Caballo a caballo.
Caballo alazan lucero.
El caballo bayo.
El caballo blanco.
El caballo del Diablo.
Caballo prieto afamado.
Caballo prieto azabache.
Caballo que canta.
Caballos de acero.
Caballos de acero (amor sobre ruedas).
El cabaretero y sus golfas.
Cabellera blanca.
Cabellero a la medida.
Cabeza de vaca.
La cabeza viviente.
Cabo de hornos.
Caceria de traficantes.
Caceria humana.
Caceria implacable.
El cachorro.
Los cachorros.
En cada feria un amor.
Cada hijo una cruz.
Cada loco con su tema.
Cada oveja con su pareja.
Cada quien su lucha.
Cada quien su musica.
Cada quien su vida.
Cada voz lleva su angustia.
Cadena de mentiras.
Las cadenas del mal.
Cadetes de la naval.
Cafe Colon.
Cafe Concordia.
El caifan del barrio.
El cain del bajio.
Cain y Abel.
Cain, Abel y el otro.
Calabacitas tiernas.
Las calaveras del terror.
Calibre 44.
Una calle entre tu y yo.
Callejera.
Callejon sin salida (38).
Callejon sin salida (64).

El calvario de una esposa.
Calzontzin inspector.
La calzonuda.
Cama de piedra.
La camara del terror.
Camelia.
Caminate solitario.
Un camino al cielo.
Camino al infierno.
Camino de Guanajuato.
Camino de infierno.
Camino de la horca.
El camino de la vida.
El camino de los espantos.
El camino de los gatos.
Camino del mal.
Caminos de michocan.
Campanas rojas.
El campeon ciclista.
Campeon del barrio.
Campeon olimpico.
Los campeones justicieros.
Canaima.
Los canallas.
Cananea.
Canasta Uruguaya.
Una cancion a la virgen.
Cancion de luna.
La cancion de Mexico.
Cancion del alma (37).
Cancion del alma (63).
La cancion del huerfano.
Candelaria.
El canta mariachi.
Canta mi corazon.
Cantaclaro.
Cantando nace el amor.
Canto chamo.
El canto de la sirena.
El canto de los humildes.
El cantor de la Mafia.
Caperucita y pulagarcito contra los monstruous.
Caperucita y sus tres amigos.
Capitan de rurales.
El capitan Mantaraya.
El capitan Mantarraya.
La captura de Chucho el Roto.
Captura de Gabino Barrera.
Capulina chisme caliente.
Capulina Speedy Gonzales.
Capulina vs. los monstruos.
Capulina vs. los vampiros.
Capulina, corazon de leon.
Cara de angel.
Una cara para escapar.
El cara parachada.
El cara parchada (79).
El cara parchada.
Carabina 30-30.
Las carareteras.
Caras nuevas.
La caravana de la muerte.
La carcachita.
La carcel de Cananea.
La carcel de Laredo.
Carcel de mujeres.
Carcel de mujeres.
El Cardenal.
El Cardenal.
Los cargadores.
Cargamento mortal.
Cargamento prohibido.
Cargamento prohibido (fuego infernal).
Cargando el muerto.
La carinosa motorizada.
Las carinosas.
El carinoso.
Carita de cielo.
Carnaval en mi barrio.
Carne de horca.
Carne de presido.
La carne manda.
Caperucita Roja.
La carrera del million.
Carreta sangrienta.
El carro de la muerte.
Carrona.
Una carta de amor.
Cartas de amor.
La casa chica.
La casa colorado.
Casa de citas.
La casa de las muchachas.
La casa de los espantos.
Casa de mujeres (66).
Casa de munecas para adultos.
Casa de munecas.
Casa de perdicion.
La casa de Troya.
Casa de vecindad.
La casa del farol rojo.
La casa del ogro.
La casa del rencor.
La casa del sur.
La casa del terro.
La casa del terror.
La casa embrujada.
La casa prohibida.
Las casadas enganan de 4 a 6.
Casadas infieles.
Cascabel.
Cascabelito.
La case del Pelicano.
Casi casados.
El caso de la mujer asesinadita.
Casos de alarma y, sida.
La casta divina.
El castillo de la pureza.
El castillo de los monstruos.
El Casto Susano.
Caundo habla el corazon.
Cayo de la gloria el diablo.
Cazadores de asesinos.
Cazadores de cabezas.
Cazadores de espias.
Celos.
El cementerio del terror.
El ceniciento.
Las cenizas del diputado.
El centauro del norte.
El centauro Pancho Villa.
Central camionera.
Chabelo y Pepito contra los monstruos.
Chabelo y Pepito detectives.
Los chacales.
El chacharas.
La chamaca.
Chanco y el tesoro de los mayas.
El chanfle.
El chanfle II.
Chanoc.
Chanoc (adventuras de mar y selva).
Chanoc (adventureas de mar y selva).
Chanoc en el circo union.
Chanoc en el foso de serpientes.
Chanoc en la isla de la muerte.
Chanoc en las garras de las fieras.
Chanoc vs el tigre el vampiro.
Chanoc vs el tigre y el vampiro.
Chanoc vs. las tarantulas.
Chaparro se mete en todo.
Charro a la fuerza.
Charro de las calaveras.
Charro de levita.
El charro inmortal.
Charro negro contra la banda del cuervo.
Charro negro contra la banda.
El charro y la dama.
Chicano.
Chicano karateca.
Chicas casaderas.
Las chicas malas del Padre Mendez.
Chico Ramos (un hombre llamado muerte).
Un chico valiente.
Los Chiflados del rock'n roll.
Chilam balam.
El Chile.
Chile picante.
Chin-chin el Teporocho.
Chiquidracula.
Chismoso de la ventana.
Las chivas rayadas.
El chivo.
La choca.
Chto sluchilos' v militsiyi.
Chucho el remendado.
Chucho el roto.
Chucho el roto (34).
Chucho el roto (59).
El ciclon de Jalisco (yo soy charro donde).
El ciclon del Caribe.
El ciclon.
El cielito.
Cielito lindo.
Cielo rojo.
El cielo y la tierra.
El cielo y tu.
Cien gritos de terror.
Cien mujeres.
La ciguena dijo si.
Cinco asesinos esperan.
Cinco de chocolate y uno de fresa.
Cinco en la carcel.
Cinco fueron escogidos.
Los cinco halcones.
Cinco nacos asaltan Las Vegas.
Las cinco noches de Adan.
Cinco pollas en peligro.
Cinco rostros de mujer.
El cinico.
El circo.

El circo de Capulina.
El circo de Capulina.
El circo tragico.
Una cita de amor.
La ciudad de los ninos.
La ciudad de los ninos.
La ciudad perdida.
Click, fotografo de modelos.
El club de los suicidas.
El club de los suicidas.
Club de senoritas.
La cobarde.
El cofre del pirata.
El cofre del pirata.
Las colegialas.
La colina de la muerte.
Color de nuestra piel.
La comadrita.
El Comandante Furia.
Comezon a la mexicana.
Comezon a la mexicana.
La comezon del amor.
Los comicos de la legua.
Comicos y canciones.
Como atrapar marido.
Como burro sin mecate.
Como enfriar a mi marido.
Como gallos de pelea.
Como hay gente sinverguenza.
Como perros y gatos.
Como pescar marido.
Como te quedo el ojo.
Como todas las madres.
Como tu ninguna.
Como yo te queria.
El compadre mas padre.
El compadre mendoza.
El complot mongol.
Las computadoras.
Con amor de muerte.
Con el dedo en el gatillo (40).
Con el dedo en el gatillo (65).
Con el nino a travesado.
Con la misma moneda.
Con la muerte en ancas.
Con licencia para matar.
Con mas corazon que odio.
Con quien andan nuestros locos?
Con su amable permiso.
Concurso de bellaza.
El Conde de Montecristo.
En condominio.
Conexion criminal.
Confidencias de un ruletero.
Confidencias matrimoniales.
Conl el diablo en el cuerpo.
Conqueta.
La conquisita del dorado.
Conquistador de la luna.
Conserje en condominio.
Conspiracion bikini.
Contigo a la distancia.
Contra la ley de Dios.
Contra viento y marea.
Contrabando del paso.
Contrabando por amor.
Contrabando y traicion.
Coqueta.
La coralillo.
Corazon bandolero.
Corazon de fiera.
El corazon de la noche.
Corazon de nino (39).
Corazon de nino (62).
Corazon salvaje (55).
Corazon salvaje (67).
El corazon y la espada.
Corazones de Mexico.
Cornudo soy yo.
Corona de lagrimas.
Coronacion.
Las coronelas.
El correro del norte.
Corrido de Maria Pistolas.
Los corrompidos.
Corrupcion.
Corrupcion encadenada.
El corsario negro.
El cortado.
Las cosas prohibidas.
La cosecha de mujeres.
La coyota.
El coyote emplumado.
El coyote y la bronca.
Creo en dios (labios sellados).
El crepusculo de un Dios.
Crepusculo.
La criada bien criada.
La criada maravilla.
El criado malcriado.
Criados malcriados.
El crimen de la hacienda.
Crimen en el puerto.
Crimen y castigo.
El criminal.
Cristo setenta.
Cronica roja.
El crucifijo de piedra.
Cruz de amor.
Cruz de olvido.
Cruz Diablo.
Cuatro contra el crimen.
Cuando acaba la noche (50).
Cuando corrio el alazan.
Cuando el Diablo sopla.
Cuando la tierra temblo.
Cuando levanta la niebla.
Cuando lloran los valientes.
Cuando los hijos pecan.
Cuando los hijos se pierden.
Cuando los hijos se van.
Cuando los hijos se van (41).
Cuando los padres se quedan solos.
Cuando me enamoro.
Cuando me vaya.
Cuando Mexico canta.
Cuando quiere un mexicano.
Cuando regrese mama.
Cuando se quiere, se quiere.
Cuando se vuelve a Dios.
Cuando tejen las aranas.
Cuando tu me quieras.
Cuando viajan las estrellas.
Cuando viva villa! es la muerte.
Cuanto vale tu hijo.
Cuartelazo.
Cuarto cerrado.
El cuarto chino.
Los cuates de la rosenda.
Cuatrero.
El cuatrero.
Cuatro a la fuga.
Cuatro contra el imperio.
Cuatro contra el mundo.
Cuatro hembras y un macho menos.
Cuatro hombres marcados.
Cuatro horas antes de morir.
Los cuatro juanes.
Las cuatro milpas (37).
Cuatro milpas (58).
Cuatro noches contigo.
Cuatro pillos y un vivales.
La cucaracha.
Cuchillo.
Cucurrucucu paloma.
Cuentan de una mujer.
Cuentos colorados.
Cuernavaca en primavera.
Cuernos debajo de la cama.
El cuerpazo del delito.
Un cuerpo de mujer.
Cuide a su marido.
Cuido con el amor.
La culpa de los hombres.
La culta dama.
El cumpleanos del perro.
Cuna de valientes.
Un cura de locura.
Curados de espanto.
El curandero del pueblo.
La dama de las camelias.
La dama del alba.
La dama torera.
El Dandy y sus mujeres.
Los de abajo.
De bajo, los (con la division del norte).
De Benjamin Argumedo.
De cocula es el mariachi.
De color moreno.
De hombre a hombre.
Los de lios de barba azul.
De los EUA Mexico de mi corazon.
De los EUA Mexico de mi corazon.
De pecado en pecado.
De pulquero a millonario.
De que color es el viento?
De ranchero a empresario.
De sangre Chicana.
De tal palo tal astilla.
De tequila, su mezcal.
De todas todas.
Debieron ahorcarlos.
Del Brazo y por la calle.
Del can can al mambo.
Del diablo a caballo.
Del odio nacio el amor.
Del rancho a la television.
Del rancho a la televison.
Del suelo no paso.
Las del talon.
Delincuente.
Delincuentes de lujo.
El dengue del amor.
Departamento de soltero.
Deportados.
Derecho a la vida.

El Derecho de los pobres.
El derecho de nacer.
Los derechos de los hijos.
Desafio a muerte.
El desalmado.
Los desalmados.
Los desarraigados.
La desconocida.
Los desenfrenados.
Deseo en otono.
El deseo y pasion.
El deseo.
Los desheredados.
Deso en otono.
Despedia de soltera.
Despedida de casada.
Despedida de casadas.
Despedidad de soltera.
El despertar del lobo.
Destino de una mujer.
Desventura de un mafioso.
Detectives o ladrones.
Devastaciones de los piratas.
El dia comenzo.
Un dia con el diablo.
Un dia con el diablo.
Un dia de Diciembre.
El dia de la boda.
El dia de las madres.
Dia de madres.
Dia de martires.
Un dia de vida.
El diablo desaparece.
El diablo en persona.
El diablo no es tan diablo.
Los diablos del terror.
Diablos en el cielo.
El diabolico.
Diamantes, oro y amor.
Diams de leon.
La Diana cazadora.
El diario de mi madre, (promesa de matrimonio).
Diario intimo de una cabaretera.
Dias de otono.
Dias de viiolencia.
Dicen que soy comunista.
Dicen que soy hombre malo.
Dicen que soy mujeriego.
Difusion del arte.
Dile que la quiero.
La diligencia de la muerte.
Dimas de Leon.
La dinastia de la muerte.
Dios los cria (53).
Dios nos manda vivir.
Dios sabra juzgarnos.
La diosa del puerto.
La diosa impura.
Discotec fin de semana.
Discoteca es amor.
La disputa.
Distinto amanecer.
Distrito federal.
Una dita de amor.
La divina garza.
Division Narcoticos.
Divorciadas.
Las do galleras.
Los doce malditos.
El dolor de los hijo.
El dolor de pagar la renta.
Domingo salvaje.
Don Juan 67.
Don Juan tenorio.
Don quintin el amargado.
Dona diabla.
Dona macabra.
Dona Malinche.
Dona Mariquita de mi corazon.
Dona perfecta.
La doncella de piedra.
Donde el circulo termina.
Donde esta el presidente.
Donde estas corazon?
Donde estas corazon?
Un dorado de Pancho Villa.
Dormitorio para senoritas.
Dos almas en el mundo.
Los dos amigos.
Los dos apostoles.
Dos caballeros de espada.
Dos caballeros de espada.
Los dos carnales.
Dos charros y una gitana.
Dos comprades.
Dos corazones y un cielo.
Dos criados malcriados.
Dos cuates a todo dar.
Los dos cuatreros.
Dos de le vida airada.
Dos diablillos en apuros.
Dos fantasmas y una muchacha.
Dos gallos alborotados.
Dos gallos en palenque.
Dos gallos y dos galinas.
Dos hermanos murieron.
Los dos hermanos.
Dos hijos desobedientes.
Las dos huerfanitas (50).
Las dos huerfanitas (77).
Dos judiciales en aprietos.
Dos maridos baratos.
Dos meseros majaderos.
Dos monjes.
Dos mujeres y un hombre.
Dos mundos y un amor.
Las dos nacos en el planeta de.
Dos pesos dejada.
Los dos pilletes.
Dos pintores pintorescos.
Dos pistorleros violentos.
Los dos rivales (cuando los rivales se aman).
Dos tales por cuales.
Dos tipas de cuidado.
Dos tipos de cuidado.
Dos tontos y un loco.
Dos valientes.
Dos veces por semana.
Dr. Satan y la magia negra.
Dr. Satan.
La duda.
La duda (53).
Duelo de pistoleros.
Duelo de valientes.
Duelo en las montanas.
Duelo en las montanas.
Duena y senora.
El duende y yo.
La dulce enemiga.
La duquesa diabolica.
Durazo, la historia verdadera.
Duro pero seguro.
Duro y parejo en la casita.
Echenme al gato.
Echenme la vampiro.
La edad de la inocencia.
La edad de la tentacion.
La edad de la violencia.
Edad de menores.
La edad de piedra.
La edad peligrosa.
El.
Ella y yo.
Ellas tambien son rebeldes.
Ellos trajeron la violencia.
Emanuelo.
El embajador.
La emboscada mortal.
La emboscada.
El embustero.
Emilo Varela vs. Camelia la Texana.
En busca de la muerte.
En cada feria un amor.
En carne propia.
En el camino andamos (ATM2).
En el pais de los pies ligeros.
En el parque hondo.
En esta primavera.
En estas camas nadie duerme.
En la palma de tu mano.
En las garras de la ciudad.
En los altos de Jalisco.
En tiempos de Don Porfirio.
En tiempos de la inquicion.
En un burro tres baturros.
Enamorada.
El enamorado.
Los enamorados.
Encrucijada.
El encuentro de un hombre solo.
Encuentro.
La endemoniada.
Endemoniados del ring.
Enemigos (55).
El enmascarado de plata.
Los enmascarados del infierno.
Los enredos de papa.
Los enredos de una gallega.
Ensayo de un crimen.
Ensayo de una noche de bodas.
Entre bala y bala.
Entre balay, bala.
Entre compadres te veas.
Entre cornudos te veas.
Entre dos amores.
Entre ficheras anda el Diablo.
Entre gitanos te veas.
Entre hermanos.
Entre pobretones y ricachones.
Entre tu amor y el cielo.
La entrega de chucho el roto.
Entrega inmediata.
La entrega.
Erotica.
Esa mi raza.

Escandalo de estrellas.
El escapulario.
Esclava del deseo.
La escondida.
Escuadron 201.
Escuadron salvaje.
Escuela de modelo.
Escuela de musica.
Escuela de placer.
Escuela de rateros.
Escuela de vagabundos.
Escuela de valientes.
Escuela de verano.
Escuela de verano.
Escuela para brujas.
Escuela para casadas.
Escuela para solteras.
Escuela para suegras.
Esos de penjamo.
Esos hombres.
El espadachin.
La espadachines de la reina.
Espaldas mojadas.
Especialista en chamacas.
Especialista en senoras.
El espectro de la novia.
Espejismo de la ciudad.
El espejo de la bruja.
El esperado amor desesperado.
Esperame en Siberia, vida mia.
La esperanza de los pobres.
Espionaje en el golfo.
Espiritismo.
Esposas infieles.
El esqueleto de la Senora Morales.
El esqueleto de la Sra. Morales.
La esquina de mi barrio.
Esta noche no.
Esta noche si.
Esta y la otra por un solo boleto.
Estafa de amor.
Estafa de amor (68).
Estampida.
Estas ruinas que ves.
La estatua de carne.
Este amor si es amor.
Este era un viaje.
Este mundo en que vivimos.
Estos anos violentos.
Estoy casado ja ja.
Estoy sentenciado a muerte.
Estrategia matrimonio.
Estrella sin luz.
La estrella vacia.
Una estrella y dos estrellados.
Eterna agonia.
Eva y Dario.
El extra.
Extrana cita.
Extrana pasajera.
Un extrano en la casa.
Un extrano en la escalera.
El extrano hijo del sheriff.
Las fabulosas del reventon.
Las fabulosas del reventon II.
Fallaste, corazon.
Falsificadores asesinos.
La falsos heroes.
Faltas a la moral.
Una familia de tantas.
La familia Perez.
Familiaridades.
Los fanfarrones.
El fantasma de la casa roja.
El fantasma de la opereta.
El fantasma de medianoche.
El fantasma del convento.
El fantasma del lago.
Fantastico mundo de los hippies.
El farol de la ventana.
Los farsantes.
El fayuquero.
La fe en Dios.
El federal de caminos.
Felicidad.
Feliz ano, amor mio.
Fenomenos del futbol.
La feria de las flores.
La feria de San Marco.
La feria de San Marcos.
Ferias de Mexico.
Los Fernandez de Peralvillo.
El festin de la loba.
Las ficheras.
Fiebre de juventud.
La fiera.
Las Fieras.
Fieras contra fieras.
Fierecilla.
La fierecilla del puerto.
Fiesta en el corazon.
Las figuras de arena.
Fijate que suave.
Fin de semana en Garibaldi.
El fin de un imperio.
El fiscal de hierro.
Fiscal de hierro III.
La flecha envenenada.
Flor de cana.
Flor de canela.
Flor de durazno.
Flor de durazno (45).
Flor de fango.
Flor de mayo.
Flor de sangre.
Flor marchita.
Flor silvestre.
Flores de papel.
Las flores del demonio.
Los forajidos.
Forajidos en la mira.
Foso de las serpientes.
Frankestein, el vampiro y cia.
Fray Don Juan.
Frente al destino.
Frente al pecado de ayer.
Frontera brava.
Frontera de fuego.
Frontera norte.
Frontera sin ley.
La frontera sin ley.
El fronterizo.
Fuego cruzado en el Rio Bravo.
Fuera de la ley.
Fuera de la ley (37).
Fuera de la ley (65).
Fuerte, audaz y valiente.
La fuerza bruta.
La fuerza de la sangre.
La fuerza de los humildes.
La fuerza del deseo.
La fuerza inutil.
La fuga.
La fuga (37).
La fuga (43).
La fuga de carrasco.
La fuga del rojo.
Fuga en la Noche.
Fugitivo de Sonora.
El fugitivo.
Fugitivos.
La fureza del deseo.
La furia de los Karatecas.
La furia del ring.
Furia en el Eden.
Furia roja.
Furias bajo el cielo.
El fusilamiento.
Futbol de alcoba.
Gabino Barrera.
Una Gallega baila mambo.
Una Gallega en la Habana.
Una Gallega en Mexico.
El gallero.
Los galleros.
La gallina clueca.
Una gallina muy ponedora.
Un gallo con espolones.
Gallo corriente, gallo valiente.
Un gallo de corral ajeno.
El gallo de oro.
Un gallo en corral ajeno.
El gangster.
El garanon.
El garanon II.
Gargamento prohibido.
La garra del Leopardo.
Gatilleros del Rio Bravo.
Gatillo Veloz.
La gatita.
El gato.
El gato con botas.
El gato negro.
El gato sin botas.
El gavilan.
El gavilan pollero.
El gavilan vengador.
Los gavilanes.
Los gavilanes negros.
La gaviota.
Gemma.
Gendarme de punto.
El gendarme desconocido.
La generala.
Genio y figura.
La Gitana blanca.
Una Gitana en Jalisco.
Gitana tenias que ser.
El globero.
El globo de Cantolla.
La golfa del barrio.
Las golfas.
Golfas del talon.
Golondrina presumida.
La gota de sangre.
Goza conmigo.
Gozar, gozar, que el mundo se va a

acabar.
La gran aventura del Zorro.
La gran aventura.
El gran calaver.
Gran casino.
El gran espectaculo.
Gran hotel.
El gran moyocoyo.
El gran perro muerto.
El gran pillo.
El gran premio.
El gran rabadan.
El gran relajo mexicano.
Las grandes aguas.
Gregorio y su angel.
Una Gringuita en Mexico.
Gritenme, piedras del campo.
El grito de la muerte.
Un grito en la noche.
Guadalajara en verano.
Guadalajara es Mexico.
Guadalupe la chinaca.
Guantes de oro.
Guardian de las hormigas.
Guardian el perro salvador.
La guarida del buitre.
La guerra de las monjas.
La guerra es un buen negocio.
La guerra santa.
La guerra Xochil.
La guerrera vengadora.
La guerrillera de Villa.
El guerrillero del norte.
La guguena distraida.
El guia de las turistas.
Guitarras de medianoche.
Guitarras, lloren guitarras.
Guitarras, lloren guitarras.
Gutierritos.
Ha entrado una mujer.
El hacha diabolica.
El halcon solitario.
Hallazgo sangriento.
El hambre nuestra de cada dia.
Han matado a tongolele.
Hasta el viento tiene miedo.
Hasta que el cuerpo aguante.
Hasta que perdio jalisco.
Hay angeles con espuelas.
Hay chihuahua no te rajes.
Hay lugar para dos.
Hay un nino en su futuro.
He matado un hombre.
El hechizo del pantano.
Hembras de tierra caliente.
La herencia de la llorona.
La herencia de la mafia.
Herencia de muerte.
La herencia maldita.
La hermana Blanca.
La hermana trinfquite.
Las hermanas Karambazo.
El hermano Capulina.
Hermanos chicanos.
Los hermanos de hierro.
Hermanos de sangre.
Los hermanos del viento.
Los hermanos diablo.
Los hermanos muerte.
Hermoso ideal.
Heroe a la fuerza.
El heroe de Nacozari.
El heroe desconocido.
La hija de la otra.
La hija de nadie.
La hija del engano (Don Quintin el amargado).
La hija del ministro.
La hija del odio.
La hija del payaso.
La hija del penal.
La hija sin padre.
Hijas casaderas.
Hijas casderas.
Las hijas de don laureano.
Las hijas del amapolo.
Las hijas del Zorro.
Hijazo de mi vidaza.
El hijo de Angela Maria.
El hijo de charro negro.
El hijo de cruz diablo.
El hijo de Gabino Barrera.
El hijo de Huracan Ramirez.
El hijo de la calavera.
El hijo de los pobres.
El Hijo de Pedro Navaja.
Los hijo de rancho grande.
El hijo del diablo.
El hijo del palenque.
Hijo del pistolero.
El hijo del viento.
El hijo desobendiente.
El hijo prodigo.
Los hijos ajenos.
Los hijos de la calle.
Hijos de la osbscuridad.
Los hijos de Maria Moreles.
Los hijos de peralvillo.
Los hijos de Satan.
Los hijos del condenado.
Hijos del criminal.
Los hijos del diablo.
Los hijos del divorcio.
Hijos del muerto.
Los hijos que yo sone.
El Hipnotizador.
Hipocrita.
Historia de un canaslla.
Historia de un corazon.
Historia de un gran amor.
Historia de un marido infiel.
Historias violentas.
Hombre de aire.
El hombre de la ametralladora.
El hombre de la mandolina.
El hombre de los hongos.
El hombre de negro.
El hombre de papel.
El hombre del alazan.
Hombre del puente.
El hombre inquieto.
Hombre o demonio.
El hombre papel.
El hombre que logro ser invisible.
El hombre que logro ser invisible.
El hombre que me gusta.
El hombre sin rostro.
El hombre y el monstruo.
Hombres de accion.
Los hombres de Lupe Alvarez.
Hombres de mar.
Hombres de roca.
Hombres de tierra caliente.
Los hombres no deben llorar.
La honradez es un estorbo.
Honraras a tus padres.
La hora 24.
La hora de la verdad.
La hora desnuda.
Hora y media de balazos.
Horas de agonia.
Una horca para el Texano.
Horizontes de sangre.
La horripilante bestia humana.
El hotel del los chiflados.
Hoy he sonado con Dios.
La huella de unos labios.
La huella del chacal.
La huella macabra.
Huellas de un pasado.
Huevos rancheros.
Los humillados.
Huracan Ramirez vs. La monjita negra.
Huracan Ramirez.
El idolo.
El idolo del futbol.
Ilegales y mojados.
La ilegitima.
La ilusion viaja en tranvia.
Impaciencia del corazon.
El imperio de Dracula.
El impostor.
El impostor (36).
Las impuras.
El increible Profesor Zovek.
La India.
La India blanca.
India Maria.
Los indolentes.
El indomable.
La infame.
Las infieles.
Infierno de almas.
El infierno de todos tan temido.
La inflacion del sexo.
Inmaculada.
La inocente.
Las inocentes.
La insaciable.
Las interesadas.
La intrusa.
El intruso.
Invasion de los muertos.
La invasion de los vampiros.
Invasion siniestra.
Las invencibles.
Los invisibles.
Isla de la desesperacion.
La isla de los dinosaurios.
La isla de los hombres solos.
La isla encantada.
La isla maldita.
Isla para dos.
Las Islas Marias.
Las Islas Marias.
Itara, el guardian de la muerte.

Jacinto el tullido.
El jaguey de las ruinas.
Los Japoneses no esperan.
Jardin de la tia Isabel.
El jardin de los cerezos.
El jefe maximo.
Jesus, Nuestro Senor.
Jesus, el Nino Dios.
Jesus, Maria y Jose.
El jinete.
El jinete de la muerte.
Jinete enmascarado.
El jinete fantasma (67).
El jinete justiciero en retando a la muerte.
El jinete negro.
El jinete sin cabeza.
Los jinetes de la bruja.
Jinetes de la llanura.
Johnny Chicano.
La jornada del terror.
El jorobado.
Joselito vagabundo.
Una joven de 16 anos.
El joven Juarez.
La joven mancornadora.
Los jovenes amantes.
Jovenes de la zona rosa.
Jovenes y bellas.
Las Joyas del pecado.
Juan Charrasqueado/Gabino Barrera.
Juan Colorado.
Juan el desalmado.
Juan el enterrador.
Juan Guerrero.
Juan nadie.
Juan Pistolas (35).
Juan Pistolas.
Juan Polainas.
Juan Polanes.
Juan sin miedo (38).
Juan sin miedo (60).
Juan sin miedo (60).
Juana Gallo.
Juana la cantinera.
Juarez y Maximiliano.
Judas.
Judea.
El juego de la guitarra.
Juegos de alcoba.
El juez de la soga.
El juez de la soga.
El Jugador, (el rey de espadas).
Jugandose la vida (59).
El juicio de los hijos.
Juicio de Martin Cortes.
Juico de arcadio.
Juntos pero no revueltos.
La justicia del gavilan vengador.
La justicia del lobo.
La justicia tiene doce anos.
El justiciero vengador.
Juventud desenfrenada.
Juventud desnuda.
Juventud rebelde.
La juventud se impone.
Juventud sin ley.
Kaliman en el siniestro mundo.
Keiko en peligro.
Kermesse.
Kid Tabaco.
Laberinto de pasiones.
El ladron fenomeno.
Ladron que roba a ladron.
Ladrones de ninos.
Lagrimas de amor.
Lagrimas de mi barrio.
Lagrimas robadas.
Lagunilla mi barrio.
Lamberto Quintero.
Lanza tus penas al viento.
Un largo viaje hacia la muerte.
The last Mexican.
Lastima de ropa.
Latigo contra Satanas.
Latigo Negro contra los farsantes.
El latigo negro.
Latin lover en Acapulco.
Los laureles.
Lauro Punales.
Lazos de fuego.
Lazos de sangre.
Las Leandras.
Una leccion de amor.
Los legionarios.
Legitima defensa.
La leona desnuda.
Leones del ring vs. la Cosa Nostra.
Los leones del ring.
La ley de la sierra.
La ley de las pistolas.
La ley del gavilan.
La ley del mas rapido.
Ley fuga.
La ley Simpson me viene Wilson.
La leyenda del bandido.
La leyenda del bandido (65).
La leyenda del judicial.
El libro de piedra.
El libro de piedra.
El lider de las masas.
La liga de las canciones.
La liga de las muchachas.
Limosneros con garrote.
Lio de faldas.
La llaga.
Llamas contra el viento.
Llanto, risas y nocaut.
El llanto de la tortuga.
El llanto de los pobres.
Llegamos, los fregamos y nos fuimos.
Llegaron los gorrones.
Llevame en tus brazos.
La llorona (33).
Llovizna.
Lluvia de abuelos.
Lluvia roja.
Lo mejor de teresa.
Lo que el viento trajo.
Lo que le paso a sanson.
Lo que mas queremos.
Lo que no se puede perdonar.
Lo que solo el hombre puede sufrir.
Lo que va de ayer a hoy.
Lo veo y no lo creo.
La loba.
Las lobas del ring.
El lobo blanco.
El lobo solitario.
Loca academia de modelos.
La loca de la casa.
La loca de los milagros.
La loca.
Locos peligrosos.
Locos por la television.
La locura de Don Juan.
Locura de terror.
Locura musical.
Las locuras de tin tan.
Lodo y Armino.
Lola la trailera.
Longitud de guerra.
Luces de barriada.
La lucha con la pantera.
Las luchadoras v. la momia.
Las luchadoras va el robot asesino.
Las luchadoras vs el medico asesino.
Luciano Romero.
Lucio Vazquez.
El lugar sin limites.
Luna de miel para nueve.
La luna enamorada.
El lunar de la familia.
Lupe balazos.
Luponini de chicago.
Una luz en mi camino.
Macario.
Macho rebelde.
El macho.
Maclovia.
Madre a la fuerza.
Madre querida (35).
La madrecita.
Madres del mundo.
La madrina del Diablo.
La maestra inolvidable.
La Maffia.
La Mafia amarilla.
La Mafia de La frontera.
Mafia en Acapulco.
Mafia Mexicana.
La mafia no perdona.
La mafia tiembla.
La mafia tiembla II.
Magdalena.
Magnum 357.
El mago.
El mal.
Mala hembra.
El mala pata.
La malcasada.
La maldicion de la Llorona.
La maldicion de la Momia Azteca.
Maldicion de Nostradamus.
La maldicion del oro.
Malditas sean las mujeres.
Los malditos.
La malquerida.
El malvado caravel.
Malvado caravel.
Los malvados.
Mama Dolores.
Mama Ines.
Mama nos quita los novios.
Mama solita.
Mama, soy Paquito.
Manana seran hombres.

Las mananitas.
El manantial del amor.
La mancornadora.
Maniatico pasional.
Manicomio.
La mano de Dios.
Mano que aprieta.
Manos arriba.
La mansion del terror.
Los mantenidos.
Manuel Saldivar, the texano.
Las manzanas de Dorotea.
El mar (deseo y la pasion).
Mar sangriento.
El mar y tu.
Maraton de baile.
Maravillas del toreo.
La marca del muerto.
La marca del cuervo.
La marca del gavilan.
La marca del zorrillo.
Marcelo y Maria.
La marcha Zacatecas.
Marco Antionio y Cleopatra.
Marecelo y Maria.
Marejada.
Los margaritos.
Maria Candelaria.
Maria Cristina.
Maria de mi corazon.
Maria Elena.
Maria Eugenia.
Maria Isabel.
Maria la o.
Maria la voz.
Maria Magdalena.
Maria Montecristo.
Maria pistolas.
Maria pistolas.
Maria Sabina.
El mariachi canta.
El mariachi desconocido.
Mariachi.
Mariachis.
El marichi desconocido (tintan en la habana).
El Marido de mi novia.
Un marido infiel.
Los maridos enganan de 7 a 9.
Marihuana (el monstruo verde).
Marina.
La marquesa del barrio.
Martin Santos, el llanero.
La Martina.
EL martir del calvario.
Mas alla de la muerte.
Mas alla de la violencia.
Mas alla del amor.
Mas buenas quel el pan.
Mas negro que la noche.
Mas vale pajaro en mano.
El mas valiente del mundo.
Masajistas de senoras.
La mascara de carne.
Mascara de hierro.
La mascara de jade.
La mascara de la muerte.
Mascara vs. bikini.
Matar es facil.
Mataron a Camelia la Texana.
Maten al fugitivo.
Maten al leon.
Matenme porque me muero.
Mater nostra.
Maternidad imposible.
Matinee.
Maton de rancho.
El matrimonio es como el demond.
Matrimonios juveniles.
Me cai de la nube.
Me canse de rogarle.
Me dicen el asesino.
Me dicen el consentido.
Me gustan valentones.
Me ha besado un hombre.
Me ha gustado un hombre.
Me he de comer esa tuna (44).
Me he de comer esa tuna (70).
Me importa poco.
Me llaman el cantaclaro.
Me llaman la Chata Aguayo.
Me llaman violencia.
Me lleva el tren.
Me lleva la tristeza.
Me persigue una mujer.
Me quiero casar.
Me traes de un ala.
El medallon de crimen.
Medianoche.
El medico de las locas.
El medico modico.
El medio pelo.
Melodias involvidables.
Las memorias de mi general.
Memorias de un Mexicano.
Memorias de un visitador medico.
Menores de edad.
El mensaje de la muerte.
El mensaje de las estrellas.
Mercado de ninos.
Meridano 100.
Los meses y los dias.
El metiche.
El Mexicano.
El Mexicano feo.
Mexicanos al grito de guerra.
Mexico de mi corazon.
Mexico de mi corazon.
Mexico de mis recuerdos.
Mexico de noche.
Mexico lindo y querido.
Mexico nunca duerme.
Mi adorada Clementina.
Mi adorada Clementina.
Mi alma por un amor.
Mi aventura en Puerto Rico.
Mi caballo el cantador.
Mi caballo prieto rebelde.
Mi caballo.
Mi campeon.
Mi cancion eres tu.
Mi candidato.
Mi compadre Capulina.
Mi corazon canta.
Mi desconocida esposa.
Mi esposa busca novio.
Mi esposa me comprende.
Mi esposa y la otra.
Mi guitarra y mi caballo.
Mi heroe.
Mi influyente mujer.
Mi lupe y mi caballo.
Mi madre es culpable.
Mi mesera.
Mi mino Tizoc.
Mi mino, mi caballo y yo.
Mi mujer no es mia.
Mi mujer tiene amante.
Mi nino, mi caballo y yo.
Mi noche de bodas.
Mi nombre es gatillo.
Mi novio es un salvaje.
Mi padrino.
Mi papa tuvo la culpa.
Mi pistola y tus esposas.
Mi querido capitan.
Mi querido viejo.
Mi reino por un torero.
Mi revolver es la ley.
Mi vida es una cancion.
Mi viuda alegre.
El miedo llego a Jalisco.
Miedo no anda en burro.
El miedo no anda en burro.
El miedo no anda en burro.
La miel se fue de la luna.
Mientras el cuerpo aguante.
Mientras Mexico duerme.
Mientras Mexico duerme (38).
Mientras Mexico duerme (83).
Miercoles de Ceniza.
Miguel Strogoff.
El mil abusos.
El mil amores.
El mil hijos.
Mil mascaras.
Mil millas al sur.
Un milagro de amor.
Milagro en el barrio.
Milagros de San Martin de Porres.
Minifaldas con espuelas.
El ministro y yo.
Miradas que mantan.
Mis abuelitas... nomas.
Mis hijos.
Mis manos.
Mis padres se divorcian.
Mis secretarias privadas.
Mis tres viudas alegres.
Los miserables.
Mision cumplida.
Mision sangrienta.
Mision suicida.
Mister Barrio.
Misterio.
El misterio de Huracan Ramirez.
Misterio de la cobra.
Misterio de los hongos alucinantes.
El misterio de los Mayas.
El misterio del carro express.
El misterio del Latigo Negro.
Misterio en las Bermudas.
Misterios de la magia negra.
Misterios de ultratumba.
Los misterios del hampa.
El misterioso Senor Marquina.
Las modelos.

Modisto de senoras.
El Mofles en Acapulco.
Mofles y Canek en mascara vs. Cabellera.
El Mofles y los Mecanicos.
Mojado de nacimiento.
Mojados.
Mojados de corazon.
La Momia Azteca.
Momias de Guanajuato.
Las momias.
El monasterio de los buitres.
La moneda rota.
La Monja Alferez.
El monje blanco.
El monstruo.
El monstruo de la montana hueca.
El monstruo de los volcanes.
El monstruo en la sombra.
El monstruo resucitado.
Monte escondido.
Morenita clara.
Morir de madrugada.
Morir de pie.
Morir mil muertes.
Morir para vivir.
El moro de Cumpas.
Motin en la carcel.
Una movida chueca.
Las movidas del mofles.
Movidas del Mofles.
Mr. Doctor.
Muchachas de uniforme.
Muchachas, muchachas, muchachas.
Muchachas que trabajan.
Muelle rojo.
Muero de risa.
La muerte de un gallero.
La muerte del federal de caminos.
Muerte del Palomo.
La muerte en bikini.
Muerte en la feria.
Muerte en Tijuana.
La muerte enamorada.
La muerte es mi pareja.
La muerte es puntual.
La muerte llora de risa.
La muerte pasa lista.
Muertes anunciadas.
El muerto al hoyo.
El muerto murio.
Muertos de miedo.
Muertos de risa.
Los muertos hablan.
Los muertos no hablan.
La mugrosita.
La mujer carcada.
Una mujer con pasado.
Mujer contra mujer.
Mujer de a seis litros.
La mujer de dos caras.
La mujer de nadie.
La mujer de oro.
La mujer de todos.
Una mujer decente.
La mujer del Diablo.
La mujer del puerto.
La mujer del puerto (33).
La mujer desnuda.
La mujer do otro.
Mujer en condominio.
Una mujer en la calle.
La mujer marcada.
Mujer mexicana.
La mujer murcielago.
La mujer murcielago.
Mujer o fiera.
Una mujer para los sabados.
La mujer policia.
Una mujer que no miente.
La mujer que no tuvo infancia.
La mujer que se vendio.
La mujer que tu quieres.
La mujer que yo perdi.
La mujer sin alma.
La mujer sin cabeza.
Una mujer sin destino.
La mujer sin lagrimas.
Una mujer sin precio.
La mujer X.
La mujer y la bestia.
Mujeres de hoy.
Mujeres de medianoche.
Las mujeres de mi general.
Mujeres de teatro.
Mujeres en mi vida.
Mujeres enganadas.
Las mujeres panteras.
Mujeres que trabajan.
Mujeres sacrificadas.
Mujeres salvajes.
Mujeres sin alma.
Mujeres, mujeres, mujeres.
La mulata de Cordoba.
Mulata.
El mundo de los aviones.
El mundo de los vampiros.
Mundo loco de los jovenes.
El mundo salvaje de baru.
Mundo, demonio y carne.
La muneca perversa.
Munecas de medianoche.
Las munecas infernales.
Munecas peligrosas.
Murallas de pasion.
El museo del crimen.
El museo del horror.
Musica en la noche.
Musica y dinero.
Musica, espuelas y amor.
Musica, mujeres y amor.
Musico, poeta y loco.
Nacida para amar.
Nacidos para morir.
Nadie muere dos veces.
Nadie te querra como yo.
La nalgada de ora.
Nana.
El nano.
Napoleoncito.
Narcosecta satanica.
Narcoterror.
Narda o el verano.
Naufragio.
Los naufragos de liguria.
Nave de los dioses.
La nave de los monstruos.
Necesito dinero.
Necesito un marido.
El negocio del odio.
Negra consentida.
Lo negro del negro.
Negro es mi color.
Neutron contra el doctor Caronte.
Neutron contra los asesinos del karate.
Neutron el enmascarado negro.
Ni de aqui, ni de alla.
Ni hablar del Peluquin.
Ni modo, asi somos.
Ni pobres, ni ricos.
Ni sangre, ni arena.
Nido de aguilas.
Nido de fieras.
El Nieto del Zorro.
La nina de la mochila azul.
La nina de la mochila azul (2da. version).
La nina Popoff.
Nino pobre nino rico.
El nino fidencio.
El nino y la niebla.
No basta ser charro.
No desearas la mujer de tu hijo.
No hay cruces en el mar.
No jalen que descobijan.
No juzgaras a tus padres.
No mataras.
No me defiendas, compadre.
No me olvides nunca.
No me platiques mas.
No niego mi pasado.
No soy monedita de oro.
No te ofendas, Beatriz.
No tiene la culpa el Indio.
No vale nada la vida.
Nobleza ranchera.
Nobleza ranchera (38).
La noche avanza.
La noche avanza (yo soy el amo).
Una noche bajo la tormenta.
La noche del gavilan.
Noche de juerga.
La noche de los Mayas.
La noche de los mil gatos.
Noche de muerte.
Noche de perdicion.
Noche de ronda.
La noche del halcon.
La noche del jueves.
La noche del Ku Kux Klan.
La noche del pecado.
Una noche embarazosa.
La noche es nuestra.
La noche violenta.
Noche y tu, la (el caballero varona).
Noches de cabaret.
Las noches del blanquita.
Nomas las mujeres quedan.
La nortena de mi amores.
Nos dicen las intocables.
Nos lleva la tristeza.
Nos veremos en el Ceilo.
Nosotros.
Nosotros los feos.
Nosotros los jovenes.
Nosotros los pelados.

Nosotros los pobres.
Nosotros los rateros.
Nostradamus.
Nostradamus el genio de las tinieblas.
Nostradamus, el destructor de monstruos.
Nostradamus: el destructor.
Nostradamus: el genio de.
Nostradamus: la maldicion de.
Nostradamus: la sangre de.
La novia del mar.
Las novias del lechero.
Novias impacientes.
Un novio para dos hermanas.
Los novios de mis hijas.
Novios y amantes.
Los novios.
Nuestras vidas.
Nuestros odiosos maridos.
Nuetron contra el criminal sadico.
Nuevo amanecer.
Un nuevo modo de amar.
Nuevo mundo.
Los nuevos pistoleros famosos.
Nunca debieron amarse.
Nunca es tarde para amar.
Nunca me hagan eso.
La obligacion de asesinar.
Obsesion venganza.
La odalisca numero 13.
Odio.
Oficio mas antiguo del mundo.
El ojo de vidrio.
Ojo por ojo.
Ojos de juventud.
Ojos tapatios.
OK Cleopatra.
OK Mister Pancho.
OK Mister Pancho.
Okay, Mister Pancho.
Okay, Mister Pancho.
Olimpiada en Mexico.
Los olvidados de Dios.
Ondina.
Operacion 67.
Operacion carambola.
Operacion contraespionaje.
Ora Ponciano.
Oreja rajada.
El organillero.
Orgullo de mujer.
Orlak el infierno de Frankestein.
Orlak, el infierno de Frankestein.
Oro y plata.
Orquideas para mi esposa.
Otono y primavera.
La otra ciudad.
La otra mujer.
Otra primavera.
La otra virginidad.
La otra.
El otro.
La oveja negra.
Las ovejas descarriadas.
Oye, Salome.
Pa' que me sirve la vida.
Pablo y Carolina.
Pachucos y muy machos.
Pacto de sangre.
Pacto diabolico.
Padra nuestro que estas en la tierra.
Un padre a toda maquina.
Padre de mas de cuatro.
El Padre Diablo.
El Padre Pistolas.
El padrecito.
Palenque sangriento.
Paloma brava.
Paloma herida.
La palomilla al rescate.
la palomilla.
La panchita.
Pancho Lopez.
Pancho pistolas (episodio no. 4).
Pancho pistolas.
Pancho Tequila.
Pancho villa y la valentina.
Pandilla en accion.
Pandilla en el misterio del jaguar.
La pandilla se divierte.
El pandillero.
Pandilleros olor a muerte.
Pandilleros.
Panico.
El pantano de las animas.
La pantera negra.
Papa en onda.
Papacito lindo.
El papelerito.
Papito querido.
Los paquetes de paquita.
Un par de robachicos.
Un para a todo dar.
Para morir iguales.
Para siempre amor mio.
Para toda la vida.
Para todos hay.
Uno paro la horca.
Los parranderos.
El pasajero diez mil.
Pasaporte a la muerte.
Una pasion me domina.
Pasion oculta.
Pasion por el peligro.
La pasion segun Berenice.
Pasionaria.
Pasiones tormentosas.
Paso a la juventud.
Pata de palo.
Patched faced (79).
Patrulla de valientes.
Patrullero 777.
El patrullero 777.
Pax?
La paz.
Pecado.
Pecado (61).
El pecado de Adan y Eva.
Pecado de juventud.
El pecado de Laura.
El pecado de quererte.
El pecado de ser pobre.
El pecado de una madre.
Pecado mortal.
El pecador.
Pecadora.
Las pecadoras.
Pecados de amor.
Pedro Paramo (66).
Pegando con tubo.
Pegando con tubo.
En peligro de muerte (62).
En peligro de muerte (86).
Peligros de juventud.
Los pelotones de Juan Camaney II.
Peluquero de senoras.
Peluqueros.
El penal de la loma.
Penita pena.
El penon de las animas.
Pension de artistas.
Penthouse de la muerte.
Peor que las fieras.
Peor que los buitres.
Pepe el toro.
Pepita Jimenez.
Pepito as del volante.
Pepito y el monstruo.
Pepito y los robachicos.
La pequena enemiga.
La pequena senora de perez (70).
El pequeno Robin Hood.
Los pequenos privilegios.
Perdida.
El perdon de la hija de nadie.
Perdoname mi vida.
Peregrina.
Las perfumadas.
Perico el de los palotes.
La perla.
Los perros de dios.
Perros de presa.
La Persecucion y muerte de Pancho Villa.
La Persecucion y muerte de Pancho Villa.
Persiguelas y alcanzalas.
Los perturbadores.
La perversa.
Los perversos.
Pesadilla mortal.
La picara Susana.
Picaro con suerte.
El picaro.
El pichichi del barrio.
Una piedra en el zapato.
Piernas de oro.
Las piernas del millon.
Pies de gato.
Pilotos con alas.
Pilotos de combate.
Pilots de la muerte.
Pina madura.
La pintada.
Pintame angelitos blacos.
Las piranas aman en cuaresma.
El pirata a negro.
Un pirata de doce anos.
Pistolas invencibles.
La pistolera.
El pistolero del diablo.
El pistolero desconocido.
El pistolero fantasma.
Los pistoleros.
Pistoleros bajo el sol.
Pistoleros de la frontera.
Pistoleros del oeste.

Pistoleros famosos.
Pistoleros famosos II.
Pistoleros famosos III.
Pistoleros famosos III.
Los pistolocos.
Placeres divertidos.
Plagio del millonario.
Planeta de las mujeres invasoras.
Los platos voladores.
La plaza de Puerto Santo.
Plazos traicionero.
El plebeyo.
Pobre corazon.
Pobre del pobre.
Pobre diablo.
Pobre huerfanita.
Pobre . . . pero honrada.
Pobres millonarios.
Las podbres ilegales.
El poder Negro.
Poker de ases.
Poker de reinas.
Policia Aduanal Federal.
Policia de narcoticos.
Policia rural.
Policias y ladrones.
El polvo maldito.
Pompeyo el conquistador.
Por el mismo camino.
Por ellas, aunque mal paguen.
Por eso.
Por la puerta falsa.
Por mis pistolas.
Por que naci mujer?
Por que peca la mujer?
Por querer a una mujer.
Por ti aprendi a querer.
Por tu maldito amor.
Por un vestido de novia.
Porque naci mujer.
El porto salvaje.
La posesion.
El pozo (64).
El pozo (72).
El precio de la gloria (47).
El precio de la gloria (79).
El precio de una vida.
Preciosa.
Prefiero a tu papa.
El Premio Nobel del amor.
La presidenta municipal.
Presos sin culpa.
Prestame a tu mujer.
Prieto, chaparro y panzon.
Primavera en el corazon.
Primavera sangrienta.
El primer paso . . . de la mujer.
Primera comunion, la (mi primera comunio).
Primero el dolar.
Primero soy Mexicano.
El primo Basilio.
La princesa hippie.
Princesa y vagabundo.
El principe de la iglesia.
El principe del desierto.
Prisionera del pasado.
Los problemas de mama.
El proceso de Cristo.
El proceso de Las senoritas Vivanco.
Profanacion.
Profanadores de tumbas.
Profe no se mande.
El profe.
El profeta Mimi.
Programado para matar.
Prohibido.
Pueblerina.
Pueblito.
Pueblo de odios.
El pueblo del terror.
El pueblo fantasma.
Pueblo quieto.
Pueblo sin Dios.
Pueblo, canto y esperanza.
El puente del castigo.
La puerta.
Las puertas del presidio.
Puerto de tentacion.
Pulgarcito.
La pulqueria II.
La Pulqueria.
El puma.
El puno de la muerte.
Punos de roca.
Pura vida.
Que bonito amor.
Que bonito es querer.
Que bravas son las costenas.
El que con ninos se acuesta.
Que Dios me perdone.
Que familia tan cotorra.
Que haremos con papa?
Que haremos con papa?
Que hombre tan simpatico.
Que hombre tan sin embargo.
Que lindo cha-cha-cha.
Que lindo cha-cha-cha.
Que me entierren con la banda.
Que me maten en tus brazos.
Que me maten en tus brazos (los barbaros del no).
Que me siga la tambora.
El que murio de amor el.
El que no corre vuela.
Que noche aquella.
Que padre tan padre.
Que perra vida.
Que seas feliz.
Que te ha dado esa mujer?
Que viva Tepito!mi barrio.
El que no corre vuela.
Los que volvieron.
Quien mato al abuelo?
Quien mato a Eva?
Quien mato al abuelo?
Quien te quiere a ti?
Quiereme porque me muero.
Quiero ser artista.
Quiero vivir.
Quiero vivir (la muerte es mi pareja).
Quiero vivir mi vida!
Quietos todos.
Un Quijote sin mancha.
Quinceanera.
Rafaga de cuerno de chivo.
Rafaga de plomo.
Raffles.
Raices de sangre.
Raices.
Ramona.
Rancho solo (Rancho solo).
El rapido de las 9:15.
El rapido.
Rapina.
Rapto al sol.
El rapto de las Sabinas.
El Rapto.
El Rapto.
Rarotonga.
Rastro de la muerte.
Rastro de muerte.
El rata.
Ratas de vecindad.
Ratero.
Rateros ultimo modelo.
El raton.
El rayo de Sinaloa.
El rayo justiciero.
La razon de la culpa.
El rebelion.
Rebelde sin casa.
La Rebelion de los adolescentes.
La Rebelion de los colgados.
La Rebelion de los hijos.
Las recien casadas.
Recien casados, no molestar.
La recogida.
La recta final.
El recuerdo de aquella noche.
La red.
El redescubrimiento de Mexico.
Refifi entre las mujeres.
Refugiados en Madrid.
Regalo de reyes.
Regreso de los Hermanos Diablo.
El regreso del carro rojo.
Regreso del vampiro.
La reina del mambo.
El reino de los gangsters.
Reir llorando.
Relampago.
Remolino de pasiones.
Remolino.
El rencor de la tierra.
El rencor de los humildes.
El renegado blanco.
Renuncia por motivos de salud.
Repartidores de muerte.
Reportaje.
Reportera en peligro.
Requiem por un canalla.
Los resbalosos.
El rescate.
Resurreccion.
Retando a la muerte.
Reto a la vida.
Retorno a la juventud.
Revancha.
Reventa de esclavas.
Un reverendo trinquetero.
El revoltoso.
Revolver en guardia.
El Revolver sangriento.
El rey.
El rey de Acapulco.
El rey de la pistola.

El rey de los albures.
El rey de los caminos.
El rey de los ladrones.
El rey de los Tahures.
El rey de Mexico.
El rey del barrio.
Rey del los taxistas.
El rey del tomate.
El rey se divierte.
Los reyes del Palenque.
Los reyes del volante.
Los Reyes Magos.
La rielera.
El rifle implacable.
Rigo es amor.
Rincon brujo.
Un rincon cerca del cielo.
El rincon de las virgenes.
El rio de las animas.
Rio escondido.
Rio Grande.
Rio hondo.
Rio salvaje.
El rio y la muerte.
La risa de la ciudad.
Risa de la risa.
La rival.
Las rosas del milagro.
Robachicos.
Robinson Crusoe.
El robo al tren correro.
El robot humano.
Rocambole vs. la secta del escorpion.
Rogaciano el hupanguero.
Romance de fieras.
Romance sobre ruedas.
Romeo contra Julieta.
Romeo y Julieta.
Rondalla.
El ropavejero.
Rosa ''la tequilera.''
La rosa blanca.
La rosa blanca.
Rosa de la frontera.
Rosa de Xochimilco.
Rosa del Caribe.
El rosal bendito.
Rosalba.
Rosario.
Rosas blancas para mi hermana negra.
Rosauro Castro.
Rosenda.
Rostro de la muerte.
El rostro de la muerte.
Rostro infernal.
Rostros olvidados.
Rubi.
La ruletera.
Ruletero a toda marcha.
Rumba caliente.
Rumbera caliente.
Rumbo a Brasilia.
Rutilo el forastero.
S.A. Asesino.
Sablazo limpio.
Sabras que te quiero.
Sabado negro.
Sagrario.
Salon Mexico.
Salto al vacio.
La salvaje ardiente.
Los salvajes.
San Felipe de Jesus.
San Miguel el alto.
San Miguel el alto.
San Simon de los magueyes.
Los Sanchez deben morir.
Sangre de Nostradamus.
Sangre de nuestra raza.
La sangre derramada.
Sangre en el Rio Bravo.
Sangre en la barranca.
La sangre enemiga.
La sangre manda.
Sangre torera.
Santa (68).
Santa Claus.
La santa del barrio.
Santo contra la invasion de los.
Santo el enmascarado de plata vs.
Santo en el hotel de la muerte.
Santo en el misterio de la perla negra.
El Santo en el museo de cera.
Santo en el tesoro de Dracula.
Santo en la frontera del terror.
Santo en la venganza de la Momia.
Santo en la venganza de las mujeres vampiro.
El Santo la tigresa.
Santo Mantequilla Napoles en la venganza.
Santo mision suicida.
El santo oficio.
Santo vs. las momias de Guanajuato.
Santo vs. Capulina.
Santo vs. el asesino de la television.
El Santo vs. las mujeres vampiro.
El santo vs. los zombies.
Santo vs. Blue Demon en la Atlantida.
Santo vs. el cerebro diabolico.
Santo vs. el espectro.
Santo vs. el estrangulador.
Santo vs. el hotel de la muerte.
Santo vs. el rey del crimen.
Santo vs. la hija de Frankenstein.
Santo vs. la Mafia del vicio.
Santo vs. las lobas.
Santo vs. los asesinos de otros mundos.
Santo vs. los cazadores de cabezas.
Santo vs. los jinetes del terror.
Santo y Blue Demon contra los monstruos.
Santo y Blue Demon en el mundo...
Santo y Blue Demon en la Atlantida.
Santo y Blue Demon vs. Dracula y el hombre lo.
Santo y Blue Demon vs. doctor.
Santo y el aguila real.
Santo y la invasion.
Santo y los cazadores de cabezas.
Santo, Blue Demon y mil mascaras.
Los Santos Reyes.
Santos vs. el rey del crimen.
Santos vs. los zombies.
El Sargento Capulina.
La satanica.
Satanico pandemonium.
El satiro.
Se alquila marido.
Se la llevo el Remington.
Se los chupo la bruja.
Secreto de confesion.
El secreto de Juan Palomo.
El secreto de la monja.
El secreto de la solterona.
El secreto de Pancho Villa.
El secreto del Texano.
Secreto profesional.
Los secretos del sexo debil.
El secuestro de Camarena.
El secuestro de Lola.
El secuestro de un policia.
Secuestro en Acapulco (60).
Secuestro en Acapulco (83).
Sed de amor.
Seda, sangre y sol.
La seduccion.
El seductor.
Seguire tus pasos.
La segunda mujer.
Seis dias para morir.
La selva de fuego.
Semana Santa entre los coras.
El semental de Palo Alto.
El seminarista.
Senda prohibida.
Sendas del destino.
El Senor Alcalde.
El senor director.
El senor doctor.
El senor fotografo.
El Senor Gobernador.
El Senor Tormenta.
La senora de enfrente.
La Senora Muerte.
Senora Tentacion.
Senoritas.
Las Senoritas Vivanco.
Sensualidad.
La sentencia.
Sentenciado a muerte.
Sentenciado por la Mafia (nativas de la muerte).
Serenata en Acapulo.
Serenata en noche de luna.
Serenata macabra.
Servicio secreto.
Sexo contra sexo.
El sexo de los pobres.
Sexo me da risa.
El sexo me divierte.
Sexo sentido.
Sexo y crimen.
El sexologo.
The shadow.
Los sherifs de la frontera.
Si Adelita se fuera con otro.
Si fuera una cualquiera.
Si me han de matar manana.
Si mi cama hablara.
Si quiero.
Si usted no puede, yo si.
Si volvieras a mi.
Si yo fuera diputado.
Si yo fuera millonario.
Siempre en domingo.

Siempre estare contigo.
Siempre hay un manana.
Siempre tuya.
Sierra de sangre.
La sierra del terro.
El siete copas.
Las siete Cucas.
Siete en la mira.
Siete Evas para Adan.
El siete leguas.
El siete machos.
Siete muertes para el Texano.
Siete muertes para el Texano.
Los siete ninos de Ecija.
Siete pecados.
Los siete proscritos.
El siete vidas.
Sigueme corazon.
Siguiendo pistas.
Silencio de muerte.
El silencioso.
The silvermasked saint.
Simbad, el mareado.
El simio blanco.
Simitrio.
Simon del desierto.
Simon del desierto.
Simon el estilista.
Simplemente un crimen.
Simplemente vivir.
Sin fortuna.
La sin ventura.
Sindicato de telemirones.
El sinverguenza.
Sinverguenza.
Sobre el muerto las coronas.
Sobre las olas.
Sobre las olas (32).
El socio.
Sol en llamas.
El sol sale para todos.
Sol y sombra.
Solamente una vez.
La soldadera.
Soledad.
El solitario indomable.
Solo de noche vienes.
Solo para ti.
Solo Veracruz es bello.
La sombra.
La sombra de Cruz Diablo.
La sombra de los hijos.
La sombra de un pasado.
La sombra del caudillo.
La sombra del murcielago.
La sombra del otro.
La sombra del sol.
La sombra en defensa de la juventud.
La sombra siniestra.
Sombra verde.
Sombra vs. La mano negra.
El sombrero de tres picos.
Somos del otro Laredo.
Son tus perjumenes mujer.
Sonata.
La sonrisa de la Virgen.
La sonrisa de los pobres.
Sor Alegria.
Sor Juana Ines de la Cruz.
Sor Tequila.
El sordo.
La sotana del reo.
Soy charro de rancho grande.
Soy Chicano y Mexicano.
Soy madre soltera.
The stone book.
Su excelencia.
Su gran ilusion.
Su precio unos dolares.
Su primer amor.
Su ultima aventura.
El suavecito.
Sube y baja.
Sublime melodia.
Sucedio en Garibaldi.
Sucedio en Garibaldi.
Sucedio en Jalisco.
Sucedio en Mexico.
Un sueno de amor.
Suenos de amor.
Suenos de oro.
Suerte de Dios.
Suicidate, mi amor.
El sultan descalzo.
Superpolicia ocho ochenta.
El superhombre.
El supermacho.
El superman...Dilon II.
El superman...Dilon.
Los supervivientes de los Andes.
Suprema ley.
Susana.
Tabare.
Tacos al carbon.
El tahur.
Tal para cual.
Los tales por cuales.
Tambien de dolor se canta.
Tampico.
Tan bueno el giro como el colorado.
Las tapatias nunca pierden.
Tarahumara.
Tarde de agosto.
Te besare en la boca.
Te odio y te quiero.
Te quiero.
Te sigo esperando.
Te solte la rienda.
Te vi en T.V.
Teatro del crimen.
Teatro follies.
Tehuantepec.
El temerario.
Los temibles.
Las tendatora.
La tercera palabra.
Teresa.
El terrible gigante de las nieves.
El terror de la frontera.
Terror en los barrios.
Terror, sexo y brujeria (cautivo del mas alla).
El tesoro de Chucho el Roto.
El tesoro de Chucho el Roto.
El tesoro de la muerte.
Tesoro de mentiras.
El tesoro de Moctezuma.
El tesoro de Pancho Villa.
El tesoro del indito.
El tesoro del Rey Salomon.
El testamento.
El testamento del vampiro.
Testigo silencioso.
El Texano.
Thaimi, la hija del pescador.
Thanatos.
La tia Alejandra.
La tia de las muchachas.
Tiburon.
Tiburon (33).
Tiburoneros.
Tiempo y destiempo.
Tierra baja.
La tierra de fuego se apaga.
Tierra de hombres.
Tierra de pasiones.
Tierra de rencores.
Tierra de sangre.
Tierra de valientes.
Tierra de violencia.
Tierra muerta.
La tierra prometida.
El tigre de Guanajuato.
El tigre de Jalisco.
El tigre de la frontera.
El tigre de Yautepec.
El tigre enmascarado.
El tigre negro.
Los tigres del desierto.
Tigres del ring.
Los tigres del ring.
Tigres del ring III.
La tigresa.
La tijera de oro.
Timoteo, el incomprendido.
Tin-Tan y las modelos.
Tinieblas.
Tintanson Cruzoe.
Tio de mi vida.
Un tipo a todo dar.
Un tipo dificil de matar.
Tirando a gol.
Tirando a matar.
Tizoc.
Tlayucan.
Toda maquina.
Todo el horizonte para morir.
Todo por nada.
Todo un caballero.
Todo un hombre (82).
Todos los Mexicanos somos mujeriegos.
Todos son mis hijos.
Torero por un dia.
Tormenta en el ring.
Tormenta en la cumbre.
Un toro me llama.
El toro negro.
La torre de los suplicios.
La tortola del Ajusco.
Traficantes de ninos.
El tragabalas.
Tragedia en Michoacan.
Traiganlos vivos o muertos.
Traigo mi 45.
Las traigo muertas.
La trampa mortal.

Trampa para un cadaver.
El trampa.
Trampas de amor.
Los tres huastecos.
Los tres salvajes.
Treinta segundos para morir.
Tren que corria.
La trenza.
Las tres alegres comadres.
Los tres alegres compadres.
Los tres amores de Lola.
Tres angelitos negros.
Tres balas perdidas.
Los tres bohemios.
Tres bribones.
Los tres calaveras.
Tres citas con el destino.
Los tres compadres.
Tres contra el destino.
Las tres coquetonas.
Tres de la vida airada.
Tres de presidio.
Los tres Garcia.
Tres hermanos.
Tres hombres malos.
Los tres Huastecos.
Tres lecciones de amor.
Las tres magnificas.
Tres melodias de amor.
Tres mil kilometros de amor.
Los tres mosqueteros de Dios.
Tres mosqueteros y medio.
Los tres mosqueteros.
Tres muchachas de Jalisco.
Tres mujeres en la hoguera.
Tres noches de locura.
Tres palomas alborotadas.
Las tres pelonas.
Las tres perfectas casadas.
Tres perfectas casadas.
Las tres perfectas casadas.
Tres Romeos y una Julieta.
Tres trinqueteros en Acapulco.
Tres tristes tigres.
Las tres tumbas.
Tres valientes camaradas.
Los tres Villalobos.
Las tres viudas alegres.
Los tres vivales.
Tribu.
Tribunal de justicia.
La trinchera.
El trinquetero.
Un trio de tres.
Trio y cuarteto.
Triste recuerdo.
Triunfa la pandilla.
Los triunfadores.
El triunfo del lobo.
Tropicana.
Trotacalles.
Tu hijo debe nacer.
Tu mujer es la mia.
Tu vida contra mi vida.
Tu vida entre mis manos (mi vida entre tus manos).
Tu vida entre mis manos.
Tu y las nubes.
La tumba.
La tumba de Matias.
La tumba del mojado.
Tumba para un narco.
El tunel seis.
Tuya para siempre.
Tuyo hasta que la migra nos separe.
Twist, locura de juventud.
La ultima aventura de Chaflan.
La ultima lucha.
La ultima noche.
El ultimo cartucho.
El ultimo disparo.
El ultimo disparo.
El ultimo Mexicano.
El ultimo pistolero.
El ultimo tunel.
Los ultimos dias de Pompeyo.
Ultraje al amor.
Un alma pura.
Un sabado mas.
Una cancion para recordar.
Uno para la horca.
Uno y medio contra el mundo.
Ustedes los ricos.
Vacaciones en Acapulco.
Vacaciones misteriosas.
Vagabunda.
Vagabundo.
El vagabundo.
Vagabundo en la lluvia.
Vagabundo y millonario.
Un vago sin oficio.
El vagon de la muerte.
Valente Quintero.
Valentin Armienta.
Valentin de la sierra.
La valentina.
El valiente vive hasta que el cobarde quiere.
Los valientes no mueren.
El valle de los miserables.
El valor de vivir.
Valses venian de Viena y los ninos de Paris.
Vamonos con Pancho Villa.
Vamonos para la feria.
Las vampiras.
El vampiro.
El vampiro sangriento.
Vainilla bronce y morir.
Variedades de medianoche.
Vaya tipos.
Ven a cantar conmigo.
Veneno para las hadas.
La venenosa.
Venganza sangrienta.
El vengador de Sinaloa.
El vengador solitario.
Vengadoras enmascaradas.
Venganza apache.
Venganza de Gabino Barrera.
La venganza de Huracan Ramirez.
La venganza de la coyota.
La venganza de la sombra.
La venganza de los Villalobos.
La venganza de Ramona.
Venganza del Diablo.
Venganza del resucitado.
La venganza del rojo.
Venganza en el circo.
La Venus maldita.
Verano ardiente.
Verano salvaje.
Verano violento.
La verdad de la lucha.
La verdadera vocacion de Magdalena.
El verdugo de Sevilla.
Verdugo de traidores.
Los verduleros III.
El vergonzoso.
Vertigo.
Vestidas y alborotadas.
Vestido de novia.
El vestido de novia.
Una vez en la noche.
El viaje.
El viaje (L.S.D. viaje).
Un viaje a la luna.
Viaje al paraiso.
Viaje fantastico en globo.
Las viboras cambian de piel.
Victimas de la pobreza.
Victimas de un asesino.
Victimas del divorcio.
Victimas del pecado.
La vida cambia.
La vida de Agustin Lara.
Vida de Pedro Infante.
La vida intima de Marco Antonio y Cleopatra.
La vida no vale nada.
Vidita negra.
La viuda negra.
Los viejos somos asi.
Veinticuatro horas de vida.
Viento distante.
Viento negro.
Viento salvaje.
La vinida del Rey Olmos.
Vino el remolino y nos levanto.
El violadar infernal.
El violetero.
La Virgen de Guadalupe.
La Virgen de la calle.
La Virgen de la sierra.
Virgen de medianoche.
La Virgen del cielo.
La virgen desnuda.
Las virgenes locas.
Una virgen moderna.
La virtud desnuda.
La visita que no toco el timbre.
Las visitaciones del Diablo.
Vistete, Cristina.
Una viuda sin sosten.
Viuda sin sosten.
Viva Benito Canales!
Viva Chihuahua.
Viva Jalisco que es mi tierra.
Viva la juventud.
Viva la parranda.
Viva Mexico!
Viva mi desgracia.
Viva quien sabe querer.
Vive como sea.
El vividor.
Vivillo desde chiquillo.
Vivir a todo dar.

Vivir de suenos.
Vivir del cuento.
Vivire otra vez.
Vivo o muerto.
El Vizconde de Montecristo.
El Vizconde de Montecristo.
Voces de primavera.
Volver, volver.
La voragine.
Voy de gallo.
Voz de la sangre.
El vuelo 701.
El vuelo de la ciguena.
El vuelo de la muerte.
Vuelta al paraiso.
La vuelta del Mexicano.
Vuelva el sabado.
Vuelve el Dr. Satan.
Vuelve el lobo.
Vuelve el ojo de vidrio.
Vuelve el Texano.
Vuelve el norteno.
Vuelven los cinco halcones.
Vuelven los Garcia.
Vuelven los Garcia.
Vuelven los Argumedo.
Xoxontla.
Y Dios la llamo tierra.
Y la mujer hizo al hombre.
Y llego la paz.
Y manana seran mujeres.
Ya llegaron los gorrones.
Ya somos hombres.
Ya tengo a mi hijo.
Yanco.
Yegua colorada.
Yesenia.
Yo amo, tu amas, nosotros...
Yo baile con Don Porfirio.
Yo baile con Don Porfirio.
Yo dormi con un fantasma.
Yo fui una callejera.
Yo mate a Juan Charrasqueado.
Yo mate a Rosita Alvarez.
Yo no creo en los hombres.
Yo no me caso, compadre.
Yo, pecador.
Yo quiero ser mala.
Yo sabia demasiado.
Yo soy gallo dondequiera.
Yo soy la ley.
Yo soy muy macho.
Yo soy tu padre.
Yo soy usted.
Yo tambien soy de Jalisco.
Yo y mi mariachi.
Yo, el aventurero.
Yo, el mujeriego.
Yo, el valiente.
Zacazonapan.
La zandunga.
Zangano.
Zapata en Chinameca.
Las zapatillas verdes.
El zarco.
La zona del silencio.
Zona roja.
Zonga.
Zorina.
El zorro blanco.
El zorro vengador.
El zurdo.

Baron, Alexander. SEE Baron, Joseph Alexander a.k.a. Alexander Baron.

Baron, Joseph Alexander a.k.a. Alexander Baron.
The victors.

Berger, Diamant. SEE Pathe, Diamant Berger & Rene Clair.

Carlton Film Distributors, Ltd.
Band waggon.
Ghost train (1931).
Ghost train (1941).

Chilovkaia, Elena Evuenievna.
Adam i Eva.
Bagovys Ostrov.
Bagrovys Ostrov.
Beg.
Belaia gvardiia.
Benefis Lorda Kerzona.
Bogena.
Bulgakov: six plays.
Cetyre portreta.
D'Javoliada.
Dana Zoyka.
Diaboliad & other stories.
Dni Turbinyh.
The early days of Mikhail Bulgakov.
The Elpit-Rabkommun building.
Flight & bliss.
Kabala sviatos.
Kiev gorod.
Kitaiskaia istoriia.
The Komarov case.
Krasnaia korona.
Master i Margarita.
Moskovskie sceny.
Moskva Krasnokamnaia.
The night of the third.
Noskva krasnoka menaia.
Noskva-zokh godov.
Notes on the cuff & other stories.
Pohozdenda cicikova.
Povesti.
Psalom.
Pushkin.
Ranniaia proza.
Rokovye jajca.
Sobac'e serdce.
Traktat o zicisce.
Travel notes.
Zapiski na marzeta.
Zizn gospodina de nolera.
Zizn gospodinade nol era.
Zoikina kvartira.

Cima Films, S.A. de C.V.
Adios, amor.
Alerta alta tension.
Arrullo de Dios.
El caballo del Diablo.
La cama.
Las cautivas.
Confesiones de una adolescente.
Los corrompidos.
Cronica de un amor.
Elena y Raquel.
En estas camas nadie duerme.
Los enamorados.
La endemoniada.
Fin de fiesta.
La hermanita dinamita.
Mujeres de media noche.
Nadie te querra como yo.
El oficio mas antiguo del mundo.
Operacion 67.
La otra mujer.
Que hombre tan sin embargo.
El quelite.
Santo contra el estrangulador.
El secuestro.
El tesoro de Moctezuma.
Verano ardiente.
La viuda blanca.

Cine Phonic. SEE Cogelda, SGGC & Cine Phonic.

Cine Vision, SA.
Anacleto se divorcia.
La barraca.
Cafe de chinos.
Carriba.
Con su amable permiso.
Corazon de nino.
La feria de las flores.
La gatita.
El gran mentiroso.
La hija del panadero.
Jalisco nunca pierde.
Juan sin miedo.
Juntos pero no revueltos.
Maria del mar.
Los Millones del Chaplan.
La Mujer que quiere a dos.
Pobre diablo.
Y murio por nosotros.

Cinematgrafica RA, SA.
El angel y yo.
Asi amaron nuestros padres.
Blue Demon vs. cerebros infernales.
Blue Demon vs. las diabolicas.
Blue Demon vs. las invasoras.
Bonitas las tapatias.
Chantaje al desnudo.
El charro immortal.
El Chicano vengador.
Donde las dan, las toman.
Historia de un hogar.
Los derechos de los hijos.
Los hijos de rancho grande.
Los valses venian de Viena y los ninos de Paris.
Marcelo y Maria.
Mexico de mis recuerdos.
Ramorp Sierra.
Rutilo el forastero.
El ultimo Mexicano.
Una pasion me domina.

Cinematografica Filmex, S.A. de C.V.
Los caciques.
Los cacos.
Los Caifanes.
Diamantes, oro y amor.
Los dos hermanos.
La justicia tiene 12 anos.
Mecanica nacional.
La mentira.
La Montana del Diablo.
Para servir a usted.

Paraiso.
Patsy mi amor.
El payo.
Las puertas del paraiso.
El sabor de la venganza.
Siempre hay una primera vez.
Sin salida.
Tacos al carbon.
Trampas de amor.
Una vez un hombre.
Cinematografica Jalisco, S.A. de C.V. SEE Cineproducciones Internacionales, S.A. DE C.V., Productora Filmica Real, S.A.
Cinematografica Jalisco, S.A. de C.V. SEE Priego (Producciones Rosas), S.A. de C.V., Cineproducciones Internacionales.
Cineproducciones Internacionales, S.A. de C.V.
El arte de enganar.
El deseo en otono.
El hijo de Angela Maria.
El Sargento Perez.
El trinquetero.
Cineproducciones Internacionales, S.A. de C.V. SEE Priego (Producciones Rosas), SA de CV, Cineproducciones Internacionales.
Cineproducciones Internacionales, S.A. De C.V. & Productora Filmica Real, S.A. DE C.V.
Burlesque.
Cineproducciones Internacionales, S.A. De C.V., Oro Films, S.A. De C.V. & Cosmopolitan Films, S.A. DE C.V.
El preso no. 9.
Cineproducciones Internacionales, S.A. De C.V., Producciones Ega, S.A. DE C.V. & Gazcon Films, S.A. DE C.V.
Pancho el Sancho.
Cineproducciones Internacionales, S.A. De C.V., Productora Filmica Real, S.A. DE C.V. & Cinematografica Jalisco, S.A. DE.
Las computadoras.
Cite Films. SEE Pathe & Cite Films.
City Entertainment Corporation.
Green grow the rushes.
Mikres Aphrodites.
Pygmalion.
La vie conjugale: Jean-Marc.
La vie conjugale: Francoise.
Clair, Rene. SEE Pathe, Diamant Berger & Rene Clair.
Cogelda.
Le bateau d' Emile.
Les cin gentuemen maudits.
En effeuillant la Marguerite.
Huis clos.
Maxime.
Ombre et lumiere.
Retour de manivelle.
La tete d'un homme.
Cogelda. SEE Films Vendome (A.Osso & COGELDA) co-producers.
Cogelda. SEE Orphee & Cogelda.
Cogelda & Ariane.
Le Diable et les dix commandments.
Cogelda & Regina.
Marianne de ma jeunesse.
Cogelda & Vandal.
David Golder.
Cogelda & Vera.
Les espions.
Cogelda, Ariane & Pretoria.
Une parisienne.
Cogelda, Plazza & Victoria.
La loi du nord.
Cogelda, SGGC & Cine Phonic.
Rue de l'estrapade.
Cosmopolitan Films, S.A. De C.V. SEE Cineproducciones Internacionales, S.A. De C.V., Oro Films, S.A. De C.V. & Cosmopol.
Crystal Pictures, Inc.
Adventures de Gil Blas de Santillane.
Doctor des grandes.
The mongols.
One step to eternity.
Tamango.
D'Mauricio Walerstein.
Cronica de un subersivo latinoamericano.
Cuando quiero llorar no lloro.
La empresa perdona un momento de locura.
Eva, Julia y Perla.
Denver Film Productions, Inc.
Io sto con gli ippopotami.
E.M. Films, CA.
Con el corazon en la mano.
Macho y hembra.
La maxima felicidad.
Enoch & Cie.
Symphonie concertante, op. 8 pour violoncello et piano.
Estate of Barbara Pynn.
Excellent women.
Filmadora Mexicana, S.A.
La adultera.
Alejandra.
Alla en eu bajio.
As negro.
El bano afrodita.
Bel ami.
Club verde.
Un corazon burlado.
Cuando se quiere se quiere.
Dios nos manda vivir.
Las dos huerfanas.
Duena y senora.
El embajador.
Enredate y veras.
La esquina de mi barrio.
Infierno de almas.
El ladron.
Lagrimas de sangre.
Magdalena.
Maria Montecristo.
Medianoche.
La mujer que enganamos.
No soy monedita de oro.
Pecado.
La picara Susana.
Lo que el viento trajo.
El que murio de amor.
El secreto profesional.
Tinieblas.
Una piedra en el zapato.
La vida intima de Marco Antonio y Cleopatra.
Yo soy tu padre.
Films A2. SEE Pathe, Gefirex & Films A2.
Films Agiman. SEE Pathe & Films Agiman.
Films Du Losange.
La feme de l'aviateur.
La marquise d'o.
Perceval.
Films Vendome (A. Osso and UGC DA) co-producers.
La maison dans la dune.
Films Vendome (A.Osso & COGELDA) co-producers.
La table aux creves.
Films Vendome (Adolphe Osso) producer.
Les amours finissent a l'aube.
La demande en mariage.
Le grand rendez-vous.
Rue des Saussaies.
G. Schirmer, Inc.
Adagio.
Allegretto.
Allegro disperato.
Andante.
Five etudes.
Largo.
Gazcon Films, S.A. De C.V. SEE Cineproducciones Internacionales, S.A. De C.V., Producciones Ega, S.A. De C.V. & Gazcon.
Gefirex. SEE Pathe, Gefirex & Films A2.
Gendaieigasha.
Eros + gyakusatsu.
Gray Films. SEE Pathe, Gray Films & Progefi.
Greenwich Film Production.
Ave Maria.
Cent francs l'amour.
Une corde, un colt.
Les cousines.
Le dix septieme ciel.
Le dos an mur.
Le fil a la patte.
Le grand bidule.
Liebelei.
La loi du nord.
Les longues annees 39–45.
Les mal partis.
Un millard dans un billard.
Ouvert contre X.
La peau de torpedo.
Le reflux.
Les revoltes de Lomanach.
Le rideau rouge.
Sabra.
Le soleil des voyous.
Le tonnerre de Dieu.
Un veuve en or.
Vanina.
Le voie lactee.
Le voyage du pere.
Grupo Galindo, SA de CV.
El abandonado.

Aguilas de acero.
Al diablo las mujeres.
Amaneci en tus brazos.
Asesinos en la noche.
Ay! que rechula es Puebla.
El beisbolista fenomeno.
Bendito entre las mujeres.
Buscando una sonrisa.
Caceria de un criminal.
Cara sucia.
Carabina 30–30.
La carrera del millon.
Cascabelito.
Los cinco halcones.
La ciudad perdida.
Cuando los hijos se van.
Cuentos colorados.
Cuna de valientes.
De tal palo tal astilla.
Debieron ahorcarlos antes.
El desalmado.
Dicen que soy hombre malo.
La diligencia de la muerte.
Dos locos en aprietos.
Dos tontos y un loco.
En cada puerto un amor.
En la hacienda de la flor.
Espuelas de oro.
Estafa de amor.
El fantasma de la casa roja.
El fronterizo.
Gatilleros del Rio Bravo.
Los gavilanes negros.
Horas de agonia.
El ladron fenomeno.
Lanza tus penas al viento.
Limosnero con garrote.
El llanto de los pobres.
El mar y tu.
Mi revolver es la ley.
Mi ultimo fracaso.
No me platiques mas.
Nosotros los pelados.
Pancho Tequila.
Perdoname mi vida.
Pesadilla fatal.
Por que ya no me quieres?
Que padre tan padre.
Rayito de luna.
El regreso del carro rojo.
El rey de los albures.
El rey del tomate.
Romeo contra Julieta.
Ruletero a toda marcha.
Se los chupo la bruja.
Secreto de confesion.
Serenata en noche de luna.
La sexta carrera.
Siete en al mira II.
El terror de la frontera.
Traiganlos vivos o muertos.
Los tres salvajes.
Tu recuerdo y yo.
Vacaciones de terror II.
Vestidas y alborotadas.
Las viudas del cha cha cha.
Yo no me caso, compadre.
Yo y mi mariachi.
Zacazonapan.

Hani Productions/Art Theatre Guild for Japan Company, Ltd.
  Hatsukoi: jigokuhen.
Ina, Masaharu.
  No regrets for our youth.
Independent-International Pictures Corporation.
  L' altra.
  Un Americano a Roma.
  Amor non ho. pero'...pero'!
  Anema e core.
  Arrivano i nostri.
  Le avventure di Pinocchio.
  Bella non piangere!
  Biraghin.
  La bisbetica domata.
  I cadetti di Guascogna.
  Il canto della vita.
  Cavalleria rusticana.
  Il Conte di Montecristo.
  La corona di ferro.
  Il Cristo proibito.
  Davanti a lui tremava tutta Roma.
  Il Diavolo va in collegio.
  Domani e'un altro giorno.
  La donna del fiume.
  Dopo divorzieremo.
  Due notti con Cleopatra.
  I due orfanelli.
  E'arrivato II cavaliere!
  Era lei che lo voleva!
  Eugenia Grandet.
  Fiacre no. 13 (1st episode: The crime).
  Fiacre no. 13 (2nd episode: The punishment).
  La fiammata.
  Il fidanzato di mia moglie.
  La figlia del Diavolo.
  Finisce sempre cosi'.
  Fratelli D'Italia.
  Gelosia.
  Giorni felici.
  La grande speranza.
  Le infedeli.
  Knock-out.
  Koenigsmark.
  Lo sai che i papaveri...
  Londra chiama polo nord.
  M.A.S.
  I maracoli non si repetono.
  Miseria e nobilita.
  Natale a campo 119.
  La nave delle donne malledette.
  Noi cannibali.
  Peppino e Violetta.
  La portatrice di pane.
  La Presidentessa.
  Ragazze Dooggi.
  La resa di Titi'.
  Rigoletto.
  La risaia.
  La rivincita di Montecristo.
  Roma citta aperta.
  La Romana.
  Senza una donna.
  Toto all'inferno.
  La tratta delle bianche.
  Gli ultimi cinque minuti.
  Un giorno in Pretura.
  Vendetta...Sarda.
  La vispa Teresa.
  La vita ricomincia.
Initial Groupe.
  Roi blanc, dame rouge.
Lenfilm Studios.
  (Blokada) Leningradsky metronom.
  (Blokada) Operatsiya ''iskra.''
  (Blokada) pulkovsky meridian.
  20-e Dekabrya.
  713-y prosit posadku.
  72 gradusa nizhe nulya.
  A krepost byla nepristupnaya.
  A vy lyubily kogda-nibud?
  Afrikanych.
  Akademik Ivan Pavlov.
  Aktyer Nikolay Cherkasov.
  Aleko.
  Alexander Popov.
  Alyesha Ptitsyin vyirabatyivaet kharakter.
  Anafema.
  Andreika.
  Anyuta.
  Asya.
  Avariya.
  Baltiyskaya slava.
  Baltiyskoe nebo.
  Barbos v gostyakh u Bobika.
  Baryer neizvesnosti.
  Baryshnya i khuligan.
  Beda.
  Belinsky.
  Belyi flyuger.
  Bereg yunosti.
  Bessmertnaya pesnya.
  Bez semyi.
  Biletik na vtoroy seans.
  Blagochestivaya Marta.
  Blokada, luzhsky rubezh.
  Boba i slon.
  Bolshaya semya.
  Bolshaya igra.
  Braslet-2.
  Bratya Komarovyi.
  Budni i prazdniki.
  Chapliniana.
  Chelovek amfibiya.
  Chelovek, kotoromu vezlo.
  Chelovek s budushim.
  Cheryemushki.
  Chesty tovarischa.
  Chetyre stranitsky odnoy molodoy zhizni.
  Chiornye sukhari.
  Cholpin-utrennyaya zvezda.
  Chto by ty vybral?
  Chuzhaya beda.
  Chuzhaya rodnya.
  Chuzhaya zhena i muzh pod krovatyu.
  Chuzhaya.
  Chuzhiye pisma.
  Chyernaya chayka.
  Dauriya.
  Dela davno minuvshikh dney.
  Delo Rumyantseva.
  Delo.
  Den pervyi.

Den priyoma po lichnym voprosam.
Den schast'ya.
Den solntsa i dozhdya.
Deti kak deti.
Devochka i krokodil.
Devochka, khochesh snimatsya v kino?
Devochka, s kotoroyi ya druzhil.
Dikaya sobaka Dingo.
Dikiy Gavrila.
Dlinnoye, dlinnoye delo.
Dnevnik direktora shkoly.
Do buduschey vesny.
Doker.
Dolgaya schastlivaya zhizn.
Dom naprotiv.
Dom stroitsya.
Domoy.
Don Kikhot.
Don Sezar de Bazan.
Donskaya povest.
Doroga na ryubetsal.
Doroga pravdy.
Doroga ukhodit vdaly.
Dorogoy moy chelovek.
Dosledivie dni Pompei.
Dostigaev i drugie.
Doverie.
Dozhit do rassveta.
Dragotsennyie Ziorna.
Drama iz starinnoy zhizni.
Druzyya i gody.
Dusha zovyet.
Dva bileta na dnevnoyi seans.
Dva kapitana.
Dva voskreseniya.
Dvadisyatyi vek nachinaetsya.
Dvadtsat dney bez viony.
Dve v novom dome.
Dvennadtsataya noch.
Dvennadtsat mesyatsev.
Dver bez zamka.
Dzhek Vosymyerkin-Amerikanets.
Edinstvennaya.
Ego vremya pridiot.
Ego zvali Robert.
Eiyo imya-vesna.
Ekskursant.
Esli pozovyet tovarisch.
Esop.
Eti nevinnye zabavy.
Evgeniy Onegin.
Eshcho ne vecher.
Ezhir.
Fantazii Faryatieva.
Ferenc Liszt.
Filipp Traum.
Fro.
Gamlet.
Gde eto vidano, gde eto slykhano?
Gde ty, lyubov Dunyasheva?
Geroi Shipki.
Golos.
Goluboy liod.
Gonschiki.
Gori, gori yasno.
Gorizont.
Gorod shzhigaet ogni.
Gorod. Osen. Ritm.
Goryachaya dlisha.
Goryachee serdtse.
Gosudarstvennyi prestupnik.
Goya, ili tyazhky put poznaniya.
Greshny angel.
Grossmeyster.
Groza nad beloy.
Gryaduschemu veku.
Guschak iz Rio-De-Zhaneyro.
Gvozd programmiy.
I drugie ofitsianye litsa.
I snova utro.
Zapasnoy igrok.
Idu na grozu.
Igra.
Igrok.
Ihma s sobachkoy.
Iskaneli.
Ispolnyayuschii obyazannosti.
Istochnik.
Ivan i Kolombina.
Iz Nyu-Yorka v Yasnuyu Polyanu.
Izhorsky Batalion.
Sobache serdtse.
Kadkina vsyakiy znaet.
Kain XVIII.
Kak Ivanushka durachok za chudom khodil.
Kak veryovochka ni vyetsya.
Kapitan.
Kapronovaya yelochka.
Karpukhin.
Katerina Izmailova.
Khanuma.
Khleb-imya suschestvitelnoe.
Khod beloy korolevy.
Kholodno-goryacho.
Khoreograficheskie miniatyury.
Khoristka.
Khozyain.
Khronika pikiruyuschego bombardirovschika.
Kino i vremya.
Knyaz Igor.
Kochubey.
Kogda pesnya ne konchaetsya.
Kogda razvodyat mosty.
Kolovraschenie zhizni.
Kolye Sharlotty.
Komediya oshibok.
Komissiya po rassledovaniyu.
Konchina.
Kontsert masterov iskusstv.
Korol Lir.
Kortik.
Krakh inzhinera Garina.
Krasny diplomat.
Krasnye pchioly.
Krepostnaya aktrisa.
Krik o pomoschi.
Krotkaya.
Krug.
Krutye gorki.
Kseniya, lyubimaya zhena Fiodora.
Kto pridumal koleso.
Klyuch bez prava peredachi.
Za Vetlugoy rekoy.
Lavina.
Lebedinaya pesnya.
Lebedinoye ozero.
Lenfilm.
Les.
Letnyaya poesdka k moryu.
Letuchaya mysh.
Liberal.
Lichnaya zhizn direktora.
Lichnaya zhizn Kuzyaeva Valentina.
Lichnoe delo.
Lubov s pervogo vzglyada.
Lyalka-Ruslan i ego drug Sanka.
Lyublyu tebya zhizn!
Lyubov yarovaya.
Lyubov yarovaya.
Lyudi golubykh rek.
Makar-sledopyt.
Maksim perepelitsa.
Malchik i devochka.
Malchik s konkami.
Malchishki. Eto imenno ya.
Malchishki. Novenky.
Mama vyshla zamuzh.
Mandat.
Maritsa.
Mastera russkogo baleta.
Mat' i machekha.
Mechenyi atom.
Medovyi mesyats.
Menya eto ne kasaetsya.
Meschane.
Mesto deystviya.
Mesyats Avgust.
Mif.
Mikhayil Lomonosov.
Miortvyi sezon.
Mir Nickolaya Simonova.
Mishel i Mishutka.
Missiya v Kabule.
Mister Iks.
Mladshiyi nauchnyi sotrudnik.
Moabitskaya tetrad.
Moya zhizn.
Molodaya zhena.
Monolog.
Most pereyti nelzya.
Moy dobryi papa.
Musorgsky.
Musykanty odnogo polka.
Myatezhnaya zastava.
Na beregakh plenitelnoy Nevy.
Na dikom brege.
Na odnoyi planete.
Na ostrove dalnem.
Na perelome.
Na puti v Berlin.
Na voine kak na voine.
Nachalnik Chukotki.
Nachalo.
Nad Nemanom rassvet.
Naidi menya, Lyonya.
Nash korrespondent.
Navstrechu zhizni.
Ne bolit golova u dyatla.
Ne imey sto rubley.
Ne zabud. . .stantsiya Lugovaya.
Nebesnyie lastochki.
Neobyknovennoye leto.
Neobyknovennye priklyucheniya Khrikaivali.

Neokonchennaya povest.
Neoplachennyi dolg.
Neveroyatny Ieegudil Khlamida.
Nevesta.
Nevskie melodii.
Neznakomyi naslednik.
Nikkolo Paganini.
Nikudyshnaya.
Noch na 14-y paralleli.
Nochnaya smena.
Nochnoy gost.
Novogodniye priklyucheniya Mashi i Viti.
O tekh, kogo pomnyu i lyublyu.
Obyasnenie v lyubvi.
Obratnaya svyaz.
Obychny mesyats.
Obyknovennaya arktika.
Odinnadtsat nadezhd.
Odinozhdy odin.
Odna noch.
Ogni Baku.
Ona vas lyubit.
Opoznaniye.
Oshibki yunosti.
Ostorozhno, Babushka!
Ostrov pogibshikh korabley.
Ostrov sokrovisch.
Otkryitaya kniga.
Otkrytaya kniga.
Otpusk v Sentyabre.
Ottsy i deti.
Ovod.
Pamyat.
Pavlovsk.
Pekhota
Pered sudom istorii.
Perikola.
Perv yi posetitel.
Pervaya Bastilya.
Pervorossiyane.
Pervyi myach.
Pervyi reis.
Pervyie radosti.
Pyostryie rasskazy.
Phkhita.
Pikovaya dama.
Pirogov.
Plokhaya primeta.
Plokhov khoroshiy chelovek.
Plyvi, korablik.
Pobeditel.
Pod kamennym nebom.
Pod stuk kolyes.
Poddubenskiye chastushki.
Podnyataya tselina.
Podzornaya truba.
Poezd miloserdiya.
Poka front v oborone.
Poka stoyat gory.
Poka zhiv chelovek.
Polkovnik v otstavke.
Polosatya reyas.
Pomni, Kaspar.
Poputnogo vetra, ''sinyaya ptitsa.''
Porozhniy reys.
Posledniy dyuym.
Posledniy den zimy.
Povest o molodozhena.
Poymanny monakh.
Pozhar vo fligele.
Poznavaya belyi svet.
Praktikant.
Premiya.
Pri otkryitikh dveryakh.
Priklyucheniya Artyomki.
Priklyucheniya Printsa Florizelya.
Priklyucheniya Sherlocka Holmsa.
Prinimayu boy.
Prints i nizchiy.
Pristan na tom beregu.
Privatny syurpriz.
Prizvanie.
Proishestviyi, kotorogo nikto.
Proshlym letom.
Proshu slovo.
Prostranstvo dlya manevra.
Protivostoyanie.
Prozchaniye s Peterburgom.
Pryizhok s kryishyi.
Puchina.
Posle svadby.
Pyat dnei.
Pyataya chetvert.
Pyatero sneba.
Pyatiorka za leto.
Rabochiy posyelok.
Rafferti.
Razlom.
Rasskaz o prostoy veshchi.
Rasskazhi mne o sebe.
Razdumya.
Razreshite vzliot.
Razvyazka.
Rebyachiy patrul.
Rebyata s Kanonerskoga.
Respublika Shkid.
Rimsky-Korsakov.
Rodnaya krov.
Rokirovka v dlinnuyu storonu.
Rudolfio.
Rytsar iz knyazh-Gorodka.
Ryadom s drugom.
Ryadom s nami.
The salt of the Earth.
Salyut, Mariya!
Samye peystrye.
Schastie Anny.
Schastlivogo plavaniya.
Schastye Andrusa.
Seans odnovremennoy igry.
Sedmoy sputnik.
Segodnya ili nikogda.
Segodnya-novyi attraktsion.
Sekundomer.
Sem nevest Efreirona Zbrueva.
Sem not v tishine.
Sem schastlivykh not.
Sentimentalny roman.
Seryi volk.
Serzhant militsii.
Shag navstrechu.
Shapka Monomakha.
Shelmenko-denschik.
Sherlock Holms i Doktor Watson.
Shinel.
Shofyer ponevole.
Shopeniana.
Shtorm.
Shutite? 1. Shutite.
Shutite? 2. Vanderbulle brezzhit'sya gorizont.
Shutite? 3. Inache my propali.
Silva.
Siniye zaitsy.
Sinyaya ptitsa.
Skrepki.
Sladkaya zhenschina.
Sled na zemle.
Sled rosomakhi.
Sledy na snegu.
Slomannaya podkova.
Sluchaynyie passazhiryi.
Sluga dvukh gospod.
Smert Pazukhina.
Snegurochka.
Snegurochku vyzyvali?
Snezhnaya koroleva.
Sobaka Baskerviley.
Sobaka na sene.
Sobirayushchiyesya oblaka.
Sofia Kovalevskaya.
Sofya Kovalevskaya.
Sokrovizcha agry.
Sol zemli.
Soldaty.
Solionyi pios.
Solomennaya shlyapka.
Spyashchaya krasavitsa.
Ssora v Lukashakh.
Staraya, staraya skazka.
Starik Khottabych.
Starozhil.
Starshiy syn.
Staryie steny.
Stepan Kolchligin.
Stepanova pamyatka.
Stepen riska.
Strannyie vzroslye.
Strogaya muzhskaya zhizn.
Strogovy.
Sud.
Sumka inkassatora.
Svadba Krechinskogo.
Svadba v Malinovke.
Svet v kordi.
Svet v okne.
Syn Iristona.
Tabachny kapitan.
Talanty i poklonniki.
Tambu-Lambu.
Ten.
Tent.
Trassa.
Tretyya molodost.
Tri tolstyaka.
Trostinka na vetru.
Troye v lodke, ne shchitaya sobaki.
Truffaldino 12 Bergamo.
Tsarevich Prosha.
Tsement.
Tyetya Lusha.
U tebya est ya.
Ubit pri ispolnenii.
Uchitel peniya.
Udar! eshcho edar!
Udivitelnyi zaklad.

Ugol padeniya.
Ukhodya-ukhodi.
Ukrotitelnitsa tigrov.
Ulitsa Nyutona dom 1.
Ulitsa polna neozhidannostey.
Umnyie veshchi.
V chiornykh peskas.
V den svadby.
V dni Oktyabrya.
V gorde S.
V ogne broda net.
V to daliokoie leto.
V tvoikh rukakh zhizny.
Vasyka.
Vdovy.
Vedyma.
Velikaya sila.
Versiya.
Vesennie khlopoty.
Vesennie pereviortyshi.
Vesioloye snovideniye, ili smekh i sliozy.
Vesna v Moskve.
Vezuchiy chelovek.
Viktoriya.
Virineya.
Vodyanoyi.
Volnyi veter.
Volshebnaya sila.
Vozdukhoplavatel.
Vozvraschenie s pobedoy.
Vozvraschyennaya muzyka.
Vozvrazchionny god.
Vracha vyzyvali?
Vragi.
Vsadnik bez golovy.
Vsegda so mnoyu.
Vsego dorozhe.
Vsego odna zhizn.
Vsye ostayetsya lyudyam.
Vsye reshaet mgnovenie.
Vtoraya popytka Viktora Krokhina.
Vysokaya proba.
Vzryvniki.
Ya sluzhu na granitse.
Yaroslavna, Koroleva Frantsii.
Yavlenie Venery.
Zaichik.
Za tekh, kto v more.
Zagadka N.F.I.
Zalp Avrory.
Zavtra, tretiego aprelya.
Zavtrashnie zaboty.
Zdes nash dom.
Zdravstvui i proschai.
Zelionaya kareta.
Zelionye tsepochki.
Zelyeniy dol.
Zhavoronok.
Zhdite menya, ostrova.
Zhenitba.
Zhenit'ba Bal'zaminova.
Zhenya, Zhenechka i ''Katyusha.''
Zherebyenok.
Zhiteiskoye delo.
Zhivoy trup.
Zhizn Berlioza.
Zhizn v tsitadeli.
Zhizn Klima Samgina.
Zimnee utro.
Znak vechnosti.
Znakomtes, Baluev.
Znoyinyyi iyul.
Zolotaya mina.
Zolotaya pugovitsa.
Zoloushka.
Zvannyi uzhin.
Zveda plenitelnogo schastiya.
Zvezda.

Lindgren, Astrid.
Pippi Langstrump gar ombord.
Pippi Langstrump I soderhavet.
Pippi Langstrump.

LM Productions. SEE Pathe & LM Productions.

Lumiere & Teledis.
Signe Arsene Lupin.

Lumiere.
Amici piu di prima.
L' amour en douce.
L' antechrist.
Argoman.
Assaut sur la ville.
La bande a papa.
Un caprice de Caroline cherie.
Caroline cherie.
Un cave.
La chute d'un corps.
Conduite a gauche.
La coupe a dix francs.
Crazy capo.
Cyclo.
De l'enfer a la victoire.
La derniere bourree a Paris.
Les deux filleuls du parrain.
Dis bonjour a la dame.
Django tire le premier.
Due deputati.
Due mafiosi nel far west.
Due mafiosi.
Due sergenti del General Custer.
Et qu'ca saute.
Fais-moi mal mais couvre-moi de baisers.
Faut s'les faire . . . ces legionnaires.
Fernand clochard.
Fernand cow-boy.
La fille au fouet.
La fille au violoncelle.
Une fille nommee amour.
La fils de Caroline cherie.
Les fils du parrain.
Four marmittoni alle grandi manovre.
France, societe anonyme.
Fureur sur le Bosphore.
La gloire des canailles.
Le grand delire.
Les gros bras.
La grosse pagaille.
Hard sensation.
Un homme en or.
Les hommes ne pensent qu'a ca.
Lavie a l'envers.
Les aventures d'Arsene Lupin.
Les malabars sont au parfum.
Maman colibri.
La mort d'un tueur.
La mort de la belle.
Nous les femmes.
L' oeil ecarlate.
Operation jaguar.
Operation Lady Chaplin.
Operation Lotus bleu.
Pas de panique.
Paulina 1880.
Les petites alliees.
Pomme d'amour.
Poupees nazies.
Les predateurs du futur.
Pulsion cannibal.
Qui chauffe le lit de ma femme?
Qui etes-vous Inspecteur Chandler?
Les rangers defient les Karatekas.
Le roi des Mirmidous.
Le Roquevillard.
Salut Berthe.
Si elle dit oui . . . je dis non!
Un solo grande amore.
La soupe aux poulets.
La soupe froide.
Special magnum.
Una sull'altra.
Tabarin.
Themroc.
Tornavara.
Touche-a-tout.
La triple mort du troisieme personnage.
Trique, gamin de Paris.
Troika sur la piste blanche.
Trois pour cent.
Tuez-les tous et revenez seul.
Une affaire d'hommes.
Les vacationists.
Vices prives et vertus publiques.
Voila que le nonnes dansent le tango.
Y'a un os dans la moulinette.
Les zozos.

Metro-Goldwyn Mayer, Inc.
Appointment in London.
The betrayal.
Canasta de cuentos Mexicanos.
Captain blackjack.
Checkpoint.
Child and the killer.
Compelled.
Copacabana palace.
Crash drive.
Dangerous exile.
Depraved.
Doctor blood's coffin.
Feet of clay.
Gang war.
Innocent meeting.
It happened here.
It happened in Rome.
Large rope.
Lemon popsicle.
Man accused.
Mexican trio.
Middle course.
Moment of indiscretion.
Operation murder.
The possessed.
Rebellion of the hanged.
Revolt of the slaves.
The secret place.

Sentenced for life.
She always get their man.
Son of a stranger.
Spanish gardener.
Spanish sword.
Take it all.
Taste of money.
They who dare.
Three crooked men.
Three spare wives.
Three Sundays to live.
The trails of Oscar Wilde.
Transatlanic.
Triple deception.
Twist of fate.
Woman of mystery.
A woman possessed.
Your past is showing.
Mifune Productions.
Akage.
Mushi Productions Kabushiki Kaisha.
Janguru taitei (1965–1966).
Shin Janguru taitei susume leo (1966–1967).
Tetsuwan atom (1963–1966).
National Film Board of Canada.
A is for architecture.
Angotee: story of an Eskimo boy.
The discovery of insulin.
How to build an igloo.
An introduction of jet engines.
Sky.
The story of Cinderella.
Nikudan O-Tsukuru-Kai/Art Theatre Guild for Japan Company, Ltd.
Nikudan.
Orex Films.
Le septieme jure.
Oro Films, S.A. De C.V. SEE Cineproducciones Internacionales, S.A. De C.V., Oro Films, S.A. De C.V. & Cosmopolitan Film.
Orphee & Cogelda.
Le chant du monde.
Osso, A. SEE Films Vendome (A. Osso and UGC DA) co-producers.
Osso, A. SEE Films Vendome (A. Osso & COGELDA) co-producers.
Osso, Adolphe. SEE Films Vendome (Adolphe Osso) producer.
Pathe & Cite Films.
Parole de flic.
La vie conjugale.
Pathe & Films Agiman.
Voici le temps des assassins.
Pathe & LM Productions.
Le passage.
Pathe & UGC.
Flic story.
Pathe Televison & UGC DA.
Les trois mosquetaires.
Pathe, Diamant Berger & Rene Clair.
Paris qui dort.
Pathe, Gefirex & Films A2.
Le toubib.
Pathe, Gray Films & Progefi.
La femme et le pantin.
Pathe.
Bobosse.
Les cinq tulipes rouges.
L' equipage.
Faubourg montmartre.
Les femmes s'en balancent.
Fortune carree.
Les gaietes de l'escadron.
Le gang.
Gringalet.
L'impossible monsieur Pipelet.
Je suis a vec toi.
Justin de Marseille.
Lemmy pour les dames.
Ma femme est formidable.
Maison de danses.
La malibran.
Marie-octobre.
La mariee est trop belle.
Massacre en dentelles.
Mathias Sandorf.
Les mauvais coups.
Mefiez-vous des blondes.
Memoires d'un flic.
Milionnaires d'un jour.
Le miracle des loups.
Les miserables.
La mome vert-de-gris.
Mon mari est merveilleux.
Le monde tremblera.
Le monocle noir.
Monsieur taxi.
Mort d'un pourri.
Mort ou vif.
Nous les gosses.
Obsession.
L'oeil du monocle.
Opera musette.
Parade en sept nuits.
Paradis perdu.
Partir.
Le petit chose.
La petite lise.
Le poignard malis.
Pontcarral, colonel d'empire.
Port d'attache.
Les portees de la nuit.
Pour la peau d'un flic.
Premier de cordee.
Le revolte.
Romance de Paris.
Secrets.
Seul dans la nuit.
Si ca peut vous faire plaisir.
Suivez-moi jeune homme.
Tartarin de Tarascon.
Theodore et compagnie.
Tout ca ne vaut pas l'amour.
Les trois mosquetaires.
Une si jolie petite plage.
Pedraza, Salvador E. Celis.
El que espera en la oscuridad.
Plazza. SEE Cogelda, Plazza & Victoria.
Ploquin, Raoul.
L'entraineuse.
L'heritier de mon desir.
Pretoria. SEE Cogelda, Ariane & Pretoria.
Priego (Producciones Rosas), S.A. de C.V.
Los amigos maravilla.
Cada oveja con su pareja.
La casa de los espantos.
Dos alegres gavilanes.
Dos inocentes mujeriegos.
Echenme al vampiro.
Frontera sin ley.
La huella macabra.
Juramento de sangre.
Martin Romero, el rapido.
La mascara roja.
Matar o morir.
El mundo de la aventura.
Para todas hay.
Los parranderos.
Que bonito es querer.
El rayo de jalisco.
Rostro infernal.
Priego (Producciones Rosas), SA de CV, Cineproducciones Internacionales, SA de CV & Cinematografica Jalisco, SA de CV.
La pintada.
Priego (Producciones Rosas), SA de CV.
Pasion oculta.
Los problemas de mama.
Santo vs. la invasion de los marcianos.
Santo vs. los villanos del ring.
Seguire tus pasos.
Producciones Ega, S.A. DE C.V. SEE Cineproducciones Internacionales, S.A. DE C.V., Producciones Ega, S.A. DE C.V. & Gaz.
Producciones Galubi, S..
Como si fueramos novios.
Producciones Galubi, S.A.
Agarrando parejo.
El agente viajero.
Al son del mambo.
La alegria de vivir.
Los amores de Juan Charrasqueado.
La bandida.
Barridos y regados.
Caballos de acero.
Cafe colon.
Camino del mal.
Cantando nace el amor.
Cielito lindo.
Como perros y gatos.
El derecho de nacer.
Los desalmados.
Los desaraigados.
La doncella de piedra.
Los dos carnales.
La golfa del barrio.
El gran campeon.
Gritenme piedras del campo.
El halcon solitario.
El hijo de los pobres.
El hijo del palenque.
Impaciencia del corazon.
Los invisebles.
Juan charrasqueado.
Ladron que roba a ladron.
Ladrones de ninos.
El luchador fenomeno.
Magnum 357.
La malaguena.
Manos de seda.

Me quiero casar.
Mi preferida.
La muerte del soplon.
La muerte enamorada.
Muertos de miedo.
La mugrosita.
La mujer de dos caras.
Nido de fieras.
La nina de la mochila azul.
No me quieras tanto.
La noche del Ku Kux Klan.
Nostras las sirvientas.
Orgullo de mujer.
Un padre a toda maquina.
Un par a todo dar.
Pecado mortal.
Pegando con tubo.
Pilotos de combate.
El pistolero del diablo.
Pistoleros bajo el sol.
El plebeyo.
Pobre del pobre.
Que perra vida.
El rey de la selva.
Santo vs los asesionos de otros mundos.
Se solicitan modelos.
Serenata en Acapulco.
La sombra en defensa de la juventud.
El Sr. Gobernador.
Sucedio en Acapulco.
Un sueno de amor.
Los tales por cuales.
Ventarron.
Vuelven los cinco halcones.
Yo fui novio de Rosita Alvirez.
El zarco.

Producciones Galubi, SA.
Agarrando parejo.
La muerte enamorada.
Se solicitan modelos.
La sombra en defensa de la juventud.
El Sr. Gobernador.
Ventarron.
El zarco.

Producciones Matouk, SA.
La calle de los amores.
Crisol.
Cruces sobre el yermo.
Cuanto vale tu hijo.
Division narcoticos.
Encrucijada.
Guantes de oro.
El hombre del Alazan.
Luciano Romero.
Mi heroe.
El senor tormenta.
El toro Negro.
Tu vida entre mis manos.

Producciones Raul DeAnda, SA de CV.
24 horas de vida.
Acapulco a go go.
Alias el alacran.
Almas rebeldes.
Amanecer ranchero.
Amor a la Mexicana.
Angeles de arrabal.
Los apuros de mi ahijada.
Aquiesta Juan Colorado.
Asi es mi Mexico.
Baila mi amor.
Bajo ielo de sonora.
La banda del cuervo.
Bataclan Mexicano.
El buscabullas.
Caminos de sangre.
Campeo sin corona.
La carcel de cananea.
Carrona.
El charro negro en el norte.
El charro negro.
Cielo rojo.
Con los dorados de villa.
Con todo el corazon.
Cosmisario en turno.
Los cristeros.
El cuarto mandaminente.
Cuatro noches contigo.
Del rancho a la capital.
El diablo a caballo.
El diablo desaparece.
Dos caballeros de espada.
Dos gallos de pelea.
Duelo en el desierto.
La duquesa diabolica.
Enemigos.
El espadachin.
Espionaje en el golfo.
Estampida.
La fe en Dios.
Frontera norte.
Fuera de la ley.
La gaviota.
Genio y figura.
Guadalajara pues.
La guerra de los sexos.
Hay angeles sin alas.
El hijo del bandido.
EL hijo del charro negro.
La hijs del ministro.
El hombre de negro.
Hombres de roca.
Juegos de alcoba.
Konga roja.
La leyenda del bandido II.
La leyenda del bandido.
El lunar de la familia.
Las manzanas de Dorotea.
La marcha zacatecas.
La mascara de carne.
La mascara de jade.
Matrimonio y mortaja.
El muchacho alegre.
El muchacho de durango.
La muerte en bikini.
La muerte en la feria.
La mula de Cullen Baker.
El negocio del odio.
El padrino es mi compadre.
El pozo.
Prohibido.
Qien mato al abuelo.
Rancho alegre.
La reina del tropico.
Remolino.
Rio escondido.
Rosalinda.
Sangre en el barrio.
Se la llevo el remington.
Senoritas.
Si quiero.
Siete evas para un adan.
El solitario.
La sombra de chucho el roto.
Sota caballo y rey.
Soy puro Mexicano.
Su precio .....unos dolares.
Tierra de violencia.
La tierra del Mariachi.
Tormenta en la cumbre.
Toros amor y gloria.
Tres de presidio.
Tres hombres malos.
El ultimo chinaco.
Un hombre peligroso.
Una aventura en la noche.
Una cancion a la virgen.
Una mujer decente.
Unidos por el eje.
Vagabundo en la lluvia.
El vengador.
La venganza del charro negro.
La venganza del diablo.
La vuelata del charro negro.
Vuelo 701.
Yo mate a Juan Charrasqueado.
Yo mate a rosita alvirez.
El zurdo.

Producciones Raul de Anda, SA de CV.
El Ardiente deseo.
La gran aventura del Zorro.
El hombre.
Jugandose la vida.
Servicio secreto.
Sucedio en Jalisco.

Producteurs associes.
Le vol du sphinx.

Productions J. Roitfeld.
Cause toujours mon lapin.
Nana.

Productora Filmica Real, S.A. DE C.V.
SEE Cineproducciones Internacionales, S.A. DE C.V. & Productora Filmica Real, S.A.

Productora Filmica Real, S.A. DE C.V.
SEE Cineproducciones Internacionales, S.A. DE C.V., Productora Filmica Real, S.A.

Progefi. SEE Pathe, Gray Films & Progefi.

Progress Film-Verleih GmbH.
Affaire Blum.
Berlin um die Ecke.
Dein unbekannter Bruder.
Ehe im Schatten.
Der fall Gleiwitz.
Der geteilte Himmel.
Goya.
Ich war neunzehn.
Jahrgang 45.
Jakob, der Lugner.
Das Kaninchen bin ich.
Die Legende von Paul und Paula.
Lissy.
Die Morder sind unter uns.
Der nackte Mann auf dem Sportplatz.
Rotation.

Die Schauspielerin.
Solo Sunny.
Sonnensucher.
Spur der Steine.
Sterne.
Der Untertan.
Die Verlobte.
Wenn du grob bist, lieber Adam.
Winter ade.
Regina. SEE Cogelda & Regina.
Rigma America Corporation.
''Poseidon'' is rushing to the rescue.
''SOS'' nad taigoy.
100 soldat i dve devushki.
20 dney bez voiny.
34-i skoriy.
40:0 v pol'zu BG.
713-iy prosit posadku.
A byl il Karotin?
A shto yesli eto lyubov.
A u nas byla tishina.
A-un!
Aborigen.
Adam i Yeva.
Adam zhenitsya na Yeve.
Admiral Nakhimov.
Admiral Ushakov.
Aelita.
Aelita, ne pristavay k muzhchinam.
Aerograd.
Aeroport so sluzhebnogo vkhoda.
Afonya.
Afrikanich.
Agoniya.
Ai-Gul'.
Aibolit—66.
Akademik iz Askaniyi.
Akseleratka.
Aktrisa.
Aktsiya.
Akvanavty.
Al'bidum.
Aleksandr Nevskiy.
Aleksandr Popov.
Alitet ukhodit v gory.
Aliy kamyen'.
Aliye parusa.
Almazy dlya Mariyi.
Alyonka.
Alyosha Ptytsin virabatyvayet kharakter.
Alyoshkina lyubov.
Alyoshkina okhota.
Amulanga.
Ana Karenina.
Andrey Rublyov.
Anna na sheye.
Anna Pavlova.
Annushka.
Anton Ivanovich serditsya.
Antosha Rybkin.
Antratsit.
Apassionata.
Aplodismenti, aplodismenti.
Aram Khachaturyan.
Arena smelykh.
Arena.
Artistka iz Gribova.
Asaf Messerer.
Assa.
Ataka.
Atlantida.
Attestat zrelosti.
Auktsion.
Avariya—couch menta.
Avtomobil, skripka i sobaka Klyaksa.
Babiye tsarstvo.
Babyi log.
Baby ryazanskiye.
Baby.
Baika.
Bal gospoden'.
Balamut.
Balerina (poema o tantse).
Ballad about old weapon.
Ballada o Beringye i yego druzyakh.
Ballada o doblestnom ritsare Aivengo.
Ballada o sokole i zvezde.
Ballada o soldate.
Ballada o sporte.
Ballady batki Knisha.
Baltiyskaya slava.
Baltiyskoye nebo.
Barkhatniy sezon.
Vash syn i brat.
Beg inokhodtsa.
Beg.
Begstvo Mistera McKinley.
Beguny.
Bei, baraban!
Bela.
Beleyet parus odinokiy.
Beliy bim chyornoye ukho.
Beliy oryol.
Beliy sneg Rossiyi.
Beliy voron.
Beliye golubi.
Beliye nochi.
Belorusskiy vokzal.
Beloye solntse pustyni.
Bez viny vinovatiye.
Bereg.
Berega v tumane.
Berega.
Beregis' avtomobilya.
Beregite muzhchin.
Bermen iz ''Zolotogo yakorya.''
Besheniye den'gi.
Beshenoye zoloto.
Beskriliy utyonok.
Bespokoinoye khozyaistvo.
Bespredel.
Bespridannitsa.
Besprizorniy sportsmen.
Bessmertniy garnizon.
Bessonnaya noch.
Besstrashniy ataman.
The best.
Bez prava na oshibku.
Bez semyi.
Bez solntsa.
Bez sroka davnosti.
Bez strakha i upryoka.
Bez svideteley.
Bez tryokh minut rovno.
Bez vidimikh prichin.
Bezhin lug.
Bezymyannaya vysota.
Bezottsovshchina.
Bezotvetnaya lyubov.
Bezumniy den.
Byl mesyats may.
Bystreye sobstvennoy teni.
Bitva v puti.
Bitva za Moskvu.
Vkus khleba.
Vlastelin mira.
Blistayushchiy mir.
Blizkaya dal'.
Bliznetsi.
Blokada.
Blondinka za uglom.
Voina i mir.
Bol'shaya semya.
Bol'shaya zizn'.
Bol'shiye li malen'kiye.
Bol'shoye kosmicheskoye puteshestviye.
Bolotniye soldaty.
Bolshaya doroga.
Bolshaya ruda.
Bolshaya zemlya.
Bolshoy attraktsion.
Bolshoy kontsert.
Bombist.
Bomzh.
Bor'ba prodolzhayetsya.
Borets i kloun.
Boris Godunov.
Boris Livanov.
Bortsy.
Boy pod sokolom.
Boy posle pobedy.
Boy s tenyu.
Boyevoy kinosbornik #1.
Boyevoy kinosbornik #3.
Boyevoy kinosbornik #4.
Boyevoy kinosbornik #5.
Boyevoy kinosbornik #6.
Boyevoy kinosbornik #10.
Boyevoy kinosbornik #12.
Brat geroya.
Bratya Karamazovy.
Bratya Vasilyevy.
Brelok s sekretom.
Brilliantovaya ruka.
Brizgi shampanskogo.
Brod.
Bronenosets Potyomkin.
Budni.
Budte moim muzhem.
Budyonovka.
Buket fialok.
Bukhta smerti.
Bulat-Batyr.
Bumazhniye glaza Prishvina.
Bursa.
Byelaya tsaplya.
Byez osobogo riska.
Byez prava na proval.
Byezbiletnaya passazhirka.
Captain's daughter.
Chaika.
Chapayev.
Chaplinina.
Charodeiy.
Chasha terpeniya.

Chastnaya zhizn' Petra Vinogradova.
Chastnaya zhizn'.
Chastniy detektiv ili operatsiya ''Kooperatsiya.''
Chegemskiy detektiv.
Chelovek iz restorana.
Chelovek rodilsya.
Chelovek s planeti Zemlya.
Chelovek s ruzhyom.
Chelovek v zelyonoy perchatke.
Chelovyek # 217.
Chelovyek byez pasporta.
Chelovyek chelovyeku.
Chelovyek na svoyom meste.
Chelovyek niotkuda.
Chelovyek rodilsya.
Chelovyek s akkordeonom.
Chelovyek s bul'vara Kaputsinov.
Chelovyek v shtadskom.
Chelovyek, kotoriy somnevayetsya.
Chelovyek, kotoriy zakril gorod.
Chelovyek, kotorogo ya lyublyu.
Chelovyek-nevidimka.
Chempion mira.
Cherez Gobi i Khingan.
Cherez terniyi k zvyozdam.
Cherez vsye godi.
Chest tovarishcha.
Chest'.
Chestniy, umniy, nezhenatiy.
Chestnoye volshebnoye.
Chetyre vizita Samuelya Wolfa.
Chetyre i pyat'.
Chetvero.
Chetvyorka druzyei.
Chetvyortaya vysota.
Chetvyortiy.
Chiny i lyudi.
Chipollino.
Chistiye prudy.
Chistoye nyebo.
Chlen pravitel'stva.
Chornaya kuritsa.
Chto s toboy proiskhodit?
Chuchelo.
Chudak iz pyatogo ''B.''
Chudesnitsa.
Chudesniy kharakter.
Chudesnoye yabloko.
Chudo s kosichkami.
Chudootvornaya.
Chuk i Gek.
Chuzhaya belaya i ryaboy.
Chuzhaya kompaniya.
Chuzhaya rodnya.
Chuzhaya shuba.
Chuzhaya.
Chuzhiye pis'ma.
Chyormaya roza—emblema pechali, krasnaya roza—emblema lyubvi.
Chyornaya strela.
Chyorniy biznes.
Chyorniy koridor.
Chyorniy monakh.
Chyorniy prints.
Chyort s portfelyem.
Da zdravstvuyet Meksika!
Dacha.
Dachniki.
Dai lapu, drug!
Daite zhalobnuyu knigu.
Dal'niye strany.
Daleko na zapade.
Daleko ot Moskvy.
Dama s sobachkoy.
Damy priglashayut kavalerov.
Damskoye tango.
Dauriya.
Dav-bul'di'va.
David Oistrakh.
Dedushkina dudochka.
Deena-Dza-Dzu.
Dela i lyudi.
Dela serdechniye.
Delay-raz!
Delo #306.
Delo Artamonovikh.
Delo pyostrikh.
Delo Rumyantseva.
Deloviye lyudi.
Den' gneva.
Den' i vsya zhizn'.
Den' komandira diviziyi.
Den' molodogo cheloveka.
Den' priyoma po lichnim voprosam.
Den' rozhdeniya.
Den' svad'by pridyotsya utochnit'.
Deputat Baltiki.
Derevenskiy detektiv.
Dersu Uzala.
Desyat' tisyach mal'chikov.
Deti Don Kikhota.
Deti kapitana Granta.
Deti Vanyushina.
Detskiy mir.
Detskiy sad.
Detstvo Gor'kogo. V lyudyakh.
Detstvo Nikity.
Devchata.
Devichya vesna.
Deviy gory.
Devochka i del'fin.
Devochka na share.
Devushka bez adresa.
Devushka s guitaroy.
Devushka s Kamchatki.
Devushka s kharakterom.
Devushka s korobkoy.
Devyat' dney odnogo goda.
Dezertir.
Dikaya sobaka dingo.
Dikiy khmel'.
Dikiy myod.
Direktor.
Ditya gostsirka.
Dlinnoye, dlinnoye leto.
Dlja tekh kto svalilsja s luny.
Dnevnik direktora shkoli.
Dnevnik Karlosa Espinoli.
Dnevniye zvyozdy.
Dni i nochi.
Do budushchei vesni.
Do pervoy krovy.
Do svidaniya, malchiki.
Dobro pozhalovat', ili postoronnim vkhod vospreshchyon.
Dobrota.
Dobrovol'tsi.
Dobroye utro.
Dobryaki.
Doch isterzannoy Pol'shi.
Dochki-materi.
Dodumalsya, pozdravlyayu!
Dokot Vera.
Doktor Aibolit.
Dolgi nashi.
Dolgiy put'.
Dolina slyoz.
Doloy kommertsiyu na lyubovnom fronte.
Dom i khozyain.
Dom na Trubnoy.
Dom s privideniyami.
Dom, ktoriy postroyil Swift.
Dom, v kotorom ya zhivu.
Domovoy i khozyaika.
Domovyonok Kuzya.
Domoy!
Domoy.
Don Diego i Pelageya.
Donetskyiye shakhtyori.
Donskaya povest'.
Doroga.
Doroga domoy.
Doroga k moryu
Doroga k schastyu.
Dorogaya Yelena Sergeyevna.
Dorogoy malchik.
Dorogoy moy chelovyek.
Dorogoye udovolstviye.
Dostoyaniye respubliki.
Dosye cheloveka v ''Mersedesye.''
Doveriye.
Dozhdi.
Dozhivyom do ponedel'nika.
Dragotsenniy podarok.
Drug.
Drug moy Kol'ka.
Druzhok.
Druzya iz tabora.
Druzya moyi.
Dublyor nachinayet deistvovat.
Dubrovskiy.
Duel.
Duenya.
Duma na Kavkazye.
Dusha.
Dva berega.
Dva bileta na dnevnoy seans.
Dva chasa s bardami.
Dva dnya trevogi.
Dva druga, model' i podruga.
Dva druga.
Dva dnya chudes.
Dva kapitana.
Dvadtsat' bakinskikh komissarov.
Dvadtstat' let spustya
Dvadtsat' shest' dney iz zhizni Dostoyevskogo.
Dvazhdy rozhdyonniy.
Dve glavy iz semeynoy khroniki.
Dve materi.
Dve sterli.
Dve zhizni.
Dvenadtsat' stulyev.
Dvenadtsataya noch.
Dvoryanskoye gnezdo.

Dvoye i odna.
Dvoye na goloy zemle.
Dvoye v stepi.
Dvoynoy obgon.
Dvye dorogi.
Dvye ulybki.
Dvye vstrechi.
Dvye zhizni.
Dyadya Vanya.
Dyadyushkin son.
Dzhamilya.
Dzhentl'meni udachi.
Dzhulbars.
Ego ne mozhet bit'.
Ei, na tom beregu.
Ekh, yablochko...
Ekho dalyokikh snegov.
Ekipazh.
Ekzamen na bessmertiye.
Emil Gilels.
Eskadron gusar letuchikh.
Eta trevozhnaya zima.
Eto bilo v Donbasse.
Eto bilo v razvedke.
Eto my ne prokhodili.
Eto nachinalos' tak.
Eto sil'neye myenya.
Eto sladkoye slovo svoboda.
Fakti minuvshego dnya.
Fantaziya na tyemu lyubvi.
Fantaziyi Faryatyeva.
Fantazhist.
Fantazyor.
Fantazyory.
Fashizm budyet razbit.
Fevral'skiy vetyer.
Filippok.
Fokusnik.
Foma Gordeyev.
Fontan.
Frak dlya shalopaya.
Frantsuz.
Frederick Shopin.
Front bez flangov.
Front v tylu vraga.
Front za liniyei fronta.
Furtuna.
Gaichy.
Gamlyet.
Garazh.
Garmon'.
Garry zanimayetsya politikoy.
Gavosh.
Gde nakhoditsya nofelet?
Gde ty teper', Maksim?
Gde-to plachet i Volga...
Gde vash syn?
Georgyi Sedov.
Georgyi Sviridov.
Geroy nashego vremeni.
Geroy yeyo romana.
Gibel ''Orla.''
Gibel' Marini Tsvetayevoy.
Gibel' sensatsiyi.
Giperboloyid inzhenera Grina.
Glavniy svidetel'.
Glinka.
Glush povolzhskaya.
Gobsek.
God, kak zhizn'.
Golos.
Golova Gorgoni.
Golubaya strela.
Goluboy myach.
Goluboy ogonyok.
Goluboy portret.
Gonka veka.
Gonki bez finisha.
Gonshchiki.
Gori, gori, moya zvezda.
Gorizont.
Gorod na zarye.
Gorod nevest.
Gorod pervoy lyubvi.
Gorod pod udarom.
Gorod prinyal.
Gorod zero.
Goroda i gody.
Gorodskiye podrobnosti.
Gorozhane.
Goryachaya dusha.
Goryachiy sneg.
Goryachiye denyochki.
Goryanka.
Gospoda skotininy.
Gospodin gimnazist.
Gospodin oformitel.
Gospodin velikiy Novgorod.
Gost's Kubani.
Gosudarstvenniy chinovnik.
Govorit Moskva.
Grafinya Sheremetyeva.
Granatoviy braslet.
Granitsa na zamke.
Grazhdane vselennoy.
Grazhdanin Llyoshka.
Grekh i iskupleniye.
Greshnitsa.
Grozniy vek.
Grunya Kornakova.
Guards.
Gulyashchiye luydi.
Gusarskaya ballada.
Guttaperchevіy mal'chik.
Hodga Nasreddin.
I byl vecher, i bylo utro...
I drugiye ofitsial'niye litsa.
I na tikhom okeane...
I togda ya skazal—nyet!
I vsya lyubov'.
I vsyo-taki ya veryu.
I zhizn', i slyozy i lyubov'.
Ideal'noye prestupleniye.
Idealniy muzh.
Idi i smotri.
Idiot.
Idushchiy sledom.
Ilya Muromets.
Imenem revolyutsii.
Improvizatsiya na temu biografiyi.
Imya.
Inache nelzya.
Inkognito iz Peterburga.
Inoplanetyanka.
Inspektor GAYI.
Interdevochka.
Interventsiya.
Ischeznoveniye.
Ishchitye zhenshchinu.
Ishchu cheloveka.
Iskrenne vash...
Iskusheniye.
Ispaniya.
Ispolneniye zhelaniy.
Ispoved'. Khronika otchuzhdeniya.
Ispytaniye vernosti.
Ispytatel'.
Ispytatel'niy srok.
Istoki.
Istoriya Asi Klyachinoy kotoraya lyubila da ne vyshla zamuzh.
Istoriya odnoy bilyardnoy komandi.
Ivan Brovkin na tselinye.
Ivan Grosniy.
Ivan Nikulin—russkiy matros.
Ivan Rybakov.
Ivan Vasiliyevich menyayet professiyu.
Ivan Velikiy.
Ivanov.
Ivanov katyer.
Ivanov, Petrov, Sidorov.
Ivanovo detstvo.
Iz zhizni Fedora Kuz'kina.
Iz zhizni nachal'nika ugolovnogo rozisha.
Iz zhizni otdikhayushchikh.
Iz zhizni Potapoa.
Izbranniye.
Izbrannoe.
Izhorskiy batalyon.
Izmennik rodiny.
Izyashchnaya zhizn'.
Ja ne Rafael.
Jubilejnyj kontsert.
K novomu beregu.
Kabare moyey zhizni.
Kadkina vsyakiy znayet.
Kafe ''Izotop''.
Kak doma, kak dela?
Kak Ivanushka-durachok za schastyem khodil.
Kak Petyun'ka yezdil k Ilyichu.
Kak possorilis' Ivan Ivanovich s Ivanom Nikiforovichem.
Kak starik korovu prodaval.
Kak stat' muzhchinoy.
Kak stat' schastlivim.
Kak stat' zvezdoy.
Kakoye ono, morye?
Kalina krasnaya.
Kaliostro.
Kalle i Buka.
Kamenniy gost'.
Kamenniy tsvetok.
Kamenniy tsvetok.
Kamyshoviy ray.
Kanon u-shu (video-trener 1–4).
Kanon u-shu (video-trener 5–8).
Kanon u-shu (video-trener 9–12).
Kapitan Pronin—vnuk mayora Pronina.
Kapitanskaya dochka.
Kaplya.
Kaplya v moye.
Kapronoviye seti.
Karantin.

Karatel'.
Karnaval.
Karnaval'naya noch.
Karusel' na bazarnoy ploshchadi.
Karyera Dimi Gorina.
Karyera Ruddy.
Kashchey bessmertniy.
Katala.
Katyenka.
Kayin 18.
Kazhdiy desyatiy.
Kazyonniy dom.
Kentavri.
Keshka i boroda.
Keshka i Freddy.
Keshka i frukty.
Keshka i gangstery.
Keshka i gumanoid.
Keshka i mag.
Keshka i spetsnaz.
Keshka i terroristy.
Khleb i rozy.
Khleb, zoloto, nagan.
Khmuroye utro.
Khochu bit' ministrom.
Khochu, chtob on prishol.
Khod konyom.
Khod slonom.
Khokkeyisti.
Kholodnoye leto pyat'desyat tretyego.
Khomut dlya Markiza.
Khorosho sidim!
Khotite ver'te—khotite—net...
Khovanshchina.
Khozhdeniye za tri morya.
Khozyain taigi.
Khozyayeva Geoni.
Khromoy barin.
Khronika pikiruryushchego bombardirovshchika.
Khroniki Svyatoslava Rikhter.
Khrozyaika gostinitsy.
Khrustal'niy bashmachok.
Khutorok v stepi.
Kin-Dza-Dza!
Kino za dvadtsat' lyet.
Kinoal'manakh ''Molodost'' (vypusk chetvyortiy).
Kinoal'manakh ''Molodost'' (vypusk tretiy).
Kinoal'manakh ''Molodost'' (vypusk vtoroy).
Kinokontsert k 25-letiyu Krasnoy Armiyi.
Kirk delfina.
Kirk dushi.
Kirpihiki.
Kish i dva portfelya.
Klad.
Kletka dlya kanareyek.
Klyatva Timura.
Klyuch bez prava peredachi.
Knyaz' Udacha Andreyevich.
Knyazhna Mary.
Ko mnye, Mukhtar!
KOAPP.
Kogda derevya byli bol'shimi.
Kogda govorili pushki.
Kogda nastupayet sentyabr'.
Kogda raskhoditsya tuman.
Kogda ya stanu velikanom.
Kogda zyemlya drozhit.
Kol'chuga velikogo Davida.
Kolybel'naya dlya brata.
Kolybelnaya dlya muzhchin.
Kollegi.
Kollezhskiy registrator.
Kolokol svyashchennoy kuzni.
Koloniya Lanfier.
Koltso iz Amsterdama.
Kolumb i Leonardo
Kolye Sharlotti.
Komandir schastlivoy shchuki.
Komandirovka.
Komediya davno minuvshikh dney.
Komediya o Lisistrate.
Komendant ptichyego ostrova.
Kometa.
Komitet devyatnadtsati.
Kommentariy k prosheniyu o pomilovaniyi.
Kommunist.
Kompozitor Glinka.
Kompozitor Shostakovich.
Kompozitor Sviridov.
Komu na Rusi zhit'...
Konets Deryagina.
Konets i nachalo.
Konets imperatora taigy.
Konets Lyubavinikh.
Konets operatsiyi ''Rezident.''
Konets polustanka.
Konets Sankt-Peterburga.
Konets Saturna.
Konets Staroy Beryozovki'.
Konets sveta.
Konets vechnosti.
Koney na perepravye ne menyayut.
Kontsert.
Kontsert dlya dvukh skripok.
Kontsert S. Rikhtera.
Kontsert v Rossii
Kontsert-val's.
Konveiyer smerti.
Konyok-gorbunok.
Korabl'.
Korabl' prishel'tsev.
Korabli shturmuyut bastioni.
Korol' Leer.
Korol' Lir.
Korol' manezha.
Korolevskaya regata.
Korona rossiyskoy imperiyi ili sonova neulovimiye.
Korona rossiyskoy imperiyi.
Korotkoye leto v gorakh.
Korpus generala Shubnikova.
Kortik.
Koshka i Biznes.
Kosmicheskiy reis.
Kosolapiy drug.
Kostyor v beloy nochy.
Kot v meshkye.
Kotovskyi.
Krakh inzhenera Garina.
Krakh operatsiyi ''Terror.''
Krakh.
Krasavets-muzhchina.
Krasavitsa Kharita.
Krashniy galstuk.
Krasivo zhit' na zapretish.
Krasnaya palatka.
Krasnaya ploshchad'.
Krasniy chernozyom.
Krasniye kokokola.
Krasnoye i chornoye.
Krasnoye i chyornoye.
Kreiser ''Veryag.''
Kreitserova sonata.
Kremlyovskiye kuranti.
Krepkiy oreshek.
Krepostnaya Aktrisa.
Krest i mauzer.
Krestyanskiy syn.
Krilya kholoda.
Krilya.
Kriminalniy kvartet.
Krotkaya.
Krug.
Krusheniye emirata.
Krutoye polye.
Kruzheva.
Kto rasskazhet nebilitsu.
Kto silneye yego.
Kto stuchitsya v dver' ko mnye...
Kto tam?
Kto ty takoy?
Kto zaplatit za udachu.
Kubanskiye kazaki.
Kukla s millionami.
Kukolka.
Kurier.
Kutuzov.
Kuvirok cherez golovu.
Kuznechik.
Larets Mariyi Medichi.
Lavina s gor.
Lebedev protiv Lebedeva.
Lebedi.
Lebedinoye ozero.
Ledi Makbet Mtsenskogo uyezda.
Ledolom.
Ledyanoy dom.
Legenda.
Legenda o ledyanom serdtse.
Legenda o Tilye.
Lenin v 1918 godu.
Lenin v oktyabrye.
Lenin v Parizhe.
Lenin v Pol'she.
Leon Garros ishchet druga.
Lermontov.
Lermontow.
Leshiy.
Lestnitsa.
Letargiya.
Letniye sni.
Letyat zhuravli.
Lgushchiye bogu.
Lichnoye delo.
Lichnoye delo sudyi Ivanovoy.
Lider.
Liloviy shar.
Lisa.
Lishniy bilet.
Litso vraga.
Litsom k litsu.

Liven'.
Lichnoye delo Anny Akhmatovoy.
Loskutik i yabloko.
Lovkachi.
Lovtsy gubok.
Luch smerti.
Lunnaya raduga.
Lunniye nochi.
Lyana.
Lyogkaya zhizn'.
Lyotchiki.
Lyubimaya devushka.
Lyubimaya zhenschchina mekhanika Gavrilova.
Lyubit' cheloveka.
Lyublyu. Zhdu. Lena.
Lyubov yarovaya.
Lyubov' i golubi.
Lyubov' i nenavist'.
Lyubov' moya vechnaya.
Lyubov' moya, pechal' moya.
Lyubov' Orlova.
Lyubov' Serfima Frolova.
Lyubov' zemnaya.
Lyubov'- predvestiye pechali.
Lyubovyu za lyubov'.
Lyubushka.
Lyudi i manekeni.
Lyudi i zveri.
Lyudi na mostu.
Lyudi na Nile.
Lyudi v okeane.
Lyudmila.
M.
M. Glinka: romansy.
M. Musorgskyi: romansy i pesni.
Machekha.
Maiskaya noch ili Utoplennitsa.
Maiskiye zvyozdi.
Maksima perepelitsa.
Mal'chik i devochka.
Mal'chik i los'.
Mal'chik s okrayini.
Mal'chiki.
Mal'chiki.
Malen'kiy rizhik.
Malinovka i medved'.
Mama.
Mama vyshla zamuzh.
Maria Stewart.
Marionetki.
Marite.
Marka strani Gondelupi.
Mart-aprel'.
Marusina karusel'.
Mary Poppins, do svidanya.
Mashen'ka.
Masony.
Mat'.
Mat' Mariya.
Mat'i machekha.
Mater' chelovecheskaya.
Matros s ''Kometi.''
Matveyeva radost'.
Maya Plisetskaya—znakomaya i neznakomaya.
Mayakovskyi smeyotsya.
Mayor Vikhr.
Mechta.
Mechtateli.
Medniy angel.
Mednoy gory khozyaika.
Medoviy mesyats.
Medvezhya svad'ba.
Mekhanicheskiy predatel'.
Meksikanets.
Melodiyi beloy nochi.
Melodiyi Dunayevskogo.
Menyayu sobaku na parovoz.
Mesta tut tikhiye.
Metel'.
My iz dzhaza.
My iz Kronshtadta.
My russkiy narod.
My s Urala.
My s vami gde-to vstrechalis'.
My smerti smotreli v litso.
My vas lyubim.
My vesely, schastlivy, talantivy.
My za mir.
My zhili po sosedstvu.
Michman Panin.
Michurin.
Miliy, dorogoy, lyubimiy, yedinstvenniy.
Million priklyucheniy.
Mimino.
Mimo okon iddut poyezda.
Minin i Pozharskyi.
Minuta molchaniya.
Mir domu tvoyemu.
Mir Ulanovoy.
Mir Ulanovoy.
Mir v tryokh izmereniyakh.
Mir vkhodyashchemy.
Mishelovka.
Mishka na severye.
Mishka, Seryozha i ya.
Miss Mend.
Miss Millionersha.
Missiya v Kabule.
Mnimiy bol'noy.
Mnogo shuma iz nichego.
Molchaniye doktora Ivensa.
Molitva Sergiyu.
Molodaya gvardiya.
Molodiye.
Molodiye kapitany.
Molodiye lyudi.
Molodo-zeleno.
Molodost' s nami.
Moneta.
Monolog.
Monolog o Pushkine.
Moonzund.
More v ogne.
Moroka.
Morozko.
Morskiye rasskasy.
Morskoy kharakter.
Morskoy okhotnik.
Morye studyonoye.
Mosfilmu—50 let.
Moskva slezam ne verit.
Moskva v Oktyabrye.
Moskva—Cassiopeya.
Moskva—lyubov' moya.
Motilyok.
Moy dom—teatr.
Moy drug.
Moy izbrannik.
Moy laskoviy i nezhniy zver'.
Moy lyubimiy kloun.
Moy mladshiy brat.
Moy nezhno lyubimiy detektiv.
Moy papa—ideallist.
Moy papa—kapitan.
Moy perviy drug.
Moya Anfisa.
Moyi universitety.
Mramorniy dom.
Mumu.
Mushketyory dvadtsat' let spustya.
Muzh i doch Tamari Aleksandrovni.
Muzhiki!
Muzhskiye portreti.
Muzhskoy razgovor.
Muzika Nikolaya Metnera.
Muzika romantizma: v ansamble s Rikhterom.
Muzikal'naya istoriya.
Muzikal'naya smena.
Myatezhnaya barrikada.
Myortviy dom.
Myortviy sezon.
Myortviye dushi.
Na boikom mestye.
Na dal'nem vostoke.
Na dne.
Na dorogakh voiny.
Na gorye stoyit gora.
Na grafskikh razvalinakh.
Na granatovikh ostrovakh.
Na iskhode nochi.
Na krai sveta...
Na novom mestye.
Na okrayine, gde-to v gorode.
Na podmostkakh stseny.
Na pomoshch, bratsy!
Na puti k Leninu.
Na put v Berlin.
Na Rusi.
Na sem vetrakh.
Na severe, na yuge, na vostoke, na zapade.
Na uglu Arbata i ulitsi Bubulinas.
Na voine kak na voine.
Na yasniy ogon'.
Na zavtrashney ulitse.
Na zlatom kril'tse sideli.
Nabat na rassvetye.
Nachal'nik.
Nachalo.
Nachalo nevedomogo veka.
Nachalo.
Nachni s nachala.
Nad Tissoy.
Nadezhda.
Nadezhda i opora.
Nagradit' (posmertno).
Nakanunye.
Nakhalyonok.
Nakhlebnik.
Nakoval'nya ili molot.
Nam ne dano predugadat'.
Nam nekogda zhdat'.
Narodniye talanti.

Nas venchali ne v tserkvi.
Nash dom.
Nash obshchiy drug.
Nashe serdtse.
Nashestviye.
Nashi znakomiye.
Naslednitsa po pryamoy.
Nasledstvo.
Nasten'ka Ustinova.
Nastoyashchiy muzhchina.
Navazhdeniye.
Ne bilo pechali.
Ne goryuy
Ne khochu bit' vzroslym.
Ne khoditye, dyevki, zamuzh.
Ne mozhet bit'!
Ne pokiday.
Ne stav'tye leshenu kapkany.
Ne strelyaite v belikh lebedey.
Ne uletay, zemlyanin.
Nebesniy tikhokhod.
Nebesniye lastochki.
Nebyval'schina.
Nebo i zemlja.
Nebo Moskvy.
Nebo so mnoy.
Nedonosok Napoleon tretiy.
Nedorosl.
Negasimoye plamya.
Neilson 100%.
Neispravimiy lgun.
Neitral'niye vody.
Neizvestniye stranitsi iz zhizni razvedchika.
Nemnogo ljubvi.
Neobichainiye priklyucheniya Mistera Vesta v strane bol'shevikov.
Neobiknovenniy gorod.
Neobiknovenniye priklyucheniya Karika i Vali.
Neobiknovennoye leto.
Neobiknovennoye priklyuheniye Mishki Strekatchova.
Neokonchennaya povest.
Neokonchennaya pyesa dlya mekhaniheskogo piaino.
Neoplachennoye pis'mo.
Neotpravlennoye pis'mo.
Nepobedimiy.
Nepoddayushchiyesya.
Nepodsuden.
Nepovtorimaya vesna.
Nepridumannaya istoriya.
Neprikayanniy.
Neproshennaya lyubov'.
Neskol'ko dnei iz zhini L. L. Oblomova.
Neskol'ko moyikh zhizney.
Nesovershennoletniye.
Net i da.
Neudobniy chelovek.
Neulovimiye mstiteli.
Neveroyatniye proklyucheniya italyantsev v Rossiyi.
Nevesta.
Nevezhi.
Nezabyvayemaya zhenshchina.
Nezabyvayemiy 1919 god.
Nezhdanniy gost'.
Nezhdanno-negadanno.
Nezhniy vozrast.
Nezvanniy drug.
Ni slova o futbolye.
Nicolo Paganini.
Nihei.
Nikolai Bauman.
Nikolai Podvoiskiy.
Nizami.
Noch bez miloserdiya.
Noch nad Chili.
Noch rozhdeniya.
Noch v sentyabre.
Nochnoy ekipazh.
Nochnoy gost'.
Nochnoy patrul'.
Nochnoye proyisshestviye.
Normandia—Neman.
Noven'kaya.
Noviy Guliver.
Noviye pokhozhdeniya Shveika.
Noviye priklyucheniya kapitana Vrungelya.
Noviye priklyucheniya kota v sapogakh.
Noviye priklyucheniya neulovimykh.
Novoselye u bratsa krolika.
Novoye platye korolya.
Nye samiy udachniy den'.
Nyurkina zhizn'.
O bednom gusare zamolvite slovo.
O chyom molchala taiga.
O chyom ne uznayut tribuny.
O druzyakh-tovarishchakh.
O lyubvi.
O sport, ty-mir!
O strannostyakh sud'by.
O, noche volshebnaya, polnaya negi...
Ob etom zabyvat' nel'zya.
Obelisk.
Obeshchayu byt'!
Obida.
Obiknovenniy chelovek.
Obiknovenniy fashizm.
Obiknovennoye chudo.
Obyasneniye v lyubvi.
Ochen' strashnaya istoriya.
Ochen' vazhnaya persona.
Ochnaya stavka.
Odin iz nas.
Odinnadtsatiy patriarkh.
Odinnadtsatiy patriarkh.
Odinochnoye plavaniye.
Odinokim predostavlyayetsya obshchezhitiye.
Odnazhdy letom.
Odnazhdy dvadtsat' let spustya.
Odnolyuby.
Ofitsery.
Ogaryova, 6.
Oglasheniyu ne podlezhit.
Oglyanis'.
Ognenniye vyorsty.
Ognennoye detstvo.
Ogni na rekye.
Ogon'kyi.
Okean.
Okh uzh eta Nastya!
Okhota na lis.
Okraina.
Oktyabr'.
Olenya okhota.
Ona s metloy, on v chyornoi shlyapye.
Ona vas lyubit.
Ona zaschishchayet rodinu.
Oni byli aktyorami.
Oni byli pervimi.
Oni ne poidut.
Oni shli na vostok.
Oni srazhalis' za rodinu.
Oni vstretilis' v puti.
Oni zhivut ryadom.
Opasniye druzya.
Opasniye tropy.
Opasno dlya zhizni!
Opekun.
Operatsiya ''Yl'' i drugiye priklyucheniya Shurika.
Optimisticheskaya tragediya.
Orfey spuskayetsya v ad.
Orlyata Chapaya.
Os'minozhki.
Osen'.
Osen', Chertanovo...
Osen' sinyaya boroda.
Osenniye kolokola.
Osenniye korabli.
Osenniye svad'by.
Oshibka inzhenera Kohina.
Oshibka rezidenta.
Oslinaya shkura.
Osobykh primet net.
Osobnyak Golobinykh.
Osobo vazhnoye zadaniye.
Osoboye podrazdeleniye.
Ossenniy marafon.
Ostanovilsya poyezd.
Ostavit' sled.
Ostayus' s vami.
Ostorozhno—Vasilyok!
Ostrov.
Ostrov sokrovishch.
Ostrov koldun.
Ostrov sokrovishch.
Osvobozhdeniye (film 1—Ognennaya duga).
Osvobozhdeniye (film 2—Proryv).
Osvobozhdeniye (film 3—Napravleniye glavnogo udara).
Osvobozhdeniye (film 4—Bitva za Berlin).
Osvobozhdeniye (film 5—Posledniy shturm).
Ot aimy do zimy.
Ot semi do dvenadtsati.
Ot tebya oni slyozi.
Ot zari do zari.
Ot zarplaty do zarplaty.
Otche nash.
Otchy dom.
Otello.
Otets i syn.
Otets Sergiy.
Otkloneniye—nol'.
Otkritoye okno.
Otkritoye serdtse.
Otpusk v sentyabre.
Otroki vo vselennoy.

Otryad Trubatachyova srazhayetsya.
Otsi.
Otsi i dedy.
Otsi i deti.
Otstavnoy kozy barabanshchik.
Otvetniy khod.
Ovod.
Ozhidaniye.
Padal proshlogodniy sneg.
Padeniya Kondora.
Padeniye Berlina.
Padeniye dinastiyi Romanovykh.
Palata.
Palle—odin na svete.
Pamyat.
Pamyat' serdtsa.
Papirosnitsa ot Mossel'proma.
Parad planet.
Parashutisty.
Paren' iz nashego goroda.
Paren' iz taigi.
Parol' ne nuzhen.
Partiyniy bilet.
Passazhir s ''Ekvatora.''
Pastukh i tsar'.
Patsany.
Pavlukha.
Pena.
Peppy—dlinniy chulok.
Pervaya konnaya.
Perekhodniy vozrast.
Perekhvat.
Perestupi porog.
Pervaya devushka.
Pervaya perchatka.
Perviy den' mira.
Perviy eshelon.
Perviy kurier.
Perviy sneg.
Perviy trolleibus.
Perviy uchitel'.
Perviye radosti.
Perviye stranitsy.
Pervoklassnitsa.
Pervopechtnik Ivan Fyodorov.
Pervoye svidaniye.
Pesni molodosti.
Pesni morya.
Pesnya o Kol'tsove.
Pesnya rodnoy strany.
Pesnya tabunshchika.
Pesochniye chasy.
Peter Pan.
Peterburgskaya kunstkamera.
Petersburgskaya noch.
Petrovka, 38.
Petta.
Piloty.
Pingvinyonok.
Pis'mo iz yunosti.
Pyshka.
Plata za istinu.
Plenniki udachy.
Plikh i Plyukh.
Plokhoy khoroshiy chelovek.
Plyumbum ili opasnaya igra.
Po dannym ugolovnogo roziska.
Po doroge s oblakami.
Po glavnoi ulitse s orkestrom.
Po shchuchyemu veleniyu.
Po sledam fil'ma ''Molodaya gvardiya.''
Po sledam geroya.
Po sledu vlastelina.
Po sobstvennomu zhelaniyu.
Po tonkomu l'du.
Po trave bosikom.
Po zakonam voyennogo vremeni.
Po zakonu.
Pobeda.
Pobeda zhenshchiny.
Pobeditel'.
Pochti nevydumannaya istoriya.
Pochti rovesniki.
Pod kupolom tsirka.
Pod odnim nebom.
Pod severnim siyaniyem.
Pod znakom odnorogoi korovi.
Podarok dlya slona.
Podaryonka.
Podkidysh.
Podnyataya tselina.
Podranki.
Podrugi.
Podzhigateli.
Poema o more.
Poema o krilyakh.
Poet.
Pogranichniy pyos aily.
Poka bezumstvuyet mechta.
Pokazivayet Maya Plisetskaya.
Pokhishcheniye.
Pokhishcheniye veka.
Pokhititel vody.
Pokhozhdeniya zubnogo vracha.
Pokhozhdeniya grafa Nevzorova.
Pokoleniye pobediteley.
Pokrovskiye vorota.
Polevaya gvardiya Mozzhukhina.
Polikushka.
Polyn'—trava gor'kaya.
Polosa prepyatstviy.
Polosa vezeniya. Kinoalmanakh ''Molodost.''
Polosatiy reis.
Polovodye.
Polshchad' Vosstaniya.
Polustanok.
Polye pereiti.
Polyot s kosmonavtom.
Polyushko-polye.
Pomni imya svoyo.
Ponedel'nik—den' tyazholiy.
Poprigunya.
Poputchik.
Porokh.
Portret madmuazel' Tarzhi.
Portret s dozhdyom.
Portret zheni khudozhnika.
Poruchit' generalu Nesterovu.
Poshchyochina, kotoroi ne bylo.
Poshekhonskaya starina.
Posilayu vam pyesu.
Poslanniki vechnosti.
Posledniy attraktsion.
Posledniy dom.
Posledniy god.
Posiednij kontsert.
Posledniy shans.
Posledniy tabor.
Posledniy vystrel.
Posledniye kanikuli.
Posledniye zaipi.
Poslednyaya doroga.
Poslednyaya dvoika.
Poslednyaya noch.
Poslednyaya okhota.
Poslednyaya vstrecha.
Poslednyaya zhertva.
Posleslovive.
Poslye dozhdichka v chetverg.
Poslye togo, kak...
Posmotri mne v glaza.
Posol Sovetskogo Soyuza.
Postaraisya ostat'sya zhivym.
Potomok Chingiz-Khana.
Potryasayushchiy Berendeyev.
Potseluy Mary Pikford.
Povest' o chelovecheskom serdtse.
Povest' o nastoyashchem cheloveke.
Povest' o neistovom.
Povest' o neizvestnom aktyore.
Povest' plamennykh let.
Povorot.
Povtornaya svad'ba.
Poy pesnyu, poet..
Poyedinok.
Poyedinok v taige.
Poyezd idyot na vostok.
Poyezd v zavtrashniy den'.
Poyezdka v Visbaden.
Poyezdki na starom avtomobilye.
Pozdnyaya lyubov.
Pozdnyaya yagoda.
Pozovi myenya v dal' svetluyu.
Pravda leitenanta Klimova.
Pravo lyubit'.
Pravo na vystrel.
Pravo na prizhok.
Pravo pervoy podpisi.
Prazdnik neposlushaniya.
Prazdnik Svyatogo Yirgena.
Prazdniki detstva.
Predatel'.
Predatel'nitsa.
Predchuvstviye lyubvi.
Predel zhelanniy.
Predisloviye k bitve.
Predsedatel'.
Predvaritel'noye rassledovaniye.
Preferans po pyatnitsam.
Premiya.
Prestupleniye.
Prestupleniye i nakazaniye.
Prestupleniye Ivana Karavayeva.
Prezhde, chem rasstat'sya.
Prezhdevremenniy chelovek.
Prezhevalskyi.
Prezumptsiya nevinnosti.
Pri ispolneniyi sluzhebnikh obyazannostey.
Prichali.
Prigovoryonniy.
Prikaz: ogon' ne otkrivat'.
Prikaz: pereiti granitsu.
Prikazano vzyat' zhivym.
Prikhod Luny.

Prikhodi svobodnym.
Priklyucheniya porosyonka Funtika.
Priklyucheniya Kventina Dorvarda, strelka korolesvskoy armiyi.
Priklyucheniya elektronika.
Priklyucheniya Krosha.
Priklyucheniya malen'kikh druzey.
Priklyucheniya malen'kogo papy.
Priklyucheniya printsa florizelya.
Priklyucheniya Sherloka Holmes doktora Vatsona.
Priklyucheniya sorvantsa.
Priklyucheniya Toli Klyukvina.
Priklyuchaniya Travki.
Priklyucheniya zheltogo chemodanchika.
Priklyucheniye stingrey.
Priletal marsianin v osennyuyu noch.
Prinimayu na sebya.
Prints i nishchiy.
Prishla i govoryu.
Prishol soldat s fronta.
Pristupit' k likvidatsiyi.
Prisvoyit' zvaniye geroya.
Prival stannikov.
Privideniye, kotoroye ne vozvrashchayetsya.
Priyezhaite na Baikal.
Priyezzhaya.
Prizhok na zarye.
Priznat' vinovnym.
Prizvaniye.
Pro chudesa chelovecheskiye.
Pro Dzhirtdana-velikana.
Pro lyubov', druzhbu i sud'bu.
Probuzhdeniye.
Prodelki v starinnom dukhe.
Professiya—kinoaktyor.
Professiya—kompozer.
Proisshestviye v Utinoozyorske.
Prokhindiada ili beg na mestye.
Prolog.
Propal i nashelsya.
Propalo leto.
Propavshaya ekspeditsiya.
Propavshiye sredi zhivykh.
Propazha svidetelya.
Proschal'naya gastrol' ''Artista.''
Proshchai, shpana zamoskvoretskaya.
Proshchaniye.
Prosperity.
Prostaya istoriya.
Prosti.
Prosti menya, Alyosha.
Prosto devochka.
Prostoy sluchay.
Protsess.
Protsess o tryokh millionakh.
Proverka na dorogakh.
Pryamaya liniya.
Psevdonim ''Lukach.''
Ptitsi nad gorodom.
Publikatsiya.
Pugalo.
Pust' on ostanetsya s nami.
Pust' ya umru, Gospodi.
Put' k medalyam.
Put' k prichalu.
Put' slavy.
Put' v ''Saturn.''
Put' v Damask.
Puteshestvennik s bagazhom.
Puteshestviye.
Putyovka v zhizn'.
Puzyr'ki.
Pyad' semyi.
Pyadovoy Alexandr Matrosov.
Pyat' dney otdikha.
Pyat' dney, pyat' nochey.
Pyat' minut strakha.
Pyat' pokhishchennykh monakhov.
Pyat' vecherov.
Pyat'desyat na pyat'desyat.
Pyatnadtsatilentiy kapitan.
Pyatoye vremya goda.
Pygmalion.
Pyl pod solntsem.
Pylayushchiy Kontinent.
Pyotr Martynovich gody bolshoy zhizni.
Pyotr perviy.
Pyotr Ryabinkin.
Raba lyubvi.
Raiskiye yablochki.
Rano utrom.
Rasplata.
Rasskazhite skazku, doktor.
Rasskazy o Lenine.
Rassledovaniye.
Rasstavaniya.
Ravnopraviye.
Raz na raz ne prikhoditsya.
Raz, dva—gorye ne beda!
Razborchiviy zhenikh.
Razbuditye Mukhina.
Razdumya.
Razreshite bilet.
Razlom.
Razniye sud'by.
Razorvanniy krug.
Raznotsvetniye Kamushki.
Razvlecheniye dlya starichkov.
Rebro Adama.
Rel'si gudyat.
Reportazh s liniyi ognya.
Rerikh.
Respublika SHKID.
Retsept yeyo molodosti.
Revizor.
Ripkina lyubov'.
Risk—blagorodnoye delo.
Rishad—vnuk Zifi.
Rodina zovyot.
Rodiny soldat.
Roditeley ne vybirayut.
Rodnaya krov'.
Rodnik.
Rodniye polusa.
Rodnya.
Rokovaya oshybka.
Romans o vlyublyonnikh.
Romantiki.
Romeo i Julieta.
Romka, Fomka i Artos.
Rovesnik veka.
Rozhdyonniye burey.
Rozygrysh.
Rudin.
Ruf'.
Ruki vverkh!
Rus' iznachal'naya.
Ruslan i Lyudmila.
Russkiy dom.
Russkiy les.
Russkiy suvenir.
Russkiy vopros.
Russkoye polye.
Rvaniye bashmaki.
Ryadom s vami.
Rys' vozvrashchayetsya.
Ryzhik.
S lyubimymi ne rasstavaytes'.
S lyubovyu popolam.
S neba na zemlyu.
S toboy i bez tebya.
S veselyem i otvagoy.
S. Rikhter igrayet Shumana.
Sad zhelaniy.
Sadis' ryadom, Mishka!
Sadko.
Salamandra.
Salavat Yulayev.
Salon krasoti.
Saltanat.
Samaya obayatelnaya i privlekatelnaya.
Samiy krasiviy kon'.
Samiy posledniy den'.
Samiy zharkiy mesyats.
Samootverzhenniy zayats.
Sampo.
Santa-Esperansa.
Sasha vstupayet v zhizn'.
Sashka.
Schastlivaya, Zhen'ka!
Schastlivchik.
Schastliviy chervonets.
Schastliviy reis.
Schastye.
Schitaite menya vzroslim.
Schot chelovecheskiy.
Sdayotsya kvartira s rebyonkom.
Sdelka.
Sed'moye nebo.
Sekret uspekha.
Sekretar' obkoma.
Sekretar' raikoma.
Sekretnaya missiya.
Sekunda na podvig.
Sel'skaya uchitel'nitsa.
Sel'skiy vrach.
Sem' chasov do gibeli.
Sem' krikov v okeane.
Sem' nyanek.
Sem' stikhiy.
Sem' nevest yefreitora.
Semero smelikh.
Semero soldatikov.
Semeynoye schastye.
Semiklassniki.
Semnadtsat' mgnoveniy vesny.
Semya Ivanovikh.
Semya Oppengeim.
Semya Ulyanovikh.
SER (Svoboda eto ray).
Serafim Polubes i drugiye zhiteli zemli.

Seraya druga.
Serdtsa chetiryokh.
Serdtse byotsya vnov'.
Serdtse Korvalana.
Serdtse materi.
Serdtse ne kamen.
Serdtse Rossiyi.
Serebristaya pyl'.
Serebryanniye Ozyora.
Serebryanniye truby.
Serebryannoye rivue.
Seryozha.
Sestra muzikanta.
Severnaya povest'.
Severnaya rapsodiya.
Shag.
Shakhmatnaya goryachka.
Shakhtyori.
Shaltai-boltai.
Shans.
Shapka.
Shchit i myech.
Shel chetvyortiy god voiny.
Sherlock Holmes i Dr. Watson.
Shestoy.
Shestoye iyulya.
Shestviye zolotikh koney.
Shivorot-navivorot.
Shkol'niy val's.
Shkola muzhestva.
Shkola zlosloviya.
Shli soldaty.
Shlyapa.
Shol soldat s fronta.
Sholkovaya kistochka.
Shtorm.
Shtorm na sushe.
Shtormovoye preduprezhdeniye.
Shtrafnoy udar.
Shla sobaka po royalyu.
Shumniy dyen'.
Shura i prosvirnyal.
Shurochka.
Shut.
Shutki v storonu.
Shvedskaya spichka.
Sibiriada.
Sibirskaya atamanasha.
Sibiryachka.
Sibiryaki.
Sil'neye vsekh inikh veleniy.
Sinegoriya.
Sinyaya ptitsa.
Sinyaya tetrad'.
Sirano De Berzherak.
Skakal kazak cherez dolinu.
Skal'pirovanniy trup.
Skaz pro to, kak tsar' Pyotr arapa zhenil.
Skazaniye o zemie sibirskoy.
Skazhi solntsu: Da!
Skazka o poteryannom vremeni.
Skazka o starom Ekho.
Skazka o tsare saltane.
Skazka o volshebnom granate.
Skazka starogo Usto.
Skazka stranstviy.
Skazka-nebylitsy deda Yegora.
Skazki Shekherezadi.
Skazki...skazki...skazki Starogo Arbata.
Skhvatka v Purge.
Skoriy poyezd.
Skorost.
Skverniy anekdot.
Skvorets i lira.
Skvoz' ogon'.
Sladkaya zhenshchina.
Slavniy master Vasilyi Bazhenov.
Sledopy.
Slepoy muzykant.
Slomannaya podkova.
Slon i veryovochka.
Slovo dlya zashchity.
Slovo o L've Tolstom.
Sluchai na mel'nitse.
Sluchai na shakhte 8.
Sluchai s Polininym.
Sluchai v kvadrate 36–80.
Sluchai v taige.
Sluchai v vulkane.
Sluchainaya vstrecha.
Sluga dvukh gospod.
Sluga.
Slushaite!
Slushaite, na toy storone.
Sluzhebniy roman.
Sluzhili dva tovarishcha.
Slyozi kapali.
Smeliye lyudi.
Smert' na vslyote.
Smertniy vrag.
Smeshniye lyudi.
Smotri v oba.
Smyateniye chuvstv.
Snezhnaya koroleva.
Snezhnaya skazka.
Sobaka Baskerviley.
Sobstvennoye mneniye.
Sofia Perovskaya.
Solntse svetit vsyem.
Sokhranit' gorod.
Sokolovo.
Sokrovishcha Agri.
Soldat Ivan Brovkin.
Soldaty.
Soldaty svobody.
Solnechniy veter.
Solnechnye dni.
Solntse v karmane.
Solntse, snova solntse.
Solo dlya chasov s boyem.
Solo dlya slona s orkestrom.
Solovey.
Solyaris.
Solyoniy pyos.
Sombrero.
Sonata.
Sonaty Motsarta igrayut O. Kogan i S. Rikhter.
Sopernitsy.
Sorok dney bez voyny.
Sorok perviy.
Soroka-vorovka.
Sotrudnik Chk.
Souchastiye v ubiystve.
Souchastniki.
Sovershenno seryozno.
Sovest'.
Sovsem propashchiy.
Spartak.
Spasatel'.
Spasitye nashi dushi.
Spasitye utopayushchego.
Spasyonnomu—ray.
Spasyonnoye pokoleniye.
Spokoiniy den' v kontse voiny.
Spokoistviye otmenyayetsya.
Sport, sport, sport.
Sportivnaya chest'.
Sportivniy prazdnik molodyozhi.
Sportloto—82.
Spyashchaya krasavitsa.
Spyashchiy lev.
Sred' byela dnya.
Srochniy vizov.
Srochno...sekretno...GUBChKa.
Srok davnosti.
SSSR glazami italyantsev.
SSSR s otkrytym serdtsem.
Ssuda na brak.
Stachka.
Stalingrad.
Stalingradskaya bitva.
Stalker.
Stanitsa dal'nyaya.
Staraya azbuka.
Staraya, staraya, skazka.
Starets Vasilyi Gryaznov.
Starik Khottabich.
Stariki-razboiniki.
Starinniy vodevil'.
Stariy dom.
Stariy kuvshin.
Stariy nayezdnik.
Stariy znakomiy.
Stariye dolgi.
Stariye steny.
Staromodnaya komediya.
Staroye i novoye.
Starshaya sestra.
Starshina.
Starshiy syn.
Stazhor.
Steklyaniy labirint.
Steklyanniy glaz.
Steklyanniye busy.
Step'.
Stepan Razin.
Stepnaya eskadrilya.
Stepniye zori.
Sto dnei posle detstva.
Sto gram dlya khrabrosti.
Stoyanka tri chasa.
Strakh vysoty.
Strannaya istoriya doktora Dzekila i mistera Haida.
Strannaya zhenshchina.
Strannik.
Stranniye lyudi.
Stroitsya most.
Stryapukha.
Stseni iz semeynoi zhizni.
Stuchis' v lyubuyu dver'.
Stuk v dver'.
Sud.
Stydno skazat'.

Sud chesti.
Sud sumasshedshikh.
Sud'ba.
Sud'ba barabanshchika.
Sud'ba cheloveka.
Sud'ba rezidenta.
Sumka inkassatora.
Sunduk.
Suprugi Orlovy.
Suvorov.
Suyeta suyet.
Svad'ba.
Svad'ba Krechinskogo.
Svad'ba s prianym.
Svad'ba v Malinovke.
Sverstnitsy.
Svet dalyokoy zvesdy.
Svetliy put'.
Svistat' vsekh naverkh.
Svidaniye s molodostyu.
Svinarka i pastukh.
Svobodnoye padeniye.
Svoy.
Svoy sredi chuzhikh, chuzhoy sredi svoyikh.
Svoya golova na plechakh.
Svoyimi rukami.
Syn.
Syn Polka.
Syostri.
Syshchik.
Syuda ne zalitali chaiki.
Syuzhet dlya dvukh rasskazov.
Syuzhet dlya nebol'shogo rasskaza.
Tabachniy kapitan.
Tabor ukhodit v nebo.
Taina ''Chyornikh drozdov.''
Taina gornogo podzemelya.
Taina smerti Gogolya.
Taina vechnoy nochi.
Taina villi ''Greta.''
Taina zapisnoy knizhki.
Taina zolotogo bregeta.
Tainaya progulka.
Tainy semyi de Granshan.
Tainstvennaya stena.
Tainstvenniy monakh.
Tak nachinalas' legenda.
Tak zhit' nel'zya.
Takaya zhestokaya igra—khokkei.
Takiye vysokiye gory.
Takiye zhe kak my!
Takoy bol'shoy mal'chik.
Taktika bega na dlinnuyu distantsiyu.
Talanty i poklonniki.
Talisman.
Talisman lyubvi.
Tam, gde dlinnaya zima.
Tam, gde nas nyet.
Tam, za gorizontom.
Tamozhnya.
Tan ka-traktirshchitsa.
Tanets dyavola.
Tankisti.
Tantsploshchadka.
Tantsi na kryshe.
Tatyanin den'.
Tayozhniy desant.
Tchaikovskyi.
Tchitcherin.
Techyot Volga.
Tegeran—43.
Telegramma.
Ten'.
Territoriya.
Theatr.
Tikhiy Don.
Tikhiye vody gluboki.
Timur i yego komanda.
Tishina.
To leave a mark.
Tochka, tochka, zapyataya...
Tol'ko tri nochi.
Tommy.
Torgovka i poet.
Torgovtsi slavoy.
Torpedonostsi.
Tour Israel (Aguzarova meets Bravo).
Tovarishch general.
Tovarishch Arsenyi.
Tragediya.
Traktir na Pyatnitskoy.
Traktoristi.
Trener.
Tretiy taim.
Tretya meshchanskaya.
Tretye pokoleniye.
Trevozhniy bilet.
Trevozhnoye voskresenye.
Tri dnya Viktora Tchernyshova.
Tri plyus dva.
Tri sestry.
Tri sinikh ozera malinovogo tsveta.
Tri solntsa.
Tri topolya na plyushchikhe.
Tri tovarishcha.
Tri vremeni goda.
Tri vstrechi.
Tridtsat' tri.
Trin—Trava.
Trinadtsat'.
Trio.
Trizhdy voskresshiy.
Troitse-Sergiyeva lavra.
Troitse-Sergiyevskaya lavra.
Tropy Altaya.
Troye.
Troye na shosse.
Troye s odnoy ulitsi.
Troye v lodke ne schitaya sobaki.
Troye vyshli iz lesa.
Trudnoye schastye.
Tryam, zdravstvuyte!
Tryasina.
Tsarevich Prosha.
Tsel' yego zhizni.
Tseluyutsya zori.
Tsement.
Tsena bystrikh sekund.
Tsentrovoi iz podnebesya.
Tsepnaya reaktsiya.
Tsigan.
Tsiganskoye schastye.
Tsirk.
Tsirkachonok.
Tsvety zapozdaliye.
Tuchi nad Borskom.
Tuman iz Londona.
Tunnel.
Tvoy sovremennik.
Tvoya bol'shaya Sibir'.
Ty i ya.
Ty inogda vspominay.
Ty mnye—ya tyebye.
Ty moy vostorg, moyo muchenye...
Tye, kotoriye prozreli.
Tyema.
Tyeper' pust' ukhodit.
Tyoplaya kompaniya.
Tyuk.
U Krutogo Yara.
U Maksa v Koktebele.
U matrosov net voprosov.
U nas na zavode.
U nikh yest' rodina.
U opasnoy cherti.
U ozera.
U samogo sinego morya.
U tikhoi pristani.
U tvoyego poroga.
Ubit' drakona.
Ubiystovo na ulitse Dante.
Ubiytsi vykhodyat na dorogu.
Uchenik lekarya.
Uchitel'.
Uchitel' tantsev.
Udachi vam, gospoda.
Udivitel'naya bochka.
Uh ty, govoryashchaya ryba.
Ukhodya-ukhodi.
Ukradenniy poyezd.
Ukroshcheniye ognya.
Ukroshcheniye stroptivoy.
Ukrotitel'nitsa tigrov.
Ulybnis', rovesnik!
Umirat' ne strashno.
Umnaya sobachka Sonya.
Unikum.
Unizhenniye i oskorblyonniye.
Ura! U nas kanikuli.
Uragan prikhodit neozhidanno.
Urok istoriyi.
Urok literaturi.
Urok zhizni.
Usatiy nyan'.
Ushchelye Altamasov.
Uspekh.
Utoli moyi pechali.
Utomlyonoe solntse.
Utrenniy obkhod.
Utrenniye poyezda.
Utro bez otmetok.
Utro obrechonnogo priyiska.
Uvol'neniye na bereg.
Uzniki Yamagiri-Maru.
V ansamblye s Rikhterom.
V chetverg i bolshe nikogda.
V den' prazdnika.
V dobriy chas!
V gorakh Yugoslaviyi.
V gorod vkhodit' nel'zya.
V kvadrate 45.
V Lazorevoy stepi.
V lyudyakh.
V mire tantsa.
V Moskve proyezdom.
V moyey smerti proshu vinit Klavu K.

V nachale veka.
V nachale igri.
V nebye ''nochniye teni.''
V noch na novoluniye.
V odno prekrasnoye detstvo.
V ogne broda nyet.
V ozhidaniyi chuda.
V poiskakh kapitana Granta.
V poiskakh radosti.
V poslednyuyu ochered'.
V prazdnichniy vecher.
V rasputitsu.
V shest' chasov vechera posle voiny.
V stepnoy tishi.
V styepi.
V trudniy chas.
V tvoykh rukakh zhizn.
V tylu vraga.
V yedinom stroyu.
V zone osobogo vnimaniya.
Vakansiya.
Valentin i Valentina.
Valentina.
Valera.
Vam chto, nasha vlast' ne nravitsya?
Vam i nye snilos'.
Vampiri Geoni.
Van'ka-vstan'ka.
Vardevar—prazdnik roz.
Variant ''Zombi.''
Vas ozhidayet grazhdanka Nikanorova.
Vasilisa Prekrasnaya.
Vasilyi Buslayev.
Vasilyi i Vasilisa.
Vasilyi Surikow.
Vassas.
Vasyok Trubatchyov i yego tovarishchi.
Vchera, segodnya i vsegda.
Vechera na khutorye bliz Dikanki.
Vecherniy labirint.
Ved'ma.
Velikiy samoyed.
Velikiy uteshitel'.
Velikiye golorantsi.
Velikliy voyin Albaniyi Skanderbeg.
Velikly put'.
Velikolepniy gosha.
Ver'te mnye, lyudi.
Vera.
Vera i Anfisa znakomyatsya.
Vera, Nadezhda, Lyubov.
Verniye druzya.
Vernost' materi.
Vernymi ostanemsya.
Veroy i pravdoy.
Versiya polkovnika Zorina.
Veruyu v lyubov'.
Veruyu v radugu.
Vesenniy potok.
Vesenniy prizyv.
Vesenniye golosa.
Vesennya olimpiada, ili Nachal'nik khora.
Vesna.
Vesna na Odere.
Vesyolaya kanareika.
Vesyoliye istoriyi.
Vesyoliye rasplyuyevskyie dni.
Vesyoliye rebyata.
Vesyoliye zvyozdi.
Veter.
Veter ''Nadezhdi.''
Veter stranstviy.
Vezuchaya.
Vibor tseli.
Vkhri vrazhdebniye.
Victor Vasnetsov.Vospominaniya.
Vid na zhitelstvo.
Virineya.
Vishnyoviy omut.
Vitya Glushakov-drug apachey.
Vizit damy.
Vizit k minotavru.
Vizit verhivosti.
Vkus khalvy.
Vladivostok, god 1918.
Vlast' Solovetskaya.
Vlyublyon po sobstvennomu zhelaniyu.
Vnimaniye! Vsyem postam...
Vnimaniye: cherepakha.
Vo imya rodiny.
Volchonok sredi lyudei.
Vokzal dlya dvoikh.
Volga-Volga.
Volnitsa.
Volniy veter.
Volshebnaya laka.
Volshebnaya serna.
Volshebnoye zerno.
Vooruzhen i ochen' opasen.
Vorobey na l'du.
Vorota v nebo.
Vos'moye chudo sveta.
Vosemnadtsatiy god.
Voskhozhdeniye.
Voskreseniye.
Vospitaniye zhestokosti u zhenshchin i sobak.
Vosstaniye rybakov.
Vozdushnaya pochta.
Vozdushniy izvozchik.
Vozle etikh okon.
Vozmezdiye.
Vozneseniye.
Vozvrashcheniye Khadzhi Nasreddina.
Vozvrashcheniye ''Svyatogo Luki.''
Vozvrashcheniye Budulaya.
Vozvrashcheniye chuvstv.
Vozvrashcheniye k zhizni.
Vozvrashcheniye rezidenta.
Vozvrashcheniye Vasiliya Bortnikova.
Vozvrata net.
Vperedi dyen'.
Vperviye zamuzhem.
Vragi.
Vratar.
Vrazhyi tropi.
Vremya i semya Konvey.
Vremya letat.
Vremya letnikh otpuskov.
Vremya otdykha s subboti do ponedel'nika.
Vremya schastlivykh nakhodok.
Vremya synovey.
Vremya zhelaniy.
Vremya, vperyod!
Vsadnik bez golovy.
Vsadnik na zolotom konye.
Vsadnik nad gorodom.
Vsadnik s molniyei v ruke.
sem spasibo.
Vspominaya Ranevskuyu.
Vstrecha na Elbe.
Vstrechi na rassvete.
Vstrechi s Igorem llyinskim.
Vstupleniye.
Vsyo delo v bratye.
Vsyo dlya vas.
Vsyo nachinayetsya s dorogi.
Vsyo naoborot.
Vsyo ostayotsya lyudyam.
Vtoroy raz v Krimu.
Vy mne pisali...
Vybor.
Vybor tseli.
Vyi.
Vyigrish odnogo Kommersanta.
Vykup.
Vyruta zastupom yama gluboraya.
Vysokaya nagrada.
Vysokosniy god.
Vysokoyne zvaniye.
Vysota.
Vystral v tmane.
Vystrel.
Vystrel v spinu.
Vzbesivshiysya avtobus.
Vzlyot.
Vzorvanniy ad.
Vzrosliy syn.
Vzrosliye deti.
XX vyek zakanchivayetsya.
Ya kupil papu.
Ya nauchu vas mechtat'.
Ya ne utratil prezhniy svet. A. Blok.
Ya sdelal vsyo, chto mog.
Ya shagayu po Moskve.
Ya slyzhil v okhrane Stalina ili opit dok. mifologiyi.
Ya soldat, mama.
Ya tebya nikogda ne zabudu.
Ya v polnom poryadke.
Ya vas dozhdus'.
Ya vas lyubil...
Ya yego nevesta.
Ya za tebya otvechayu.
Ya—Kuba.
Ya—Tyanshan.
Yabloko razdora.
Yad.
Yaguar.
Yakov Sverdlov.
Yaroslav Dombrovskyi.
Yaroslavna, the Queen of France.
Yedinstvennaya.
Yedinstvennaya doroga.
Yegor Bulychev i drugiye.
Yegorka.
Yekaterina Voronina.
Yel'.
Yelovoye yabloko.
Yemelyan Pugachev.
Yeshcho lyublyu, yeshcho nadeyus'...

Yeshcho moshno uspet'.
Yeshcho raz pro lyubov'.
Yesli by ya byl nachal'nikom.
Yesli eto sluchitsya s toboy.
Yesli khochesh byt' schastlivym.
Yesli ty muzhchina.
Yesli ty prav...
Yesli zavtra byla voina.
Yest' ideya!
Yevdokiya.
Yevdokiya Rozhnovskaya.
Yevgeniy Onegin.
Yevgeniy Urbansky.
Yevgeniya Grande.
Yevreyskoye schastye.
Yevropeyskaya istoriya.
Yeyo put'.
Yim pokoryayetsya nebo.
Yolki-Palki.
Yubiley.
Yuliya Vrovskaya.
Yunga severnogo flota.
Yuniye kommunari.
Yunost'.
Yunost' komandirov.
Yunost' Maksima.
Yunost' nashikh ottsov.
Za devyat' let do kontsa voiny.
Za oblakami—nebo.
Za spichkami.
Za vitrinoy univermaga.
Za vlast' Sovyetov.
Za vsyo v otvete.
Za yavnim preimushchestyom.
Zabavy molodikh.
Zabytaya melodiya dlya fleity.
Zacharovannaya desna.
Zacharovannaya vesna.
Zachem cheloveku krilya.
Zagadka Endhauza.
Zagadka Kal'mana.
Zagadochniy naslednik.
Zagon.
Zagovor obrechyonnikh.
Zaklyuchyonniye.
Zakon.
Zakon zhizni.
Zakonniy brak.
Zakritiye sezona.
Zakroishchik iz Torzhka.
Zamurovanniye v steklye.
Zapasnoy aerodrom.
Zapasnoy igrok.
Zapiski pirata.
Zapomnitye ikh litsa.
Zapretnaya zona.
Zarye navstrechyu.
Zasekrechenniy gorod.
Zashchitnik Sedov.
Zastava llyitcha.
Zastava v gorakh.
Zatyanuvshiysya ekzamen.
Zaveshchaniye.
Zaveshchaniye doktora Douelya.
Zavtra byla voyna.
Zavtrak u predvoditelya.
Zdes' mogut vodit'sya tigry.
Zdes', na moyey zemle.
Zdravstvuitye, ya vasha tyotya.
Zdravstvuy i proshchai.
Zdravstvuy, Moskva.
Zdravstvuy, ryka.
Zdravstvuytye, deti!
Zeena, Zinulya.
Zelyoniy ostrov.
Zelyoniy furgon.
Zelyoniy ogonyok.
Zelyoniye tsepochki.
Zemlya i luydi.
Zemlya Sannikova.
Zemlya v plenu.
Zemlya, do vostrebovaniya.
Zemlyaki.
Zemlyanichniy dozhdik.
Zerkalo.
Zharkoye leto v Kabule.
Zhazhda nad ruchyom.
Zhdi menya.
Zhelayu uspekha.
Zhelezniy potok.
Zhena.
Zhena kerosinshchika.
Zhena predrevkoma.
Zhena ushla.
Zhenatiy kholostyak.
Zhenikh s togo sveta.
Zhenit'ba.
Zhenit'ba Bal'zaminova.
Zhenit'ba Balzaminova.
Zhenshchina.
Zhenshchina, kotoraya poyot.
Zhenskaya astrologiya.
Zhenskiye radosti.
Zhenya, Zhenechka, and Katyusha.
Zhestokiy romans.
Zhestokost'.
Zhil otvazhniy kapitan.
Zhila-byla devochka.
Zhili-byli starik so starukhoy.
Zhit' po-svoyemu.
Zhiteyskoye delo.
Zhivaya glina.
Zhivaya raduga.
Zhivite v radosti.
Zhiviye i myortviye.
Zhivoy trup.
Zhivoy trup.
Zhivyot takoy paren'.
Zhizn' i smert' Ferdinanda Lyusa.
Zhizn' moya—armiya.
Zhizn' na greshnoy zemlye.
Zhizn' po limitu.
Zhizn' posle smerti.
Zhizn' prekrasna.
Zhizn' proshla mimo.
Zhizn' s nachala.
Zhizn' odna...
Zhrebiy.
Zhukovskyi.
Zhuravl' v nebe.
Zhuravushka.
Zhurnalist.
Zigzag udachi.
Zimnyaya skazka.
Zimnyaya vishnaya.
Zimniy vecher v Gagrakh.
Zlovrednoye voskresenye.
Zloy dukh Yambuya.
Zmeyelov.
Znamenitiy i iskusneishiy Matvey Kazakov.
Zodchiy Moskvy Osip Bove.
Zolotaya rechka.
Zolotiye vorota.
Zolotiye yabloki.
Zoloto.
Zolotoy dom.
Zolotoy eshelon.
Zolotoy klyuchik.
Zolotoy telyonok.
Zolotoye ozero.
Zolushka.
Zontik dlya novobrachnykh.
Zori Parizha.
Zoya.
Zudov, vy uvoleni!
Zvezda ekrana.
Zvezda i smert' Khoakina Murieti.
Zvezda nadezhdy.
Zvezda plenitel'nogo schastya.
Zvezdopad.
Zvonyat, otkroite dver'!
Zvyozdniy inspektor.
Zvyozdniy mal.
Zvyozdy i soldaty.
Zvyozdy ne gasnut.
Zvyozdy vstrechayutsya v Moskve.

Rolnikaite, Maria.
- Ya dolzhna rasskazat.

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The mouse in the wainscot.
My kitten (Miss Tibbles).
A pride of lions.
A puffin quartet of poets.
Robin and his merry men.
Robin in the greenwood.
Suppose you met a witch.
The tale of the three landlubbers.
There's no escape.
The turtle drum.
Two rhymes.
The way of danger.
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Succession Picasso.
''Pour toi'', poeme pour Maya.
Les amants de la rue.
Animal form jug with handle and four feet 35 × 1 × 30 cm.
Animal form vase with handling and height 36 cm.
Another version of above.
The architect's table.
L' arene (etude pour le rideu du ballet ''Le tricorne'').
Arlequin assis (le peintre Jacinto Salvado).
Arrastre. Black decoration on ochre earthenware, diameter 42 cm.
Arrastre. Polychrome decoration on white earthenware, diameter 42 cm.
L' arrosoir fleuri.
At work.
L' atelier de ''La Californie'' a Cannes.
L' atelier.
Au ''Lapin Agile'' (arlequin au verre).
L' aubade (nu allonge avec musicienne).
L' aubade.
Aubergine and knife on a tartan ground, 31 × 38.5 cm.
Autoportrait ''yo Picasso.''
Autoportrait (tete).
Autoportrait a la palette.
Autoportrait aux cheveux courts.
Autoportrait en gentilhomme du XVIIIe siecle.
Autoportrait mal coiffe.
Autoportrait.
Autour de chef-d'oeuvre inconnu: peintre, modele, couple et deux peintres, I(e) etat.
Autour de chef-d'oeuvre inconnu: peintre, modele, couple et deux peintres, IV(e) etat.
Baboon and young.
Bacchanale.
La baie de Cannes.
Les baigneurs (la plongeuse, l'homme aux mains jointes, l'homme fontain, l'enfant, la femme aux bras ecartes, le j.
Baigneurs sur la plage de la Garoupe.
Baigneuse assise au bord de la mer.
Baigneuse debout.
Baigneuse.
Baigneuses au ballon III.
Baigneuses au ballon.
Baigneuses ouvrant une cabine.
Baigneuses sur la plage.
Les baigneuses.
Le baiser.
Banderillas. Black decoration on ochre earthenware, diameter 42 cm.
Banderillas. Polychrome decoration on white earthenware, diameter 42 cm.
Bather and cabin.
Bather with beach ball.
Bathers in a forest.
Bearded face. White earthenware, diameter 24 cm.
Bearded faun.
Bethsabee (d'apres Rembrandt).
Bird and flowers, 32 × 38 cm.
Bird. White earthenware, 20 × 28 cm.
Black mask, diameter 31 cm.
Black owl roosting, diameter 42.5 cm.
Black pudding and eggs, 31 × 37 cm.
El Bobo (d'apres Velazquez et Murillo).
Bouquet with apple. White earthenware, diameter 24 cm.
Bouteille d'Anis del Mondo et compotier avec grappe de raisin.
Bouteille de Bass, verre et journal.
Bouteille de Pernod et verre.
Bouteille de Vieux Marc, verre et journal.
Bouteille sur une table.
Brooding woman.
Brown bird on a green ground, 32 × 38.5 cm.
Le buffet du Catalan.
Bull on beige ground 31 × 38.5 cm.
Bull on pink earth ground, 37 × 23 × 37 cm.
Bull's head. White earthenware, diameter 42 cm.
Bull.
Bullfight scene. Banderilleros on light colored ground, 31 × 38.5 cm.
Bullfight scene. Picador on blue ground, 31 × 38.5 cm.
Bullfight scene. Picador on beige ground, 31 × 38.5 cm.
Bullfight scene. Picador on grey ground, 31 × 38.5 cm.
Bullfight scene. Picador on green ground, 31 × 38.5 cm.
Bullfight, diameter 15.5 cm.
Bullfighting scenes, 20 × 39 × 4 cm.
Bust of a woman, 26.5 × 22.5 cm.
Buste (etude pour ''Les demoiselles d'Avignon'').
Buste de femme a la chaise, II(e) etat.
Buste de femme a la chaise, IX(e) etat.
Buste de femme a la chaise, VII(e) etat.
Buste de femme au bouquet (Fernande).
Buste de femme ou de marin, etude pour ''Les demoiselles d'Avignon.''
Buste de femme.
Busts of women in matt paint, 25 × 14 cm.
Cafe a Royan (Le cafe).
Card player.
Carnet de Cannes.
Carnet no 3, chienne allaitant ses petits (Fricka).
Carnet no 3, etude d'ensemble a deux personnages: l'etudiant en medecine.
Carnet no 3, etude d'ensemble a sept personnages: cinq demoiselles, l'etudiant en medecine et la marin.
Carnet no 3, etude d'ensemble a six personnages: quatre demoiselles, l'etudiant en medecine et la marin.
Carnet no 3, etude d'ensemble a un personnage: la demoiselles accroupie de dos a droite et la nature morte.
Carnet no 3, etude pour l'etudiant en medecine: homme de profil au bras leve, tenant un crane.
Carnet no 3, etude pour la demoiselle accroupie de dos, a droite: nu assis, jambes ecartees.
Carnet no 3, etude pour la demoiselle assise de face: nu assis, jambes croisees.
Carnet no 3, etude pour la demoiselle aux bras leves: buste de nu aux bras leves.
Carnet no 3, etude pour la demoiselle debout a droite: nu de profvil ecartant un rideau (a l'envers).
Carnet no 3, etude pour la demoiselle debout a droite (?) tete de profil (a l'envers).
Carnet no 3, etude pour la demoiselle debout derriere.
Carnet no 3, etude pour la demoiselle accroupie de dos, a droite: nu assis.
Carnet no 3, etude pour la nature morte: bouquet de fleurs dans un vase et tranche de pasteque.
Carnet no 3, etude pour la nature

morte: fleurs.
Carnet no 3, etude pour la nature morte: fruits dans une coupe.
Carnet no 3, etude pour la nature morte: vase.
Carnet no 3, etude pour la nature morte: tranches de pasteque sur un plat.
Carnet no 4, etude pour ''Les demoiselles d'Avignon.''
Carnet no 86, dessin d'apres le chef-d'oeuvre inconnu: quatre etudes de guitare.
Le celestine.
Centaurs fighting and faun playing pipes, 59 × 33 cm.
Centaurs fighting, on a cream ground, 31 × 38.5 cm.
La chaise.
Le chandail jaune (Dora Maar).
The Charnel house.
Le charnier.
Chat saisissant un oiseau.
Chevre.
La chouette.
Circus scene, height 35 cm., diameter at base 10 cm.
Circus scenes, 35 × 18 cm.
Claude a la balle.
Claude dessinant, Francoise et Paloma.
Claude ecrivant.
Cliche Kahnweiler, guitare, clarinette et bouteille de Bass, VII(e) etat.
Cogida. Black decoration on ochre earthenware, diameter 42 cm.
La coiffure.
Coloured variant on no. 62.
Combat de taureaux et chevaux.
Composition au papillon.
Composition.
Compotier aux fruits et au pain sur une table.
Corrida: la mort de la femme torero.
Couple a l'oiseau.
Couple dans un pre.
Couple.
Le couple.
Course de taureaux (corrida).
Course de taureaux et pigeons.
Course de taureaux: la mort du torero.
Crane de chevre, bouteille et bougie.
Crane, oursins et lampe sur une table.
Crowned female head. Ochre earthenware, 33 × 25 cm.
La crucifixion.
Cubist face. White earthenware, diameter 42 cm.
La cuisine, II(e) version.
La cuisine.
Danae, IV(e) etat.
La danse aux voiles (nu a la draperie).
La danse villageoise.
La danse.
Danseuse naine (la nana).
Dark Neptune. Ochre earthenware 21.5 × 21.5 cm.
David et Bethsabee (d'apres Lucas Cranach) II(e) stat.
Decorated with faces. Height 61 cm., diameter at base 16 cm.
Decoration based on bullfighting themes, done in April of 1953. Diameter: 16 cm. (min.) and 17.6 cm. (max.).
Decoration painted on patinated ground, 29.5 × 24 cm.
Decoration painted on patinated ground, 40 × 23.5 cm.
Le dejeuner sur l'herbe (d'apres Manet).
Le dejeuner sur l'herbe: femme assise.
Le dejeuner sur l'herbe: femme assise (verso).
Le dejeuner sur l'herbe: femme au bain.
Le dejeuner sur l'herbe: homme assis accoude.
Les demoiselles au bord de la sein (d'apre Courbet).
Les demoiselles d'Avignon.
Les deux amies.
Deux femmes courant sur la plage (La course).
Deux femmes nues.
Deux figures sur la plage.
Deux nus (le dejeuner sur l'herbe).
Le divan japonais.
Dove on bed of straw, 32.5 × 38.5 cm.
La dryade (nu dans la foret).
En pensant a Goya: femmes en prison.
L' enfant aux Colomes.
Enfant jouant avec un camion.
L' enlevement des Sabines (d'apres David).
L' Enterrement du Comte d'Orgaz d'apres Picasso, III(e) etat b.
Erotic scene, 16.5 × 19 cm.
Erotic scene.
Estocada. Black decoration on ochre earthenware, diameter 42 cm.
Estocada. Polychrome decoration on white earthenware, diameter 42 cm.
Etreinte II.
Etude d'apres un model en platre (torse de Belvedere).
Etude pour ''Autoportrait a la palette.''
Etude pour ''Carnaval au bistrot.''
Etude pour ''Guernica'': main de guerrier avec epee brisee.
Etude pour ''Guernica'': mere avec enfant mort.
Etude pour ''Guernica'': tete de cheval.
Etude pour ''Guernica'': tete de femme en pleurs.
Etude pour ''L'homme au mouton.''
Etude pour ''La joie de vivre'' (triptyque).
Etude pour ''Le dejeuner sur l'herbe'' d'apres Manet.
Etude pour ''Le demoiselles d'Avignon.''
Etude pour ''Les demoiselles d'Avignon.''
Etude pour ''Tete de femme'' (Fernande).
Etude pour le rideau de scene du ''14 Juillet'' de Romain Rolland.
Etude pour une sculpture ceremique.
Etudes.
Evocation (enterrement de Casagemas).
Face framed in a square. White earthenware, diameter 42 cm.
Face in thick relief. White earthenware, diameter 42 cm.
Face on grid. White earthenware, diameter 42 cm.
Face painted in relief on blue ground, 31 × 38.5 cm.
Face surrounded by ringlets. Ochre earthenware, 21.5 × 21.5 cm.
Face surrounded by ringlets. Ochre earthenware, 31 × 31 cm.
Face with green nose. Ochre earthenware, 21.5 × 21.5 cm.
Face with leaves. White earthenware, diameter 42 cm.
Face with lowered eyes. Decoration decoration in relief, 31 × 38.5 cm.
Face with round nose and four potter's marks on ochre earthenware, 31.5 × 27 cm.
Face with slanting features. Ochre earthenware 21.5 × 21.5 cm.
Face with slanting features. Ochre earthenware, 21.5 × 21.5 cm.
Face with tie. White earthenware, diameter 25 cm.
Face, 14 × 13 cm.
Face, 15 × 15 cm.
Face, height 13 cm.
Face, height 19 cm.
Face.
Famille d'acrobates avec singe.
La famille de saltimbanques (les bateleurs).
La famille.
Faun's head 38 × 34 cm.
Faun's head with broad strokes on a beige ground, 38.5 × 31 cm.
Faun's head, 38 × 38 cm.
Faun's head, 39 × 32 cm.
Faun. White earthenware, diameter 42 cm.
Faune devoilant une femme, VI(e) etat.
Faune, cheval et oiseau.
Fauns dancing on an ivory ground, 37 × 38.5 cm.
Female nude, height 35.5 cm.
Femme a l'artichaut.
Femme a l'enfant.
Femme a l'eventail.
Le femme a l'orange ou le femme a la pomme.
Femme a la bougie, combat entre taureau et cheval.
Femme a la corneille.
Femme a la voiture d'enfant (La femme a la poussette).
Femme assise (Marie-Theresa Walter).
Femme assise dans un fauteuil rouge.
Femme assise dans un fauteuil.
Femme assise.

Femme au corsage bleu (Dora Maar).
Femme au costume ture dans un fauteuil.
Femme au drape.
Femme au fauteuil rouge.
Femme au feuillage.
Le femme au jardin.
Le femme au stylet.
Femme aux bras ecartes.
Femme avec eventail (apres le bal).
Femme debout.
Femme en pleurs.
Femme enceinte.
Femme lancant une pierre.
Femme nue a la chaise a bascule.
Femme nue au bonnet turc.
Femme nue couchee sur un divan bleu.
Femme nue couchee.
Femme nue dans un jardin.
Femme nue sous un pin.
Femme nue, etude pour ''Les demoiselles d'Avignon.''
Femme portant un enfant.
Le femme qui pleure, I(er) etat.
Le femme qui pleure, VII(e) etat.
Le femme qui pleure.
Femme se coiffant.
Femme se lavant le pied.
La femme-fleur.
Femme-vase.
Femme.
Femmes a leur toilette.
Les femmes d'Alger (d'apres Delacroix).
Femmes d'Alger (d'apres Delacroix), I(er) etat.
La fenetre d'atelier.
Figure (maquette pour un monument d'Apollinaire).
Figure et profil.
Figure with curves and eight potter's marks on ochre earthenware, 31.5 × 27 cm.
Figure.
Figures and heads in relief on pink earthenware. Four different sides.
Figures au bord de la mer.
Fillette a la boule.
La fillette aux pieds nus.
Fish and birds. White earthenware, height 51 cm., diameter at bulge 50 cm.
Fish in profile. White earthenware, 25 × 33 cm. Original print. Edition.
Fish in relief, 31 × 31 cm.
Floral decoration in black and ivory on patinated ground, 60 × 30 cm.
La flute de Pan.
Footballeur.
Forme feminine.
Le fou.
Four elements in the form of a bird, 71 × 18 × 35 cm.
Francoise au bandeau.
Fruit dish.
Fumee a Vallauris.
Le geunon et son petit.
Girl before a mirror.
Girl with a mandolin.
Glass of absinth.
Glass under lamp. Ochre earthenware, height 33 cm.
Glass, guitar and bottle.
Goat skull and bottle.
Goat's head in profile, 31 × 51 cm.
Goat's head in profile, diameter 40.5 cm.
Goat, diameter 26.2 cm.
Grand nature morte au gueridon.
Grand nu au fauteuil rouge.
Grand nu.
Grand plat rond en terre cuite, decor: un poisson en relief.
Grand profil.
Grand vase a col etrangle en terre cuite, faune, musiciens et femmes.
Grand vase a col etrangle en terre cuite, decor: bikini jaune.
La grande corrida, avec femme torero.
Green floral motifs and white enamel, 24 × 10 cm.
Green still life.
La grue.
La guenon et son petit.
Guernica.
La guerre.
Guillaume Apollinaire en artilleur.
Guillaume Apollinaire et Max Jacob.
Guitar.
Guitare ''J'aime Eva.''
Guitare, bouteille, compotier et verre sur une table.
Guitare.
La guitare.
Hands on fish. Pink earthenware, diameter 31.5 cm.
Harlequin.
Head of a faun.
Head of a sleeping woman.
Head of a warrior.
Head of a woman.
Head of Marie Therese.
Head of the medical student.
Head.
Hibou sculpte.
Hollandaise a la coiffe (la belle hollandaise).
Homme a la guitare.
Homme a la pipe (Le fumeur).
Homme accoude sur une table.
Homme assis a l'epee et a la fleur.
Homme au chapeau.
L' homme au mouton.
Homme debout.
Houses on the hill, Horta de Ebro.
Incised bird, 32 × 38 cm.
Interior with a girl drawing.
Jacqueline a l'echarpe noire.
Jacqueline assise avec son chat.
Jacqueline au chat assise dans un fauteuil.
Jacqueline dans l'atelier.
Jacqueline en costume ture.
Jacqueline in a hat, 26.5 × 22.5 cm.
Jacqueline in a pink dress, 26.5 × 22.5 cm.
Jacqueline on russet background, 26.5 × 22.5 cm.
Jacqueline with a grey bandeau 26.5 × 22.5 cm.
Jacqueline with long neck, 26.5 × 22.5 cm.
Jagged fragment of brick.
Jeanne.
Jeune fille assise dans un fauteuil.
Jeune fille devant un miroir.
Jeune garcon a la langouste.
Le jeune peintre.
La joie de vivre (pastorale).
Jose Ruiz Blasco, pere de l'artiste.
Joueur de guitare.
Joueurs de ballon sur la plage.
Jug decorated with a goat and a piper in matt patina, 25 × 13 cm.
Jug decorated with figures dancing the sardana, height 22.9 cm., diameter at base 11 cm.
Jug with handle height 31.5 cm., diameter at base 12 cm.
Kid, decoration painted in engobe, 32 × 15 × 28 cm.
The kitchen.
Lady wearing mantilla, 47 × 11.5 × 7 cm.
Lampe aux perroquets bleus.
Lance-thrust, diameter 38 cm.
Landscape decoration height 31.5 cm., diameter at base 12.5.
Landscape, height 31 cm.
Landscape.
Large bird with two handles decorated with superimposed faces, 49 × 30 × 33 cm.
Le lecture de la tettre.
Le lecture.
Ma jolie.
Ma jolie: guitare, bouteille de bass, grappe de raisin et verre.
Mademoiselle Leonie sur une chaise longue, IV(e) etat.
Maisonnette dans un jardin (maisonnette et arbres).
Maisons sur la colline (Horta de Ebro).
Man with a guitar.
Man with a hat.
Man with long hair, 26.5 × 22.5 cm.
Man's head incised on black ground, 38.5 × 32 cm.
Man's head with long hair. White earthenware, 31 × 31 cm.
Mandoline et clarinette.
Mandoline et guitare.
Maquette pour la couverture de ''Minotaure.''
Marie-Therese accoudee.
Marie-Therese Walter revant de metamorphoses: ellememe et le sculpteur buvant avee un jeune acteur jouant le r.
Marmite a deux anses en terre cuite, decor: personnages antiques.
Marmite-poelon en terre cuite, decor: visage-masque.
Masque de femme.
Masque.
Massacre en Coree.

Matador.
Maternite.
Maya in a sailor suit.
Melon on a blue tartan ground, 32 × 38.5 cm.
Les menines (d'apres Velazquez).
Mere et enfant.
Metamorphose I.
The mill at Horta.
Minotaure aveugle conduit dans la nuite par une fillette tenant une colombe aux ailes deployees.
Minotaure blesse, cheval et personnage.
Minotaure caressant du mufle la main d'une dormeuse, II(e) etat.
Minotaure et jument morte devant une grotte face a une jeune fille au voile.
Minotaure.
La minotauromachie, I(er) etat.
La minotauromachie, II(e) etat.
La minotauromachie, III(e) etat.
La minotauromachie, IV(e) etat.
La minotauromachie, V(e) etat.
La minotauromachie, VI(e) etat.
La minotauromachie, VII(e) etat.
Le miroir.
Mirror and cherries.
La misereise accroupie.
Les modistes.
Monument aux Espagnols.
Monument.
La mort de Casagemas.
Mottled, fish. White earthenware, 34 × 41.5 cm. Several versions. Original print. Edition.
Le moulin de la Galette.
Mousquetaire a l'epee assis.
Mousquetaire et amour.
Musicien assis (trompettiste).
Musiciens aus masques.
Musiciens aux masques.
La nageuse.
Nature morte a la chaise cannee.
Nature morte a la tete de taureau.
Nature morte au pichet et aux pommes.
Nature morte au verre et couteau sur une table.
Nature morte avec crane de boeuf.
Nature morte devant une fenetre a Saint-Raphael.
Nature morte sous la lampe.
Nature morte sur un piano (Cort).
Night fishing at Antibes.
Nocturne bacelonais.
Nu couche au collier.
Nu couche et homme jouant de la guitare.
Nu couche.
Nu dans l'atelier, I(er) etat.
Nu dans l'atelier, III(e) etat.
Nu debout.
Nude seated on a rock.
L' ombre.
One handle and two sprouts.
One handle with two spouts 21 × 24 × 15 cm.
Ouvrieres au travail.
Owl incised on a beige ground, 32 × 38.5 cm.
Owl incised on a brown ground, 31 × 38.5 cm.
Owl's head. Ochre earthenware, 21.5 × 21.5 cm.
Owl, with eyes in relief, in yellow sulphide glazing, 22 × 12 × 25 cm.
Painted face, 32 × 38 cm.
Painted nudes, height 34 cm.
Painter and model.
The painter and two models, 27 × 33 cm.
La paix.
Paloma endormie.
Palome et les tetards.
Pase de muleta. Polychrome decoration on white earthenware, diameter 42 cm.
Pase de capa. Polychrome decoration on white earthenware, diameter 42 cm.
Pase de Muleta. Black decoration on ochre earthenware, diameter 42 cm.
Paseo. Black decoration on ochre earthenware, diameter 42 cm.
Paseo. Polychrome decoration on white earthenware, diameter 42 cm.
Paul dessinant.
Paul en arlequin.
Paysage aux deux figures.
Paysage de Juan-les-Pins.
Paysage.
Paysages aux affiches.
Peche de miot a Antibes.
Le peintre et son modele, etat final.
Le peintre et son modele.
Le peintre et le sculpteur et leurs modeles.
Le petit picador.
Petite chouette.
Petite femme enceinte.
Petite fille a la corde.
Picador in bullring, 32 × 38 cm.
Picador incised in thick relief, diameter 24 cm.
Picador returning on a blue ground, 31 × 38.5 cm.
Picador with brown-white decoration, diameter 22 cm.
Picador, diameter 18 cm.
Picador, diameter 42 cm.
Picador, incised and painted, diameter 42 cm.
Picador. Black decoration on ochre earthenware, diameter 42 cm.
Picador. Polychrome decoration on white earthenware, diameter 42 cm.
Picasso, son oeuvre et son public, I(er) etat.
Picasso, son oeuvre et son public, VII(er) etat.
Pichet de forme zoomorphe avec anse, pied, bec et forme de tete d'oiseau et trous perces sur le dos, decor: de.
Pichet en terre cuite de taille moyenne.
Pichet en terre cuite de taille moyenne, decor: fleuri et nu.
Pichet, bougeoir et caserole emaillee.
Pierreuse, la main sur l'epaule.
Pierrot et arlequin.
Pierrot.
Pigeon, incised and painted, 13 × 23 cm.
The pigeon.
Pipe, glass, bottle of rum.
Pipe, verre et bouteille de rhum.
La pisseuse.
Plat en terre cuite, decor: scene tauromachique.
Plate with still life.
Polychrome bird, 32 × 38 cm.
Polychrome decoration with woman and flowers.
Polychrome face, 32× 38 cm.
Polychrome picador, diameter 24 cm.
Portrait d'Ambroise Vollard.
Portrait d'Andre Derain.
Portrait d'Erik Satie.
Portrait d'Igor Stravinsky (d'apre une photographie).
Portrait d'Olga (Olga pensive).
Portrait d'Olga dans un fauteuil.
Portrait d'un peintre (d'apres Le Greco).
Portrait de Daniel-Henry Kahnweiler.
Portrait de Dora Maar.
Portrait de Francoise au corsage raye, X(e) etat.
Portrait de Francoise.
Portrait de Gertrude Stein.
Portrait de Jacqueline Roque aux mains croisees.
Portrait de la mere de l'artiste.
Portrait de Leo Stein.
Portrait de Marie-Theresa Walter.
Portrait de Marie-Therese a la guirlande.
Portrait de Maya avec sa poupee.
Portrait de Pedro Manach.
Portrait de Serge Diaghilev et d'Alfred Selisberg (d'apres une photographie).
Portrait du pere de l'artuste.
Pregnant woman.
La Premiere Communion.
Priape.
Profil au chignon fleuri.
Profile of Jacqueline on a light ground. White earthenware, diameter 18.5 cm.
Profile of Jacqueline. White earthenware, 41.5×41 cm.
Project for a monument to Guillaume Apollinaire.
Projet de costumes pour le ballet ''Le Tricorne'': un negre.
The rape.
Repose.
Le reve.
Reverie d'opium: fumeur en calotte papale decouvrant le mystere de la trinite dans les seins et la colombe d'u.
Le rideau de ''parade.''
Russet and brown condor, 39 × 15 ×

41 cm.
La salle a manger a Vauvenargues.
Le salon de Picasso rue La Boetie.
Le sauvetage de la noyee, III.
Le sauvetage.
Science et charite.
Le sculpteur et sa statue.
La sculpteur.
Sculpture de Marie-Therese, XX(e) etat.
Seated bather.
Seated woman.
Sept danseuses (d'apres une photographie: Olga au premier plan).
She-goat.
The sigh.
Sleeping peasants.
Small incised face, 32 × 38 cm.
Songs et mensonges de Franco I (Sueno y mentira de Franco I), I(er) etat.
Songs et mensonges de Franco I (Sueno y mentira de Franco I), II(er) etat.
Songs et mensonges de Franco I (Sueno y mentira de Franco II), I(er) etat.
Songs et mensonges de Franco I (Sueno y mentira de Franco II), IV(er) etat.
Songs et mensonges de Franco II (Sueno y mentira de Franco II), V(er) etat.
Spotted face, 32 × 38 cm.
Still life ''job.''
Still life with candlestick on black and white ground, 32 × 38.5 cm.
Still life with fruit and glass.
Still life with glass and apple, 32 × 38.5 cm.
Still life with grapes and scissors on a beige and brown ground, 32 × 38.5 cm.
Still life with grapes on a reddish-brown ground, 32 × 38.5 cm.
Still life with liqueur bottle.
Still life with red bull's head.
Still life with spoon. White earthenware, 33 × 33 cm. Original print. Edition.
Still life with tomatoes on a reddish-brown ground, 32 × 38.5 cm.
The striped bodice.
Student with pipe.
Studio in a painted frame.
Studio with plaster head.
The studio.
Study for two nudes.
Sun (in pastel crayon), 33 × 26 cm.
La table.
Le taureau, I(er) etat.
Le taureau, II(er) etat.
Le taureau, III(er) etat.
Le taureau, IV(er) etat.
Le taureau, IX(er) etat.
Le taureau, V(er) etat.
Le taureau, VI(er) etat.
Le taureau, VII(er) etat.
Le taureau, VIII(er) etat.
Le taureau, X(er) etat.
Le taureau, XI(er) etat.
Terrine: pigeon aux petits pois.
Tete d'animal a cornes.
Tete d'homme.
Tete de femme (Fernande).
Tete de femme (projet pour un monument).
Tete de femme a la resille.
Tete de femme et tete de chouette.
Tete de femme.
Tete de Guillaume Apollinaire (frontispice de la premiere edition d'Alcools).
Tete de taureau (minotaure).
Tete de taureau.
Tete et bras de platre.
Tete.
Theatre: autour de Rembrandt.
Three black fish, diameter 43 cm.
Three fish in black and blue, diameter 41 cm.
Three musicians.
Three women at the spring.
La toilette.
Les toits bleus.
Tomette en terre cuite rose, decor: hibou (double face).
Tomette hexagonale en terre cuite rose, decor: chouette (recto-verso).
Tortured face, surrounded by palm leaves. White earthenware, diameter 42 cm.
Tortured faun's face. White earthenware, diameter 42 cm.
Trois femmes a la fontaine (la source).
Trois femmes.
Les trois hollandaises.
Two acrobats with a dog.
Two fish, incised, ivory with green accents, 31 × 38.5 cm.
Two fish, one blue and one beige, on an ivory ground, 31 × 38.5 cm.
Two fish, one reddish-brown and one blue, in relief, 31 × 38.5 cm.
Two fried eggs and a piece of black pudding on a grey ground, 31 × 38.5 cm.
Two nudes.
Two-handled vase height 19.5 cm., diameter at base 16 cm.
Une anatomie: trois femmes, VIII.
Une anatomie: trois femmes, X.
L' usine a Horta de Ebro.
Variation d'apres ''Les Menines'' de Velazquez: Isabel de Velasco, Maria Barbola, Nicolasico Pertusato et le chi.
Variation d'apres ''Les Menines'' de Velazquez: Isabel de Velasco.
Variation d'apres ''Les Menines'' de Velazquez: l'infante Margarita Maria.
Variation d'apres ''Les Menines'' de Velazques: les pigeons.
Variation d'apres ''Les Menines'' de Velazquez: vue d'ensemble.
Variation sur ''Le dejeuner sur l'herbe'' de Manet, plateau du fond tire en bleu gris.
Variation sur ''Le dejeuner sur l'herbe'' de Manet, superposition des plateaux.
Vase a pieds et deux anses en terre cuite: homme a col casse peint sur un cote.
Vase decorated with brushstrokes, 24 × 28 cm.
Vase ventru en terre cuite a pans coupes avec deux anses.
Vase with goats height 23 cm., diameter at top 12 cm., diameter at bulge 20 cm.
Vase with three masks 24.5 × 28 cm.
Vase-femme.
Le verre d'absinthe.
Verre et des.
Verre et journal.
Verre, pipe, as de trefle et de.
La verre.
La vie.
La vieux guitariste aveugle.
Violin and grapes.
Violon ''Jolie Eva.''
Violon, verre, pipe et encrier.
Violon.
Visage aux deux profils.
Visage de Marie-Therese Walter.
Vive la France.
Vue sur le monument de Colomb.
Watermelon with knife and fork, 30 × 37 cm.
White earthenware, 32 × 38.5 cm.
White earthenware, diameter 42 cm.
White earthenware, height 38 cm., diameter at the top 10 cm., diameter at the bulge 45 cm.
Woman by a window.
Woman in a chair.
Woman in ivory and brown under glaze, 35 × 11 × 11 cm.
Woman with a flowered hat.
Woman with a long neck in pink and black clay, 28 × 9 cm.
Woman with a mandolin.
Woman with amphora, emgobe decoration on natural ground, 45 × 32 × 14 cm.
Woman with flowered hat. Ochre earthenware, 33 × 25 cm.
Woman's face and five potter's marks on ochre earthenware, 31.5 × 27 cm.
Woman's face, 22 × 12 × 8 cm.
Woman's head 32 × 38 cm.
Woman's head painted. Variation on No. 190.
Woman's head, painted, height 24 cm., total width 19 cm.
Woman's head.
Woman, 29 × 9 × 7 cm.
Woman, engobe decoration under beige-brown glaze, 30 × 13 × 13 cm.
Tamaris, Cine.
Les parapluies de Cherbourg.
TaurusFilm, GmbH & Company (a Kirch Gruppe Company).
Die Abenteuer des Grafen Bobby.

Ach Egon.
Der Adler vom Velsatal.
Adolphe ou l'age tendre.
Les adventures de Rabbi Jacob.
Agent 505-Todesfalle Beirut.
Alle Menschen werden Brueder.
Alle Tage ist kein Sonntag.
Allotria.
Alraune (1930).
Alraune (1952).
Als ich noch ein Waldbauernbub war.
Alt Heidelberg.
Der alte und der junge Koenig.
Alter Kahn und junge Liebe.
Am Brunnen vor dem Tore.
Amici per la pelle.
An einem Freitag in Las Vegas.
Der Angriff.
Anna.
Ansichten eines Clowns.
Die Antwort kennt nur der Wind.
Assassino made in Italy.
Auf der Reeperbahn nachts um halb eins (1954).
Auf der Reeperbahn nachts um halb eins (1969).
Aus einem deutschen Leben.
Banktresor 713.
Baraka sur X 13.
Die Beine von Dolores.
Das Bekenntnis der Ina Kahr.
Bekenntnisse des Hochstaplers Felix Krull.
Bel Ami.
Bellissima.
Berlin-Alexanderplatz.
Der Bettelstudent.
Bie der blonden Kathrein.
Bis zum Ende aller Tage.
Bis zur bitteren Neige.
Blaue Jungs.
Bobby Dodd greift ein.
The Bolshoi ballet.
Die Bruecke.
Buddenbrooks, Teil 1.
Buddenbrooks, Teil 2.
Buddenbrooks.
Canaris.
La carroza d'oro.
Il castello dei morti vivi.
Charley's Tante (1955).
Charley's Tante (1963).
Die Christel von der Post.
Die Czardasfuerstin.
Die Deutschmeister.
Die Diamantenhoelle am Mekong.
Doktor Faustus.
Das Donkosakenlied.
Das doppelte Lottchen.
Dort oben, wo die Alpen glueh'n.
Dr. med. Hiob Praetorius.
Drei Mann in einem Boot.
Die drei von der Tankstelle.
Die Dreigroschenoper.
Das Dreimaederlhaus.
Duell vor Sonnenuntergang.
Dynamit in gruener Seide.
Echappement libre.
Echo der Berge.
Der Edelweisskoenig.
Eheinstitut Aurora.
Einer von uns beiden.
Einmal noch die Heimat seh'n.
Der eiserne Gustav.
Die Elixiere des Teufels.
Emil und die Detektive (1931).
Emil und die Detektive (1954).
Ein Engel auf Erden.
Das Erbe von Bjoerndal.
Ercole al centro della terra.
Ercole alla conquista di Atlantide.
Erinnerungen an die Zukunft.
Eroica.
Erotica.
Erotik im Buero—Was jeder Personalchef gern verschweigt.
Es.
Faust.
Ferien vom ich.
Il figlio dello sceicco.
Die Fischerin vom Bodensee.
Die Fledermaus.
Das fliegende Klassenzimmer.
Flotte Biester auf der Schulbank.
Der Fluch des schwarzen Rubin.
Fluchtweg St. Pauli—Grossalarm fuer die Davidswache.
Die Flusspiraten vom Mississippi.
Foehn.
Die Foersterchristel.
Foersterliesel.
Freddy und der Millionaer.
Freddy unter fremden Sternen.
Der froehliche Wanderer.
Der Fruehreifen-Report.
Der Fuchs von Paris.
Fuenf vor 12 in Caracas.
Gewitter im Mai.
Gitarren klingen leise durch die Nacht.
Die glaeserne Zelle.
Der Glockengiesser von Tirol.
Glueckliche Reise.
Die Goldsucher von Arkansas.
Gott schuetzt die Liebenden.
Graefin Mariza.
Graf Bobby, der Schrecken des wilden Westens.
Le grain de sable.
La grande sauterelle.
Il grande silenzio.
Gruen ist die Heidi (1951).
Gruen ist die Heidi (1972).
Gruss und Kuss vom Tegernsee.
Guardie e ladri.
Guerre secrete.
Gustav Adolf's page.
Das haben die Maedchen gern.
El Hakim.
Der Hauptmann von Koepenick (1931).
Der Hauptmann von Koepenick (1956).
Das Haus in Montevideo.
Heidelberger Romanze.
Heidi.
Heimat-Deine Lieder.
Heimatland.
Heimatlos.
Heintje—Ein Herz geht auf Reisen.
Heintje—Einmal wird Sonne wieder scheinen.
Heintje—Mein bester Freund.
Heisse Braeute auf der Schulbank.
Heisser Hafen Hongkong.
Herrenpartie.
Herrliche Zeiten im Spessart.
Im weissen Roessl (1960).
Das indische Grabmal (1938).
Das indische Grabmal (1959).
Die jungen Tiger von Hongkong.
Kaept'n Bay-Bay.
Kaiserjaeger.
Wie einst Lili Marleen (1956).

Teledis Company, Ltd.
A mirage de Rome.
A Venise une nuit.
Accroche coeur.
L' affaire des poisons.
L' alibi.
Allemagne annee zero.
Andalousie.
Annette et la dame blonde.
Aux deux colombes.
Bataille de France (1939–1940).
Belle de Cadix.
Belles mais pauvres.
Le ble en herbe.
Bonsoir Paris, Bonjour l'amour.
Un calner de bal.
Caprices.
La cavalcade des heures.
Cecile est morte.
Cette vieille canaille.
Cinderella.
Comme un cheveu sur la soupe.
Crime et chatiment.
Un dejeuner de soleil.
Le dernier des size.
Le dernier sou.
Les derniers jours ete Pompei.
Destinees.
Les deu orphelines.
Deux hommes dans Manhattan.
Diabolique Docteur Z.
Le dialogue des Carmelites.
Dossier noir.
Douce.
Du mouron pour les petits oiseaux.
Fabiola (2 epoques).
Fausse maitresse.
La ferme au loups.
Francois Villon.
Gibraltar.
Le grand jeu.
Guerre secrete.
Les guerriers.
L' habit vert.
Hercule.
L' homme du jour.
J'accuse.
J'etais une aventuriere.
Jaloux comme un tigre.
Je chante.
Jeanne ace bucher.
Jenny.
Le Joueur.

Katia.
Lady Paname.
Les lions sont laches.
Le magot de Josefa.
La main du Diable.
La maison du maltais.
La maison du silence.
Mam'zelle Bonaparte.
Le mariage de chiffon.
Les maudits.
La millieme fenetre.
La minute de verite.
Moi et les hommes de 40 ans.
Mollenard.
Mysteres d'Angkor.
La neige etait sale.
Neuf garcons, un coeur.
Ni vu ni connu.
Normandie niemen.
La nuit est mon royaume.
Oh que mambo.
Papa, maman, la bonne, et moe.
Papa, maman, ma femme, et moi.
Paris Palace Hotel.
La part de l'ombre.
Peche de jeunesse.
Pieges.
Pirates du rail.
Piste du sud.
Port Arthur.
Le sang de martyrs.
Sept hommes et une garce.
Sept peches capitaux.
Tous les chemins mennent a Rome.
Les yeux de l'amour.

Teledis Company, SA.
Adhemar.
Le beau Serge.
Les cousins.
Desire.
Destin fabuleux de Desiree Clary.
Faisons un reve.
Mon pere avait raison.
Le mot de Cambronne.
Nouveau Testament.
Les perles de la couronne.
Quadrille.
Remontons les Champs Elysees.
Le tresor de Cantenac.

Teledis. SEE Lumiere & Teledis.

Teledis. SEE UGC DA International (UGC DAI) & Teledis.

Tezuka Productions Company, Ltd.
Janguru taitei (1950–1954).
Tetsuwan atom (1952–1968).

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Dated: December 16, 1997.

Marybeth Peters,

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