1–12–98
Vol. 63 No. 7
Pages 1735–1888

federal register

Monday
January 12, 1998

Briefings on how to use the Federal Register
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

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

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

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

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

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

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

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

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

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

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

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

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

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

SUBSCRIPTIONS AND COPIES

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

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.
WHO: Sponsored by the Office of the Federal Register.
WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN: January 27, 1998 at 9:00 am, and February 17, 1998 at 9:00 am.
WHERE: Office of the Federal Register Conference Room 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 63, No. 7

Monday, January 12, 1998

Separate Parts In This Issue

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 7
Monday, January 12, 1998

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

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. 97–080W]

RIN 0583–AC40

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Sample Collection—Technical Amendments and Corrections: Direct Final Rule

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Partial withdrawal of direct final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is withdrawing the part of a direct final rule that added a Salmonella performance standard for fresh pork sausage to the Federal meat inspection regulations. FSIS is withdrawing this regulatory amendment because it received an adverse written comment within the scope of the rulemaking in response to the direct final rule. Elsewhere in this issue of the **Federal Register**, FSIS has published a proposed rule for the performance standard.

EFFECTIVE DATE: January 12, 1998.

ADDRESSES: Submit an original and two copies of written comments to: FSIS Docket Clerk, Docket #97–080W, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. Reference materials cited in this docket will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, (202) 205–0699.

SUPPLEMENTARY INFORMATION: In a direct final rule published in the **Federal Register** on November 14, 1997 (62 FR 61007) FSIS, among other things, notified the public of its intent to establish a *Salmonella* performance standard for fresh pork sausages (9 CFR 310.25(b)(1)). FSIS solicited comments concerning the direct final rule for a 30-day period ending December 15, 1997. FSIS stated that the effective date of the proposed amendment would be 60 days after publication of the direct final rule in the **Federal Register**, unless the Agency received adverse written comments or a notice of intent to submit adverse comments within the scope of the rulemaking by the close of the comment period. FSIS also stated that if it received such comments, it would publish a notice in the **Federal Register** withdrawing the direct final rule before the scheduled effective date and would publish a proposed rule for public comment.

FSIS received adverse comments within the scope of the rulemaking from the law firm of McDermott, Will & Emery representing Jimmy Dean Foods, Inc. and Odom's Tennessee Pride Sausage, Inc. Therefore, FSIS is withdrawing the 9 CFR 310.25(b)(1) *Salmonella* performance standard regulatory amendment and is issuing a proposed rule elsewhere in this issue of the **Federal Register**. There were no adverse comments received regarding the other provisions of the direct final rule. Therefore, the following provisions will become effective on January 13, 1997: (1) The amendment to 9 CFR § 381.94 allowing poultry samples to be taken from the end of the slaughter line if collecting samples from the end of the chilling process is impracticable; (2) the amendment to 9 CFR § 381.94 allowing turkeys to be sampled by sponging the carcass on the back and thigh; and (3) the technical correction to 9 CFR § 417.2 to reference the Poultry Products Inspection Act.

For the reasons set forth in the preamble, the amendment revising table 2 in § 310.25(b)(1), published at 62 FR 61008 (November 14, 1997), is withdrawn.

Done at Washington, DC, on January 5, 1998.

Thomas J. Billy,
Administrator.

[FR Doc. 98–575 Filed 1–9–98; 8:45 am]
BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–113–AD; Amendment 39–10274; AD 98–01–11]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires replacement of certain electrical terminals with new electrical terminals. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent loose electrical connections from causing an increase in electrical resistance, which could result in overheating at the electrical terminals and consequent smoke/fire in the airplane passenger cabin.

DATES: Effective February 17, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 17, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. 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: Norman B. Martenson, Manager,

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 Dornier Model 328–100 series airplanes was published in the **Federal Register** on November 7, 1997 (62 FR 60188). That action proposed to require replacement of certain electrical terminals with new electrical terminals.

Comments

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.

Both commenters support the proposed 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 as proposed.

Cost Impact

The FAA estimates that 7 Model 328–100 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 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 $840, or $120 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:

98–01–11 Dornier: Amendment 39–10274. Docket 97–NM–113–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3015 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 modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To prevent loose electrical connections from causing an increase in electrical resistance, which could result in overheating at the electrical terminals and consequent smoke/fire in the airplane passenger cabin, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, replace the electrical terminals in the passenger cabin with new electrical terminals, in accordance with Dornier Service Bulletin SB–328–24–188, dated September 11, 1996.

(b) As of the effective date of this AD, no person shall install an electrical terminal having part number 001A903A8010002, 001A903A8020002, or 001A903A8030002 on any airplane.

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

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

(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 replacement shall be done in accordance with Dornier Service Bulletin SB–328–24–188, dated September 11, 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–291, dated November 7, 1996.

(f) This amendment becomes effective on February 17, 1998.

Issued in Renton, Washington, on December 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–209 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–127–AD; Amendment 39–10276; AD 97–11–02 R1]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, that currently requires an inspection to determine the thickness of the intercostal that attaches the third crew member seat to the floor structure in the flight compartment, and replacement, if necessary. That action was prompted by a report from the manufacturer indicating that intercostals have been installed that are not of sufficient thickness (and consequent strength) to support the third crew member seat during emergency landing dynamic conditions. The actions specified by that AD are intended to prevent the failure of this intercostal during an emergency landing, which could consequently result in injury to the flight crew. This amendment revises the applicability of the existing AD by removing several airplanes.

DATES: Effective February 17, 1998.

The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of February 17, 1998.

The incorporation by reference of Jetstream Alert Service Bulletin J41-A53–030, dated January 19, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 2, 1997 (62 FR 28795, May 28, 1997).

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. 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: Norman B. Martenson, Manager, 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) by revising AD 97–11–02, amendment 39–10031 (62 FR 28795, May 28, 1997), which is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes, was published in the **Federal Register** on October 14, 1997 (62 FR 53272). The action proposed to continue to require a one-time inspection of the intercostal of the third crew member seat to the floor structure in the flight compartment to determine the thickness of this part, and replacement with a new intercostal of the correct thickness, if necessary. The action also proposed to limit the applicability of the existing AD by removing several airplanes.

Comments

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.

Both commenters support the proposed 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 as proposed.

Cost Impact

Since this AD merely deletes airplanes from the applicability of the existing AD, it adds no additional costs, and requires no additional work to be performed by affected operators. The current costs associated with this AD are reiterated in their entirety (as follows) for the convenience of affected operators:

The FAA estimates that 14 Jetstream Model 4101 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour 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 $840, or $60 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 removing amendment 39–10031 (62 FR 28795, May 28, 1997), and by adding a new airworthiness directive (AD), amendment 39–10276, to read as follows:

97–11–02 R1 British Aerospace Regional Aircraft [Formerly JetstreamAircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–10276. Docket 97–NM–127–AD. Revises AD 97–11–02, Amendment 39–10031.

Applicability: Jetstream Model 4101 airplanes, as listed in Jetstream Alert Service Bulletin J41–A53–030, Revision 2, dated February 14, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 failure during emergency landing dynamic conditions of the intercostal that attaches the third crew member seat (''third crew seat'') to the floor structure in the flight compartment, which could consequently result in injury to the flight crew, accomplish the following:

(a) Within 30 days after July 2, 1997 (the effective date of AD 97–11–02, amendment 39–10031), inspect the intercostal in the floor structure that supports the third crew seat in the flight compartment to determine the thickness of this part, in accordance with Part 1 of Jetstream Alert Service Bulletin J41–A53–030, dated January 19, 1996, Revision 1, dated August 8, 1996, or Revision 2, dated February 14, 1997.

(b) If the thickness of the intercostal is 0.064 inch, no further action is required by this AD.

(c) If the thickness of the intercostal is 0.048 inch, accomplish the actions specified in either paragraph (c)(1) or (c)(2) of this AD.

(1) Prior to further flight, replace the intercostal with a new part manufactured from material having the correct thickness, in accordance with Jetstream Alert Service Bulletin J41–A53–030, dated January 19, 1996, Revision 1, dated August 8, 1996, or Revision 2, dated February 14, 1997. After replacement, no further action is required by this AD. Or

(2) Prior to further flight, install a placard, in accordance with Jetstream Alert Service Bulletin J41–A53–030, dated January 19, 1996, Revision 1, dated August 8, 1996, or Revision 2, dated February 14, 1997, to prohibit use of the third crew seat when the total weight of carry-on items stored in the forward right stowage area is more than 100 pounds. Within 6 months after installation of the placard, replace the intercostal with a new part manufactured from material having the correct thickness, in accordance with any of the service bulletins. After installation of the new intercostal, the placard may be removed.

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

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

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

(f) The actions shall be done in accordance with Jetstream Alert Service Bulletin J41–A53–030, dated January 19, 1996; Jetstream Alert Service Bulletin J41–A53–030, Revision 1, dated August 8, 1996; and Jetstream Alert Service Bulletin J41–A53–030, Revision 2, dated February 14, 1997.

(1) The incorporation by reference of Jetstream Alert Service Bulletin J41–A53–030, Revision 1, dated August 8, 1996; and Jetstream Alert Service Bulletin J41–A53–030, Revision 2, dated February 14, 1997; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These Jetstream alert service bulletins contain the following list of effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
J41–A53–030, Revision 1, August 8, 1996	1, 3	1	August 8, 1996.
	2, 4–7	Original	January 19, 1996.
J41–A53–030, Revision 2, February 14, 1997	1, 3	2	February 14, 1997.
	2, 4–7	Original	January 19, 1996.

(2) The incorporation by reference of Jetstream Alert Service Bulletin J41–53–030, dated January 19, 1996, was approved previously by the Director of the Federal Register as of July 2, 1997 (62 FR 28795, May 28, 1997).

(3) Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. 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 British airworthiness directive 006–01–96.

(g) This amendment becomes effective on February 17, 1998.

Issued in Renton, Washington, on December 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–208 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–247–AD; Amendment 39–10282; AD 98–01–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300–600 series airplanes. This action requires a one-time inspection of the attachment bolts and washers for the forward cargo container and pallet latches in the aft cargo compartment to determine if bolts and washers having the correct part numbers are installed; and replacement of the bolts and washers with parts having the correct part numbers, if necessary. This AD also requires revising the Airplane Flight Manual and certain supplements to specify certain cargo loading procedures that must be used until the inspection is accomplished. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent cargo from shifting in flight, and consequent structural damage and reduced controllability of the airplane.

DATES: Effective January 27, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–247–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 and A300–600 series airplanes. The DGAC advises that operators have experienced difficulties with the installation of the latches for the forward cargo containers and pallets in the aft cargo compartment. Investigation revealed that, in some cases, incorrect part numbers for the attachment bolts and washers of these latches had been installed. If the proper attachment hardware is not installed, the forward cargo container or pallet latches could detach from the floor when subjected to high acceleration forces during takeoff, landing, and flight. This condition, if not corrected, could result in cargo shifting in flight, and consequent structural damage and reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus has issued All Operator Telex (AOT) 25 05, Revision 03, dated June 25, 1997, which describes procedures for a one-time inspection of the attachment bolts and washers for the forward cargo container and pallet latches in the aft cargo compartment to determine if bolts and washers having the correct part number are installed; and replacement of the bolts and washers with parts having the correct part numbers, if necessary. The AOT also describes procedures for loading the aft cargo compartment for in-service operation. Accomplishment of the one-time inspection and any necessary corrective action eliminates the need for use of these loading procedures. Accomplishment of the actions specified in the AOT is intended to adequately address the identified unsafe condition. The DGAC classified this AOT as mandatory and issued French airworthiness directive 97–143–227(B), dated July 2, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, 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.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD will require a one-time inspection of the attachment bolts and washers for the forward cargo container and pallet latches in the aft cargo compartment to determine if bolts and washers having the correct part numbers are installed; and replacement of the bolts and washers with parts having the correct part numbers, if necessary. The one-time inspection is required to be accomplished in accordance with the AOT described previously.

This AD also requires revising the Limitations Sections of the FAA-approved Airplane Flight Manual (AFM), AFM Supplements, and Airplane Weight and Balance Supplements to specify certain cargo loading procedures. Accomplishment of the one-time inspection and any necessary corrective action terminates the requirement for revising the AFM, AFM Supplements, and Airplane Weight and Balance Supplements.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–247–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–01–20 Airbus Industrie: Amendment 39–10282. Docket 96–NM–247–AD.

Applicability: Model A310 and A300–600 airplanes on which Airbus Modification 6919 or 11849 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent cargo from shifting in flight, and consequent structural damage and reduced controllability of the airplane, accomplish the following:

(a) Within 5 days after the effective date of this AD: Revise the Limitations Section of all FAA-approved Airplane Flight Manuals (AFM) and AFM Supplements, and the Limitations Section of all FAA-approved Airplane Weight and Balance Supplements, to include the following information for loading of cargo containers or pallets in the aft cargo compartment. This may be accomplished by inserting a copy of this AD in all AFM's, AFM Supplements, and Weight and Balance Supplements.

''Limitations

Do not load cargo in the most forward position in the lower deck aft cargo compartment, just aft of frame 54. Additionally, the second most forward position in the lower deck aft cargo compartment, if used, must be occupied by Unit Load Devices (ULD's) over the full width.

If half size ULD's are loaded in the aft cargo compartment, the following loading procedure may be accomplished:

On both the left and right sides of the aft cargo compartment, the most forward position and the second most forward position must be either both loaded or both empty. In the case where these positions are empty, all aft cargo compartment latches must be raised.''

(b) Within 1,000 flight hours after the effective date of this AD, perform a one-time inspection of the attachment bolts and washers for the forward cargo container and pallet latches in the aft cargo compartment to determine if bolts and washers having the correct part numbers are installed, in accordance with Airbus All Operator Telex (AOT) 25 05, Revision 03, dated June 25, 1997. If any discrepancy is found, prior to further flight, accomplish corrective action in accordance with the AOT. Accomplishment of this inspection, and corrective action, if necessary, constitutes terminating action for the requirement of paragraph (a) of this AD; after these actions are accomplished, the previously required AFM limitation may be removed from the AFM and AFM supplements.

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

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

(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 one-time inspection shall be done in accordance with Airbus All Operator Telex (AOT) 25 05, Revision 03, dated June 25, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, 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 97–143–227(B), dated July 2, 1997.

(f) This amendment becomes effective on January 27, 1998.

Issued in Renton, Washington, on December 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–316 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8751]

RIN 1545–AV30

Consolidated Returns—Limitations on the Use of Certain Losses and Credits; Overall Foreign Loss Accounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary amendments to the consolidated return regulations. The temporary amendments govern the use of tax credits of a consolidated group and its members. They also concern the recharacterization of certain foreign source income because of a prior overall foreign loss. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These amendments are effective January 12, 1998.

For dates of application, see the **Effective Dates** portion of the preamble under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Concerning the temporary regulations in general, Roy A. Hirschhorn, (202) 622–7770; concerning amendments related to

foreign tax credits and foreign losses, Seth Goldstein (202) 622–3850.

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

A. In General

On June 27, 1996, the IRS and Treasury published in the **Federal Register** a Treasury decision containing temporary regulations which, in part, provide rules governing the absorption of certain tax attribute carryovers and carrybacks from separate return limitation years (SRLYs), terminate the consolidated return change of ownership rules, and make minor changes to the computation of net section 1231 gains and losses for a group. The Treasury decision adopted without substantive change rules that were proposed in 1991. The 1996 temporary regulations are effective for consolidated return years beginning on or after January 1, 1997.

The 1996 temporary regulations significantly modify SRLY loss rules which had been in place since 1966. The 1966 SRLY rules employed a member-by-member and year-by-year approach to determine the limitation on SRLY attributes. The 1996 temporary regulations adopted a subgroup and cumulative approach. See the preamble to NPRM for CO–078–90 (56 FR 4228), reprinted at 1991–1 C.B. 757. The 1996 temporary regulations, however, only apply the new approach to net operating loss and net capital loss carryovers and carrybacks. They do not change regulations containing limitations on the absorption of the following other tax attribute carryovers and carrybacks from SRLYs: general business credits (§ 1.1502–3), foreign tax credits (§ 1.1502–4), and overall foreign losses (OFLs) (§ 1.1502–9).

On December 30, 1992, the IRS and Treasury published in the **Federal Register** a notice of proposed rulemaking containing rules regarding a group's computation of its alternative minimum tax and minimum tax credits. See 57 FR 62251, as corrected by 58 FR 8027, reprinted at 1993–1 C.B. 799. The proposed regulations (Prop. Reg. § 1.1502–55) do not address the application of SRLY limitations to the minimum tax credit.

B. Extension of 1996 Principles

The IRS and Treasury believe that it is appropriate to apply a single set of SRLY principles to all attributes that are subject to SRLY limitations. Unnecessary complexity would result from applying different principles to different attributes. In addition, the IRS and Treasury believe that the subgroup and cumulative principles embodied in the 1996 temporary regulations more appropriately reflect the use of attributes brought into a consolidated group by SRLY members than do the member-by-member and year-by-year rules of the 1966 regulations. Accordingly, this document extends the principles of the 1996 temporary regulations to the general business credit and the minimum tax credit. In doing so, the IRS and Treasury have not attempted to address the issues which some commentators have raised with respect to the application of the SRLY limitations in general. Rather, those issues will be addressed in connection with a review of comments received in response to the 1991 proposed regulations, the 1996 temporary regulations and to the temporary regulations contained in this document, prior to the expiration of the 1996 temporary regulations in 1999.

In general, a group may include a member's SRLY credits in the applicable consolidated section 38 credit or minimum tax credit for a consolidated return year based on the member's contributions to the consolidated section 38(c) or consolidated section 53(c) limitation for all consolidated return years. The contribution is based on the aggregate of the member's share of the group's tax liability for relevant years. Such share is measured under the principles of section 1552 and the percentage method under § 1.1502–33(d)(3), assuming a 100% allocation of any decreased tax liability. The contribution may be a negative number, for example, for a year in which the overall loss of the member offsets the income of other members. In the case of the minimum tax credit, the temporary regulations provide an adjustment to avoid double counting for years in which the SRLY member contributes to the group's AMT liability.

This document also adds an example to § 1.1502–21T(c)(1) and § 1.1502–23T(b). The examples assist taxpayers in computing their cumulative registers by illustrating the concept of cumulative contribution to consolidated net capital gain and consolidated taxable income and the character of section 1231 items for purposes of the relevant registers.

C. Treatment of Foreign Tax Credits, OFLs and SLLs

In considering the application of the new SRLY principles in the temporary regulations to credits in general, the IRS and Treasury considered extending these principles to foreign tax credits (FTCs), and to those losses associated with the FTC regime, namely, overall foreign losses (OFLs) and separate limitation losses (SLLs). The IRS and Treasury were concerned that continued application of the principles of the 1966 regulations (member-by-member and year-by-year) to these foreign attributes, and especially to OFL and SLL accounts, could lead to inappropriate results. Taxpayers might adopt structures in an attempt to achieve indefinite postponement of the recapture of SRLY OFLs and SLLs. Such postponement would frustrate the neutrality principle that the SRLY rules are intended to serve (i.e., that the decision to join a new affiliated group should generally be unaffected by considerations relating to the absorption of pre-affiliation attributes).

While it was clear that application of the 1966 principles to OFLs and SLLs should not continue, it was less clear that application of the subgroup and cumulative principles of the temporary regulations would address all concerns. The subgroup and cumulative principles are meant to more closely parallel the absorption that would have taken place had the member (or subgroup) continued filing separate returns. The interaction of the FTC regime (with its multiple baskets) and other provisions of the Internal Revenue Code affecting international transactions, such as, for example, section 864(e)(1) which allocates the interest expense of a member to income in various baskets based on the group's asset allocation, can make it difficult to determine what the member has contributed to the group. Furthermore, even with the adoption of the subgroup and cumulative principles, taxpayers would likely have the ability to transfer controlled foreign corporations to new members or to cause operations to be assumed by new members, thereby delaying indefinitely the recapture of OFLs and SLLs subject to SRLY.

The IRS and Treasury have decided, therefore, that the principles of SRLY are not served by applying SRLY limitations to OFL and SLL accounts of corporations joining a group. Thus, this document amends portions of § 1.1502–9 to eliminate SRLY restrictions on OFL recapture. A new member's SRLY OFL account will be added to the similar consolidated OFL account of the group. For similar reasons, and to avoid an imbalance in the application of the FTC regime, the IRS and Treasury have decided that SRLY limitations should not apply to FTCs of corporations joining a group. This document also amends § 1.1502–4(f) such that, in the future, there will be no SRLY limitation on the use of a member's separate year FTCs by the group. Other limitations on

the use of separate year FTCs continue to apply. See, for example, section 383.

These amendments apply to corporations becoming members of a group. They do not address the apportionment of attributes to corporations that cease to members of a group. Therefore, they only partially address the issues presented in applying the OFL and SLL rules to groups. In particular, the IRS and Treasury recognize that the retention of the notional account system of § 1.1502–9 for members that cease to be members is inconsistent with the rationale for removing the SRLY limitation for FTCs and OFL accounts. The notional account system may result in a member's taking from the group an OFL or SLL account that is unrelated to the member's activities and future income. Accordingly, the IRS and Treasury expect in the near future to issue additional amendments to § 1.1502–9. One approach under consideration would replace the notional account system with a new system that apportions accounts to a departing member based on the member's share of group assets that would produce income subject to recapture.

Effective Date

The temporary amendments are applicable to consolidated return years beginning on or after January 1, 1997.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect persons filing consolidated federal income tax returns that have carryover or carryback of credits from separate return limitation years. Available data indicates that many consolidated return filers are large companies (not small businesses). In addition, the data indicates that an insubstantial number of consolidated return filers that are smaller companies have credit carryovers or carrybacks, and thus even fewer of these filers have credit carryovers or carrybacks that are subject to the separate return limitation year rules. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking accompanying these regulations is being sent to the Small Business Administration for comment on their impact on small businesses.

Drafting Information

The principal author of these regulations is Roy A. Hirschhorn of the Office of Assistant Chief Counsel (Corporate). Other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–3T also issued under 26 U.S.C. 1502.

Section 1.1502–9T also issued under 26 U.S.C. 1502. * * *

Section 1.1502–55T also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502–3 is amended by adding paragraphs (c)(3) and (e)(3) and by designating the text following the heading of paragraph (d) as paragraph (d)(1) and adding paragraph (d)(2) to read as follows:

§ 1.1502–3 Consolidated investment credit.

* * * * *

(c) * * *

(3) *Social effective date.* This paragraph (c) applies to consolidated return years beginning before January 1, 1997. See § 1.1502–3T(c) for the rule that limits the group's use of a section 38 credit carryover or carryback from a SRLY for a consolidated return year beginning on or after January 1, 1997. For taxable years not subject to § 1.1502–3T(c), prior law applies. See § 1.1502–3(c) in effect prior to January 12, 1998 (§ 1.1502-3(c) as contained in the 26 CFR part 1 edition revised April 1, 1997) for prior law.

(d) *Examples.* (1) * * *

(2) Examples (2) and (3) of this paragraph (d) do not apply to consolidated return years beginning on or after January 1, 1997. For consolidated return years beginning on or after January 1, 1997, see § 1.1502–3T(d).

(e) * * *

(3) *Special effective date.* This paragraph (e) applies to a consolidated return change of ownership that occurred before January 1, 1997.

* * * * *

Par. 3. Section 1.1502–3T is added to read as follows:

§ 1.1502–3T Consolidated investment credit (temporary).

(a) and (b) [Reserved]. For further guidance, see § 1.1502–3 (a) and (b).

(c) *Limitation on tax credit carryovers and carrybacks from separate return limitation years*—(1) *General rule.* The aggregate of a member's unused section 38 credits arising in SRLYs that are included in the consolidated section 38 credits for all consolidated return years of the group may not exceed—

(i) The aggregate for all consolidated return years of the member's contributions to the consolidated section 38(c) limitation for each consolidated return year; reduced by—

(ii) The aggregate of the member's section 38 credits arising and absorbed in all consolidated return years (whether or not absorbed by the member).

(2) *Computational rules*—(i) *Member's contribution to the consolidated section 38(c) limitation.* If the consolidated section 38(c) limitation for a consolidated return year is determined by reference to the consolidated tentative minimum tax (see section 38(c)(1)(A)), then a member's contribution to the consolidated section 38(c) limitation for such year equals the member's share of the consolidated net income tax minus the member's share of the consolidated tentative minimum tax. If the consolidated section 38(c) limitation for a consolidated return year is determined by reference to the consolidated net regular tax liability (see section 38(c)(1)(B)), then a member's contribution to the consolidated section 38(c) limitation for such year equals the member's share of the consolidated net income tax minus 25 percent of the quantity which is equal to so much of the member's share of the consolidated net regular tax liability less its portion of the $25,000 amount specified in section 38(c)(1)(B). The group computes the member's shares by applying to the respective consolidated amounts the principles of section 1552 and the percentage method under § 1.1502–33(d)(3), assuming a 100% allocation of any decreased tax liability. The group must make proper adjustments so that taxes and credits not taken into account in computing the limitation under section 38(c) are not taken into account in computing the member's share of the consolidated net income tax, etc. (See, for example, the taxes described in section 26(b) that are

disregarded in computing regular tax liability.) Also, the group may apportion all or a part of the $25,000 amount (or lesser amount if reduced by section 38(c)(3)) for any year to one or more members.

(ii) *Years included in computation.* For purposes of computing the limitation under this paragraph (c), the consolidated return years of the group include only those years, including the year to which a credit is carried, that the member has been continuously included in the group's consolidated return, but exclude—

(A) For carryovers, any years ending after the year to which the credit is carried; and

(B) For carrybacks, any years ending after the year in which the credit arose.

(iii) *Subgroups and successors.* The SRLY subgroup principles under § 1.1502–21T(c)(2) apply for purposes of this paragraph (c). The predecessor and successor principles under § 1.1502–21T(f) also apply for purposes of this paragraph (c).

(3) *Effective date.* This paragraph (c) applies to consolidated return years beginning on or after January 1, 1997. However, a group does not take into account a consolidated taxable year beginning before January 1, 1997, in determining a member's (or subgroup's) contributions to the consolidated section 38(c) limitation under this paragraph (c). See also § 1.1502–3(c).

(d) *Example.* (1) The following example illustrates the provisions of paragraph (c) of this section:

Example. (i) P, the common parent of the P group, acquires all the stock of T at the beginning of Year 2. T carries over an unused section 38 general business credit from Year 1 of $100,000. The table below shows the group's net consolidated income tax, consolidated tentative minimum tax, and consolidated net regular tax liabilities, and T's share of such taxes computed under the principles of section 1552 and the percentage method under § 1.1502–33(d)(3), assuming a 100% allocation of any decreased tax liability, for Year 2. (The effects of the lower section 11 brackets are ignored, there are no other tax credits affecting a group amount or member's share, and $1,000s are omitted.)

BILLING CODE 4830–01–U

Year 2	Group	P's share of col. 1	T's share of col. 1
1. consolidated taxable income	$2,000	$1,200	$800
2. consolidated net regular tax	$700	$420	$280
3. consolidated alternative minimum taxable income	$4,000	$3,200	$800
4. consolidated tentative minimum tax	$800	$640	$160
5. consolidated net income tax	$800	$520	$280
6. greater of line 4 or 25% of (line 2 minus $25,000) for the group	$800		
7. consolidated §38(c) limitation (line 5 minus line 6)	$0		

BILLING CODE 4830–01–C

(ii) The amount of T's unused section 38 credits from Year 1 that are included in the consolidated section 38 credits for Year 2 may not exceed T's contribution to the consolidated section 38(c) limitation. For Year 2, the group determines the consolidated section 38(c) limitation by reference to consolidated tentative minimum tax for Year 2. Therefore, T's contribution to the consolidated section 38(c) limitation for Year 2 equals its share of consolidated net income tax minus its share of consolidated tentative minimum tax. T's contribution is $280,000 minus $160,000, or $120,000. However, because the group has a consolidated section 38 limitation of zero, it may not include any of T's unused section 38 credits in the consolidated section 38 credits for Year 2.

(iii) The following table shows similar information for the group for Year 3:

BILLING CODE 4830–01–U

Year 3	Group	P's share of col. 1	T's share of col. 1
1. consolidated taxable income	$1,200	$1,500	$(300)
2. consolidated net regular tax	$420	$525	$(105)
3. consolidated alternative minimum taxable income	$1,500	$1,700	$(200)
4. consolidated tentative minimum tax	$300	$340	$(40)
5. consolidated net income tax	$420	$525	$(105)
6. greater of line 4 or 25% of (line 2 minus $25,000) for the group	$300		
7. consolidated §38(c) limitation (line 5 minus line 6)	$120		

BILLING CODE 4830–01–C

(iv) The amount of T's unused section 38 credits from Year 1 that are included in the consolidated section 38 credits for Year 3 may not exceed T's aggregate contribution to the consolidated section 38(c) limitation for Years 2 and 3. For Year 3, the group determines the consolidated section 38(c) limitation by reference to the consolidated tentative minimum tax for Year 3. Therefore, T's contribution to the consolidated section 38(c) limitation for Year 3 equals its share of consolidated net income tax minus its share of consolidated tentative minimum tax. Applying the principles of section 1552 and § 1.1502–33(d) (taking into account, for example, that T's positive earnings and profits adjustment under § 1.1502–33(d) reflects its losses actually absorbed by the group), T's contribution is $(105,000) minus $(40,000), or $(65,000). T's aggregate contributions to the consolidated section 38(c) limitation for Years 2 and 3 is $120,000 + $(65,000), or $55,000. The group may include $55,000 of T's Year 1 unused section 38 credits in its consolidated section 38 tax credit in Year 3.

(2) This paragraph (d) applies to consolidated return years beginning on or after January 1, 1997. See also § 1.1502–3(d) for years prior to January 1, 1997.

(e) and (f) [Reserved]. For further guidance, see § 1.1502–3 (e) and (f).

Par. 4. Section 1.1502–4 is amended by adding new paragraphs (f)(3) and (g)(3) to read as follows:

§ 1.1502–4 Consolidated foreign tax credit.

* * * * *

(f) * * *

(3) *Special effective date ending SRLY limitation.* See § 1.1502–4T(f) for the rule that ends the SRLY limitation with respect to foreign tax credits for consolidated return years beginning on or after January 1, 1997.

(g) * * *

(3) *Special effective date for CRCO limitation.* See § 1.1502–4T(g)(3) for the rule that ends the CRCO limitation with respect to a consolidated return change of ownership that occurred on or after January 1, 1997.

* * * * *

Par. 5. Section 1.1502–4T is added to read as follows:

§ 1.1502–4T Consolidated foreign tax credit (temporary).

(a) through (e) [Reserved]. For further guidance, see § 1.1502–4 (a) through (e).

(f) *Limitation on unused foreign tax carryover or carryback from separate return limitation years.* Section 1.1502–4(f) does not apply to consolidated return years beginning on or after January 1, 1997. For consolidated return years beginning on or after January 1, 1997, a group shall include an unused foreign tax of a member arising in a SRLY without regard to the contribution of the member to consolidated tax liability for the consolidated return year.

(g) (1) and (2) [Reserved]. For further guidance, see § 1.1502–4(g)(1) and (2).

(g)(3) *Special effective date for CRCO limitation.* Section 1.1502–4(g) applies to a consolidated return change of ownership that occurred before January 1, 1997.

Par. 6. In § 1.1502–9, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.1502–9 Application of overall foreign loss recapture rules to corporations filing consolidated returns.

(a) *In general.* * * * See § 1.1502–9T(b)(1)(v) for the rule that ends the separate return limitation year limitation for consolidated return years beginning on or after January 1, 1997.

* * * * *

Par. 7. Section 1.1502–9T is added to read as follows:

§ 1.1502–9T Application of overall foreign loss recapture rules to corporations filing consolidated returns (temporary).

(a) and (b) introductory text through (b)(1)(iv) [Reserved]. For further guidance, see § 1.1502–9 (a) and (b) introductory text through (b)(1)(iv).

(b)(1)(v) *Special effective date for SRLY limitation.* Sections 1.1502–9(b)(1) (iii) and (iv) apply only to consolidated return years beginning before January 1, 1997. For consolidated return years beginning on or after January 1, 1997, the rules of § 1.1502–9(b)(1)(ii) shall apply to overall foreign losses from separate return years that are separate return limitation years. For purposes of applying § 1.1502–9(b)(1)(ii) in such years, the group treats a member with a balance in an overall foreign loss account from a separate return limitation year on the first day of the first consolidated return year beginning on or after January 1, 1997, as a corporation joining the group on such first day. An overall foreign loss that is part of a net operating loss or net capital loss carryover from a separate return limitation year of a member that is absorbed in a consolidated return year beginning on or after January 1, 1997, shall be added to the appropriate consolidated overall foreign loss account in the year that it is absorbed. For consolidated return years beginning on or after January 1, 1997, similar principles apply to overall foreign losses when there has been a consolidated return change of ownership (regardless of when the change of ownership occurred).

(b)(2) through (f) [Reserved]. For further guidance, see § 1.1502–9(b)(2) through (f).

Par. 8. In § 1.1502–21T, paragraph (c)(1)(iii) is amended by adding *Example 5* to read as follows:

§ 1.1502–21T Net operating losses (temporary).

* * * * *

(c) * * *

(1) * * *

(iii) * * *

Example 5. Dual SRLY registers and accounting for SRLY losses actually absorbed. (i) In Year 1, T sustains a $100 net operating loss and a $50 net capital loss. At the beginning of Year 2, T becomes a member of the P group. Both of T's carryovers from Year 1 are subject to SRLY limits under this paragraph (c) and § 1.1502–22T(c). The members of the P group contribute the following to the consolidated taxable income for Years 2 and 3 (computed without regard to T's CNOL deduction under § 1.1502–21T or net capital loss carryover under § 1.1502–22T):

		P	T
Year 1 (SRLY).	Ordinary	.....	(100)
	Capital	.....	(50)
Year 2	Ordinary	30	60
	Capital	0	(20)
Year 3	Ordinary	10	40
	Capital	0	30

(ii) For Year 2, the group computes separate SRLY limits for each of T's SRLY carryovers from Year 1. Under normal Internal Revenue Code rules, it determines its ability to use its capital loss carryover before it determines its ability to use its ordinary loss carryover. Under section 1211, because the group has no Year 2 capital gain, it cannot absorb any capital losses in Year 2. T's Year 1 net capital loss and the group's Year 2 consolidated net capital loss (all of which is attributable to T) are carried over to Year 3.

(iii) Under this section, the aggregate amount of T's $100 NOL carryover from Year 1 that may be included in the CNOL deduction of the group for Year 2 may not exceed $60—the amount of the consolidated taxable income computed by reference only to T's items, including losses and deductions to the extent actually absorbed (i.e., $60 of T's ordinary income for Year 2). Thus, the group may include $60 of T's ordinary loss carryover from Year 1 in its Year 2 CNOL deduction. T carries over its remaining $40 of its Year 1 loss to Year 3.

(iv) For Year 3, the group again computes separate SRLY limits for each of T's SRLY carryovers from Year 1. The group has consolidated net capital gain (without taking into account a net capital loss carryover deduction) of $30. Under § 1.1502–22T(c), the aggregate amount of T's $50 capital loss carryover from Year 1 that may be included in computing the group s consolidated net capital gain for all years of the group (here Years 2 and 3) may not exceed $30 (the aggregate consolidated net capital gain computed by reference only to T's items, including losses and deductions actually absorbed (i.e., $30 of capital gain in Year 3)). Thus, the group may include $30 of T's Year 1 capital loss carryover in its computation of consolidated net capital gain for Year 3, which offsets the group's capital gains for Year 3. T carries over its remaining $20 of its Year 1 loss to Year 4. The group carries over the Year 2 consolidated net capital loss to Year 4.

(v) Under this section, the aggregate amount of T's NOL carryover from Year 1 that may be included in the CNOL deduction of the group for Years 2 and 3 may not exceed $100, which is the amount of the aggregate consolidated taxable income for Years 2 and 3 determined by reference only to T's items, including losses and deductions actually absorbed (i.e., $60 of ordinary income in Year 2 plus $40 of ordinary income, $30 of capital gain, and $30 of SRLY capital losses actually absorbed in Year 3). The group included $60 of T's ordinary loss carryover in its Year 2 CNOL deduction. It may include the remaining $40 of the carryover in its Year 3 CNOL deduction.

* * * * *

Par. 9. In § 1.1502–23T, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and a new paragraph (b) is added to read as follows:

§ 1.1502–23T Consolidated net section 1231 gain or loss (temporary).

* * * * *

(b) *Example.* The following example illustrates the provisions of this section:

Example. Use of SRLY registers with net gains and net losses under section 1231. (i) In Year 1, T sustains a $20 net capital loss. At the beginning of Year 2, T becomes a member of the P group. T's capital loss carryover from Year 1 is subject to SRLY limits under § 1.1502–22T(c). The members of the P group contribute the following to the consolidated taxable income for Year 2 (computed without regard to T's net capital loss carryover under § 1.1502–22T):

		P	T
Year 1 (SRLY).	Ordinary	.....	.....
	Capital	.....	(20)
Year 2	Ordinary	10	20
	Capital	70	0
	§ 1231	(60)	30

(ii) Under section 1231, if the section 1231 losses for any taxable year exceed the section 1231 gains for such taxable year, such gains and losses are treated as ordinary gains or losses. Because the P group's section 1231 losses, $(60), exceed the section 1231 gains, $30, the P group's net loss is treated as an ordinary loss. T's net section 1231 gain has the same character as the P group's consolidated net section 1231 loss, so T's $30 of section 1231 income is treated as ordinary income for purposes of applying § 1.1502–22T(c). Under § 1.1502–22T(c), the group's consolidated net capital gain determined by reference only to T's items is $0. None of T's capital loss carryover from Year 1 may be taken into account in Year 2.

Par. 10. Section 1.1502–55T is added under the undesignated center heading ''Special Taxes and Taxpayers'' to read as follows:

§ 1.1502–55T Computation of alternative minimum tax of consolidated groups (temporary).

(a) through (h)(3) [Reserved].

(h)(4) *Separate return year minimum tax credit.*

(i) and (ii) [Reserved].

(iii)(A) *Limitation on portion of separate return year minimum tax credit arising in separate return limitation years.* The aggregate of a member's minimum tax credits arising in SRLYs that are included in the consolidated minimum tax credits for all consolidated return years of the group may not exceed—

(*1*) The aggregate for all consolidated return years of the member's

contributions to the consolidated section 53(c) limitation for each consolidated return year; reduced by

(*2*) The aggregate of the member's minimum tax credits arising and absorbed in all consolidated return years (whether or not absorbed by the member).

(B) *Computational rules—*(*1*) *Member's contribution to the consolidated section 53(c) limitation.* Except as provided in the special rule of paragraph (h)(4)(iii)(B)(*2*) of this section, a member's contribution to the consolidated section 53(c) limitation for a consolidated return year equals the member's share of the consolidated net regular tax liability minus its share of consolidated tentative minimum tax. The group computes the member's shares by applying to the respective consolidated amounts the principles of section 1552 and the percentage method under § 1.1502–33(d)(3), assuming a 100% allocation of any decreased tax liability. The group makes proper adjustments so that taxes and credits not taken into account in computing the limitation under section 53(c) are not taken into account in computing the member's share of the consolidated net regular tax, etc. (See, for example, the taxes described in section 26(b) that are disregarded in computing regular tax liability.)

(*2*) *Adjustment for year in which alternative minimum tax is paid.* For a consolidated return year for which consolidated tentative minimum tax is greater than consolidated regular tax liability, the group reduces the member's share of the consolidated tentative minimum tax by the member's share of the consolidated alternative minimum tax for the year. The group determines the member's share of consolidated alternative minimum tax for a year using the same method it uses to determine the member's share of the consolidated minimum tax credits for the year.

(*3*) *Years included in computation.* For purposes of computing the limitation under this paragraph (h)(4)(iii), the consolidated return years of the group include only those years, including the year to which a credit is carried, that the member has been continuously included in the group's consolidated return, but exclude any years after the year to which the credit is carried.

(*4*) *Subgroup principles.* The SRLY subgroup principles under § 1.1502–21T(c)(2) apply for purposes of this paragraph (h)(4)(iii). The predecessor and successor principles under § 1.1502–21T(f) also apply for purposes of this paragraph (h)(4)(iii).

(C) *Effective date.* This paragraph (h)(4)(iii) applies to consolidated return years beginning on or after January 1, 1997. However, a group does not take into account a consolidated taxable year beginning before January 1, 1997, in determining a member's (or subgroup's) contributions to the consolidated section 53(c) limitation under paragraph (h)(4)(iii)(b) of this section.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: December 11, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 98–43 Filed 1–9–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 08–97–049]

Drawbridge Operating Regulation; Rigolets Pass, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in 33 CFR 117.5 governing the operation of the US 90 swing span drawbridge across Rigolets Pass, mile 6.2 at New Orleans, Orleans and St. Tammany Parishes, Louisiana. This deviation allows the Louisiana Department of Transportation and Development to close the bridge for a continuous 45 day period. Presently, the draw is required to open on signal. This temporary deviation is issued to allow for the repairs to the gears, shafts, and bearings of the swing span, an extensive but necessary maintenance operation.

DATES: This deviation is effective from 6:01 a.m. on January 19, 1998 through 6 p.m. on February 27, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396, telephone number 504–589–2965.

SUPPLEMENTARY INFORMATION: The US 90 swing span drawbridge across Rigolets Pass, mile 6.2, in New Orleans, Orleans and St. Tammany Parishes, Louisiana, has a vertical clearance of 14 feet above high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Louisiana Department of Transportation and Development sent a letter to the Coast Guard requesting a temporary deviation from the normal operation of the bridge in order to accommodate the maintenance work. The maintenance work involves removing, repairing, and replacing the worn gears, shafts, and bearings. This work is essential for the continued operation of the draw span.

This deviation allows the draw of the US 90 swing span bridge across Rigolets Pass, mile 6.2, at New Orleans to remain in the closed-to-navigation position for a period of 45 days commencing January 19, 1998. With the draw in the closed-to-navigation position, vessels requiring vertical clearances of greater than 14 feet above high water will be required to use alternate routes during the maintenance period. Alternate routes include the Chef Pass and the Inner Harbor Navigation Canal.

This deviation will be effective from 6:01 a.m. January 19, 1998, through 6 p.m. February 27, 1998. Presently, the draw opens on signal at any time.

Dated: December 24, 1997.

Paul J. Prokop,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 98–697 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[FRL–5948–5]

Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP); Delegation of Authority to the States of Iowa, Kansas, Missouri, Nebraska, Lincoln-Lancaster County, Nebraska, and the City of Omaha, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The states of Iowa, Kansas, Missouri, Nebraska, and the local agencies of Lincoln-Lancaster County, Nebraska, and city of Omaha, Nebraska, have submitted updated regulations for delegation of the EPA authority for implementation and enforcement of NSPS and NESHAP. The submissions cover new EPA standards and, in some instances, revisions to standards previously delegated. The EPA's review

of the pertinent regulations shows that they contain adequate and effective procedures for the implementation and enforcement of these Federal standards. This document informs the public of delegations to the above-mentioned agencies.

DATES: The dates of delegation can be found in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Effective immediately, all requests, applications, reports, and other correspondence required pursuant to the newly delegated standards and revisions identified in this notice should be submitted to the Region VII office, and, with respect to sources located in the jurisdictions identified in this notice, to the following addresses:

Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Urbandale, Iowa 50322.

Kansas Department of Health and Environment, Bureau of Air Quality and Radiation, Building 283, Forbes Field, Topeka, Kansas 66620.

Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, P.O. Box 176, Jefferson City, Missouri 65102.

Nebraska Department of Environmental Quality, Air and Waste Management Division, P.O. Box 98922, Statehouse Station, Lincoln, Nebraska 68509.

Lincoln-Lancaster County Air Pollution Control Agency, Division of Environmental Health, 3140 ''N'' Street, Lincoln, Nebraska 68510.

City of Omaha, Public Works Department, Air Quality Control Division, 5600 South 10th Street, Omaha, Nebraska 68510.

FOR FURTHER INFORMATION CONTACT: John Pawlowski, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913) 551–7920.

SUPPLEMENTARY INFORMATION: Section 111(c)(1) of the Clean Air Act (CAA) as amended November 15, 1990, authorizes the EPA to delegate authority to any state agency which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorize the EPA to delegate authority to any state or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants.

The following table is an update of 40 CFR part 60 NSPS subparts previously delegated to the states. The states have adopted by reference the subparts of 40 CFR part 60 amended as of the first date in each cell shown in the table. The second date in the table is the current effective date of the state regulation for which the EPA is providing delegation. The EPA has delegated various authorities under 40 CFR part 60 as listed in the following table. The EPA regulations effective after the first date specified in each cell have not been delegated, and authority for implementation of these regulations is retained solely by the EPA.

DELEGATION OF AUTHORITY—PART 60 NSPS—REGION VII

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
A	General Provisions	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
D	Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Da	Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Db	Industrial-Commercial-Institutional Steam Generating Units	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Dc	Small Industrial-Commercial-Institutional Steam Generating Units	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
E	Incinerators	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Ea	Municipal Waste Combustors	12/15/94 07/12/95	07/01/96 06/06/97	....	07/01/92 09/07/97 07/01/96
Eb	Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994.	.....	07/01/96 06/06/97	.....	09/07/97
F	Portland Cement Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
G	Nitric Acid Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
H	Sulfuric Acid Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
I	Asphaltic Concrete Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
J	Petroleum Refineries	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
K	Storage Vessels for Petroleum Liquid for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Ka	Storage Vessels for Petroleum Liquid for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97

DELEGATION OF AUTHORITY—PART 60 NSPS—REGION VII—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
Kb	Volatile Organic Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
L	Secondary Lead Smelters	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
M	Brass & Bronze Production Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
N	Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.	12/15/94 07/12/95	07/01/96 06/06/96	07/01/94 05/30/96	07/01/92 09/07/97
Na	Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.	12/15/94 07/12/95	07/01/94 06/06/97	07/01/94 05/30/96	07/01/96 09/07/97
O	Sewage Treatment Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
P	Primary Copper Smelters	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Q	Primary Zinc Smelters	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
R	Primary Lead Smelters	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
S	Primary Aluminum Reduction Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
T	Wet Process Phosphoric Acid Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
U	Superphosphoric Acid Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
V	Diammonium Phosphate Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
W	Triple Superphosphate Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
X	Granular Triple Superphosphate Storage Facilities	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Y	Coal Preparation Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
Z	Ferroalloy Production Facilities	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
AA	Steel Plant Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
AAa	Steel Plant Electric Arc Furnaces & Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
BB	Kraft Pulp Mills	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	.....
CC	Glass Manufacturing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
DD	Grain Elevators	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
EE	Surface Coating of Metal Furniture	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
GG	Stationary Gas Turbines	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
HH	Lime Manufacturing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
KK	Lead-Acid Battery Manufacturing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
LL	Metallic Mineral Processing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
MM	Auto & Light-Duty Truck Surface Coating Operations	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
NN	Phosphate Rock Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
PP	Ammonium Sulfate Manufacture	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
QQ	Graphic Arts Industry: Publication Rotogravure Printing	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
RR	Pressure Sensitive Tape & Label Surface Coating Operations	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
SS	Industrial Surface Coating: Large Appliances	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97

DELEGATION OF AUTHORITY—PART 60 NSPS—REGION VII—Continued

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska
TT	Metal Coil Surface Coating	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
UU	Asphalt Processing & Asphalt Roofing Manufacture	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
VV	SOCMI Equipment Leaks (VOC)	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
WW	Beverage Can Surface Coating Industry	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
XX	Bulk Gasoline Terminals	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
AAA	New Residential Wood Heaters	08/31/93 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	.....
BBB	Rubber Tire Manufacturing Industry	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
DDD	Polymer Manufacturing Industry (VOC)	12/15/94 07/12/95	07/01/96 06/06/97	.....	.....
FFF	Flexible Vinyl and Urethane Coating and Printing	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
GGG	Equipment Leaks of VOC in Petroleum Refineries	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
HHH	Synthetic Fiber Production Facilities	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
III	SOCMI AIR Oxidation Unit Processes	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
JJJ	Petroleum Dry Cleaners	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
KKK	VOC Leaks from Onshore Natural Gas Processing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
LLL	Onshore Natural Gas Processing: SO_2 Emissions	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
NNN	VOC Emissions from SOCMI Distillation Operations	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
OOO	Nonmetalic Mineral Processing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
PPP	Wool Fiberglass Insulation Manufacturing Plants	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
RRR	VOC Emissions from SOCMI Reactor Processes	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	....
SSS	Magnetic Tape Coating Facilities	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
TTT	Surface Coating of Plastic Parts for Business Machines	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
UUU	Calciners & Dryers in Mineral Industries	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	09/28/92 09/07/97
VVV	Polymeric Coating of Supporting Substrates Facilities	12/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97
WWW	New Municipal Solid Waste Landfills	06/24/96 05/14/97	07/01/96 06/06/97	....	07/01/96 09/07/97

The following table is an update of 40 CFR part 61 NESHAP subparts previously delegated to the states and local agencies. The states and local agencies have adopted by reference the subparts of 40 CFR part 61 amended as of the first date in each cell shown in the table. The second date in the table is the current effective date of the state regulation for which the EPA is providing delegation. The EPA has delegated various authorities under 40 CFR part

61 as listed in the following table. The EPA regulations effective after the first date specified in each cell have not been delegated, and authority for implementation of these regulations is retained solely by the EPA.

DELEGATION OF AUTHORITY—PART 61 NESHAP—REGION VII

Sub-part	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
B	Radon Emissions from Underground Uranium Mines.	.....	07/01/96 06/06/97				
C	Beryllium	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
D	Beryllium Rocket Motor Firing	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
E	Mercury	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
F	Vinyl Chloride	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
J	Equipment Leaks (Fugitive Emission Sources) of Benzene.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
L	Benzene Emissions from Coke By-Product Recovery Plants.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
M	Asbestos	07/15/94 07/12/95	07/01/96 06/06/97	07/01/88 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
N	Inorganic Arsenic Emissions from Glass Manufacturing Plants.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
O	Inorganic Arsenic Emissions from Primary Copper Smelters.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
P	Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
Q	Radon Emissions from Department of Energy Facilities.		07/01/96 06/06/97				
R	Radon Emissions from Phosphogypsum Stacks.		07/01/96 06/06/97				
T	Radon Emissions from the Disposal of Uranium Mill Tailings.		07/01/97 06/06/97				
V	Equipment Leaks (Fugitive Emission Sources).	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
W	Radon Emissions from Operating Mill Tailings.		07/01/96 06/06/97				
Y	Benzene Emissions from Benzene Storage Vessels.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
BB	Benzene Emissions from Benzene Transfer Operations.	07/15/94 07/12/95	07/01/96 06/06/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95
FF	Benzene Waste Operations	07/15/94 07/12/95	07/01/96 06/01/97	07/01/94 05/30/96	07/01/92 09/07/97	07/01/92 05/16/95	07/01/92 05/29/95

The following table is an update of 40 CFR part 63 NESHAP subparts previously delegated to the states and local agencies. The states and local agencies have adopted by reference the subparts of 40 CFR part 63 amended as of the first date in each cell shown in the table. The second date in the table is the current effective date of the state regulation for which the EPA is providing delegation. The EPA has delegated various authorities under 40 CFR part 63 as listed in the following table. The EPA regulations effective after the first date specified in each cell have not been delegated, and authority for implementation of these regulations is retained solely by the EPA.

DELEGATION OF AUTHORITY—PART 63 NESHAP—REGION VII

Subpart	Source category	State of Iowa	State of Kansas	State of Missouri	State of Nebraska	Lincoln-Lancaster County	City of Omaha
A	General Provisions	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	03/16/94 03/31/97	.....
B	Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Section 112(j).	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	.....	.....
D	Compliance Extensions for Early Reductions of Hazardous Air Pollutants.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	12/29/92 09/07/97	12/29/92 11/17/95	12/29/92 11/17/95
F	Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	06/20/96 03/31/97	.....
G	Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	06/20/96 03/31/97	.....
H	Organic Hazardous Air Pollutants for Equipment Leaks.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	06/20/96 03/31/97	.....
I	Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	06/20/96 03/31/97	.....
L	Coke Oven Batteries	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	.....	.....
M	Perchloroethylene Emissions from Dry Cleaning Facilities.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	12/20/93 03/31/97	09/22/93 11/17/95
N	Chromium Emissions from Hard and Decorative Chromium Electroplating Anodizing Tanks.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	01/25/95 03/31/97	.....
O	Ethylene Oxide Sterilization Facilities	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	12/06/94 03/31/97	.....
Q	Industrial Process Cooling Towers	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	09/08/94 03/31/97	.....
R	Gasoline Distribution Facilities	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	12/14/94 03/31/97	.....
T	Halogenated Solvent Cleaning	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	12/02/94 03/31/97	.....
U	Polymers and Resins Group I	.....	.....	.....	.....	09/05/96 03/31/97	.....
W	Epoxy Resins and Non-Nylon Polyamides Production.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	03/08/95 03/31/97	.....
X	Secondary Lead Smelting	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	06/23/95 03/31/97	.....
Y	Marine Tank Vessel Loading Operations	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	.....	.....
CC	Petroleum Refineries	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	08/18/95 03/31/97	.....
DD	Off-Site Waste Operations	.....	07/01/96 06/06/97	.....	.....	07/01/96 03/31/97	.....
EE	Magnetic Tape Manufacturing	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	12/15/94 03/31/97	.....
GG	Aerospace Manufacturing and Rework Facilities.	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	09/01/95 03/31/97	.....
II	Shipbuilding and Ship Repair	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	.....	.....	.....
JJ	Wood Furniture Manufacturing Operations	06/24/96 05/14/97	07/01/96 06/06/97	12/31/95 12/30/96	07/01/96 09/07/97	12/07/95 03/31/97	.....
KK	Printing and Publishing Industry	06/24/96 05/14/97	07/01/96 06/06/97	.....	.....	05/30/96 03/31/97	.....
JJJ	Polymers and Resins Group IV	.....	.....	.....	.....	09/12/96 03/31/97	.....

After a review of the submissions, the Regional Administrator determined that delegation was appropriate for the source categories with the conditions set forth in the original NSPS and NESHAP delegation agreements, and the limitations in all applicable regulations, including 40 CFR parts 60, 61, and 63. The reader should refer to the applicable agreements and regulations to determine specific provisions which are not delegated. All sources subject to the requirements of 40 CFR parts 60, 61, and 63 are also subject to the equivalent requirements of the above-mentioned state or local agencies.

Since review of the pertinent laws, rules, and regulations of these state or

local agencies has shown them to be adequate for the implementation and enforcement of the listed NSPS and NESHAP categories, the EPA hereby notifies the public that it has delegated the authority for the source categories listed as of the dates specified in the above tables.

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Authority: This document is issued under the authority of sections 101, 110, 111, 112 and 301 of the CAA, as amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: December 3, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 98–552 Filed 1–9–98; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD07

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the Mexican Gray Wolf in Arizona and New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has decided to reintroduce the endangered Mexican gray wolf (*Canis lupus baileyi*) into the Blue Range Wolf Recovery Area, a designated area within the subspecies' probable historic range. This reintroduction will be the first step toward recovery of the Mexican wolf in the wild. The Blue Range Wolf Recovery Area consists of the entire Apache and Gila National Forests in east-central Arizona and west-central New Mexico. If the Service later finds it to be both necessary for recovery and feasible, we would reintroduce wolves into the White Sands Wolf Recovery Area, which also lies within the subspecies' probable historic range. This area consists of all land within the boundary of the White Sands Missile Range in south-central New Mexico together with designated land immediately to the west of the missile range. By this rule, the Service classifies wolves to be re-established in these areas as one nonessential experimental population under section 10(j) of the Endangered Species Act (Act) of 1973, as amended. This final rule sets forth management directions and provides for limited allowable legal take of wolves within a defined Mexican Wolf Experimental Population Area.

EFFECTIVE DATE: January 24, 1998.

ADDRESSES: Send correspondence concerning this rule to the Mexican Gray Wolf Recovery Program, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103–1306. The complete file for this final rule is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Parsons (see **ADDRESSES** section) at telephone (505) 248–6920; facsimile (505) 248–6922; or electronic mail at david__parsons@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Legislative

The Endangered Species Act Amendments of 1982, Pub. L. 97–304, created section 10(j), providing for the designation of specific populations of listed species as ''experimental populations.'' Under previous authorities of the Act, the Service was permitted to re-establish (reintroduce) populations of a listed species into unoccupied portions of its historic range for conservation and recovery purposes. However, local opposition to reintroduction efforts, stemming from concerns by some about potential restrictions, and prohibitions on Federal and private activities contained in sections 7 and 9 of the Act, reduced the effectiveness of reintroduction as a conservation and recovery tool.

Under section 10(j), a population of a listed species re-established outside its current range but within its probable historic range may be designated as ''experimental'' at the discretion of the Secretary of the Interior (Secretary). Reintroduction of the experimental population must further the conservation of the listed species. An experimental population must be separate geographically from nonexperimental populations of the same species. Designation of a population as experimental increases the Service's management flexibility.

Additional management flexibility exists if the Secretary finds the experimental population to be ''nonessential'' to the continued existence of the species. For purposes of section 7 [except section 7(a)(1), which requires Federal agencies to use their authorities to conserve listed species], nonessential experimental populations located outside national wildlife refuge or national park lands are treated as if they are proposed for listing. This means that Federal agencies are under an obligation to confer, as opposed to consult (required for a listed species), on any actions authorized, funded, or carried out by them that are likely to jeopardize the continued existence of the species. Nonessential experimental populations located on national wildlife refuge or national park lands are treated as threatened, and formal consultation may be required. Activities undertaken on private or tribal lands are not affected by section 7 of the Act unless they are authorized, funded, or carried out by a Federal agency.

Individual animals used in establishing an experimental population can be removed from a source population if their removal is not likely to jeopardize the continued (12.9 km^2) existence of the species (see Findings Regarding Reintroduction, below), and a permit has been issued in accordance with 50 CFR part 17.22.

The Mexican gray wolf was listed as an endangered subspecies on April 28, 1976 (41 FR 17742). The gray wolf species in North America south of Canada was listed as endangered on March 9, 1978, except in Minnesota where it was listed as threatened (43 FR 9607). This listing of the species as a whole continued to recognize valid biological subspecies for purposes of research and conservation (43 FR 9610).

Biological

This final experimental population rule addresses the Mexican gray wolf (*Canis lupus baileyi*), an endangered subspecies of gray wolf that was extirpated from the southwestern United States by 1970. The gray wolf species (*C. lupus*) is native to most of North America north of Mexico City. An exception is in the southeastern United States, which was occupied by the red wolf species (*C. rufus*). The gray wolf occupied areas that supported populations of hoofed mammals (ungulates), its major food source.

The Mexican gray wolf historically occurred over much of New Mexico, Arizona, Texas, and northern Mexico, mostly in or near forested, mountainous terrain. Numbering in the thousands before European settlement, the ''lobo'' declined rapidly when its reputation as a livestock killer led to concerted eradication efforts. Other factors contributing to its decline were commercial and recreational hunting and trapping, killing of wolves by game managers on the theory that more game animals would be available for hunters,

habitat alteration, and human safety concerns (although no documentation exists of Mexican wolf attacks on humans).

The subspecies is now considered extirpated from its historic range in the south western United States because no wild wolf has been confirmed since 1970. Occasional sightings of ''wolves'' continue to be reported from U.S. locations, but none have been confirmed. Ongoing field research has not confirmed that wolves remain in Mexico.

Mexican wolves were eradicated before their natural history had been systematically studied. Chapter 1 of the Final Environmental Impact Statement (FEIS) discusses the taxonomy and probable historic range of *C. l. baileyi,* as well as the genetics and other important background on the captive population. Appendix A of the FEIS provides life history and ecological descriptions of Mexican wolves to the extent they are known or can be inferred from historical evidence, observations of captive Mexican wolves, and studies of gray wolves in other geographic regions.

Recovery Efforts

The *Mexican Wolf Recovery Plan* was adopted by the Directors of the Service and the Mexican Direccion General de la Fauna Silvestre in 1982. Its objective is to conserve and ensure survival of the subspecies by maintaining a captive breeding program and re-establishing a viable, self-sustaining population of at least 100 Mexican wolves in a 5,000 square mile area within the subspecies' historic range. The plan guides recovery efforts for the subspecies, laying out a series of recommended actions. The recovery plan is currently being revised; the Service expects to release a draft for public review in 1998. The revised plan will more precisely define population levels at which the Mexican wolf can be downlisted to ''threatened'' status and removed from protection under the Act (i.e., delisted).

A captive breeding program was initiated with the capture of five wild Mexican wolves between 1977 and 1980, from Durango and Chihuahua, Mexico. Three of these animals (two males and a female that was pregnant when captured) produced offspring, founding the ''certified'' captive lineage. Two additional captive populations were determined in July 1995 to be pure Mexican wolves—each has two founders. The captive population included 148 animals as of January 1997—119 are held at 25 facilities in the United States and 29 at five facilities in Mexico.

On April 20, 1992, the Service issued a ''Notice of Intent to Prepare an Environmental Impact Statement on the Experimental Reintroduction of Mexican Wolves (*Canis lupus baileyi*) into Suitable Habitat within the Historic Range of the Subspecies'' (57 FR 14427). This notice also announced the time and place of public scoping meetings. The Service released the draft Environmental Impact Statement (DEIS), entitled ''Reintroduction of the Mexican Wolf within its Historic Range in the Southwestern United States,'' for public review and comment on June 27, 1995 (60 FR 33224). The location and times of 14 public meetings were also announced in that notice. On September 26, 1995, the Service announced that three public hearings would be held in October 1995 (60 FR 49628). All announced meetings and hearings were held. The public comment period on the DEIS closed on October 31, 1995; and approximately 18,000 people submitted comments. Provisions of the Service's draft proposed Mexican wolf experimental population rule were summarized in Chapter 2 of the DEIS and provided in full in Appendix C of the DEIS.

The proposed Mexican wolf experimental population rule was published in the **Federal Register** on May 1, 1996 (61 FR 19237–19248) and public comments were accepted through July 1, 1996. A May 22, 1996, **Federal Register** notice (61 FR 25618–25619) announced four public meetings/ hearings specific to the proposed rule, which were held in potentially affected areas.

The Service released the FEIS on Mexican wolf reintroduction on December 20, 1996. Chapter 5 of the FEIS contains a detailed review of public comments on the DEIS, including comments on the draft proposed rule, and the Service's responses. Pursuant to 50 CFR 17.81(d), this experimental population rule and the FEIS were developed in consultation with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, affected private landowners, native American tribes, technical experts, and others. The Service has cooperated with local governments through meetings with county officials and their representatives, making background information available, soliciting information, reviewing and responding to comments and studies prepared by county consultants, inviting consultants with expertise in local issues to an EIS team meeting, and other measures. In addition, the EIS process included holding public comment meetings throughout potentially affected areas, including holding a joint meeting with the Commission of Sierra County, the only county that so requested.

The Service is exploring additional avenues of communication and cooperation with local governments and other stakeholders in the implementation of Mexican wolf reintroduction.

On April 3, 1997, the Department of the Interior issued its Record of Decision on the FEIS, and selected the Preferred Alternative (Alternative A in the FEIS) for implementation (62 FR 15915–15916). The Service will reintroduce captive-raised Mexican wolves in eastern Arizona within the designated Blue Range Wolf Recovery Area. Released wolves and their offspring will be designated a nonessential experimental population. This population will be allowed to colonize the entire Blue Range Wolf Recovery Area. If the Service later determines it to be both necessary for recovery and feasible, we would reintroduce wolves into the White Sands Wolf Recovery Area, the designated back-up area.

Mexican Wolf Recovery Areas

The Service has determined that reintroduction in the Blue Range Wolf Recovery Area (Figure 1) is biologically and environmentally preferable and has the greatest potential for successfully achieving the current recovery objective for Mexican wolves. The White Sands Wolf Recovery Area (Figure 2) may serve as a back-up reintroduction area only if its use is later determined to be both necessary and feasible, according to criteria in the Preferred Alternative.

The two wolf recovery areas are within the Mexican wolf's probable historic range. The Mexican wolf is considered extinct in the wild in the United States. Thus, both areas are geographically separate from any known, naturally-occurring, nonexperimental populations of wild wolves.

Section 17.84(k)(9) of this rule establishes a larger Mexican Wolf Experimental Population Area (Figure 3), which also is geographically separate from any known, naturally-occurring nonexperimental populations of wild wolves. The Service is not proposing to re-establish Mexican wolves throughout this larger area. The purpose of designating an experimental population area is to establish that any member of the re-established Mexican wolf population found in this larger area is a member of the nonessential experimental population, and subject to the provisions of this rule including, but

not limited to, its capture and return to the designated recovery area(s).

Reintroduction Procedures

Captive Mexican wolves are selected for release based on genetics, reproductive performance, behavioral compatibility, response to the adaptation process, and other factors. Selected wolves have been moved to the Service's captive wolf management facility on the Sevilleta National Wildlife Refuge in central New Mexico where they have been paired based on genetic and behavioral compatibility and measures are being taken to adapt them to life in the wild. As wolves are moved to release pens, more will be moved to the Sevilleta facility. Additional wolves for reintroduction may be obtained from selected cooperating facilities that provide an appropriate captive environment.

Initially, wolves will be reintroduced by a ''soft release'' approach designed to reduce the likelihood of quick dispersal away from the release areas. This involves holding the animals in pens at the release site for several weeks in order to acclimate them and to increase their affinity for the area. (The soft release approach is described in more detail in Chapter 2 of the FEIS.) The releases will begin in 1998. Procedures for releases could be modified if new information warrants such changes.

In the Blue Range Wolf Recovery Area, approximately 14 family groups will be released over a period of 5 years, with the goal of reaching a population of 100 wild wolves. Approximately five family groups of captive raised Mexican wolves will be released over a period of 3 years into the White Sands Wolf Recovery Area, if this back-up area is used, with the goal of reaching a population of 20 wolves.

Management of the Reintroduced Population

The nonessential experimental designation enables the Service to develop measures for management of the population that are less restrictive than the mandatory prohibitions that protect species with ''endangered'' status. This includes allowing limited ''take''' (see definition of take in section 17.84(k)(15) of the rule) of individual wolves under narrowly defined circumstances. Management flexibility is needed to make reintroduction compatible with current and planned human activities, such as livestock grazing and hunting. It is also critical to obtaining needed State, Tribal, local, and private cooperation. The Service believes this flexibility will improve the likelihood of success.

Reintroduction will occur under management plans that allow dispersal by the new wolf populations beyond the primary recovery zones where they will be released into the secondary recovery zones of the designated wolf recovery area(s) (Figures 1 and 2). The Service and cooperating agencies will not allow the wolves to establish territories on public lands wholly outside these wolf recovery area boundaries. With landowner consent, the Service also would prevent wolf colonization of private or tribal lands outside the designated recovery area(s).

No measures are expected to be needed to isolate the experimental population from naturally occurring populations because no Mexican wolves are known to occur anywhere in the wild. The Service has ensured that no population of naturally-occurring wild wolves exists within the recovery areas. Surveys for wolf sign in these areas have been conducted, and no naturally occurring population has been documented. No naturally occurring population of Mexican wolves has been documented in Mexico following four years of survey efforts there. Therefore, based on the best available information, the Service concludes that future natural migration of wild wolves into the experimental population area is not possible.

Identification and Monitoring

Prior to placement in release pens, the adult-sized wolves will receive permanent identification marks and radio collars. If pups are born in the release pens, they will be marked and may receive surgically implanted transmitters prior to release. Some or all of these pups may be captured and fitted with radio collars when they reach adult size. Captured wild-born wolves will be given a permanent identification mark and radio collar, unless enough animals from their family group (to ensure adequate monitoring of the group) are already radio collared.

The Service and cooperating agencies will measure the success or failure of the releases by monitoring, researching, and evaluating the status of released wolves and their offspring. Using adaptive management principles, the Service and cooperating agencies will modify subsequent releases depending on what is learned from the initial releases. The agencies will prepare periodic progress reports, annual reports, and full evaluations after three and five years that will recommend continuation, modification, or termination of the reintroduction effort. The reports will also evaluate whether, and how, to use the back-up White Sands Wolf Recovery Area.

Findings Regarding Reintroduction

The Service finds that, under the Preferred Alternative, the reintroduced experimental population is likely to become established and survive in the wild within the Mexican gray wolf's probable historic range. The Service projects that this reintroduction will achieve the recovery goal of at least 100 wolves occupying 5,000 square miles. The Blue Range Wolf Recovery Area comprises 6,854 square miles of which about 95% is National Forest.

Some members of the experimental population are expected to die during the reintroduction efforts after removal from the captive population. The Service finds that even if the entire experimental population died, this would not appreciably reduce the prospects for future survival of the subspecies in the wild. That is, the captive population could produce more surplus wolves and future reintroductions still would be feasible if the reasons for the initial failure are understood. The individual Mexican wolves selected for release will be as genetically redundant with other members of the captive population as possible, thus minimizing any adverse effects on the genetic integrity of the remaining captive population. The Service has detailed lineage information on each captive Mexican wolf. The captive population is managed for the Service under the American Zoo and Aquarium Association's Species Survival Plan program. The Association maintains a studbook and provides an expert advisor for small population management.

Management of the demographic and genetic makeup of the population is guided by the SPARKS computer program. Mean kinship values, which range from zero to one, are a measure of the relatedness of an individual to the rest of the population. Wolves with higher kinship values are genetically well-represented in the population. Individuals whose mean kinship values are above the mean for the captive population as a whole will be used for release. In addition, the GENES computer program is used to examine the influence of removing an individual animal on the survival of the founders' genes. This management approach will adequately protect the genetic integrity of the captive population and thus the continued existence of the subspecies. The United States captive population of Mexican wolves has approximately doubled in the last 3 years, demonstrating the captive population's

reproductive potential to replace reintroduced wolves that die. In view of all these safeguards the Service finds that the reintroduced population would not be ''essential'' under 50 CFR 17.81(c)(2).

The Service finds that release of the experimental population will further the conservation of the subspecies and of the gray wolf species as a whole. Currently, no populations or individuals of the Mexican gray wolf subspecies are known to exist anywhere in the wild. No wild populations of the gray wolf species are known to exist in the United States south of Washington, Idaho, Wyoming, North Dakota, Minnesota, Wisconsin, and Michigan. Therefore, based on the best available information, the Service finds that the re-established population would be completely geographically separate from any extant wild populations or individual gray wolves and that future migration of wild Mexican wolves into the experimental population area is not possible. The Mexican wolf is the most southerly and the most genetically distinct of the North American gray wolf subspecies. It is the rarest gray wolf subspecies and has been given the highest recovery priority for gray wolves worldwide by the Wolf Specialist Group of the World Conservation Union (IUCN).

Releasing captive-raised Mexican wolves furthers the objective of the *Mexican Wolf Recovery Plan*. This reintroduction will establish a wild population of at least 100 Mexican wolves and reduce the potential negative effects of keeping them in captivity in perpetuity. If captive Mexican wolves are not reintroduced to the wild within a reasonable period of time, genetic, physical, or behavioral changes resulting from prolonged captivity could diminish their prospects for recovery.

Designation of the released wolves as nonessential experimental is considered necessary to obtain needed State, Tribal, local, and private cooperation. This designation also allows for management flexibility to mitigate negative impacts, such as livestock depredation. Without such flexibility, intentional illegal killing of wolves likely would harm the prospects for success.

Potential for Conflict With Federal and Other Activities.

As indicated, considerable management flexibility has been incorporated into the final experimental population rule to reduce potential conflicts between wolves and the activities of governmental agencies, livestock operators, hunters, and others. No major conflicts with current management of Federal, State, private, or Tribal lands are anticipated. Mexican wolves are not expected to be adversely affected by most of the current land uses in the designated wolf recovery areas. However, temporary restrictions on human activities may be imposed around release sites, active dens, and rendezvous sites.

Also, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (WS) division will discontinue use of M–44's and choking-type snares in ''occupied Mexican wolf range'' (see definition in section 17.84(k)(15)). Other predator control activities may be restricted or modified pursuant to a cooperative management agreement or a conference between the WS and the Service.

The Service and other authorized agencies may harass, take, remove, or translocate Mexican wolves under certain circumstances described in detail in this rule. Private citizens also are given broad authority to harass Mexican wolves for purposes of scaring them away from people, buildings, facilities, pets, and livestock. They may kill or injure them in defense of human life or when wolves are in the act of attacking their live stock (if certain conditions are met). In addition, ranchers can seek compensation from a private fund if depredation on their livestock occurs.

No formal consultation under section 7 of the Act would be required regarding potential impacts of land uses on nonessential experimental Mexican wolves. Any harm to wolves resulting solely from habitat modification caused by authorized uses of public lands that are not in violation of the temporary restriction provisions or other provisions regarding take or harassment would be a legal take under this rule. Any habitat modification occurring on private or tribal lands would not constitute illegal take. Based on evidence from other areas, the Service does not believe that wolf recovery requires major changes to currently authorized land uses. The main management goals are to protect wolves from disturbance during vulnerable periods, minimize illegal take, and remove individuals from the wild population that depredate livestock or otherwise cause significant problems.

The Service does not intend to change the ''nonessential experimental'' designation to ''essential experimental,'' ''threatened,'' or ''endangered'' and the Service does not intend to designate critical habitat for the Mexican wolf. Critical habitat cannot be designated under the nonessential experimental classification, 16 U.S.C. 1539(j)(2)(C)(ii). The Service foresees no likely situation which would result in such changes in the future.

Conflicts With State and Local Policies.

In 1994, Arizona adopted an anti-trapping initiative (amending ARS section 17–301), which makes the use of several wildlife capture devices illegal, including leg-hold traps. However, the law does not prohibit ''the use of snares, traps not designed to kill, or nets to take wildlife for scientific research projects, falconry, or for relocation of the wildlife as may be defined or regulated by the Arizona Game and Fish Commission and or the Government of the United States.'' The Service believes leg-hold traps are an essential tool for wolf management. Their use will be primarily for research and relocation purposes. Although the Service believes that its primary purpose for leg-hold trapping (wolf research and relocation) is included in the exception to the Arizona law under ''traps not designed to kill,'' provisions and purposes for the use of wolf capture devices specified in this final experimental population rule [see section 17.84 (k)(3)(ix)] would preempt State law to the extent it may conflict with Federal law.

Catron and Sierra counties in New Mexico have land use planning ordinances that call for equal authority with Federal agencies over decisions affecting Federal lands within these counties. Similar assertions are made by both Apache and Greenlee counties in Arizona in their Land and Resource Policies. The Service has not submitted this Federal proposal to county approval processes under their various planning ordinances, due to legal, budget, staff, and time considerations. Wolf reintroduction under the Preferred Alternative does not directly conflict with Catron and Sierra counties' ordinances that prohibit the release of wolves into those counties, because no wolves will be released in those counties. Nevertheless, releasing wolves in nearby counties with foreseeable dispersal into Catron and Sierra counties, as proposed here, does appear to conflict with the goals of these ordinances; and wolves may be translocated into these counties in the future. The Act, Mexican wolf experimental population rule, and other Federal authority would preempt any conflicting local ordinances.

Key Changes in Final Rule as a Result of Public Comment

The following key changes or clarifications were incorporated into the final rule based on comments received

on or related to the proposed rule, internal Service reviews, changes in Service policy, and the Service's experience with section (10)(j) rules for other nonessential experimental populations. These individual or cumulative changes do not more than marginally alter the projected overall impact of Mexican wolf reintroduction under the Preferred Alternative as set forth in the FEIS. Other minor additions and wording changes also have been made.

(1) The Blue Range Wolf Recovery Area is identified as the biologically and environmentally preferable area, to be used first, with the White Sands Wolf Recovery Area to be used only as the back-up area, if later determined to be both necessary and feasible.

(2) All conditional road closure and land use restriction language, except limited temporary closures around release pens, dens, and rendezvous sites has been removed.

(3) Detailed definitions of ''disturbance-causing land use activities,'' ''livestock,'' ''public land,'' and ''rendezvous site'' have been added. The definition for disturbance-causing land use activities specifically exempts certain activities from the temporary closure provision.

(4) The definition of ''secondary recovery zone'' was modified to clarify that, following the initial release of wolves in the primary recovery zone, wolves may be translocated and released in the secondary recovery zone for authorized management purposes.

(5) The harassment provision has been expanded to allow anyone to harass Mexican wolves to scare them away from people, buildings, facilities, livestock, other domestic animals, and pets anywhere in the Experimental Population Area. Also, the proposed rule provision that restricted public land grazing allottees from waiting for wolves in order to harass them has been deleted.

(6) Rule provisions have been reordered so that provisions authorizing or prohibiting take of Mexican wolves appear as subsections under section 17.84(k)(3).

(7) Hunting was deleted from the list of examples of human activities during which non-negligent and incidental killing or injuring of a Mexican wolf might be considered unavoidable and unintentional take. Military training and testing was added to that list.

(8) The provision that wolves may be captured and/or translocated when conflicting with a major land use was deleted. A provision that they may be captured and/or translocated when they endanger themselves by their presence in a military impact area was added.

(9) A provision was added to authorize the take of Mexican wolves by livestock guarding dogs when used in the traditional manner.

(10) Language was added to clarify the authority of the Service and designated agencies to use leg-hold traps and other effective devices to capture and control wolves according to approved management plans.

(11) A provision was added to allow for the capture, killing, and/or translocation of feral wolf-like animals, feral wolf hybrids, and feral dogs that exhibit evidence of hybridization, domestication, or socialization to humans.

(12) A provision was added that prohibits the disturbance of dead or injured wolves or wolf parts or the area around them unless instructed to do so by an authorized agent of the Service.

(13) We deleted the provision regarding revocation of the experimental status, and removal of the re-established wolves, if legal actions or lawsuits compel a change in the population's legal status to essential experimental, threatened, or endangered, or compel the designation of critical habitat within the Mexican Wolf Experimental Population Area.

(14) The provision for removing the nonessential experimental population from the wild if a naturally-occurring population of wild wolves is discovered within 90 days of the initial release was deleted.

(15) Language was added to clarify that packs whose established territories consist of portions of designated wolf recovery areas and portions of adjacent public lands will not be routinely captured and translocated.

(16) The definition of public lands was revised to exclude State-owned lands lying outside designated wolf recovery areas.

Summary of Public Participation

In June 1996, public open house meetings and formal public hearings were held in El Paso, Texas; Alamogordo and Silver City, New Mexico; and Springerville, Arizona. About 166 people attended these meetings and had an opportunity to speak with agency representatives and submit oral and written comments. Oral testimony was presented by 49 people at the hearings, and 150 people submitted written comments on the proposed rule. We received a petition supporting full endangered status for reintroduced Mexican wolves signed by 32 people; and a petition opposing the reintroduction of Mexican wolves signed by 91 people. In addition, many comments on the DEIS were specific to the draft proposed rule or related management considerations. These comments also were considered in this revision of the proposed rule.

Chapter 5 of the FEIS provides a summary of the many comments received on the DEIS and the Service's responses to those comments. Comments on the DEIS that specifically related to the draft proposed rule are reproduced and responded to below, along with the many additional comments received during the public comment period specific to the proposed rule. Many comments caused a language change from the proposed rule to the final rule.

Issues Raised in Public Comments, and Service Responses

Key issues raised in public comments on the proposed rule, and the Service's responses to them, follow. They are grouped by the following topic areas—(1) Legal status designation; (2) Recovery areas; (3) Mexican Wolf Experimental Population Area; (4) Prevention of wolf dispersal; (5) Allowable take and harassment of wolves; (6) Livestock depredation; (7) Depredation control; (8) Definitions; (9) Land use restrictions; and (10) Other issues.

1. Legal Status Designation

Comment: The Mexican wolf is not a valid subspecies and thus should not be the subject of an experimental population rule. In fact, the Service in the northern Rockies litigation has taken the position that there are no gray wolf subspecies.

Response: Experts on wolf taxonomy recognize the Mexican wolf (*Canis lupus baileyi*) as a distinct gray wolf subspecies. The Service agrees with these experts. Please refer to the discussion on Taxonomy in Chapter 1 of the FEIS.

Comment: Wolves should be released as experimental essential.

Response: The Service determined that the nonessential experimental classification fits the Mexican wolf's status. Only wolves surplus to the captive breeding program will be released. (See section herein on Findings Regarding Reintroduction, and FEIS Appendix D—section 7 Consultation on Proposed Action, section on Effects on Mexican Gray Wolf, regarding definition of ''surplus'' wolves and significance of their removal from the captive population.) Their loss would not jeopardize the continued survival of the subspecies. Further, the nonessential experimental classification

allows for management flexibility deemed vital to successful wolf recovery. Experimental essential status is neither required by section 10(j) of the Act nor the implementing regulations, and it has not been used in past reintroductions of captive-raised animals, such as the red wolf, black-footed ferret, and California condor.

Comment: No theory of population biology would allow the FWS to reach the conclusion that a population of only 136 wolves, including immature pups, has any biologically ''surplus'' adults.

Response: The Service disagrees. The number of wolves in captivity is adequate to support the proposed reintroduction, through the reintroduction of genetically surplus wolves, without significantly affecting the likelihood of survival of the population remaining in captivity. This is not the same as saying that the total captive or wild populations (or both combined) would constitute a minimum viable population under conservation biology principles. The goal of this reintroduction effort is to initiate the recovery of the subspecies. There is strong information from reintroduction efforts for other gray wolf populations, the red wolf, and other species that the nonessential designation is biologically appropriate to successfully initiate the recovery process.

Comment: Designation of the Mexican wolf as nonessential means that it is not endangered, therefore there is no reason to reintroduce it.

Response: The ''experimental nonessential'' terminology in section 10(j) of the Act is confusing. It does not mean that the animal is not near extinction and it does not mean the reintroduction is just an experiment. It is a classification designed to make the reintroduction and management of endangered species more flexible and responsive to public concerns to improve the likelihood of successfully recovering the species.

Comment: The experimental nonessential designation cannot legally be used because the reintroduced population would not be wholly separate geographically from nonexperimental populations of the same species.

Response: The Service disagrees; To date, despite numerous surveys, no evidence has been found that a naturally-occurring wild Mexican wolf population exists or will exist in the future in the United States.

Comment: The wolf should stay on the ''endangered'' list; there is potential confusion if experimental nonessential is used and wild wolves recolonize the same areas; further, the plan to relocate any wild wolves from Mexico that disperse into the experimental population area (outside the recovery areas) defeats the Act's goal of protecting such wild endangered animals.

Response: The best available information supports the Service's conclusion that no populations of or individual Mexican wolves exist anywhere in the wild. This justifies the reintroduction of nonessential experimental animals.

Comment: If wild Mexican wolves did naturally recolonize in areas where the Service proposes to reintroduce captive-raised animals, this should not be grounds for canceling the reintroduction; instead it should be considered a plus that would increase the chances of success of the reintroduction.

Response: See response to previous comment.

Comment: If wild wolves did naturally recolonize in the areas where reintroduced wolves were established, then a ''sunset clause'' should take effect that results in the termination of the status of the reintroduced population as ''nonessential experimental'' and results in all the wolves in the area having full-endangered status.

Response: The Service disagrees. Based on the best available information, we have determined that no wild population of or individual Mexican wolves exist in the recovery areas or anywhere else prior to reintroduction. The Service believes that it would be unwise to allow for an automatic status change of all wolves in the area from experimental to endangered if non-reintroduced wolves suddenly appeared, which the Service considers to be an impossibility.

Comment: The provision to look for a naturally-occurring wild wolf population for up to 90 days after initiation of the reintroduction does not seem to reconcile with the fact that they need to have been there at least for 2 years to qualify under the Service's definition of a ''population''.

Response: We agree and have deleted this provision.

Comment: The nonessential experimental status is not as flexible as the Service claims; the reintroduced wolves would still have to be considered in environmental analyses and planning for other projects in the designated recovery areas, at least as a ''sensitive'' species under ''cumulative impacts.'' Therefore, the presence of the wolves would affect future site specific, forest-wide, and region-wide decision making.

Response: The Service agrees that the presence of the wolves may have minor effects on future projects and plans in the wolf recovery areas; however, those effects would be reduced under nonessential experimental status as compared to under endangered status. The agencies involved would have more flexibility as far as addressing potential impacts on the wolves; and they would not have to conduct formal consultations under section 7 of the Act.

2. Recovery Areas

Comment: The Proposed Action in the DEIS emphasized using the Blue Range Wolf Recovery Area and/or the White Sands Wolf Recovery Area while the Proposed Experimental Population Rule emphasized both areas being used; why the difference?

Response: The draft ''Proposed Mexican Wolf Experimental Population Rule'' was written to cover the Proposed Action (in the DEIS) in its fullest application, that is, as if both areas were ultimately used. It should not be interpreted as a statement that both areas actually will be used. The Preferred Alternative (in the FEIS) chosen in the Record of Decision emphasizes initial use of the Blue Range Wolf Recovery Area, with possible later use of the White Sands Wolf Recovery Area only if determined to be both necessary and feasible. The final rule reflects this preference.

Comment: The areas are too large and will tie up too much land.

Response: The largest area, the Blue Range Wolf Recovery Area, is estimated to be an appropriate size to support a sustainable wolf population of 100 animals. The White Sands Wolf Recovery Area is too small to support a sustainable wolf population without active human management of the population. The designation of these areas carries no use restrictions with it that will ''tie up'' the land.

Comment: There is no evidence that these areas were part of the historic range of the *C.l. baileyi* subspecies.

Response: The Service disagrees. Chapter 1 of the FEIS includes a detailed discussion of Mexican wolf taxonomy and probable historic range. The latter takes in the two designated wolf recovery areas. Further, Chapter 3 in the FEIS discussion under ''Animals—History of Wolves'' for the two areas includes historical documentation of wolves.

Comment: The wolf recovery area boundaries are objectionable and the areas are too small; the plan to return dispersing wolves means that they will only be allowed to reinhabit a small fraction of historic wolf habitat in the

Southwest within the experimental population area. Several separated populations are needed to create a stable metapopulation. They should at least be allowed to disperse south to the Coronado National Forest area. Dispersal corridors between the Blue Range Wolf Recovery Area and the White Sands Wolf recovery Area should be provided for in the rule.

Response: The boundaries represent the areas most likely to successfully support wolf recovery, consisting predominately of public land that has rated high for wolf recovery attributes. This will be the first phase of Mexican wolf recovery; additional recovery areas will be needed in the future to achieve the goal of removing the Mexican wolf from the endangered species list. Such additional areas could be within the designated experimental population area or outside this area, including in Mexico if inter-governmental cooperation is achieved. No decisions have been made yet regarding future areas. The establishment of a dispersal corridor between the Blue Range Area and the White Sands Area does not appear feasible. One general criterion for dispersal corridors is that they be comprised of habitat that is suitable for the target species. No contiguous strip of suitable wolf habitat exists between these areas, which are separated by about 50 miles. It is conceivable that wolves could travel between these areas, but they would encounter considerable human activity and private property. In addition, they would have to cross Interstate Highway 25 and the Rio Grande in the vicinity of Elephant Butte and Caballo Reservoirs.

3. Mexican Wolf Experimental Population Area (MWEPA)

Comment: The Mexican Wolf Experimental Population Area (MWEPA) is about twice as large as needed to administer the rule. The western boundary should be moved further to the east and the eastern boundary further to the west.

Response: The Service disagrees. No naturally occurring populations of wolves exist in or anywhere near the MWEPA. The most likely natural recolonization areas have been excluded from the MWEPA (FEIS Alternative D). A smaller MWEPA might have the confusing potential of artificially creating ''endangered'' Mexican wolves (if their experimental status is unclear) by allowing re-established wolves to quickly disperse outside the MWEPA. The Service believes the proposed MWEPA provides necessary management flexibility.

Comment: Wolves found outside the MWEPA should not have full endangered status under the Act; there are no wild wolves left, therefore any wolves found in the Southwest, even if unmarked, most likely will have originated from the reintroduced population.

Response: Wolves found outside the MWEPA that can be identified as a member of the experimental population will retain their nonessential, experimental status for management purposes.

4. Prevention of Dispersal

Comment: It is not feasible to recapture and return wolves. Wolves will disperse to where they are categorized as endangered under the Act.

Response: The Service disagrees. In Minnesota and other areas, the Service and other agencies have many years of experience in capturing and translocating wolves. Wolves that leave the large Mexican wolf experimental population area could still be managed under this rule.

Comment: For wolves that establish territories on public lands outside the designated recovery areas, the management approach should not be automatic removal; instead, consultation should be entered into with the land managers, similar to that provided for private and tribal lands outside the designated recovery areas. If removal is necessary, the preference should be returning them to the recovery areas rather than to captivity. The plan should also allow for changes to the recovery areas boundaries.

Response: A limited and defined area is considered necessary to allow the wolf the highest degree of acceptance and recovery and to allow the Service and cooperating agencies to plan for wolf management. Allowing the recovery areas to expand out continually would defeat this purpose. However, if the Service determined it was necessary to survival and recovery of the reintroduced population, it is possible that after thorough evaluation the Service could recommend changes to the recovery area boundaries. These would have to be proposed as a revision to the final Mexican Wolf Experimental Population Rule and be subject to formal agency and public review under rulemaking procedures and the National Environmental Policy Act. Language has been added to the rule to clarify that members of wolf packs whose territories consist of public lands lying both within and outside designated recovery areas would not routinely be captured and translocated. On the issue of a preference to return captured wolves to the recovery areas, rather than captivity, the Service prefers this option for non-problem wolves. The Service does not think it is appropriate to write such a preference into the rule because many factors might enter into future case-by-case decision making on this issue.

5. Allowable Take and Harassment of Wolves

Comment: The level of legal protection is too low.

Response: The legal protections afforded Mexican wolves under this rule are considered adequate. Except for narrowly defined exceptions, killing of the wolves would be a violation of the Act, and of this rule, and would subject the offenders to severe penalties.

Comment: Wolves that eat livestock should not be killed, but removed from the area.

Response: Nonlethal control methods will be preferred and encouraged. Depredating wolves taken alive would generally be translocated to an area where they are less likely to depredate or put back into the captive population. Euthanasia is a last resort.

Comment: The Service is too willing to kill or move wolves that threaten livestock or leave the recovery areas.

Response: The Service disagrees. The management strategy of removing livestock-depredating wolves has proved successful for wolf recovery elsewhere, and the Service believes it is appropriate.

Comment: The provisions to kill and harass wolves for protection of humans and livestock will be abused; the numbers of breeding pairs required before this could be allowed is too low.

Response: The Service anticipates some level of abuse of provisions for taking wolves, but believes that extensive public education and information efforts, as well as strong law enforcement, will keep abuse levels low. The provisions on allowable take and harassment of wolves are narrowly drawn so that they are only to be used in ways that enhance wolf recovery, i.e., by removing depredating wolves and by conditioning wolves to generally avoid humans and livestock. On the question of the numbers of breeding pairs needed before allowing harassment or killing, there is no minimum number before nonlethal harassment is allowed. Nonlethal harassment can benefit wolf recovery by negatively conditioning wolves to humans and livestock. As far as the numbers before allowing private killing of livestock on public lands, under narrow conditions, the Service believes that six breeding pairs on the BRWRA represent substantial progress

toward recovery objectives. Information on progress toward these goals will be made available to the public. The number of wolves killed under this provision is expected to be very few, if any, and of minor consequence to the progress of wolf recovery once the prescribed number of pairs has been reached.

Comment: Harassing or killing wolves on public lands should not be allowed.

Response: Public lands are multiple use lands and the limited harassment and killing of wolves allowed is considered appropriate to protect other land uses and promote successful wolf recovery.

Comment: The allowance of unavoidable or unintentional take is too vague and unenforceable.

Response: The Service disagrees. Notice of general wolf locations will be publicized. Hunters (and others) who might shoot a wolf are responsible to identify their targets before shooting. Information and education efforts should minimize illegal take by shooting. Information on how to avoid unintentional trapping will be made available. The few trappers in these areas will be on notice that if they do trap a wolf it likely would not be considered ''unavoidable or unintentional.'' The other area of expected unintended killing of wolves is by collisions with vehicles and the Service sees little point in making the unintended hitting of a wolf by a vehicle illegal.

Comment: Prosecution for illegal killings of Mexican wolves should be mandatory, instead of the ''may'' be prosecuted language used in the proposed rule.

Response: Prosecutorial discretion is important for successful prosecutions. The Service is committed to vigorous enforcement in appropriate cases where evidence exists that illegal killing occurred.

Comment: The provision allowing take of wolves to defend human life is offensive because there has never been a documented case of wolves killing humans.

Response: The Service agrees there are no documented cases of wolves attacking and killing or severely injuring people in North America, but there have been a few instances of wolves attacking people, although not seriously injuring them. The point of the provision, which is consistent with the Act, is to make it quite clear that wolves may be killed if they attack humans, even though this is extremely unlikely to occur.

6. Livestock Depredation

Comment: Regarding the provisions allowing take of wolves that attack livestock: they are too broad, the time limit for the private permit should be drastically reduced from up to 45 days, and take should not be allowed unless depredation exceeds a certain percentage of the herd present, e.g., 1 or 2 percent. Also, the allowance for taking nuisance wolves and for using lethal methods are too vague.

Response: The Service believes the provisions are reasonable, can be administered with appropriate discretion, and will not impede wolf recovery. It would be very difficult to accurately monitor livestock depredation rates attributable exclusively to wolves. Protocols for various management measures, such as grounds and procedures for permit issuance for the taking of wolves and the use of lethal methods, will be spelled out in greater detail in the Service-approved management plan referenced in this rule.

Comment: Public lands ranchers will be put out of business by the unacceptably high level of livestock depredation, unless they are given more freedom to kill wolves. They should not be required to get a permit to control depredating wolves.

Response: The Service believes that some ranchers could be adversely affected in a given year but evidence from other areas where wolves and ranching co-exist does not support the idea that ranchers on these multiple-use public lands will be driven out of business without greater ability to kill wolves. The permit requirement will serve to reduce unauthorized killing of wolves and to reduce potential conflicts with other public land users, such as hikers and campers.

Comment: The private depredation compensation fund should be incorporated into the rule, with a backup provision that if private funding fails, then the Service will commit to continuing the fund.

Response: Absent additional legislation, the Service does not believe it would be appropriate to commit governmental funds to back up the private Defenders of Wildlife fund. The reintroduction is not contingent on the existence of the private fund, but experience with the fund in the Northern Rockies indicates it is reliable.

Comment: The proposed rule indicates it would be illegal for a livestock producer to ''wait for'' wolves for the purpose of scaring them away. This is counterproductive to the purpose of allowing harassment. If a livestock producer has reason to believe his stock have been attacked or harassed by wolves, it is only reasonable that he or she be vigilant for recurrence.

Response: The Service agrees, and the restriction on waiting for wolves in the case of harassment has been deleted.

Comment: The provision in the proposed rule allowing livestock owners and their agents to harass wolves in the immediate vicinity of ''people, buildings, facilities, [and] pets'' should also apply on public lands because several ranchers on public lands have line shacks and other facilities on public lands, where they may stay with their children, pets, and so on.

Response: The Service agrees and has expanded the harassment provision to apply everywhere within the Experimental Population Area.

Comment: Hunting dogs are as valuable as livestock and should be included as such in the rule for purposes of deciding whether wolves have depredated and whether compensation is due.

Response: The use of hunting dogs carries with it an accepted risk of attack by wild animals. We believe this is consistent with the philosophy of ''fair chase'' in the sport of hunting. We disagree that the killing or injuring of a hunting dog by a wolf in the wild should be cause for controlling wolves. The Defenders of Wildlife has sole discretion to determine which acts of depredation are compensable.

7. Depredation Control

Comment: The Arizona anti-trapping law means that traps could not be used to control wolves.

Response: The Service believes leg-hold traps are an essential tool for wolf management. We have included specific provisions for their use in this rule which we believe comply with the exception language in the Arizona law which allows non-lethal trapping for scientific and research purposes. To the extent wolf trapping provisions in this rule conflict with the State law (if they conflict at all), this rule would preempt the State trapping ban.

Comment: M–44's and choking snares should be restricted over a much larger area than called for in the rule; the proposed section (j)(3)(vii), basically limits the restriction to a 5 miles radius buffer around known locations of the wolves, which is inadequate to protect them in view of their ability to travel rapidly.

Response: The Service is preparing a Biological Opinion (under provisions of section 7 of the Act) on the potential effects of the WS program on Mexican wolves. We believe this biological

opinion combined with special provisions in this rule will adequately protect the Mexican wolf. If unacceptable levels of take occur, the Biological Opinion or the rule, or both, would be revised.

Comment: Coyote control will be adversely impacted in areas where the restriction on M–44's and choking-type neck snares is imposed. At the most, this should be limited to the primary recovery zone.

Response: Selective lethal control of coyotes by traps, calling and shooting, and aerial shooting, as well as a variety of nonlethal techniques are allowed under this rule. Field research and observations suggest that coyote populations may be reduced by inter-specific aggression in areas occupied by wolves.

Comment: The inability to use helicopters in designated federal wilderness areas means that a key tool for depredation control will not be available.

Response: Existing restrictions on the use of helicopters in wilderness areas are not affected or changed by this rule. The Service believes that adequate depredation control can be accomplished in wilderness areas. However, we recognize that depredation control in wilderness areas may be less efficient and effective than in non-wilderness areas.

Comment: It will be very difficult in the huge southwestern ranges to find depredated livestock and to determine whether a decomposed carcass represents a wolf depredation; therefore, the depredation control efforts and compensation fund won't work.

Response: The Service acknowledges that some livestock killed by wolves may not be discovered in time to determine the cause of death; and that ranchers may not be compensated for these losses.

8. Definitions

Comment: The lack of a definition of ''problem wolves'' gives too much management flexibility. ''Harass'' must be more clearly defined. ''Rendezvous sites'' needs definition.

Response: With the addition of a definition of ''rendezvous site'', all these terms are defined in the final rule. The Service believes management flexibility is positive. Additional refinement of the definition of ''problem wolves'' could occur under the Service-approved interagency management plan that would be developed under the final rule.

Comment: Better definitions are needed of how wolves impact game populations and how wolves would conflict with a major land use. The former definition amounts to a subtle attempt by the Service to take over the State management of game populations.

Response: The definition in the rule of ''impact on game populations in ways which may further inhibit wolf recovery'' is considered adequate and was developed in cooperation with State game management agencies. It is not a mechanism to dictate State game management, rather, it defines when wolves may be moved to lessen wolf impacts on State-managed game herds. There was no definition of when a wolf is ''conflicting with a major land use'' and the Service has decided to drop that provision from the Preferred Alternative and this rule. It is vague and adequate management flexibility exists under other rule provisions.

Comment: The definition of ''disturbance-causing land use activity'' should specifically exclude the use of lands within the national park or national wildlife refuge systems as safety buffer zones for weapons or missile tests or training.

Response: The Service agrees and the definition of this term has been revised to reflect this.

Comment: The definition of ''engaged in the act of killing, wounding, or biting livestock'' should be changed so that observing a wolf feeding on a livestock carcass would justify the assumption that the wolf had actually attacked and killed the animal, unless the carcass was obviously decomposed, so that the livestock owner could shoot the wolf.

Response: The Service disagrees. Many livestock animals, especially calves, die from other causes. Observing a wolf feeding on a carcass is not an adequate reason to kill the wolf, but it would be a basis to harass the wolf. If subsequent investigation of the carcass showed that the wolf did in fact kill the carcass, then a depredation control effort would be initiated and the rancher likely would be entitled to compensation.

9. Land Use Restrictions

Comment: The land use restrictions are inadequate to protect the wolves.

Response: Land use restrictions have proven almost entirely unnecessary in other areas where wolf recovery is occurring. Such restrictions are counterproductive unless they are clearly needed.

Comment: To avoid conflicts, back roads should be closed in the areas regardless of illegal wolf killing.

Response: This would create unnecessary bad will toward the wolf without adding a conservation benefit. The Service has deleted the back-country road closure provision.

Comment: A radius of more than 1 mile should be used for public access restrictions around release pens, dens, and rendezvous sites—2 to 4 miles; the radius should be on a case-by-case basis and not specified in the rule.

Response: No basis for a larger restricted area is evident now. If such a change proved necessary, the Service could propose to amend the experimental population rule to increase the radius.

Comment: The so-called limited closures are in fact not minor and will virtually shut down the denning and vaguely defined rendezvous areas to human use, such as logging for many months, at least for April through October. This, together with possible back country road closures, could devastate the already threatened Southwest timber industry. Also, the closures around dens, etc., could result in road closures.

Response: The Service believes that proposed closures or use restrictions would be minor. They would be implemented only if deemed to be necessary to protect Mexican wolves from harm; no closure would exceed an area of about 3 square miles (4.8 km^2) or a circle with a 1 mile (1.6 km^2) radius which is about 2,000 acres (810 ha); no closure would be in effect for more than 4 months, except possibly those around release pens; and release pen closures would only be necessary in the primary recovery zones when releases are actually being made. Only one active den site or one active rendezvous site would exist at any given time (except for a possible overlap of 1–2 weeks) in each active pack territory. Pack territories are expected to include about 250 square miles (96.5 km^2). Therefore, on average, no more than 3–6 square miles (7.8–15.5 km^2) of every 250 square miles (96.6 km^2) or 1.2–2.4 percent of the total public land area could be closed or restricted at any time. Furthermore, no closures or use restrictions would be imposed on private or tribal lands without the consent of the owner or tribal government. Nevertheless, the level of concern expressed regarding this provision has caused the Service to define ''disturbance-causing land use activities'' in the final rule. The new definition specifically exempts certain land use activities from the closure provision. In addition, the Service has eliminated the ''back-country road'' closure provision because it is not clear that it would be effective in addressing the problem of illegal killing. Instead,

more emphasis will be placed on public education and law enforcement.

Comment: The access restrictions around pens, dens, and rendezvous sites should be implemented in a way that does not attract undue, potentially destructive, and counterproductive attention to them.

Response: We agree and will consider this view when determining the need for restrictions.

Comment: The road, den, and rendezvous site access closures would prevent Phelps Dodge Company from accessing wells and equipment on the Upper Eagle Creek and prevent other legitimate access to, and uses of, private property in the Blue Range Wolf Recovery Area.

Response: The road closure provision has been deleted. Closures around den and rendezvous sites would be flexible and on an as-needed basis. These would not occur in such a way as to prevent access to private property or to authorized use locations on public property. See response to the two previous comments.

Comment: The provision in the rule that no land use restrictions would be imposed to protect the wolves is negated by the citizen suit provision of the Act, which will be used by pro-wolf groups to impose such restrictions.

Response: The Service disagrees that the citizen suit provision of the Act could successfully impose land use restrictions, as long as the nonessential experimental designation is not declared invalid. This has not occurred in litigation against other section 10(j) rules.

10. Other Issues

Comment: Drivers on public highways should be excused from accidental hitting of wolves, but off-road drivers in wolf habitat should not be excused.

Response: It is hard to conceive that an off-road vehicle could be moving fast enough to hit a wolf by accident or on purpose before the wolf could move out of the way. If this proves to be a problem, which the Service does not expect, the rule could be revised.

Comment: Military training and testing should be added to paragraph (j)(3)(i) as examples of legal activities. Also, in paragraph (3)(ii), military testing and training should be added as examples of authorized agency actions.

Response: The suggested additions have been made.

Comment: The statement in section (j)(9) of the proposed rule that the Service would terminate the reintroductions if a court ordered the Service to change the designation from nonessential experimental to a higher degree of protection is illegal and has another major flaw. If the court required the Service to proceed with the changed status then the Service would have to proceed regardless of that statement.

Response: This provision has been deleted.

Comment: Management of the reintroduced wolves would be better left to local authorities, who would provide more realistic and workable solutions. The rule should provide for implementation of the reintroductions by local governments and much more autonomy at the local level for deciding how to do the reintroductions, the criteria for continuing with them, and law enforcement. The Service should cooperate on implementation of the rule with State fish and wildlife agencies, which should have substantial responsibility for the effort.

Response: The Service is legally responsible under the Act for recovering endangered species. We encourage non-Federal agencies with established wildlife management authority (such as State or Tribal wildlife management departments) to develop and implement Mexican wolf management plans in cooperation with the Service. These plans must promote wolf recovery and must be approved by the Service. We will develop a process for interacting with local governments and other stakeholders before wolves are released.

Comment: No agreements should be made with any State or local agencies which would bind the FWS regarding the terms of the reintroduction.

Response: Because of our legal responsibilities under the Act, the Service must insure that agreements with other agencies will promote recovery of the Mexican wolf.

Comment: A more open process is needed to involve the public in how the actual reintroduction effort will proceed. The rule should have more clear provisions for public involvement and information availability.

Response: The Service is exploring additional avenues of communication and interaction with the public in the implementation of Mexican wolf reintroduction. A process for public interaction will be in place before wolves are released. We believe that this rule is not the appropriate place to provide details of a public interaction process.

Comment: The provisions requiring 24-hour notice to the Service if a wolf is taken need to be clearer about when the period begins and who and how to contact to meet the requirement. Also, the Service must commit to being available to be contacted.

Response: We will provide information in a variety of ways to residents and users of wolf recovery areas on how to comply with reporting requirements in the rule. A way to notify a Service representative will be provided.

Comment: The Service has failed to consult with affected landowners and agencies and to seek agreement on the Mexican Wolf Experimental Population Rule.

Response: The Service has consulted with affected agencies and with interested landowners and members of the public (see previous discussion regarding participation in the proposed rule public comment process). The DEIS review process provided substantial opportunity for review of and consultation on the draft proposed rule. More focussed meetings, hearings, and consultations occurred upon official publication of the proposed rule (61 FR 19237). Several changes have been made to the final rule based on our agreement with comments received on the proposed rule. Given the hundreds of private landowners and other entities involved, no overall agreement on all the terms of the rule among all affected interests was feasible.

Comment: The proposed rule process has been flawed because it was issued before the Final EIS was issued and before the Record of Decision was issued. Without these steps, the public has had inadequate information upon which to make meaningful comments.

Response: We believe that the sequencing of the DEIS, proposed rule, FEIS, ROD, and final rule is legal and proper. Further, we believe that the public's opportunity to review and comment on the proposed rule has exceeded the legal requirement. The draft proposed rule was an important component of the Proposed Action in the DEIS. A draft of the proposed rule appeared in Appendix C of the DEIS. Fourteen public meetings and three hearings were held on the DEIS. The public had 126 days to comment on the DEIS. The proposed rule was then published separately in the **Federal Register** (61 FR 19237) with a 61-day comment period, and four public hearings were held. All comments addressing provisions of the draft proposed rule in the DEIS or the proposed rule in the **Federal Register** (61 FR 19237) were reviewed and considered in this final rule. It would be improper to issue the final rule before the FEIS because the final rule must be consistent with the Record of Decision (ROD), and the ROD must, by law, follow the FEIS by at least 30 days.

Effective Date Justification

The 30 day delay between publication of this final rule and its effective date as provided by the Administrative Procedure Act (5 U.SC. 533 (d) (3)) has been reduced. This is to allow for the timely transfer of suitable release candidates to soft release pens for acclimation purposes. The following biological considerations necessitate this approach. The approved reintroduction of captive wolves initially requires transfer from captive facilities to soft-release pens in the recovery area and an acclimation period of several weeks at the release site prior to actual release to the wild. Wolf experts have recommended that the reintroduction process begin in January due to the reproductive cycle of the Mexican wolf, thereby allowing sufficient time for wolves to become accustomed to their surroundings prior to release and thus easing their transition to the wild environment. Wolves typically breed from late January through early March. In order not to disrupt breeding, wolves need to be moved to the soft release pens as soon as possible. Wolf experts involved in previous wolf releases agree that the wolves should spend about 2 months in the release pens prior to actual release. Wolves typically give birth from early April to early May. The plan is to release the Mexican wolves about 30 days before they have pups to allow sufficient time for the adult wolves to find a suitable den location and excavate a den. Therefore, Mexican wolves must be moved to the soft release pens in late January and begin their 2-month acclimation period so that they can be released around mid to late March. This soft release protocol was developed in previous wolf releases and has been successful.

A draft proposed rule was made available for public review and comment as part of the draft EIS for the Mexican wolf reintroduction proposal. A proposed rule was later issued for additional public review and comment. Opportunity for public discussion and debate of rule provisions was provided at 18 public meetings and hearings throughout potentially affected areas. The rule making process has been responsive to extensive input received from public agencies and further review is unlikely to reveal new substantive issues. Because of the biological conditions described above and the extensive public review of the proposed rule, EIS, and Record of Decision for this action, Mexican wolf reintroduction should begin as soon as possible after the publication of this rule. Therefore, due to biological considerations and the extensive public review process already conducted, good cause exists for this rule to be effective 14 days after publication.

National Environmental Policy Act

A FEIS on reintroduction of the Mexican wolf in the southwestern United States has been prepared and is available to the public (see **ADDRESSES** section). The FEIS should be referred to for analysis of the Preferred Alternative chosen in the Record of Decision. Also, the FEIS contains a complete list of references for the background information provided here.

Required Determinations

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866. The rule will not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This final rule classifies Mexican wolves to be re-established as a nonessential experimental population under section 10(j) of the Act. This rule sets forth management directions and provides for limited allowable legal take of wolves within a defined Mexican Wolf Experimental Population Area. The rule will not significantly change costs to industry or governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. No direct costs, information collection, or record keeping requirements are imposed on small entities by this action. This final rule is not a major rule as defined by 5 U.S.C. 804(2).

This final rule contains collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* The Service has already requested emergency authorization for this from the Office of Management and Budget (OMB). No information will be collected for this action until OMB authorization is provided.

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

Takings implications of this final rule have been reviewed under Executive Order 12630, the Attorney General Guidelines, Department Guidelines, and the Attorney General Supplemental Guidelines. One issue of concern is the depredation of livestock by reintroduced wolves; but, such depredation by a wild animal would not be a ''taking'' under the 5th Amendment. One of the reasons for the experimental nonessential designation is to allow the agency and private entities flexibility in managing the wolves, including the elimination of a wolf when there is a confirmed kill of livestock.

The Service has determined that this final rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

This rule has been reviewed under Executive Order 12612 to determine federalism considerations in policy formulation and implementation. Some counties in the vicinity of the wolf reintroduction area have enacted ordinances specifically prohibiting the introduction of the wolf (among other species) within county boundaries. However, the United States Congress has given the Secretary of the Interior explicit statutory authority, in section 10(j) of the Act, to promulgate this rule, and under the Supremacy Clause of the United States Constitution, this has the effect of preempting State regulation of wildlife to the extent in conflict with this rule. Nevertheless, the Service has endeavored to cooperate with State wildlife agencies and County and Tribal governments in the preparation of this rule.

Author

The primary author of this document is Mr. David R. Parsons (see **ADDRESSES** section, above).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.11(h), revise the table entry for ''Wolf, gray'' under MAMMALS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals							
*	*	* * *	*		*		*
Wolf, gray	*Canis lupus*	Holarctic	U.S.A., conterminous (lower 48) States, except MN and where listed as an experimental population; Mexico.	E	1, 6, 13, 35, 561, 562.	17.95(a)	NA
Do	...do	...do	U.S.A. (MN)	T	35	17.95(a)	17.40(d)
Do	...do	...do	U.S.A. (WY and portions of ID and MT—see 17.84(i)).	XN	561, 562	NA	17.84(i)
Do	...do	...do	U.S.A. (portions of AZ, NM, and TX—see 17.84(k)).	XN		NA	17.84(k)

3. The Service amends § 17.84 by adding paragraph (k) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(k) Mexican gray wolf (*Canis lupus baileyi*).

(1) The Mexican gray wolf (Mexican wolf) populations reestablished in the Blue Range Wolf Recovery Area and in the White Sands Wolf Recovery Area, if used, within the Mexican Wolf Experimental Population Area, identified in paragraph (k)(9) of this section, are one nonessential experimental population. This nonessential experimental population will be managed according to the following provisions.

(2) Based on the best available information, the Service finds that reintroduction of an experimental population of Mexican wolves into the subspecies' probable historic range will further the conservation of the Mexican wolf subspecies and of the gray wolf species; that the experimental population is not ''essential,'' under 50 CFR 17.81(c)(2); that the experimental population is wholly separate geographically from any other wild gray wolf population or individual wild gray wolves; that no wild Mexican wolves are known to exist in the experimental population area or anywhere else; and that future migration of wild Mexican wolves into the experimental population area is not possible.

(3) No person, agency, or organization may ''take'' [see definition in paragraph (k)(15) of this section] any wolf in the wild within the Mexican Wolf Experimental Population Area, except as provided in this rule. The Service may investigate each take of a Mexican wolf and may refer the take of a wolf contrary to this rule to the appropriate authorities for prosecution.

(i) Throughout the Mexican Wolf Experimental Population Area, you will not be in violation of the Act or this rule for ''unavoidable and unintentional take'' [see definition in paragraph (k)(15) of this section] of a wolf. Such take must be non-negligent and incidental to a legal activity, such as military training and testing, trapping, driving, or recreational activities. You must report the take within 24 hours to the Service's Mexican Wolf Recovery Coordinator or to a designated representative of the Service.

(ii) Throughout the Mexican Wolf Experimental Population Area, you may ''harass'' [see definition in paragraph (k)(15) of this section] wolves that are within 500 yards of people, buildings, facilities, pets, ''livestock'' [see definition in paragraph (k)(15) of this section], or other domestic animals in an opportunistic, noninjurious manner [see definition of ''opportunistic, noninjurious harassment'' in paragraph (k)(15) of this section] at any time—provided that wolves cannot be purposely attracted, tracked, searched out, or chased and then harassed. You must report harassment of wolves within 7 days to the Service's Mexican Wolf Recovery Coordinator or to a designated representative of the Service.

(iii) Throughout the Mexican Wolf Experimental Population Area, excluding areas within the national park system and national wildlife refuge system, no Federal agency or their contractors will be in violation of the Act or this rule for unavoidable or unintentional take of a wolf resulting from any action authorized by that Federal agency or by the Service, including, but not limited to, military training and testing. This provision does not exempt agencies and their contractors from complying with sections 7(a)(1) and 7(a)(4) of the Act, the latter of which requires a conference with the Service if they propose an action that is likely to jeopardize the continued existence of the Mexican wolf.

(iv) In areas within the national park system and national wildlife refuge system, Federal agencies must treat Mexican wolves as a threatened species for purposes of complying with section 7 of the Act.

(v) On private land anywhere within the Mexican Wolf Experimental Population Area, livestock owners or their agents may take (including kill or injure) any wolf actually ''engaged in the act of killing, wounding, or biting livestock'' [see definition in paragraph (k)(15) of this section]; provided that evidence of livestock freshly wounded or killed by wolves is present; and further provided that the take is reported to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service within 24 hours.

(vi) On tribal reservation land anywhere within the Mexican Wolf Experimental Population Area, livestock owners or their agents may take (including kill or injure) any wolf actually engaged in the act of killing, wounding, or biting livestock; provided that evidence of livestock freshly wounded or killed by wolves is present; and further provided that the take is reported to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service within 24 hours.

(vii) On ''public lands'' [see definition in paragraph (k)(15) of this section] allotted for grazing anywhere within the Mexican Wolf Experimental Population Area, including within the designated ''wolf recovery areas'' [see definition in paragraph (k)(15) of this section], livestock owners or their agents may be issued a permit under the Act to take wolves actually engaged in the act of killing, wounding, or biting ''livestock'' [see definition in paragraph (k)(15) of this section]. Before such a permit is issued, the following conditions must be met—livestock must be legally present on the grazing allotment; six or more ''breeding pairs'' [see definition in paragraph (k)(15) of this section] of Mexican wolves must be present in the Blue Range Wolf Recovery Area; previous loss or injury of livestock on the grazing allotment, caused by wolves, must be documented by the Service or our authorized agent; and agency efforts to resolve the problem must be completed. Permits issued under this provision will be valid for 45 days or less and will specify the maximum number of wolves you are allowed to take. If you take a wolf under this provision, evidence of livestock freshly wounded or killed by wolves must be present. You must report the take to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service within 24 hours.

(viii) Throughout the Mexican Wolf Experimental Population Area, take of Mexican wolves by livestock guarding dogs, when used in the traditional manner to protect livestock on public, tribal, and private lands, is permitted. If you become aware that such take by your guard dog has occurred, you must report the take to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service within 24 hours.

(ix) Personnel authorized by the Service may take any Mexican wolf in the nonessential experimental population in a manner consistent with a Service-approved management plan, special management measure, or a valid permit issued by the Service under § 17.32. This may include, but is not limited to, capture and translocation of wolves that—prey on livestock; attack pets or domestic animals other than livestock on private or tribal land; ''impact game populations in ways which may inhibit further wolf recovery'' [see definition in paragraph (k)(15) of this section]; prey on members of the desert bighorn sheep herd found on the White Sands Missile Range and San Andres National Wildlife Refuge so long as the State of New Mexico lists it as a species to be protected; are considered ''problem wolves'' [see definition in paragraph (k)(15) of this section]; are a nuisance; endanger themselves by their presence in a military impact area; need aid or veterinary care; or are necessary for authorized scientific, research, or management purposes. Lethal methods of take may be used when reasonable attempts to capture wolves alive fail and when the Service determines that immediate removal of a particular wolf or wolves from the wild is necessary. Authorized personnel may use leg-hold traps and any other effective device or method for capturing or controlling wolves to carry out any measure that is a part of a Service-approved management plan, notwithstanding any conflicts in State or local law. The disposition of all wolves (live or dead) or their parts taken as part of a Service-authorized management activity must follow provisions in Service-approved management plans or interagency agreements or procedures approved by the Service on a case-by-case basis.

(x) As determined by the Service to be appropriate, the Service or any agent so authorized by the Service may capture, kill, subject to genetic testing, place in captivity, euthanize, or return to the wild (if found to be a pure Mexican wolf) any feral wolf-like animal, feral wolf hybrid, or feral dog found within the Mexican Wolf Experimental Population Area that shows physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes; being an animal raised in captivity, other than as part of a Service-approved wolf recovery program; or being socialized or habituated to humans.

(xi) The United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (WS) division will discontinue use of M–44's and choking-type snares in ''occupied Mexican wolf range'' [see definition in paragraph (k)(15) of this section]. The WS division may restrict or modify other predator control activities pursuant to a cooperative management agreement or a conference between the Service and the WS division.

(xii) You may harass or take a Mexican wolf in self defense or defense of the lives of others, provided that you report the harassment or take within 24 hours to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service. If the Service or an authorized agency determines that a wolf presents a threat to human life or safety, the Service or the authorized agency may kill it, capture and euthanize it, or place it in captivity.

(xiii) Intentional taking of any wolf in the Mexican Wolf Experimental Population Area, except as described above, is prohibited. The Service encourages those authorized to take wolves to use nonlethal means when practicable and appropriate.

(4) You must not possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any wolf or wolf part from the experimental population except as authorized in this rule or by a valid permit issued by the Service under § 17.32. If you kill or injure a wolf or find a dead or injured wolf or wolf parts, you must not disturb them (unless instructed to do so by an authorized agent of the Service), you must minimize your disturbance of the area around them, and you must report the incident to the Service's Mexican Wolf Recovery Coordinator or a designated representative of the Service within 24 hours.

(5) You must not attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this rule.

(6) No land use restrictions will be imposed on private lands for Mexican wolf recovery without the concurrence of the landowner.

(7) No land use restrictions will be imposed on tribal reservation lands for Mexican wolf recovery without the concurrence of the tribal government.

(8) On public lands, the Service and cooperating agencies may temporarily restrict human access and ''disturbance-causing land use activities'' [see definition in paragraph (k)(15) of this section] within a 1-mile radius around release pens when wolves are in them, around active dens between March 1 and June 30, and around active wolf ''rendezvous sites'' [see definition in paragraph 17.84(k)(15) of this section] between June 1 and September 30, as necessary.

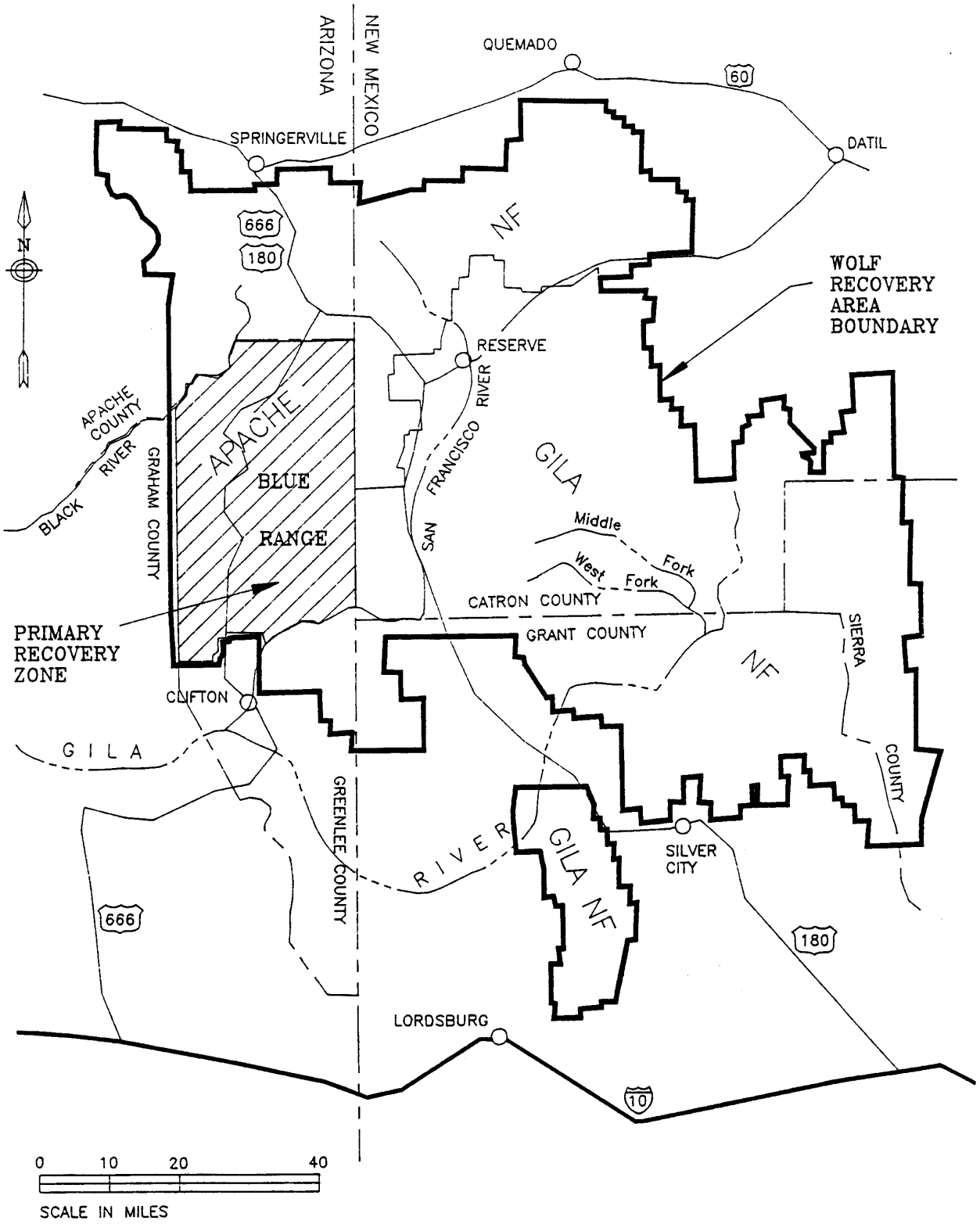
(9) The two designated wolf recovery areas and the experimental population area for Mexican wolves classified as a nonessential experimental population by this rule are described in the following subsections. Both designated wolf recovery areas are within the subspecies' probable historic range and are wholly separate geographically from the current range of any known Mexican wolves or other gray wolves..

(i) The Blue Range Wolf Recovery Area includes all of the Apache National Forest and all of the Gila National Forest in east-central Arizona and west-central New Mexico (Figure 1). Initial releases of captive-raised Mexican wolves will take place,

generally as described in our Preferred Alternative in the FEIS on Mexican wolf reintroduction, within the Blue Range Wolf Recovery Area ''primary recovery zone'' [see definition in paragraph (k)(15) of this section]. This is the area within the Apache National Forest bounded on the north by the Apache-Greenlee County line; on the east by the Arizona-New Mexico state line; on the south by the San Francisco River (eastern half) and the southern boundary of the Apache National Forest (western half); and on the west by the Greenlee-Graham County line (San Carlos Apache Reservation boundary). The Service will allow the wolf population to expand into the Blue Range Wolf Recovery Area ''secondary recovery zone'' [see definition in paragraph (k)(15) of this section], which is the remainder of the Blue Range Wolf Recovery Area not in the primary recovery zone.

BILLING CODE 4310–55–P

Fig. 1: Blue Range Wolf Recovery Area

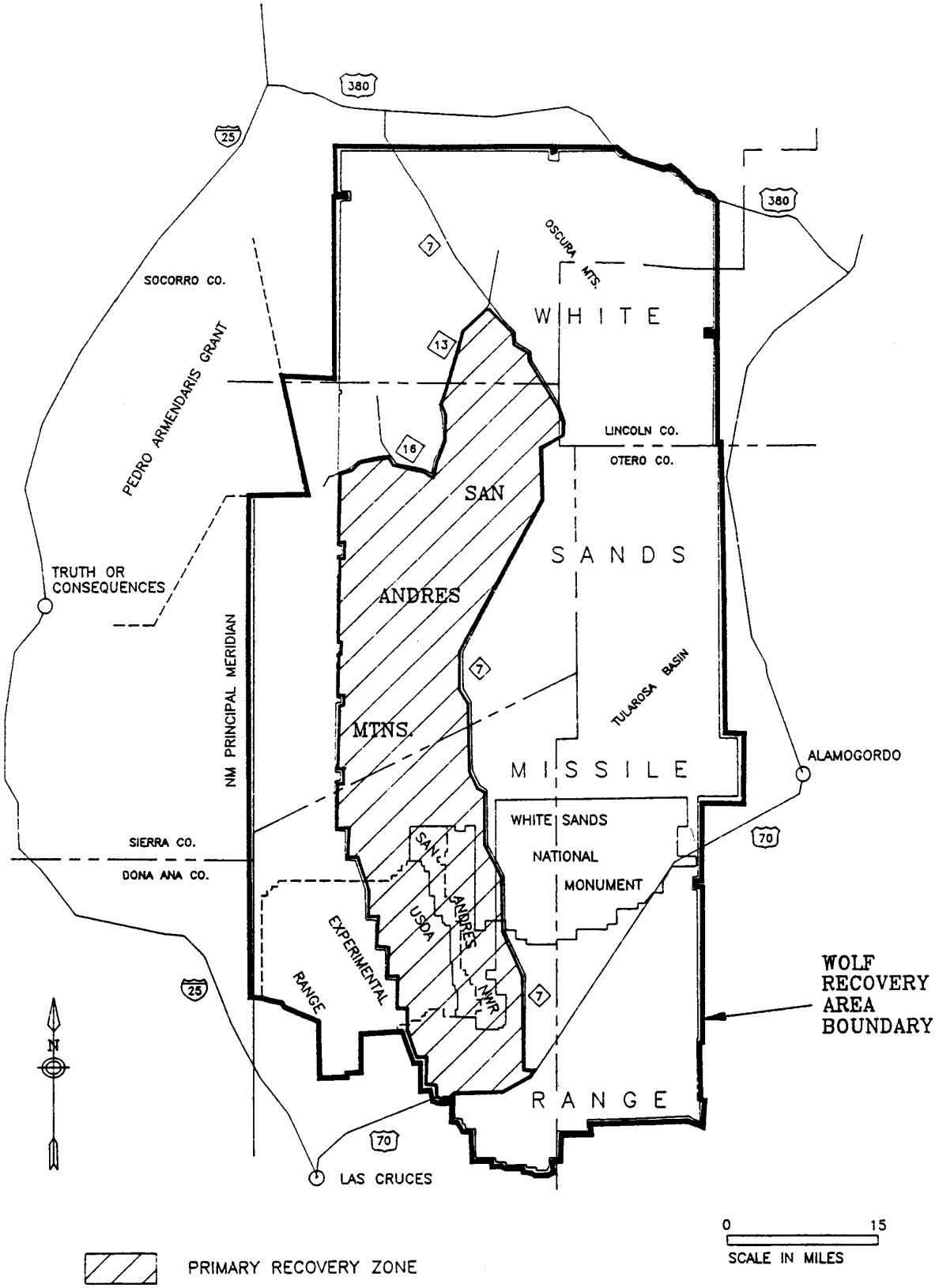


BILLING CODE 4310–55–C

(ii) The White Sands Wolf Recovery Area in south-central New Mexico includes all of the White Sands Missile Range; the White Sands National Monument; the San Andres National Wildlife Refuge; and the area adjacent and to the west of the Missile Range bounded on the south by the southerly boundary of the USDA Jornada Experimental Range and the northern boundary of the New Mexico State University Animal Science Ranch, on the west by the New Mexico Principal Meridian, on the north by the Pedro Armendaris Grant boundary and the Sierra-Socorro County line, and on the east by the western boundary of the Missile Range (Figure 2). This is the back-up reintroduction area, to be used only if later determined to be both necessary and feasible in accordance with the Preferred Alternative as set forth in the FEIS on Mexican wolf reintroduction. If this area is used, initial releases of captive-raised wolves would take place within the White Sands Wolf Recovery Area primary recovery zone. This is the area within the White Sands Missile Range bounded on the north by the road from the former Cain Ranch Head quarters to Range Road 16, Range Road 16 to its intersection with Range Road 13, Range Road 13 to its intersection with Range Road 7; on the east by Range Road 7; on the south by Highway 70; and on the west by the Missile Range boundary. The Service would allow the wolf population to expand into the White Sands Wolf Recovery Area secondary recovery zone, which is the remainder of the White Sands Wolf Recovery Area not in the primary recovery zone.

BILLING CODE 4310–55–P

Fig. 2: White Sands Wolf Recovery Area



BILLING CODE 4310–55–C

(iii) The boundaries of the Mexican Wolf Experimental Population Area are the portion of Arizona lying north of Interstate Highway 10 and south of Interstate Highway 40; the portion of New Mexico lying north of Interstate Highway 10 in the west, north of the New Mexico-Texas boundary in the east, and south of Interstate Highway 40; and the portion of Texas lying north of United States Highway 62/180 and south of the Texas-New Mexico boundary (Figure 3). The Service is not proposing wolf reestablishment throughout this area, but only within the Blue Range Wolf Recovery Area, and possibly later in the White Sands Wolf Recovery Area, respectively described in paragraphs (k)(9) (i) and (ii) of this section. If a member of the nonessential experimental population is captured inside the Mexican Wolf Experimental Population Area, but outside the designated wolf recovery areas, it will be re-released within the recovery area, put into the captive population, or otherwise managed according to provisions of a Service-approved management plan or action. If a wolf is found in the United States outside the boundaries of the Mexican Wolf Experimental Population Area (and not within any other wolf experimental population area) the Service will presume it to be of wild origin with full endangered status (or threatened in Minnesota) under the Act, unless evidence, such as a radio collar, identification mark, or physical or behavioral traits (see paragraph (k)(3)(x) of this section), establishes otherwise. If such evidence exists, the Service or an authorized agency will attempt to promptly capture the wolf and re-release it within the recovery area, put it into the captive population, or carry out any other management measure authorized by this rule or a Service-approved management plan. Such a wolf is otherwise not subject to this rule outside the designated Mexican Wolf Experimental Population Area.

BILLING CODE 4310–55–P

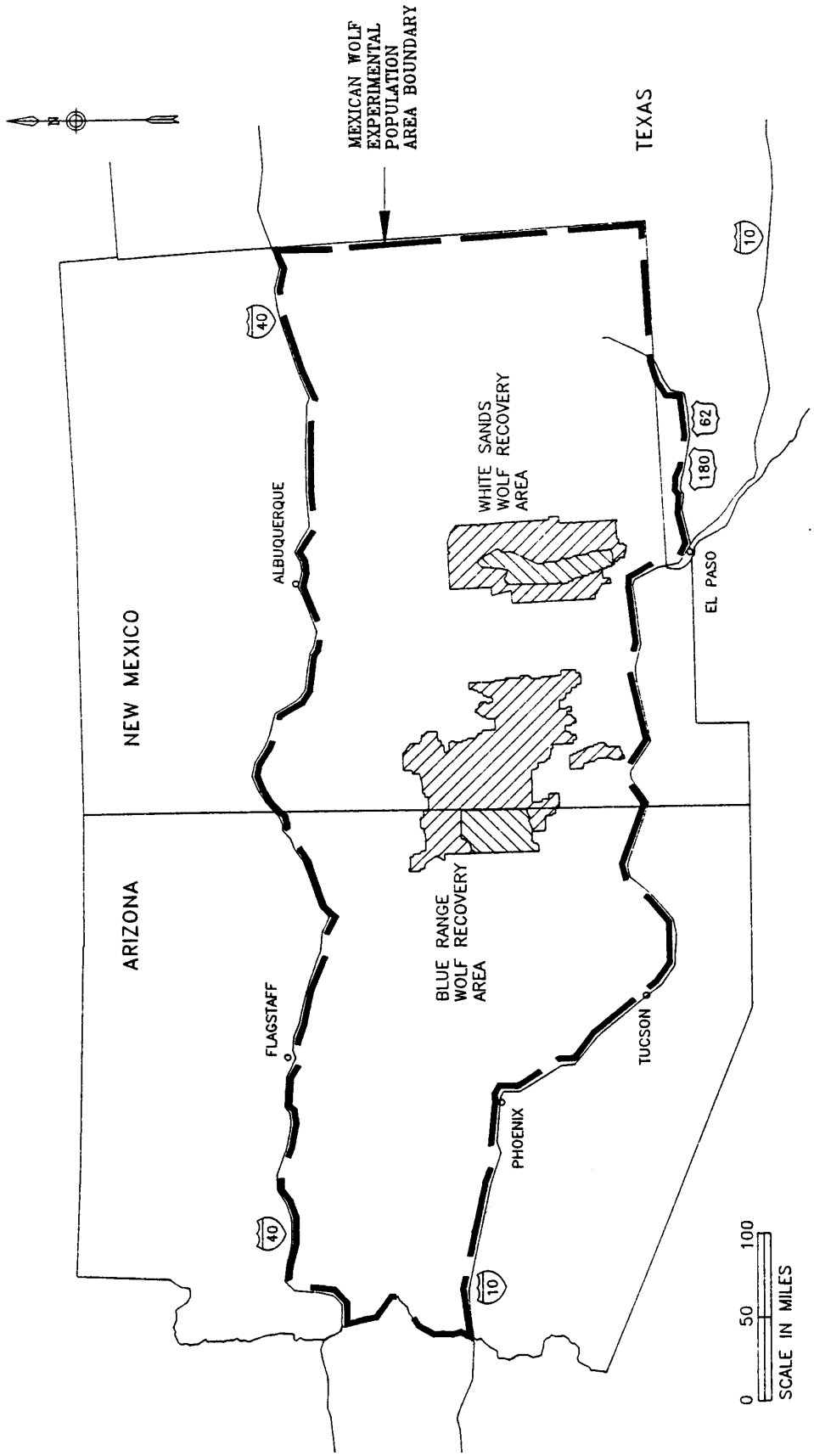


Fig. 3: Mexican Wolf Geographic Boundaries

BILLING CODE 4310–55–C

(10) If Mexican wolves of the experimental population occur on public lands outside the designated wolf recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will attempt to capture any radio-collared lone wolf and any lone wolf or member of an established pack causing livestock ''depredations'' [see definition in paragraph (k)(15) of this section]. The agencies will not routinely capture and return pack members that make occasional forays onto public land outside the designated wolf recovery area(s) and uncollared lone wolves on public land. However, the Service will capture and return to a recovery area or to captivity packs from the nonessential experimental population that establish territories on public land wholly outside the designated wolf recovery area(s).

(11) If any wolves move onto private land outside the designated recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will develop management actions in cooperation with the landowner including capture and removal of the wolf or wolves if requested by the landowner.

(12) If any wolves move onto tribal reservation land outside the designated recovery area(s), but within the Mexican Wolf Experimental Population Area, the Service or an authorized agency will develop management actions in cooperation with the tribal government including capture and removal of the wolf or wolves if requested by the tribal government.

(13) The Service will evaluate Mexican wolf reintroduction progress and prepare periodic progress reports, detailed annual reports, and full evaluations after 3 and 5 years that recommend continuation, modification, or termination of the reintroduction effort.

(14) The Service does not intend to change the ''nonessential experimental'' designation to ''essential experimental,'' ''threatened,'' or ''endangered'' and foresees no likely situation which would result in such changes. Critical habitat cannot be designated under the nonessential experimental classification, 16 U.S.C. 1539(j)(2)(C)(ii).

(15) Definitions—Key terms used in this rule have the following definitions.

Breeding pair means an adult male and an adult female wolf that have produced at least two pups during the previous breeding season that survived until December 31 of the year of their birth.

Depredation means the confirmed killing or wounding of lawfully present domestic livestock by one or more wolves. The Service, WS, or other Service-authorized agencies will confirm cases of wolf depredation on domestic livestock.

Disturbance-causing land use activity means any land use activity that the Service determines could adversely affect reproductive success, natural behavior, or survival of Mexican wolves. These activities may be temporarily restricted within a 1-mile radius of release pens, active dens, and rendezvous sites. Such activities may include, but are not limited to—timber or wood harvesting, management-ignited fire, mining or mine development, camping outside designated campgrounds, livestock drives, off-road vehicle use, hunting, and any other use or activity with the potential to disturb wolves. The following activities are specifically excluded from this definition—

(1) Legally permitted livestock grazing and use of water sources by livestock;

(2) Livestock drives if no reasonable alternative route or timing exists;

(3) Vehicle access over established roads to private property and to areas on public land where legally permitted activities are ongoing if no reasonable alternative route exists;

(4) Use of lands within the national park or national wildlife refuge systems as safety buffer zones for military activities;

(5) Prescribed natural fire except in the vicinity of release pens; and

(6) Any authorized, specific land use that was active and ongoing at the time wolves chose to locate a den or rendezvous site nearby.

Engaged in the act of killing, wounding, or biting livestock means to be engaged in the pursuit and grasping, biting, attacking, wounding, or feeding upon livestock that are alive. If wolves are observed feeding on a livestock carcass, you cannot assume that wolves killed the livestock because livestock can die from many causes and wolves will feed on carrion.

Harass means ''intentional or negligent act or omission which creates the likelihood of injury to the wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering'' (50 CFR 17.3). This experimental population rule permits only ''opportunistic, noninjurious harassment'' (see definition below).

Impact on game populations in ways which may inhibit further wolf recovery. The Service encourages states and tribes to define unacceptable impacts from wolf predation on game populations in Service-approved management plans. Until such time the term will mean the following—2 consecutive years with a cumulative 35 percent decrease in population or hunter harvest estimates for a particular species of ungulate in a game management unit or distinct herd segment compared to the pre-wolf 5-year average (unit or herd must contain average of greater than 100 animals). If wolf predation is shown to be a primary cause of ungulate population declines (greater than 50 percent of documented adult or young mortality), then wolves may be moved to reduce ungulate mortality rates and assist in herd recovery, but only in conjunction with application of other common, professionally acceptable, wildlife management techniques.

Livestock means cattle, sheep, horses, mules, and burros or other domestic animals defined as livestock in State and Tribal wolf management plans approved by the Service.

Occupied Mexican wolf range means an area of confirmed presence of resident breeding packs or pairs of wolves or area consistently used by at least one resident wolf over a period of at least one month. The Service must confirm or corroborate wolf presence. Exact delineation of the area will be described by:

(1) 5-mile (8 km) radius around all locations of wolves and wolf sign confirmed as described above (nonradio-monitored);

(2) 5-mile (8 km) radius around radio locations of resident wolves when fewer than 20 radio locations are available (for radio-monitored wolves only); or

(3) 3-mile (4.8 km) radius around the convex polygon developed from more than 20 radio locations of a pack, pair, or single wolf acquired over a period of at least 6 months (for radio-monitored wolves).

This definition applies only within the Mexican Wolf Experimental Population Area.

Opportunistic, noninjurious harassment (see ''harass'') means as the wolf presents itself (for example, the wolf travels onto and is observed on private land or near livestock). This is the only type of harassment permitted by this rule. You cannot track, attract, search out, or chase a wolf and then harass it. Any harassment must not cause bodily injury or death to the wolf. The basic intent of harassment permitted by this rule is to scare wolves away from the immediate area. It is limited to approaching wolves and discharging firearms or other projectile launching devices in proximity to but not in the direction of wolves; throwing objects in the general direction of but

not at wolves; or making any loud noise in proximity to wolves.

Primary recovery zone means an area where the Service—

(1) Will release captive-raised Mexican wolves,

(2) May return and re-release previously released Mexican wolves,

(3) May release translocated wild-born Mexican wolves, and

(4) Will actively support recovery of the reintroduced population.

Problem wolves means wolves that—

(1) Have depredated lawfully present domestic livestock,

(2) Are members of a group or pack (including adults, yearlings, and young-of-the-year) that were directly involved in livestock depredations,

(3) Were fed by or are dependent upon adults involved with livestock depredations (because young animals will likely acquire the pack's livestock depredation habits),

(4) Have depredated domestic animals other than livestock on private or tribal lands, two times in an area within one year, or

(5) Are habituated to humans, human residences, or other facilities.

Public land means land under administration of Federal agencies including, but not limited to the National Park Service, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Department of Energy, and Department of Defense; and State-owned lands within the boundary of a designated wolf recovery area. All State-owned lands within the boundary of the experimental population area, but outside designated wolf recovery areas, will be subject to the provisions of this rule that apply to private lands.

Rendezvous site means a gathering and activity area regularly used by a litter of young wolf pups after they have emerged from the den. Typically, the site is used for a period ranging from about one week to one month in the summer. Several sites may be used in succession.

Secondary recovery zone means an area adjacent to a primary recovery zone in which the Service allows released wolves to disperse, where wolves captured in the wild for authorized management purposes may be translocated and released, and where managers will actively support recovery of the reintroduced population.

Take means''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). Also, see definitions of ''harass'', ''opportunistic, noninjurious harassment'', and ''unavoidable and unintentional take.''

Unavoidable and unintentional take means accidental, unintentional take (see definition of ''Take'') which occurs despite reasonable care, is incidental to an otherwise lawful activity, and is not done on purpose. Examples would be striking a wolf with an automobile and catching a wolf in a trap outside of known occupied wolf range. Taking a wolf with a trap, snare, or other type of capture device within occupied wolf range (except as authorized in paragraph (k)(3)(ix) and (x) of this section) will not be considered unavoidable, accidental, or unintentional take, unless due care was exercised to avoid taking a wolf. Taking a wolf by shooting will not be considered unavoidable, accidental, or unintentional take. Shooters have the responsibility to be sure of their targets.

Wolf recovery area means a designated area where managers will actively support reestablishment of Mexican wolf populations.

Dated: January 7, 1998.

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–681 Filed 1–8–98; 9:20 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 961204340–7087–02; I.D. 010698A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone in the Florida west coast subzone. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: Effective 12:01 a.m., local time, January 7, 1998, through June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the Florida west coast subzone of 865,000 lb (392,357 kg). That quota was further divided into two equal quotas of 432,500 lb (196,179 kg) for vessels in each of two groups by gear types: vessels fishing with run-around gillnets and those using hook-and-line gear (50 CFR 622.42(c)(1)(i)(A)(*2*)).

In accordance with 50 CFR 622.43(a)(3), NMFS is required to close any segment of the king mackerel commercial fishery when its quota is reached, or is projected to be reached, by publishing a notification in the **Federal Register**. NMFS has determined that the commercial quota of 432,500 lb (196,179 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast subzone was reached on January 6, 1998. Accordingly, the commercial fishery for king mackerel for such vessels in the Florida west coast subzone is closed effective 12:01 a.m., local time, January 7, 1998, through June 30, 1998, the end of the fishing year.

The Florida west coast subzone extends from 87°31'06'' W. long. (due south of the Alabama/Florida boundary) to: (1) 25°20.4' N. lat. (due east of the Dade/Monroe County, FL, boundary) through March 31, 1998; and (2) 25°48' N. lat. (due west the Monroe/Collier County, FL, boundary) from April 1, 1998, through October 31, 1998.

Classification

This action is taken under 50 CFR 622.43(a)(3) and is exempt from review under E.O. 12866.

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

Dated: January 6, 1998.

George H. Darcy,

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

[FR Doc. 98–618 Filed 1–6–98; 4:24 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971107264–8001–02; I.D. 102297A]

RIN 0648–AK47

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 1998 Specifications

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

ACTION: Final 1998 initial specifications.

SUMMARY: NMFS issues final initial specifications for the 1998 fishing year for Atlantic mackerel, squid, and butterfish. Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment.

DATES: The final initial specifications for 1998 are effective January 1, 1998, through December 31, 1998. Revised § 648.23(a) is effective January 12, 1998.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations, the Environmental Assessment, and Regulatory Impact Review, including analysis of impacts under the Regulatory Flexibility Act, are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508–281–9104.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648. These regulations require NMFS to publish specifications for initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. In addition to commercial quotas, the Council, in consultation with its Squid, Mackerel, and Butterfish Technical Monitoring Committee, may recommend: Revisions to the amount of squid and butterfish that may be retained, possessed, and landed by vessels issued the incidental catch permit, commercial minimum fish sizes, commercial trip limits, commercial seasonal quotas/closures for *Loligo* or *Illex* squid, minimum mesh sizes, commercial gear restrictions, recreational harvest limits, recreational minimum fish sizes, and recreational possession limits.

The proposed rule whose preamble contained proposed 1998 initial specifications was published on November 26, 1997 (62 FR 63064). The final initial specifications are unchanged from those that were proposed. A complete discussion of the specifications was published in the preamble to the proposed rule and is not repeated here.

The following table contains the final initial specifications for the 1998 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries as recommended by the Council.

FINAL INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1998. (MT)

Specifications	Squid		Atlantic mackerel	Butterfish
	Loligo	Illex		
Max OY	26,000	24,000	[1] N/A	16,000
ABC	21,000	19,000	382,000	7,200
IOY	21,000	19,000	[2] 80,000	5,900
DAH	21,000	19,000	[3] 80,000	5,900
DAP	21,000	19,000	50,000	5,900
JVP	0	0	15,000	0
TALFF	0	0	0	0

[1] Not applicable.
[2] OY may be increased during the year, but the total cannot exceed 382,000 mt.
[3] Includes 15,000 mt of Atlantic mackerel recreational allocation.

Four special conditions imposed in previous years continue to be imposed on the 1998 Atlantic mackerel fishery as follows: (1) Joint ventures are allowed south of 37°30′ N. lat., but river herring bycatch may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Administrator, Northeast Region, NMFS (Regional Administrator), must ensure that impacts on marine mammals are reduced in the prosecution of the Atlantic mackerel fishery; (3) the mackerel OY may be increased during the year, but the total must not exceed the ABC; and (4) applications from a nation for a joint venture for 1998 cannot be acted upon until the Regional Administrator determines, based on an evaluation of performance, that the nation's purchase obligations from previous years have been fulfilled.

Framework Measure for Loligo Squid Nets

Amendment 5 to the FMP established a minimum mesh requirement of 1⅞ inches (48-mm) throughout the entire net for vessels possessing *Loligo* squid. Amendment 5 also established a framework procedure whereby the minimum mesh provision for *Loligo* squid could be reconsidered by the Council on an annual basis.

Numerous members of the commercial fishing industry testified before the Council that the minimum mesh size requirement, because it applied throughout the entire net, was creating a compliance problem for the squid industry. Testimony was given that after continuous use, meshes forward of the codend become distorted and shrink. Because the body of the net forward of the codend lasts significantly longer than the codend, this problem becomes more acute with time. Industry is concerned that nets, which were legal when new, could violate the minimum mesh size requirement after extended use. Since selection occurs in the

codend of the net, industry argues that the requirement for a minimum mesh size throughout the entire net is creating an unnecessary burden on it.

In response to these concerns the Council decided to change the minimum mesh size requirement for *Loligo* squid nets to make it applicable to the codend of the net only. The minimum mesh size of 1⅞ inches (48 mm) remains unchanged. Accordingly, this final rule requires that *Loligo* squid nets for 1998 have a minimum mesh size of 1⅞ inches (48 mm) diamond, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or if the net is not long enough for such a measurement, the terminal one-third of the net, measured from the terminus of the net to the head rope. This should relieve the industry of the costs associated with replacing the body of the net before its useful service life has been realized. The effects on the fishery should be minimal since the selection process, which occurs in the codend, will be unchanged. The Council concluded that the benefits to the industry in terms of cost savings far outweighed any negative effects of applying the mesh requirement to the codend only. Additional savings in terms of enforcement of the mesh regulations should be realized since enforcement officers will only be required to check mesh sizes in the codend instead of the entire net, which in most cases is quite large and can consume a significant amount of time during the boarding process.

Comments and Responses

One comment from a U.S. Congressman was received opposing the proposed 1998 JVP Atlantic mackerel specification of 15,000 mt. No comments were received on the other annual specifications or on the *Loligo* squid net minimum mesh size requirement.

Comment: The commenter stated that competition from foreign processors engaged in joint ventures with American fishermen is now reducing the markets available to shore-based American processors. This commenter recommends that the JVP specification for 1998 be reduced to zero.

Response: The 1998 JVP specification of 15,000 mt is 10,000 mt less than the 1997 JVP specification to reflect the Council's concern that JVPs could have a negative effect on the further development of the U.S. export market. The potential for future North Sea mackerel TAC reductions may provide an opportunity for U.S. producers to sell additional mackerel in the international market. The reduction is consistent with the Council's stated policy to proceed on a course that recognizes the need for JVP in the short term to allow U.S. harvesters to take mackerel at levels in excess of current U.S. processing capacity. However, in the longer term the Council intends to reduce the JVP specification to zero as U.S. processing and export capacity increases.

Classification

These final specifications are authorized by 50 CFR part 648, comply with the National Environmental Policy Act, and are exempt from review under E.O. 12866. The revision to § 648.23(a) has been determined to be not significant for purposes of 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 when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date of the final initial specifications for the 1998 fishing year for Atlantic mackerel, squid, and butterfish is unnecessary because they do not establish any requirement for which a regulated entity must come into compliance. The specifications are year-long quotas and are used for the sole purpose of closing the fishery when the amounts specified have been taken. The change in the minimum mesh size requirement for *Loligo* squid nets relieves a restriction on the industry. Accordingly, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effectiveness.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 6, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648, Subpart B, is amended as follows:

PART 648—FISHERIES OF NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.23, paragraph (a) introductory text is revised to read as follows:

§ 648.23 Gear restrictions.

(a) *Mesh restrictions and exemptions.* Owners or operators of otter trawl vessels possessing *Loligo* harvested in or from the EEZ may only fish with nets having a minimum mesh size of 1⅞ inches (48 mm) diamond mesh, inside stretch measure, applied throughout the codend for at least 150 continuous meshes forward of the terminus of the net, or for codends with less than 150 meshes, the minimum mesh size codend shall be a minimum of one-third of the net measured from the terminus of the codend to the head rope, unless they are fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (copies of a map depicting this area are available from the Regional Administrator upon request):

* * * * *

[FR Doc. 98–701 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 63, No. 7

Monday, January 12, 1998

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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1768–96; AG No. 2137–98]

RIN 1115–AE42

Adjustment of Certain Fees of the Immigration Examinations Fee Account

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to adjust the fees schedule of the Immigration Examinations Fee Account for certain immigration adjudication and naturalization applications and petitions. Fees collected from persons filing these applications and petitions are deposited into the Immigration Examinations Fee Account and used to fund the cost of processing immigration adjudication and naturalization applications and petitions and associated support services; the cost of providing similar services to asylum and refugee applicants; and the cost of similar services provided to other immigrants at no charge. The fees that fund the Immigration Examinations Fee Account were last revised on July 14, 1994; since the revision, the cost of the services supported by the Account have increased. The Immigration and Naturalization Service (INS) conducted a thorough review of the resources and activities funded by the Account and has determined that the current fees do not recover the costs of services. The fee increases range from $20.00 to $255.00 depending on the type of application or petition filed. Without a fee increase and based on 4.3 million fee-paying applications, the INS projects FY 1998 fee revenues of $368.4 million. The INS also estimates that it will cost $638.6 million to process 5 million applications, of which 4.3 are expected to be fee-paying. This would result in a shortfall of revenue to expenses of approximately $270.2 million. This rule is necessary to ensure that the fees that fund the Immigration Examinations Fee Account generate sufficient revenue to recover the full cost of processing immigration adjudication and naturalization applications, petitions, the cost of asylum, refugee and other immigrant services provided at no charge to the applicant.

DATES: Written comments must be submitted on or before March 13, 1998.

ADDRESSES: Please submit written comments, in triplicate (one original and two copies), to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service (INS), 425 I Street, N.W., Room 5307, Washington, D.C., 20536, Attention: Public Comment Clerk. To ensure proper handling, please reference INS Number 1768–96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael T. Natchuras, Chief, Fee Policy and Rate Setting Branch, Office of Budget, Immigration and Naturalization Service, or Diane M. Eggert, Senior Staff Accountant, Fee Policy and Rate Setting Branch, Office of Budget, Immigration and Naturalization Service, on (202) 616–2754, or in writing at 425 I Street, N.W., Room 6240, Washington, D.C., 20536. Detailed documentation of the rate setting process is available upon request by calling (202) 616–2754.

SUPPLEMENTARY INFORMATION:

Legislative Authority

A. Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Acts of 1989 and 1991

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1989 (Public Law (P.L.) 100–459) authorized the INS to prescribe and collect fees to recover the cost of providing certain immigration adjudication and naturalization services. P.L. 100–459 also authorized the establishment of the Immigration Examinations Fee Account (Examinations Fee Account) in the Treasury of the United States. All revenue from fees collected for the provision of immigration adjudication and naturalization services are deposited in the Examinations Fee Account and ''* * * remain available * * * to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees * * * (8 U.S.C. 1356(n)).''

In subsequent legislation, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (P.L. 101–515), Congress further authorized ''* * * that fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected.'' (8 U.S.C. 1356(m))

Conference Report 104–378, Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies For the Fiscal Year Ending September 30, 1996, and For Other Purposes, directs the INS to fund the cost of the Cuban-Haitian Entrant Program from the Examinations Fee Account. The Report states, ''(t)he conferees have also agreed that the activities related to the resettlement of Cubans and Haitians should be transferred to the * * * Service and that the costs of these activities should be supported by the Immigration Examinations Fee account.''

B. The Independent Offices Appropriation Act, 1952

The INS also employs the authority granted through the Independent Offices Appropriation Act, 1952 ((P.L. 82–137) (IOAA), 31 U.S.C. 9701), commonly referred to as the ''user fee statute,'' to develop its fees. The user fee statute directs Federal agencies to identify services provided to unique segments of the population and to charge fees for those services, rather than supporting such services through general tax revenues. The IOAA states that ''* * * each service or thing of value provided by an agency * * * to a person * * * is to be self-sustaining to the extent possible.'' The IOAA further states that

charges for such services or things of value should be based on ''* * * [t]he costs to the Government * * *''

C. The Chief Financial Officers Act of 1990

The INS must also conform to the requirements of the Chief Financial Officer Act of 1990 (P.L. 101–576). Section 205(a)(8) of the Act requires each agency's Chief Financial Officer to ''review, on a biennial basis, the fee, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.'' (31 U.S.C. 902(a)(8))

Federal Cost Accounting and Fee Setting Standards and Guidelines

A. Office of Management and Budget (OMB) Circular No. A–25, User Charges

When developing fees for services, the INS adheres to the principles contained in OMB Circular Number A–25, User Charges. OMB Circular A–25 states that as a general policy a ''user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.'' (OMB Circular A–25, User Charges, section 6.) The Circular provides the following discussion of what constitutes a ''special benefit'':

> When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit * * *). For example, a special benefit will be considered to accrue and a user charge will be imposed when a Government service: (a) [E]nables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those that accrue to the general public (e.g., receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business or various kinds of public land use); or (b) [P]rovides business stability or contributes to public confidence in the business activity of the beneficiary (e.g., insuring deposits in commercial banks); or (c) [I]s performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (e.g., receiving a passport, visa, airman's certificate, or a Customs inspection after regular duty hours). (OMB Circular A–25, User Charges, section 6.a.(1))

The guidance contained in OMB Circular A–25 is applicable to the extent that it is not inconsistent with any Federal statute. Specific legislative authority to charge fees for services takes precedence over OMB Circular A–25 when the statute expressly designates ''* * * who pays the charge; how much is the charge; where collections are deposited.'' (OMB Circular A–25, User Charges, section 4.b.) When a statute does not address issues of how to calculate fees or what costs to include in the fee calculation, Federal agencies must follow the principles and guidance contained in OMB Circular A–25 to the fullest extent allowable.

OMB Circular A–25 directs Federal agencies to charge the ''full cost'' of providing services when calculating fees that provide a specific benefit to recipients. According to the Circular:

> ''Full cost'' includes all direct and indirect costs to any part of the Federal Government of providing a good, resource, or * * * appropriate share of:
>
> (a) Direct [or] indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement * * *
>
> (b) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rents or imputed rents on land, buildings, and equipment * * *
>
> (c) The management and supervisory costs.
>
> (d) The costs of enforcement, collection, research, establishment of standards, and regulation * * *
>
> (e) Full cost shall be determined or estimated from the best available records of the agency, and new cost accounting systems need not be established solely for this purpose. (OMB Circular A–25, User Charges, section 6.d.)

B. Department of Justice Guidelines

The Department of Justice issued guidance on User Fee Programs in April 1993. The guidance states that as a general policy ''[a] charge shall be imposed to recover the full cost to the Federal Government of rendering a service that provides specific benefits to an identifiable recipient above and beyond those that accrue to the public at large.'' (User Fee Program, Supplement to Department of Justice Budget Formulation and Execution Calls, April 1993, pg. 2)

C. Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government

When developing fees for services, the INS also adheres to the cost accounting concepts and standards recommended by the Federal Accounting Standards Advisory Board (FASAB). The FASAB was established in 1990 through a Memorandum of Understanding between the Secretary of the Treasury, the Director of the OMB, and the Comptroller General of the United States. The Board's purpose is to recommend accounting standards for the Federal Government. In developing its recommendations, the FASAB considers the financial and budgetary information requirements of the Congress, Executive agencies, and other users of Federal financial information.

In June 1995, OMB and General Accounting Office (GAO) published the FASAB *Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Concepts and Standards for the Federal Government.* In this document the FASAB recommends five standards as the fundamental elements of managerial cost accounting for Federal agencies: ''(1) accumulating and reporting costs of activities on a regular basis for management information purposes, (2) establishing responsibility segments to match costs with outputs, (3) determining full costs of government goods and services, (4) recognizing the costs of goods and services provided among federal entities, and (5) using appropriate costing methodologies to accumulate and assign costs to outputs.'' (FASAB, Statement of Federal Financial Accounting Standards Number 4, section 2, pg. 1) These standards became effective for Federal agencies on September 30, 1996.

In the Basis for Conclusions, the FASAB states, ''* * * As stated in the [Exposure Draft], the full cost of an output produced by a responsibility segment is the sum of direct and indirect costs that contribute to the output, including the costs of supporting services provided by other segments and entities.'' (FASAB, Statement of Federal Financial Accounting Standards Number 4, section 199, pg. 78) The discussion emphasizes that full cost information has many uses, including ''Setting fees and prices for government goods and services'' and provides the following discussion on full cost:

> Many respondents agreed that full cost should be considered as a primary basis for setting fees and reimbursements for government goods and services. As pointed out in the E[xposure] D[raft], it is a federal policy that, with certain exceptions, user charges (prices or fees) should be sufficient to recover the full costs of goods, services, and resources provided by the federal government as sovereign. (FASAB Statement of Federal Financial Accounting Standards Number 4, section 203, pg. 79)
>
> To implement the policy, full cost information is necessary. Only with reliable full cost information can management ensure that user charges fully recover the costs. (FASAB, Statement of Federal Financial

Accounting Standards Number 4, section 204, pg. 79–80)

The Immigration Examinations Fee Account

A. Background

The Department of Justice (DOJ), Immigration and Naturalization Service (INS) charges fees for the processing of specific immigration adjudication and naturalization applications and petitions. The INS maintains four fee accounts; the fees collected and deposited in each account are used to fund specific services. The four fee accounts are: the Examinations Fee Account, the Immigration User Fee Account, the Land Border Inspection Fee Account, and the Legalization Fee Account. Since the fees deposited into each of the accounts are designed to recover the cost of specific immigration and naturalization services, these fees must be reviewed regularly and adjusted as: (1) Costs change, (2) more precise cost determination processes become available, or (3) directed by legislation. This rule proposes to revise certain immigration adjudication and naturalization fees that are collected and deposited into the Examinations Fee Account.

B. History of Immigration Adjudication and Naturalization Fees and the Immigration Examinations Fee Account

The INS has been charging fees for immigration adjudication and naturalization services since 1968. At that time, the INS' authority to assess fees derived from the authority of the IOAA. The revenue generated from these fees was deposited into the General Fund of the United States Treasury as miscellaneous receipts and was not available to the INS. The INS received an appropriation to fund immigration adjudication and naturalization services. The fees charged during the period of 1968 to 1989 were calculated based on the salary and benefit costs of the INS adjudicators who processed immigration adjudication and naturalization applications and petitions, and did not recover the full cost of service.

In 1989, Congress established the Examinations Fee Account. In the first year of the Account's existence, the INS retained the appropriation that funded the processing of immigration adjudication and naturalization applications and petitions. During that year, fees collected for these applications and petitions were used to enhance the adjudication and naturalization program (although Congress did temporarily direct the INS to deposit $50 million of the fee revenue into the General Fund of the Treasury). In the subsequent years, fees deposited into the Account have been the sole source of funding for immigration adjudication and naturalization services, and other programs as directed by Congress, and replaced the annual appropriation that the INS received for such services. When the Account was first established, the INS revised its fee-setting methodology to include a component for indirect costs. In subsequent legislation, Congress directed the INS to use revenue in the Examinations Fee Account to fund the cost of asylum processing and other services provided to immigrants at no charge. Consequently, the INS began to add a ''surcharge'' to the immigration adjudication and naturalization fees to recover these additional costs.

Currently, the Examinations Fee Account is funded by a variety of fees charged to persons who apply for specific adjudication and naturalization services by filing various applications and petitions with the INS or the Executive Office of Immigration Review (EOIR). Examples of these applications and petitions include, but are not limited to, applications for permanent resident status, petitions for relatives, employment authorization applications, reentry permits, and extensions of temporary stay. The current fees range from $65.00 to $155.00 and were last revised on July 14, 1994.

C. Sufficiency of the Current Fee Schedule

In FY 1998, the INS may experience a shortfall of revenue to expenses in the Examinations Fee Account because the current fees do not recover the full cost of processing immigration adjudication and naturalization applications and petitions. Based on the current fee schedule and a projected fee-paying volume of 4.3 million applications, immigration adjudication and naturalization fees will generate $368.4 million in revenue for FY 1998. For the same period, the estimated cost of processing immigration adjudication and naturalization applications and petitions is $638.6 million. This would cause a shortfall of revenue to expenses of $270.2 million.

In addition, recent legislative changes to the Immigration and Nationality Act (INA) have reduced the amount of section 245(i) penalty fees that had been available to enhance the revenue in the Examinations Fee Account. Previously, certain aliens could apply for adjustment of status under section 245(i) of the INA by paying a $650.00 penalty fee, in addition to the base applications fee. Both the base application fee and the penalty fee were deposited into the Account and were available to fund immigration adjudication and naturalization programs. The amendments to section 245(i) have sharply limited the amount of penalty revenue available to the Examinations Fee Account for immigration adjudication and naturalization services. Virtually all of the penalty fee is now deposited into the Immigration Detention Account and available for only detention and deportation activities. In FY 1998, the Examinations Fee Account will experience a decrease of approximately $129.2 million in projected penalty fees due to changes in the law.

Another factor that had contributed to the insufficiency of the current fees is the increased cost of providing asylum and refugee services. Congress has authorized the INS to fund its asylum and refugee programs, and Cuban and Haitian entrant relocation program from the Examinations Fee Account. Since the last fee adjustment, funding levels for the International Affairs program, which administers these programs, have increased. These increases include the transfer of the Cuban-Haitian Entrant Program from the Community Relations Service to the INS on March 31, 1996, which added $10.2 million and 21 positions to the Account, and the recent transfer of additional asylum and refugee costs from the Violent Crime Trust Fund to the Account. This transfer added costs of $29.6 million and 388 positions to the Account. Overall, funding for the International Affairs program from the Account has risen from $40.7 million in FY 1994 to a proposed $92.8 million in FY 1998.

D. Programs and Services Funded through the Examinations Fee Account

The Examinations Fee Account provides approximately 20% of the INS' funding; funds from the Account are dispersed to virtually every program within the INS. Figure 1 illustrates the proposed FY 1998 funding for the various INS programs through the Examinations Fee Account, along with the full time equivalents (FTE) supported by this funding (in thousands of dollars).

FIGURE 1.

Program	FY 1998 Resource amount ($000)	FY 1998 FTE level
Inspections	$28,618	405
Investigations	9,930	92
Intelligence	1,139	13
Adjudication and Naturalization	259,696	3,226
International Affairs	92,799	756
Training	4,275	25
Data and Communications	94,555	70
Information and Records Management	128,836	787
Construction and Engineering	1,270	1
Legal Proceedings	6,816	55
Management and Administration	18,982	141
Total	$646,916	5,571

The major programs, activities and services funded by the Examinations Fee Account are discussed below.

Inspections. Applications and petitions for a full range of benefits under the immigration laws are adjudicated by inspection personnel during periods of stand-by time at most ports-of-entry during non-peak workload hours. Certain types of applications, such as the Form I–193, Application for Waiver of Passport and/or Visa, are presented directly at land border ports-of-entry located on the United States borders, where they are adjudicated by inspection personnel. The Inspection program receives approximately 6% of its total funding from the Examinations Fee Account.

Investigations. Resources from the Examinations Fee Account provided to the Investigations program are focused on the detection and deterrence of fraud and to protect the integrity of benefits and documents legitimately provided by the INS to authorized aliens. The Investigations program's concentration on individual applications has led to the identification of large-scale production of fraudulent documentation. Examinations Fee Account funds are used to target complex criminal organizations involved in immigration benefits fraud for prosecution. The Investigations program receives approximately 4% of its total funding from the Examinations Fee Account.

Intelligence. This program provides strategic and tactical intelligence support to INS offices enforcing the provisions of the INA, and assists other Federal agencies in addressing national security issues. The INS's Forensic Document Laboratory is a critical component of the Intelligence program. Intelligence program support funding from the Examinations Fee Account is used to detect fraudulent documents and false claims to citizenship and other immigration benefits and privileges. The Intelligence program receives approximately 8% of its total funding from the Examinations Fee Account.

Adjudication and Naturalization. The adjudication and naturalization program processes, adjudicates, and ultimately grants or denies applications and petitions for benefits provided under the INA. The Adjudications program is responsible for processing applications and petitions for immigration and naturalization benefits, including, but not limited to: applications for permanent resident status, applications for work authorization, petitions for relatives, applications and petitions for immigrant and nonimmigrant workers, applications for travel documents, and applications for extensions of temporary stay by nonimmigrants in the United States. Naturalization processes include the examination of aliens to determine their qualifications for naturalization, the issuance of citizenship documents, the appearance of INS officials and the conduct of administrative naturalization oaths, and the appearance of INS officials at Federal and state courts that administer naturalization oaths. The Adjudications and Naturalization program operates in field offices located throughout the United States, and in four service centers located in California, Texas, Nebraska, and Vermont. Applications for immigration, nationality and citizenship benefits, and naturalization are received and adjudicated by a corps of immigration adjudication officers, and adjudication support personnel. District officers adjudicate cases that may require personal appearances by applicants and petitioners. Service center operations concentrate on cases that can be processed without individual appearances and that benefit from the economies generated by large volume, production-oriented processing, where immigration adjudication officers can conduct their reviews without interruptions caused by telephone inquiries and meetings with applicants.

Examinations Fee Account revenue is used to process and adjudicate applications and petitions for benefits provided under the INA, along with providing responses to inquires from the public and private sectors. The INS uses funds from the Examinations Fee Account for the entire benefits delivery process, from initial information dissemination and forms distribution, through the records and files activities, case adjudication, and the final close-out of the case and file. In the proposed FY 1998 Examinations Fee Account Budget, the adjudications and naturalization program requested resource enhancements that support the agency's strategic plan and permit the INS to build on the progress begun with previous enhancements. These resources will support and expand the contract with private vendors to provide the records maintenance services necessary to maintain pace with expected workload in FY 1998 and the ability to meet the challenges posed by new legislation and the associated increased demand for a broad range of information. These resources will support and expand on the records services provided to the key Districts (New York, Los Angeles, Miami, Chicago, and San Francisco), extend the direct mail program for naturalization applications to additional districts, provide funding for expanding capacity in the service centers, and develop pilot automation procedures in the benefits process. The direct mail program was instituted by the INS to allow the public to mail certain applications and petitions directly to service centers

where they are receipted and processed on the Computer Linked Application Information Management System (CLAIMS); when necessary, the applications and petitions are then transferred to district offices for interviews and adjudication. Currently, the INS has instituted the direct mail program for naturalization applications in four districts: New York, Los Angeles, Miami, and Chicago. Additional funding will allow for expansion of this program to other INS district offices. Service centers will expand capacity and infrastructure so that direct mail and CLAIMS may be extended to more districts. CLAIMS is a local area network and mainframe system that records and tracks cases for immigration and benefits. CLAIMS also includes a receipt tracking system in which an application or petition is receipted and then adjudicated.

The resources from the Examinations Fee Account will provide naturalization case support to the service centers by modifying CLAIMS and re-engineering the naturalization process by developing a naturalization module (NATS), within the CLAIMS environment. In addition, the Examinations Fee Account will provide resources to improve the INS' response to inquiries from the public and private sectors and the various branches of government, by telephone, in-person, and in writing by expanding and consolidating current telephone improvement efforts to establish a single 1–800 line that would act as a front-end to all immigration benefit and naturalization questions. The single 1–800 line would enable the INS to provide information on the status of applications and petitions, accept forms requests, and provide information on the requirements for filing an application and petition. This 1–800 line will increase the accessibility and availability of adjudication and naturalization forms and information without the necessity of multiple telephone inquiries. Fee revenues will be used to fund the naturalization reengineering project being conducted by the INS, the DOJ, and a private contractor. The naturalization reengineering will develop pilot programs to evaluate options for improving the timeliness and quality of naturalization services. The reengineering project will allow the INS to encourage and promote naturalization through community outreach and public education programs.

The Adjudications and Naturalization program receives approximately 99% of its total funding from the Examinations Fee Account.

International Affairs. The function of this program is to adjudicate refugee and asylum applications (which includes conducting FBI fingerprint checks of applicants), conduct investigations for preference and relative visa petitions, and conduct other records checks and background investigations as are required at overseas INS offices. Officers assigned to this program also provide assistance to citizens and lawful permanent residents abroad regarding adoptions, immigration, or parole of alien spouses and children, and other benefits under the INA. They also review requests for the Attorney General to grant humanitarian parole into the United States for deserving persons. The Congress transferred the cost of the Cuban and Haitian Entrant Program (CHEP) from the Community Relations Service to the INS Examinations Fee Account in 1996. Through grants and cooperative agreements, CHEP has responsibility for: (1) The primary Resettlement Program, which provides transitional community-based resettlement services to Cubans and Haitians paroled from INS detention; (2) the secondary Resettlement Program, which provides resettlement services, including employment placement and retention at specialized sites outside the state of Florida for those Cubans and Haitians whose initial resettlement in South Florida did not lead to self-sufficiency; and (3) the unaccompanied minors program, which provides foster care, residential shelter care, and health, counseling, educational, recreational, and family reunification services to unaccompanied Cuban and Haitian minors.

The International Affairs program receives approximately 90% of its total funding from the Examinations Fee Account.

Training. The Training program provides the staff and resources necessary to maintain an employee development program that meets the training needs of the INS' adjudications and naturalization workforce. The Training program provides services through a variety of ways, including initial training for Asylum, Immigration Adjudications, and Immigration Information Officers that is currently conducted at the four INS Service Centers; journeyman-level training for the asylum, adjudications, and naturalization workforce at the Federal Law Enforcement Training Center facility in Artesia, New Mexico; programs conducted by other Federal agencies; programs conducted by private contractors; and combined presentations using INS and non-INS resources. The Examinations Fee Account provides the Training program with resources to fund the costs the program incurs for providing adjudication and naturalization workforce training. The Training program receives approximately 14% of its total funding from the Examinations Fee Account.

Data and Communications. The Data and Communications program develops and operates INS automated information systems that support the adjudications and naturalization program, and operates the identification card production facility. Adjudications and naturalization support systems are currently being integrated and consolidated into CLAIMS, which provides adjudication support to service centers, district offices, and ports-of-entry. The system, which is operating in the service centers and is being installed in other field offices, reduces application processing time and response time to inquiries. The Data and Communications program also provides the administrative support functions for the INS through various management systems, both financial and administrative. The Data and Communications program receives approximately 25% of its total funding from the Examinations Fee Account.

Information and Records Management. The Information and Records Management program provides a variety of services critical to the adjudication and naturalization processes. These services include: creation of records; records maintenance, storage and tracking; response to Freedom of Information Act and Privacy Act requests; provision of information, including application forms, to the public, both in-person and by telephone, on immigration-related matters; compilation, analysis, publication, and issuance of INS statistical data. The processing of immigration adjudication and naturalization applications and petitions places a high demand for the services of the Information and Records Management program; in FY 1998, approximately 64% of the program's total resources will be funded through the Examinations Fee Account.

Construction and Engineering. The function of this program is to provide for the acquisition, design, construction, alteration, repair, maintenance, and management of all buildings, structures, and facilities that the INS owns or leases, some of which are involved in the processing of immigration adjudication and naturalization applications and petitions. The Construction and Engineering program

receives approximately 2% of its total funding from the Examinations Fee Account.

Legal Proceedings. Within the Legal Proceedings program, INS attorneys provide support to and/or represent the INS in asylum, rescission, naturalization, visa petition, adjustment of status cases, registry, sections 212(c) and 241(f), and other examination-related cases and matters. In FY 1998, the Legal Proceedings program will receive approximately 9% of its total funding from the Examinations Fee Account.

Management and Administration. The purpose of the Management and Administration program is to develop, implement, direct, operate, and evaluate the administrative support systems and services that meet internal operational and managerial needs and externally mandated requirements. Included in this program is the responsibility to provide executive direction and control of the INS; furnish accurate and prompt responses to Congressional and public inquires; administer and maintain effective budget and financial management systems; perform audits; conduct internal investigations to provide informational responses to inquires from the GAO, Office of Inspector General, and OMB, and DOJ offices; and develop and evaluate policies and systems to improve the effectiveness of INS programs. The major administrative functions within this program include personnel; accounting; budgeting; equal employment opportunity; procurement; property management; fleet management; security; safety and health; and other general services that support all programs within the INS. These services provide necessary support functions to the personnel and offices involved in the processing of immigration adjudication and naturalization applications and petitions. The Examinations Fee Account provides a portion of the funding for the Management and Administration program. In FY 1998, the Management and Administration program will receive approximately 11% of its total funding from the Examinations Fee Account.

The Immigration Examinations Fee Account Study

In the proposed rule that preceded the July 1994 fee adjustment, the INS acknowledged deficiencies in its fee development process and pledged to undertake a process of continuous improvement in the management of its fee accounts and the development of its fee schedules. In the January 10, 1994 proposed rule, the INS stated:

> INS has initiated a process of continuous improvement in the management of the finances of the fee accounts and the development of fee schedules. Areas that are being addressed over a projected multi-year time horizon include: Identifying the INS resources consumed in providing services to our customers which by law must be recovered through fee revenues; refining definitions of direct and indirect costs; and refining cost measurement systems, in concert with wider Department of Justice initiatives to improve financial management information systems. (**Federal Register**, Volume 59, Number 6, January 10, 1994, pg. 1308)

A. Composition of the Fee Study Team

As part of the process of continual improvement, the INS formed a Fee Study Team composed of INS personnel with expertise in budget, accounting, finance, rate setting, and immigration adjudication and naturalization processes. This team was supplemented with contracted technical support in the areas of Activity-Based Costing (ABC), activity process decomposition, and statistical sampling. From July 1995 until November of 1996, the Fee Study Team conducted a thorough review of the activities and costs of the immigration adjudication and naturalization services funded through the Examinations Fee Account. As a result of this study, the INS determined that the fee schedule of the Examinations Fee Account should be revised to reflect the current, full cost of immigration adjudication and naturalization services. A copy of this study will be provided upon request. Please see the ''For Further Information'' section of this rule for details on obtaining a copy of the study.

B. INS Fee Setting Methodology

The INS Fee Study Team employed an ABC methodology to determine the cost of the immigration adjudication and naturalization services for which a fee is charged. ABC relies on the premise that managers do not manage resources directly, but rather manage the activities that consume resources. The ABC approach measures costs across an organization without regard to functional boundaries and aggregates activities into logical process flows that ultimately deliver a product, service, or benefit. ABC allows an organization to identify costs from start to finish and associates those costs with the activities performed by that organization. Through this cross-functional process analysis, ABC focuses on the causal relationship of costs to activities. The FASAB *Statement of Federal Financial Accounting Standards Number 4, Managerial Cost Accounting Concepts and Standards for the Federal Government,* encourages the Federal agencies to use ABC ''to study its potential within their own operations.'' (section 142, pg. 60). The FASAB also notes that ABC has ''gained broad acceptance by manufacturing and service industries as an effective managerial tool.'' (Id.)

The ABC methodology uses a two stage approach to assigning costs. The first stage assigns resource costs to activities; the second stage assigns activity costs to cost objects (for the INS, the cost objects are the immigration adjudication and naturalization applications and petitions for which a fee is charged). To implement this two stage approach, ABC requires: the identification and definition of the activities involved in processing immigration adjudication and naturalization applications; the examination of budgetary and financial records to identify the resources required to conduct immigration adjudication and naturalization services; the assignment of these resources to the defined activities; and the assignment of activity costs to defined immigration adjudication and naturalization applications and petitions for which a fee is charged.

The Fee Study Team also selected a commercially-available ABC software to use in computing the immigration adjudication and naturalization application and petition fees. This software application was specially designed to assign resource costs through activities to final cost objects (applications and petitions). The data entered into the software was tailored to INS specifications using the pre-existing software structure. The software application was a fee calculation tool; the Fee Study Team performed the analysis necessary to identify the resources consumed in the processing of the various immigration adjudication and naturalization applications and petitions, define the application and petition processing activities, and develop the causal relationships between the resources, the activities, and the applications and petitions.

C. Fee Setting Assumptions

In calculating the proposed fees, the INS matched the resources needed to receive and process the new application and petition with the workload expected to be received in FY 1998. The adjudications process is continuous cycle. At any point in time, there will be applications in various stages of processing. This fee study attempted to

match the resources required to completely process approximately 5 million applications (of which 4.3 million will be fee-paying applications). At the time of the fee study, the INS had a ''backlog'' of uncompleted applications in excess of 1.5 million. The cost to process this backlog was not included in the resource base for this fee study. The cost to process these applications will be paid through the carry-over balance in the Examinations Fee Account. This carry over balance consists of revenue from backlogged applications and section 245(i) penalty fees. (The section 245(i) penalty fee is the amount that Congress allowed the INS to levy on certain adjustment of status applicants. The revenue from the section 245(i) penalty fee was used to subsidize the cost of processing immigration adjudication and naturalization applications and petitions. In January 1997, Congress redirected the use of most of this penalty fee to purposes other than immigration adjudication and naturalization application and petition processing. The section 245(i) penalty fee was discussed in more detail in the section of this document titled ''Sufficiency of the Current Fee Schedule.'')

Defining Immigration Adjudication and Naturalization Activities

In ABC, activities are the critical link to assigning resources to cost objects (applications and petitions for which the INS charges a fee). For purposes of the Fee Study, a generic model was constructed to demonstrate by use of a flowchart the activities involved in processing INS applications and to assist in identifying the resources these activities and tasks consume. This flowchart, and its accompanying text, is the Application Process Model (APM). The APM is a narrative and graphical representation of the activities (and their component tasks) necessary to process an application or petition. Linked together in logical sequence, these activities form a model of the application process. The APM models all the possible activities and tasks that are involved in processing immigration adjudication and naturalization applications and petitions; it does not model a specific application or petition. Individual activities or tasks may or may not occur in the processing of each application and may depend on the application type and the location (i.e., district office, service center) where processing occurs. The APM serves as the framework for accumulating activity costs. The activity costs are then assigned to each specific application and petition based on cycle times. (Cycle times measure the frequency and intensity of the demand for activity cost by each specific application or petition. Cycle times are discussed later in this document.)

To develop the APM, the INS Fee Study Team visited all of the four service centers and eight district offices, taking notes, conducting interviews, observing, and dissecting each of the activities involved in processing the INS applications and petitions for which fees are charged. The Fee Study Team consolidated the results of the observations during a series of focus sessions held shortly after the end of the field visits. During these sessions, the observed activities were arranged sequentially to illustrate the processing flow of an application, activities and their component tasks were defined, and the inputs and outputs of each activity were identified. To ensure the accuracy of the resulting APM, the Fee Study Team validated the results with INS and contractual personnel with extensive experience in processing immigration adjudication and naturalization applications and petitions. These validation sessions were held at INS headquarters and at selected field locations. After each validation session, the APM was modified and updated.

The development of the APM focused on actions, not on organizational structure or the person or group of persons performing the activity. An activity had to be an operationally-related set of tasks that occurred over time, have a definite beginning and end point, and consume at least five percent and no more than 40 percent of the Examinations Fee Account resources. Each activity was defined only once, although it was realized that certain activities (or component tasks) could occur more than once in processing a specific application or petition (this type of application-specific processing would be captured in the cycle time analysis).

The APM attempts to model the logical flow of an application or petition from the time it is received by the INS to its final disposition. However, the APM may not map tasks exactly in the sequence they occur in a specific INS office. A significant criterion for an accurate APM is that the activities and their corresponding tasks reasonably represent complete work steps. The operational sequence is of secondary importance. In visits to the district offices, variations in the operational sequence of tasks performed among offices were observed. Therefore, when composing the APM, the placement of a task (or sequence of tasks) within one named activity rather than another activity reflects the Study Team's best judgment of how and where the sequence occurred in most district offices or service centers.

During the development of the APM, it was assumed that as long as all tasks are accounted for, the sequence in which they occur would not materially affect the outcome of the Study. Within each activity, discrete, measurable tasks were identified. Activity and task names were chosen to describe clearly definable actions. There is a wide variety of terms used within various INS offices for a particular activity or task. The Fee Study Team attempted to define each activity using a commonly understood term. While a few activity and/or task names may not be recognized by practitioners in the field, the descriptions of each activity and its subordinate tasks should be familiar. The APM must be viewed as a whole with both the graphical representation and the accompanying textual definitions.

The major immigration adjudication and naturalization activities defined in the APM are:

Receive application and petitions, which includes the tasks of receiving, opening, screening, batching, and assembling application and petitions;

Record fee, which includes the task of receipting fees, reconciling registers, preparing and making deposits, and recording fee information into INS program and financial systems;

Input application data, which includes the tasks of entering data from application and petitions into program systems, verifying data, and printing current system data;

Manage records, which includes the tasks of searching and requesting files from other INS offices; creating temporary and/or permanent alien files; consolidating files; connecting returned evidence with application or petition files; pulling, storing, and moving files upon request; auditing and updating INS systems on the location of files; and archiving inactive files;

Adjudicate application, which includes the tasks of distributing workload; scheduling and conducting interviews, when necessary; reviewing, examining, and adjudicating applications and petitions; making and recording adjudicative decisions; requesting and reviewing additional evidence; and consulting with supervisors, legal counsel, and researching applicable laws and decisions on non-routine adjudications;

Prepare outgoing correspondence, which includes the tasks of preparing

interview schedules; coordinating requests for inter and intra-agency reports; preparing decision letters and requests for additional information; mailing all outgoing correspondence; sending requested files to other INS offices; preparing visa packages; and preparing and sending cables to United States consulates and INS offices in foreign locations;

Issue end product, which includes the tasks of entering alien registration, employment authorization, naturalization, or certificate of citizenship information into the appropriate INS system; producing the card or certificate, including printing, laminating, and inspection; scheduling and conducting naturalization ceremonies; and distributing the card or certificates to authorized beneficiaries; and

Respond to inquiry, which includes the tasks of receiving and responding to inquiries on the status of applications and petitions filed, or on how to obtain and file the various INS applications and petitions. Inquiries can be from applicants, legal representatives, or members of Congress and made through telephone calls, written correspondence, or walk-in inquiries.

These definitions are important in understanding the processes occurring at each activity and task level and how each process adds value to the application or petition.

The APM includes a detailed definition for each identified task. These definitions are important to understanding the processing that occurs in each activity and are an integral part of the APM. As noted previously, detailed documentation of the Fee Study is available upon request, including the complete APM with definitions. Please refer to the ''For Further Information'' section of this proposed rule for instructions on obtaining this information.

Identifying FY 1998 Examinations Fee Account Resources

The second step in implementing an ABC methodology is to identify the total resources of an organization and to assign these resources to the defined organizational activities. The Fee Study Team determined that the FY 1998 Congressional Budget for the Examinations Fee Account was the best available source of data for determining the cost of immigration adjudication and naturalization services.

A. Sources of Cost Information

Although the INS prepares financial statements for past fiscal years, there are problems with relying on financial statements as the sole source of resource data. Financial statements are inherently historically-focused. They record past events. While financial statement analysis can be a useful tool for determining historical spending patterns, financial statements do not incorporate anticipated program changes, staffing level fluctuations, or planned infrastructure improvements. Budgets, on the other hand, formally quantify management plans. Federal budgets reflect both policy decisions and program operational plans that have received the approval of both the Administration and Congress. In the Federal sector, budgets are rigorously examined at all levels of agency management, by the Administration through OMB reviews, and by the Congress. For these reasons, the INS relied on the FY 1998 Congressional Budget for the Examinations Fee Account as the base for determining the full cost of providing immigration adjudication and naturalization services for the ensuing fiscal years (FY 1998 and beyond).

As discussed earlier, the INS must follow Federal guidance in determining its fees for service. Both the FASAB Managerial Cost Accounting Standards and OMB Circular A–25, User Charges, require agencies to base fees and reimbursements on the ''full'' cost of the goods or services provided. The FY 1998 Congressional Budget for the Examinations Fee Account was the basis for determining the cost of immigration adjudication and naturalization service. However, several adjustments to this budget base were made to arrive at the ''full'' cost of immigration adjudication and naturalization services. These adjustments included deducting amounts from the Examinations Fee Account Budget that were not attributable to immigration adjudication and naturalization services and adding unfunded costs (i.e., bad debt expense, annual leave liability, and contingent liabilities) to the budget base. The budget base also includes the cost of asylum and refugee processing and the cost of applications processed at no charge to the applicant. These services consume resources but do not produce revenue; as such, asylum, refugee, and fee-waived costs can also be considered ''unfunded.''

B. Adjusting for Land Border Costs

Two types of fees are deposited into the Examinations Fee Account: (1) Fees for services related to immigration adjudication and naturalization services, and (2) fees for adjudication services provided at land border ports-of-entry into the United States (Land Border Services). Fees are charged at the northern and southern United States land borders for the processing and issuance of land border travel documents, including: non-immigrant records of arrival and/or departure, visa waiver non-immigrant records of arrival and/or departure, Canadian Border boat landing permits, and the replacements of a lost, stolen, or mutilated nonresident alien Mexican or Canadian border crossing cards. These land border fees were implemented in October of 1996 and were considered too new to be included in this Fee Study. (Both the CFO Act and OMB Circular A–25 require a bi-annual review of fees for services; the INS will review the adequacy of these fees at the appropriate time.) The FY 1998 Examinations Fee Account budget, however, is based on anticipated program f unding levels for services related to both fee types. To determine the budgeted funding level for immigration adjudication and naturalization services, amounts budgeted for Land Border Services were subtracted from the total FY 1998 Examinations Fee Account budget.

C. Determining Unfunded Items

Federal budgets are based on the amount of obligations that an agency plans to incur within the current fiscal year. Federal agencies often incur liabilities for actions or events that take place in the current fiscal year, but the obligations for those actions or events occur in subsequent fiscal years. These unbudgeted expenses are called ''unfunded items.'' Since the obligation and payment of these amounts will take place in future periods, they are not included—or ''funded''—in the current period budget, hence the name ''unfunded'' items. The INS must include amounts for unfunded items in its fees to generate sufficient revenue in the Examinations Fee Account to provide funding for these items when payment becomes due. The INS must recognize three categories of unfunded items: contingent liabilities, annual leave, and bad debt expense. Annual leave is vacation time earned by INS employees. While annual leave may be earned in one year, it may not actually be used until future periods. An amount must be added to the resource base to fund the cost of annual leave earned this year, but used in another year. A contingent liability is an event or existing condition that may result in a financial loss. For the INS, contingent liabilities are usually personnel actions, legal actions, or contract disputes for which the INS may make a financial settlement or perform an additional service. (For example, an employee may

file a personnel action that results in the payment of back wages, or an interest group may bring a legal action to have the INS re-adjudicate certain classes of applications without the payment of additional fees.) When a contingent liability is reasonably probable and ''estimatable,'' an agency must record the liability in its official books and records and set aside an amount to fund the liability when it becomes due and payable. Bad debt expense is incurred when an applicant submits an application or petition with a non-negotiable check. The INS has instituted procedures to prevent, as much as possible, the processing of applications and petitions presented with a non-negotiable check. However, due to the time lag between the deposit of the check and the return for non-negotiability, the INS usually incurs some processing costs. Most often, the INS has processed the application through the mail room, data entry, and records management areas. Holding applications until the accompanying checks are cleared would unfairly penalize the vast majority of clients who present negotiable checks. However, the fees are calculated at a level that recovers the full cost of immigration adjudication and naturalization services provided, even those that are provided when a non-negotiable check is presented. For that reason, a bad debt expense must be calculated and added to the budget base.

D. Total FY 1998 Immigration Adjudication and Naturalization Resources

The total resource base for FY 1998 immigration adjudication and naturalization services is the FY 1998 Examinations Fee Account Budget adjusted for the cost of Land Border Services, plus the unfunded items discussed previously. The resulting total is the estimated FY 1998 resources to fund the cost of processing the various immigration adjudication and naturalization services for which the INS charges a fee, plus the cost of similar services provided at no cost. The calculation of total immigration adjudication and naturalization application and petition processing resources that were assigned to the various applications and petitions is illustrated in Figure 2.

FIGURE 2.—RESOURCE BASE—PROCESSING IMMIGRATION ADJUDICATION AND NATURALIZATION APPLICATIONS AND PETITIONS ($000)

FY 1998 Proposed Examinations Fee Account Budget	$646,916
Less: Land Border Costs	(14,623)
Add: Bad Debt Expense	446
Contingent Liabilities	2,500
Unfunded Annual Leave	3,390
Total FY 1998 Resource Base	$638,629

Recommended Cost Assignment Methods

Once the resource base was determined, the Fee Study Team examined each resource type to determine the cost assignment method that best links the resource to an activity performed in the processing of immigration adjudication and naturalization applications and petitions. Activity costs were then assigned to the various applications and petitions based on the demand for the activity by the applications or petitions. Determining a cost assignment method is important to producing accurate results. Cost assignment methods are determined by carefully studying the factors that cause a resource to be consumed by an activity, and the consumption of activity costs by cost applications. The FASAB, in its *Statement of Federal Financial Accounting Standards Number 4, Managerial Cost Accounting Concepts and Standards for the Federal Government,* section 11, pg. 3, recognizes three types of cost assignments: direct tracing, cause-and-effect, and allocation. Determining a cost assignment method depends on (1) the materiality of the cost being assigned, and (2) the amount of precision gained by using a particular assignment method. The precision of the results must be weighed against the time and resources that must be expended to develop a cost assignment method. *Direct Tracing Cost Assignment.* When the relationship of the cost to the cost object is readily identifiable and measurable, direct tracing is the preferred method of cost assignment. An example of direct tracing is direct labor. The time and resources devoted to a specific task, product, or service can be observed and measured.

Cause-and-Effect Cost Assignment. When the relationship of the cost to the cost object is not readily observable, but can be assumed and measured based on another factor, it is called cause-and-effect cost assignment. For example, the cost of automated data processing can be assumed relational to the number of lines of data entered. A cost assignment can be developed using the percentage of lines of data entered to total cost.

Allocation Cost Assignment. In some cases, however, no relationship can be developed between the cost and the cost object. For example, the cost of a firm's chief executive officer may not be related through either direct-tracing or cause-and-effect to the firm's activities or cost objects.

Yet the cost of a chief executive officer, and the cost to maintain staff, is vital to the continued operation of the company for, among other services, strategic planning, policy decisions, and financing. When neither a direct-tracing nor cause-and-effect relationship can be established, a cost allocation is used. Allocation is a fair and reasonable assignment of cost based on a consistent factor, such as number of employees, department budgets, or actual costs. Cost allocation can also be used when the costs being assigned are not material and it is not cost-beneficial to determine a more precise assignment method.

Determining the Amount of Resource Costs to be Assigned to Activities

This section describes how the various cost assignment methods were used to distribute costs from the FY 1998 resource base to the immigration adjudication and naturalization activities. (See the section entitled ''Defining Immigration Adjudication and Naturalization Activities'' for a discussion of how the Fee Study Team identified and defined these activities.) Several resource costs, however, were not assigned to the immigration adjudication and naturalization activities. These resources included asylum and refugee costs, resources attributable to applications and petitions for which the INS is not proposing a fee increase, and any resources that could be immediately assigned to a specific immigration adjudication and naturalization application or petition.

A. Costs for Asylum and Refugee Services

Of the $638,629,299 resource base, $92.8 million represents funding for the asylum and refugee programs administered by the INS' International Affairs program. Applicants for asylum and refugee benefits are processed without charge to individuals seeking such benefits. Therefore, these costs, and the cost of other refugee and asylum benefits, are not classified as direct costs. Congress has directed the INS to

set its immigration adjudication and naturalization fees at a level that recovers sufficient revenue to provide asylum and refugee services. The cost of the refugee and asylum programs are allocated to the fee-based immigration adjudication and naturalization applications and petitions as a surcharge. The method used to assign this surcharge is discussed later in this proposed rule.

B. Applications and Petitions for Which the INS is not Proposing a fee Increase

The intent of the Fee Study was to determine the full cost of the immigration adjudication and naturalization applications and petitions for which the INS charges a fee, and to adjust the fees charged for these applications and petitions based on cost. There are over 40 immigration adjudication and naturalization applications within the Examination Fee Account Fee Schedule. Some of these applications are filed in large numbers. For example, 11 applications and/or petitions types account for more than 97% of the total volume of applications and petitions filed annually. The remaining applications and petitions are filed much lower volumes.

This Fee Study was based, in large part, on the actual observation and measurement of the time needed to perform the various immigration adjudication and naturalization activities. Since these ''small volume'' applications are filed much less frequently, actual observation of the processing of these applications by the Fee Study Team was difficult. The Fee Study Team could not observe a sufficient number of these ''small volume'' applications to satisfy statistical sample requirements. Some of these ''small volume'' applications were so infrequent that it was impossible for the Fee Study Team to find a service center or district office that processed the application within the past year. For example, in FY 1995, only one office reported receiving the Form N–644, Application for Posthumous Naturalization. Since these ''small volume'' applications are filed infrequently, the INS determined that the most reasonable approach was not to revise the fees for these applications as part of the recently completed fee study. These ''small volume'' applications may be reviewed and their fees may be revised as the result of future fee studies.

There are also certain applications that have an altogether different and complex process. These applications are appeals of previously adjudicated applications, and motions to reopen or reconsider a case. Applications for appeals and motions to reopen can be received by either the INS or the Executive Office of Immigration Review (EOIR), and are adjudicated by either the Board of Immigration Review or Immigration Judges. Adjudication of these forms involve numerous organizations within the INS, and different agencies within the DOJ. Because of their scope, variation, and complexity, these forms were not reviewed during the recently completed Fee Study. A thorough review of the processes and costs of the appeals and motions to reopen is required and will be performed in a subsequent study.

The applications and petitions for which the INS is not proposing a fee increase in this proposed rule include: Form EOIR–26, Appeal of decision of Immigration Judge over which the Board of Immigration Appeals has appellate jurisdiction; Form EOIR–29, Appeal of decision of INS over which the Board of Immigration Appeals has appellate jurisdiction; Form I–256A, Application of Suspension of Deportation under section 244 of the Act; Form I–290B Notice of Appeals to the Administrative Appeals Unit; Form I–360, Petition for Amerasian, Widow(er), or Special Immigrant; Form I–821, Application for Temporary Protected Status; Form N–300, Application to File Declaration of Intention; Form N–336, Request for Hearing on a Decision in Naturalization Proceedings under section 336 of the Act; Form N–470, Application to Preserve Residence for Naturalization Purposes; and Motions to Reopen.

The amount of resources attributable to these ''small volume'' applications, and applications for appeals and motions to reopen had to be deducted from the total FY 1998 immigration adjudication and naturalization resource base. If such resources were not deducted, the INS would have attributed all immigration adjudication and naturalization resources to the fees that were the subject of this Study. As a result, the cost of the revised fees would have been overstated. To avoid this potential ''double charging,'' the INS projected the number of ''small volume'' applications, applications for appeals, and motions to reopen that it expects to be filed in FY 1998. This projected volume was multiplied by the current fee for these applications to approximate FY 1998 costs (using the assumption that for these applications, appeals, and motions to reopen, revenue equals costs). This amount, $6.5 million, was deducted from the FY 1998 immigration adjudication and naturalization resource base.

C. Resources Immediately Assignable to Specific Applications and Petitions

Additionally, there were also several budgeted items that could be assigned immediately to an application or petition, or a specific group of applications and petitions, without first being assigned to an activity. These costs were specifically identified in budget proposals. The costs immediately attributable to a specific application or group of applications are:

$32,548,000 to improve the direct mail initiative to improve efficiency of service center operations; this amount was assigned to all applications received at the INS service centers;

$17,800,000 to improve Records Management at INS district offices; this amount was assigned to all applications received at INS district offices;

$26,922,000 to improve the automated application processing infrastructure; this amount was assigned to all immigration adjudication and naturalization applications;

$4,210,000 to enhance computer systems that provide naturalization support; $29,866,000 to increase naturalization processing, including additional funding for Federal Bureau of Investigation clearances, increased funding for ceremonies and oaths, and contract support for improved automated case management; and $1,940,000 to maintain naturalization processing at FY 1997 levels; these amounts were assigned directly to the N–400, Application for Naturalization; and

$1,000,000 to enhance the computer system that provides case tracking and interview scheduling for adjustment of status applications; and $5,804,000 for increased processing of adjustment of status cases; these amounts were assigned directly to the Form I–485, Application to Register Permanent Residence or Adjust Status.

D. Amount of FY 1998 Immigration Adjudication and Naturalization Resources Assigned to Activities

The amount of immigration adjudication and naturalization resources that were assigned to activities was determined by subtracting from the resources base the resources immediately assignable to specific applications or petitions and the imputed costs attributable to small volume applications, appeals, and motions to reopen. The cost of asylum and refugee services was assigned to each application and petition using an allocation cost assignment method. The allocation method used for asylum and refugee cost is discussed later in this proposed rule.

Assigning Immigration Adjudication and Naturalization Costs From Resources to Activities

A. Assigning Personal Services and Benefits Costs

The single most significant resource consumed in providing immigration adjudication and naturalization services is Personal Services and Benefits (PS&B) costs. PS&B is composed of the salary paid to INS employees (both permanent and temporary) to perform immigration adjudication and naturalization services, plus the government share of benefits accrued by INS employees. These benefits include, but are not limited to, retirement, health insurance, life insurance, and social security payments. For FY 1998, PS&B costs account for approximately 45% of immigration adjudication and naturalization resources ($280.5 million of the total resource base of $638.6 million).

To achieve a high level of precision in assigning resource costs to activities, the INS assigned PS&B resource costs to the pre-defined immigration adjudication and naturalization activities by job series. In the Federal sector, each personnel position is identified by a job series number and description. This job series designation defines the duties required and the performance expected for each Federal personnel position. Personnel assigned to each job series have differing responsibilities in the immigration adjudication and naturalization processes. For example, Immigration Adjudication Officers devoted more time adjudicating applications and petitions than clerical positions; Immigration Information Officers may spend more time responding to inquiries than an Immigration Adjudication Officer; supervisory personnel usually expend their time in very different patterns than those they supervised, and so on. It was logical to assume that attributing PS&B costs by job series would result in more precise cost assignment than if the PS&B costs were assigned as a single cost pool.

To make PS&B resource assignments by job series, the Study Team determined the amount of PS&B costs budgeted for each job series in FY 1998. The Study Team then determined the average percentage of time each job series spent on the eight pre-defined immigration adjudication and naturalization activities. The INS does not develop its budget by job series costs; rather, each program estimates an aggregate PS&B costs when formulating their budget. To assign PS&B costs by job series, the budgeted FY 1998 PS&B costs had to first be assigned to each job series based on historic obligation percentages. (Obligations are binding agreements that will result in the expenditure of budgetary resources, either immediately or in the future.) PS&B obligations are incurred each time the INS pays it employees for services. Each pay period during the fiscal year, the INS updates its Pay Database with the current amount of PS&B that has been obligated and paid. In simplest terms, the budget provides the spending authority and the spending plan, the Pay Database tracks what has been spent. The INS Pay Database tracks actual PS&B obligations by account, program, job series, FTE, and amount. The INS Pay Database provided an excellent source of data to determine actual PS&B obligation patterns. These patterns, expressed as percentages, were used to dis-aggregate the FY 1998 PS&B costs from program and OMB Object Class detail to job series detail, by amount and FTE.

Once determined, the estimated FY 1998 PS&B job series amounts were assigned to the eight pre-defined immigration adjudication and naturalization activities. These activities are an ABC tool and were defined and created as a part of this Study. These activities are not data elements for either preparing the INS budget or for tracking obligations and expenditures in the Pay Database. Assigning PS&B job series costs to the immigration adjudication and naturalization activities required determining the amount, or percentage, of time personnel in each job series spent performing the various activities. Since no reports existed that would provide us with this information, the Study Team developed a survey to gather this information.

A representative sample of the INS personnel in each job series completed these surveys. The Study Team conducted extensive field visits to gather the cycle time data to assign activity costs to applications. To prevent bias in data collection, all sites visited were randomly selected. During the site visits, Study Team members also conducted interviews with representative personnel from the various job series. The Study Team asked the persons interviewed to provide their expert opinion on the amount of time spent performing the various pre-defined activities. The responses were then weighted by the application volumes of each office. Since the responses were representative samples, a response from an office that processes a high volume of immigration adjudication and naturalization applications and petitions should have a correspondingly higher weight than responses from an office that processes smaller volumes. For example, estimates of activity time for job series 1801, Adjudication Officers, assigned to Miami (with a total of 132,213 applications processed) was given greater weight in the calculation than the estimate from an Adjudication Officer assigned to Omaha (11,785 applications processed). The final step in assigning PS&B costs required applying PS&B amounts in each job series to the immigration adjudication and naturalization activities based on the weighted average percent derived from the time usage survey.

B. Assigning General Expense Costs to Activities

For the purpose of this study, General Expenses (GE) represent all costs other than PS&B costs. The INS budgets, monitors, and reports its GE costs by OMB Object Class Codes. OMB Object Class Codes are used throughout the Federal government to budget and report costs by the nature of the service or goods procured. Segregating costs by OMB Object Class Codes provided the Fee Study Team with an excellent method of analyzing costs by their specific nature and determining an assignment method that is best related to how the resource costs are consumed by activities. Some GE costs could be directly traced to a specific immigration adjudication and naturalization activity, while others could be assigned by a cause and effect assignment methods. When analysis did not provide a means for either direct tracing or cause and effect assignment, costs were assigned using an allocation method based on the total PS&B costs assigned to each activity. (See the previous discussion of PS&B cost assignment.)

The Fee Study Team reviewed the FY 1998 Examinations Fee Account Budget to determine which GE items could be directly traced from the resource base to the immigration adjudication and naturalization activities. The following costs were assigned directly to immigration adjudication and naturalization activities:

$3,000,000 for the cost of enhancements to fingerprint collection and clearance process were assigned direction to the ''Adjudicate Application'' activity;

$1,250,000 for the cost of enhancements to the Central Index System, and $2,643,00 for the Cost of hardware and software to enhance the records management infrastructure were assigned directly to the ''Manage Records'' activity;

$4,262,262 for the cost of postage were assigned directly to the ''Prepare Outgoing Correspondence'' activity;

$13,989,000 for the cost of card production were assigned directly to the ''Issue End Product'' activity; and

$4,243,000 for the cost of improving public access to information and forms, $2,113,000 for the cost to create, train, and support 50 positions that will specialize in improving community and customer relations as well as train other INS service providers, and $9,500,000 for the cost of creating a single INS 1–800 telephone line that will act as a front end to all non-enforcement related questions were assigned directly to the ''Respond to Inquiry'' activity.

Facilities and Utilities costs were assigned to the immigration adjudication and naturalization activities using a cause-and-effect cost assignment method based on the amount of space used by each activity. To determine the square footage of space by specific activity, the Fee Study Team devised a square footage survey. The square footage survey was conducted at all four INS service centers, and at district offices located in Los Angeles, Phoenix, San Antonio, Miami, Omaha, Kansas City, Philadelphia, and Boston. These district offices were randomly selected as sites for cycle time data collection (discussed later in this document) and were assumed to be representative of all INS district offices. The square footage survey was conducted by interviewing administrative officers at the various sites, observing space usage, and reviewing site-specific floor plans.

The survey results were analyzed and converted into percentages that were used to assign facilities and utility costs to the various immigration adjudication and naturalization activities. The percentage of floor space dedicated to a particular activity was weighted by relative size of the facility. For example, at the California Service Center, 143,338 total square feet, has ten percent of its floor space dedicated to the ''Receive Application'' activity, whereas the Philadelphia District Office, 41,380 total square feet, has five percent of its floor space dedicated to the same activity. A simple average of the two percentages ((10% + 5%)/2=7.5%) does not take into account the relative size of the offices. When weighted by applications processed, the resulting percent for ''Receive Application'' square footage for all facilities surveyed was 9%.

The remainder of GE costs were assigned using an allocation method. This method was based on the percentages derived from the PS&B labor survey. The following is a brief discussion of the various types of GE costs assigned to activities by cost allocation:

Costs incurred for the transportation of Government employees, and their per diem allowances, are only authorized for payment when travel is for missions of public service.

Costs are incurred for the freight and express transport of government equipment, authorized movement of employees' household goods and parcel post and express mail transportation. Historically, 87 percent of these costs are related to the transportation of employees' property; the use of the PS&B resource assignment method was determined to be the best assignment method.

The INS receives three types of telecommunication's bills: Federal Telephone System local, data communications, and long-distance voice toll calls. The General Services Administration bills these services to the INS through the DOJ. Both the GSA and DOJ add a service charge to the communications billing to cover their administrative costs. The amount assigned to each INS fee account is based on the number of INS employees budgeted to each account. Within the Examination Fee Account the cost of communication was allocated to each activity based on the PS&B labor survey.

Costs incurred for contractual printing by the Government Printing Office and commercial printers were examined to determine if a relationship could be established between this cost category and the specific applications and petitions under review for this Study. Since no relationship could be established, the Fee Study team used the PS&B percentages as an equitable method for assigning these costs to the immigration adjudication and naturalization activities.

The Fee Study Team carefully examined the amounts budgeted for OMB Object Class 25.0, Other Services, and was able to directly trace a significant portion of these costs to a particular immigration adjudication and naturalization activity, application or petition, or group of applications and petitions. These costs have been previously discussed in this proposed rule.

All remaining costs budgeted under this OMB Object Class were assigned using the PS&B percentages, a consistent and equitable cost assignment method.

Supplies and materials are costs for consumable commodities that are ordinarily used within one year of purchase. Supplies and Materials include office supplies, ADP supplies, and miscellaneous supplies and materials. While examining the underlying accounting records related to supply and material resources consumed, the Fee Study Team determined that these costs were not directly traceable to the applications under review for this Study. As a result, use of PS&B percentages was used as a reasonable and consistent cost assignment method for this cost category.

Equipment costs include the purchase of property that is normally expected to have a period of service of a year or more. While examining the underlying accounting records related to the purchase of equipment, the Fee Study Team determined that the purchase of most equipment, particularly computer hardware, provides a benefit for all application and petitions. However, certain equipment purchases were directly traceable to specific activities or applications and petitions, and have been discussed previously.

Once PS&B and GE costs were assigned to activities, the ABC methodology dictates that the activity cost should then be assigned to the cost objects. (For purposes of this Fee Study, the cost objects are the immigration adjudication and naturalization applications and petitions for which the INS charges a fee.) The cost assignment method used to ''drive'' activity costs to the immigration adjudication and naturalization applications and petitions was cycle times. The following sections discuss the cycle times and the data gathering necessary for their development.

Cycle Time Development

As stated previously, ABC uses a two-step cost assignment process. Costs are first assigned from resource pools to activities, and then activity costs are assigned to cost objects. (For the purposes of this Study, the activities are those defined in the APM that were discussed previously in this proposed rule, and the cost objects are the various immigration adjudication and naturalization applications and petitions for which the INS charges a fee.) The Fee Study Team used cycle times as a cause-and-effect assignment method to distribute activity costs to the various immigration adjudication and naturalization applications and petitions. Cycle times measure the frequency and intensity of the consumption of activity costs by the various immigration adjudication and naturalization applications and petitions. Cycle times are the ''drivers'' that assign activity costs to the various applications and petitions. The cycle

time measures the amount of time needed to complete each activity in the processing of the various immigration adjudication and naturalization applications and petitions. Developing cycle times that accurately reflected application and petition processing times involved the following: developing a statistically-valid sampling plan, the random selection of a representative sample of INS offices from which to collect cycle time data, the development of data collection procedures to control sampling bias, the actual collection of cycle time data, the review and analysis of the cycle time data collected, and the use of the cycle time data to assign activity costs to the immigration adjudication and naturalization applications and petitions for which the INS charges a fee.

A. Developing the Statistical Sampling Plan

To ensure the representativeness, accuracy, and defensibility of the cycle times used in activity cost assignments, the data collected during this effort had to be randomly selected and unbiased. The Fee Study Team devised a statistical sampling plan for cycle time data collection that ensured the integrity of the data, standardized data collection procedures, and eliminated bias in data collection. The statistical plan outlined the Team's methodology for determining the sampling method, clustering, selecting sites and applications to be observed, assigning the number of observations, controlling for sample bias, and making adjustments.

Sample Size. Statistical sampling assumes that a representative sample of a population has the same characteristics of the population as a whole. A statistical sampling plan must include a sample size that ensures that the samples observed do, indeed, reflect the characteristics of the total population. Several factors influence the size of the sample: the desired confidence level, the size of the population samples, the expected rate of data collection (or the ''miss rate''), and the number of activities observed.

Confidence Interval. By using a statistical formula with a 95% confidence interval, the Fee Study Team determined that 200 observations were necessary for each of the common and unique activities. Establishing a level of precision or a confidence interval of 95% ensures confidence that the data collection was both representative and statistically significant. This level of confidence was selected for its high reliability, accuracy, and acceptability in organizational research. Selecting a confidence interval of 95% places a high level of confidence in the results, provides the precision of measurement necessary for extrapolating the results, and is sufficient in cases of legal defensibility. The INS sampling plan guarantees that the number of required cycle times for the Fee Study is statistically correct.

Population Size. For this Study, the statistical sample included all applications and petitions with FY 1995 completed volumes of greater than 10,000, as reported in the Performance Analysis System (PAS). (The PAS is a management and work load measurement system that records application volumes and associated work hours.) The Fee Study Team used FY 1995 PAS data, the most recent complete year of data available during the conduct of the Fee Study. The applications and petitions with a volume of 10,000 annually represent 99.5% of all applications and petitions processed by the INS, and were the focus of the on-site observations for cycle time data gathering. For the most part, the Study did not include applications with a volume of less than 10,000 completions because of the low probability of actually observing cycle times in statistically sufficient numbers for these applications. Also, these applications account for less than 1% of the total revenue deposited into the Examinations Fee Account each year. The Fee Study Team developed alternate methods to determine cycle times for the unobserved applications and petitions. Methods used to develop cycle times for the lower volume applications included the use of expert opinion to determine when to apply observed cycle times to similarly processed applications and petitions that were not observed, and the use of experts to provide estimated cycle times for the lower volume applications. Figure 3 lists the applications observed in the cycle time data gathering phase of the fee study.

FIGURE 3.—LIST OF THE APPLICATIONS AND PETITIONS OBSERVED

I–90	Application to Replace Alien Registration Card.
I–102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.
I–129[1]	Petition for Nonimmigrant Worker/Classify Nonimmigrant as Temporary Worker or Trainee/Employ Intracompany Transferee.
I–129F ...	Petition for Alien Fiance(e).
I–130	Petition for Alien Relative.
I–131[2]	Application for Travel Document.
I–140	Immigrant Petition for Alien Worker.
I–485	Application to Register Permanent Residence or Adjust Status.
I–539	Application to Extend/Change Nonimmigrant Status.
I–600[3]	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing or Orphan Petition.
I–724[4]	Waiver Forms.
I–751	Petition to Remove the Conditions on Residence.
I–765	Application for Employment Authorization.
I–817	Application for Voluntary Departure under the Family Unity Program.
I–824	Application for Action on an Approved Application or Petition.
N–400	Application for Naturalization.
N–565	Application for Replacement Naturalization/Citizenship Document.
N–600	Application for Certification of Citizenship.
N–643[5] ..	Application for Certificate of Citizenship in Behalf of an Adopted Child.

[1] The I–129 includes the I–129, I–129H, and I–129L.

[2] The I–131 includes the Reentry Permit and Advanced Parole.

[3] The I–600 includes the I–600A.

[4] The I–724 includes all six of the Waiver Forms—I–191, I–192, I–193, I–212, I–601, and I–612.

[5] N–643 fell below the 10,000 volume limit for population size; however, during our visit to the Buffalo District Office sufficient N–643 applications were available for sampling.

''Miss'' Rate. The Fee Study Team allowed for the possibility of data collection ''misses'' in the statistical sampling plan and ''built in'' additional observations above the 200 needed for a 95% confidence level to guarantee that a statistically valid sample size would be obtained. Data collection ''misses'' constitute possible observations discarded as a result of inconsistencies in recording cycle times, incomplete observations due to faulty equipment or interruptions that caused the timer to halt an observation, and the possibility that applications and petitions scheduled to be timed may not have been available in sufficient numbers at the planned site visits. The Fee Study Team recognized that at any scheduled site the number of applications and petitions available for processing may not match the number anticipated in the statistical sample plan. This could happen for a number of reasons, such as applicants failing to appear for scheduled interviews, applications and petitions not being filed in the numbers anticipated while the Fee Study Team

was on-site, or the actual applications available for processing during site visits varied from the applications reported as available during the time when the sample plan was developed. (The Fee Study Team observed applications and petitions that were available and scheduled for processing while on-site; they did not interrupt the normal work flow at the various INS district offices or service centers.) Each application had a reserved ''miss'' rate based on the volume of applications required for the statistical sample; the higher the application volume, the lower the assigned ''miss'' rate. Increasing the lower volume of application sample sizes to hedge for ''misses'' was necessary to ensure that adequate sample sizes would be collected.

Common and Unique Activities. The Fee Study Team divided the sample into two categories based on the APM: common activities and unique activities. Common activities are those activities that are completed in the same amount of time regardless of the type of application or petition. For example, the amount of time required to open an envelope containing an application or petition is basically the same for all application and petition types; the amount of time to record a fee is the same regardless of form type, and the time required to request a file is similar for all applications and petitions. Regardless of the type of application or petition, the time to perform an activity or task is similar. With unique activities, the processing time is directly linked to the type of application or petition filed. For example, adjudication of each type of application and petition is based on specific sections in the INA, and requires specific documentation and adjudicative review. This, logically, makes the ''Adjudicate Application'' activity unique depending on the type of application or petition observed. Some applications require the production of a certificate or card that identifies the bearer as eligible for a specific benefit (such as Form I–766, Employment Authorization Document, or a N–550, Certificate of Naturalization). The time to produce an ''End Product'' is unique to the type of card or certificate created. Of the eight immigration adjudication and naturalization activities, six were designated as ''common'' and two as ''unique.'' The six common activities are: Receive Application/Petition, Record Fee, Input Application Data, Manage Records, Prepare Outgoing Correspondence, and Respond to Inquiry. The two unique activities are: Adjudicate Application and Issue End Product.

The designation of ''common'' or ''unique'' had a direct bearing on the sample size. As stated earlier, each activity required a sample size of 200 for a 95% confidence level. For each common activity, the total sample size which includes all applications and petitions was 200. For unique activities, the total sample size was 200 for each type of application and petition observed. Since the Fee Study Team observed 18 application and petition types, the sample size for the two unique activities, Adjudicate Application, and Issue End Product, was much larger. For the ''Adjudicate Application'' activity, the sample size was 3,600 (the 18 observed applications and petitions times 200). For the ''Issue End Product'' activity, the sample size was 1,400 (the seven applications or petition types that require an end product multiplied times 200).

B. Site Selection

Clustering. Determining which sites to visit for data collection was based on clustering. Clustering, the grouping of similar items, is a widely accepted technique used to achieve the most representative sample of a population (total set of items to analyze). For this study, INS offices of comparable size were grouped together into four clusters based on operating environments and the volume of applications and petitions processed: service centers, large district offices, medium district offices, and small district offices. The large district office cluster included those offices with a processed volume of more than 50,000 applications annually, the medium district office cluster included offices that processed more than 20,000 applications annually, but less than 50,000, and the small district office cluster included offices that processed less than 20,000 applications annually. After determining the four cluster groups, the Fee Study Team randomly selected 15% of the offices within each cluster to visit for data collection. Selecting 15% of offices within each cluster ensured that the data gathered from the sites were representative of the different size offices. The 15% selection rate is commonly accepted in statistical sampling for selecting samples within a cluster, and helped insure that a representative sample of office sizes was selected for data gathering. Without clustering, the possibility existed that large, medium, or small size district offices could have been overly represented in the number of offices chosen. This may have skewed the sample and increased the potential for cycle time biases. The combination of clustering and randomly selecting 15% of each cluster also served to reduce the cost and time of gathering data when sampling a large and widely dispersed population.

Selecting 15% of offices within each cluster resulted in the random selection of two sites from the large district office cluster, three sites from the medium district office cluster, and two sites from the small district office cluster. The sites selected included: Miami and Los Angeles as large district offices; Honolulu, San Antonio, and Phoenix as medium district offices; and Kansas City and Omaha as small district offices.

Adjustments to the Site Selections. The site selections were adjusted for various reasons: cost considerations, geographical representation, or insufficient data collection as the site visits proceeded. After reviewing the geographical dispersion of the original sites selected, the Fee Study Team determined that district offices located in the northeastern United States were not represented, even though a large number of immigration adjudication and naturalization applications and petitions are received and processed by offices located in the northeast. To ensure geographical representation, an additional office was randomly selected from a pool of district offices located in the northeastern United States. The Boston District Office was randomly selected through this process. The Honolulu District Office was removed from the site selection list due to cost and time constraints involved in visiting that office. From the pool of offices remaining in the medium district office cluster, the Fee Study Team randomly selected the Philadelphia District Office to replace the Honolulu District Office. The Baltimore District Office was added to the medium district office list to observe its use of CLAIMS. The Baltimore District Office is piloting CLAIMS at the district office level. At the conclusion of the site visits, the Fee Study Team discovered that they had observed an unacceptably low number of the Form N–565, Application for a Naturalization or Citizenship Paper, and the Form N–600, Application for Certification of Citizenship. To bring the sample size to acceptable levels, the Buffalo District Office was visited to collect additional data on these applications. The Buffalo District Office was chosen for the Form N–565 and Form N–600 data collection because they had these forms available in sufficient numbers for observation. Visiting the Buffalo District Office also afforded the Fee Study Team the opportunity to visit the Toronto, Canada

pre-inspection site to observe processing of the Form I–192, Application for Advanced Permission to Enter as Nonimmigrant. This additional visit was required because the planned site visits did not encompass a field office with an available supply of this waiver form for the Fee Study Team to observe and time. Toronto is the predominant INS office for processing the Form I–192 and sufficient numbers of these forms were available for observation to develop a statistically sound sample size.

Service Center Site Visit Selection. Service centers were clustered separately. Since service centers process high volumes of applications, their operating procedures were very different from district offices. In addition, service centers usually process applications that do not require an interview and are not usually processed in district offices. The INS has four service centers; only one service center had to be visited to satisfy the 15% representation rule. The Nebraska Service Center, unlike the district offices visited, was not randomly selected for a site visit. The Fee Study Team decided to select the Nebraska Service Center since the Nebraska Service Center was the only service center that processed all types of applications, including the Form I–131, Application for Travel Document. To ensure that there was no bias in the data due to possible differences in operating procedures in the various service centers, the Fee Study Team decided to visit the other three service centers to collect a pro-rata share of common activity observations and a limited number of unique observations for specific applications and petitions.

Site-Specific Sampling Plans. After determining the number of observations needed for each of the common and unique activities and determining the sites to visit, observations were divided by activity among the field sites. This process required distributing the number of observations needed among the selected sites based on the volume of each application and petition processed at each selected site. This was accomplished by establishing a ratio of the processing volume for each selected site using the FY 1995 PAS data. As field office data collection progressed, the sampling plan was adjusted, as necessary, to ensure adequate data collection. If the required number of applications and petitions were not available at a planned site visit, the shortage was pro-rated to the future site visit sampling plans. For example, prior to the Miami District Office site visit, the sampling plan was adjusted to increase the number of planned observations of the N–565, Application for Replacement Naturalization Citizenship Document and Form N–600, Application for Certification of Citizenship, to reflect the shortage of data collection for those forms at other sites. The site specific sampling plans are available for public inspection. Please refer to the **FOR FURTHER INFORMATION CONTACT** section for instruction on obtaining this information.

C. Controlling Sampling Bias

The Study Team took precautions to ensure that all data collectors maintained a high level of consistency and accuracy when gathering cycle time data. This was achieved through standard operating procedures, training, uniform timing equipment, and the random selection of applications and personnel observed at each site.

Training. To ensure consistency in data collection, the Fee Study Team developed standard operating procedures for data collection and provided training on cycle time data collection procedures. All data collectors were required to attend the training, which was conducted by contracted statistical sampling specialists. Participants received instructions on standard procedures for measuring and recording data, including an overview of how to control response and observation biases. To reduce the response bias, the training provided the data collectors with guidelines on how to interact with personnel being timed, their role as a data collector, and the purpose of the observations. Data collection bias was also reduced through the use of uniform and consistent measuring equipment and a uniform recording medium (optical scan forms). Data collectors were also trained on the use of the Activity/Task Definition Report to identify the specific activities/tasks being timed and standard start and stop points for each observation. Procedures were also developed to help data collectors identify anomalies that may compromise an observation, such as interruption in the work flow, and how to manage such situations.

Selection of Observed Employees. The personnel observed at site were selected randomly. All site personnel had an equal chance for selection, regardless of their work experience. The Fee Study Team randomly selected employees to be observed using a list of employees provided by site management and a random number table to select employees from the list. Participation by site personnel was voluntary and no identifying information on the personnel observed, other than length of experience, was placed on the optical scan form. This procedure helped reduce any bias on the part of the personnel observed.

Selection of Observed Applications/Petitions. The Fee Study Team recorded observations at the randomly selected sites, with any application or petition having an equal chance of being observed. Applications and petitions are processed at INS offices in a first-come, first-served manner. That order was preserved for the Fee Study observations. Applications or petitions were observed in the order they were received at the various offices visited. Individual applications or petitions were not reviewed by any INS official or Fee Study Team member to determine whether they would or would not be observed.

Recording Data. To standardize cycle time data collection, the Fee Study Team developed an optical scan form that lists the activities and tasks of the APM and provides areas for the data collectors to record the Activity/Task Observed, Decision, Application type, Number of Employees Observed, Batch Size, Time, Employee Experience, Date, Location, and Timer Code. The Activity/Task Definition Report was extremely important to obtain consistent and accurate cycle times. The definitions provided the timers with the information required to ensure that the data collectors placed their observations under the proper activity/tasks.

D. Collection of Cycle Time Data

From June to September 1996, the Fee Study Team collected data at the district offices and services centers selected for cycle time data gathering. During this period, the Fee Study Team made over 50,000 observations of the various tasks and activities involved in processing immigration adjudication and naturalization applications and petitions. The data was collected by office, common and unique activities, and application and/or petitions observed. Detailed information on cycle time data gathering is available upon request. Please refer to the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for instructions on how to obtain this information.

E. Data Normalization and Weighting

After collecting and recording the data on optical scan forms, the Fee Study Team developed cycle times for each type of application and petition observed. The Fee Study Team constructed an analysis process for computing the specific time required to process each application through the

normalization of data at the task level and compiled these tasks into a cycle time at the activity level. (As stated earlier, each activity consists of various numbers of sub-component tasks.) For each task observed, the Fee Study Team developed an average time. This normalized data was used to develop activity cycle times for each of the eight activities. When appropriate, each task was weighted by the rate of denials, approvals, requests for additional evidence (RFAE), and, for applications that could be processed at either a district office or service center, a percent weight based on volumes processed at each type of office.

The Fee Study Team reviewed all optical scan forms entered into the computer database. Data anomalies were resolved and discrepancies clarified according to pre-defined procedures. For example, if a data collector recorded the time in numerals in the ''Time'' section of the optical scan form, but they did not darken the corresponding ovals for the optical scanner to read, the written time had to be recorded in the database. Other types of anomalies included the data collector failing to record batch size, which resulted in an aggregate time from several applications read as a single time, or a data collector darkening two ovals from one observation. Each identified anomaly was researched by interviewing the data collector. For those anomalies that were unsatisfactorily resolved, that scan form and all corresponding data were eliminated from the database. Less than 1% of the total 5,000 scan forms were voided.

The optical scan form also contained a section for written comments that had to be reviewed to determine their impact on the data. For example, a data collector often recorded on a single scan form several tasks that were performed concurrently. The data collector would provide a breakdown of each task and its respective time in the written comments section of the optical scan form. These types of observations had to be reviewed and added to the data base.

The Fee Study Team also performed an ''outlier'' analysis. All cycle times were plotted to uncover the outlier(s). An outlier was an observation that fell outside two standard deviations from the average of all observations for a particular task. When an outlier was identified, the observation had to be analyzed to determine if the timing pattern was reasonable. Usually, the original data collector was contacted, if possible, to determine the reasonableness of the observation and timing pattern. Often, human error was not the cause of an outlier; rather the outlier was usually an exceptionally complicated or difficult case that resulted in an activity or task taking longer than the average time. For example, interview times often varied depending on the applicant's language ability, the complexity of the application, and/or the questions regarding the materials submitted with the application. An outlier may be the result of an observation of a particularly long interview. Most outliers were valid observations and remained in the database. Occasionally, cycle time formulas were developed to help determine the average time for specific activities because some cycle times needed additional calculations to get a complete cycle time for a task. For example, the creation of the alien registration receipt form (''Issue End Product'' activity) for the Form I–90, Application to Replace Alien Registration Card, Form I–485, Application to Register Permanent Residence or Adjust Status, and Form I–751, Petition to Remove the Conditions on Residence, requires that the process begin at the district offices with taking fingerprints and collecting photos. The process is finalized at the Immigration Card Facility with the photo scanning step, etc., and the actual production of the card. These three steps were timed separately and added to produce a single task time.

After valid task times were produced through the normalization process, these task times were grouped by activity to create an overall activity cycle time. Just as data normalization was performed at the task level, data analysis occurred at the activity level. The Study Team designed a three-step method of computation to ensure that each piece of data was fairly represented and carried the observation weight through the analysis process to the final time determination. Special protocol for recording and developing the cycle times for the approval, denial, and RFAE data were established. Percentages for application specific denial, approval, and RFAEs were accumulated at the service centers and district offices and then incorporated into the respective activity cycle times. For example, the percentage of applications that require additional information was calculated into the cycle time. Processing for incomplete applications had to be accounted for since the set of tasks and thus the time to complete these tasks differed from an approved or denied application. The same weighting process occurred for the approval and denial rate of the various applications and petitions. Since the time to process an application is different depending on the adjudicative decision, the approval and denial rates for each application or petition type was obtained and weighted to determine the final cycle time. This is important because both approval and denial rates are associated with different tasks. Approved applications may require the issuance of a card or certificate, while denied applications require a letter stating the reason for the denial. These processing differences were accounted for by weighting various activities and tasks.

Applications such as the Form I–751, Form I–90, and Form I–131, Application for Travel Document, are processed at both the service centers and district offices. Observations were collected at both service centers and district offices and weighted accordingly to calculate activity cycle times that represented the dual processing of these applications. For example, approximately 36% of the Forms I–751 filed require interviews that are conducted at district offices. Specific task average times to conduct an interview were weighted by 36% and then added to the other tasks in the timing pattern to get a complete cycle time for adjudicating a Form I–751. Likewise, the Form I–90 had dual processing in the service center and district office. Approximately 4% of the tasks involved with adjudicating a Form I–90 take place at a district office and the remaining 96% of the tasks take place at the service center. These percentages were weighted with average cycle times for the corresponding tasks and then combined to develop the complete cycle time for that activity.

Weighting also occurred with the ''common'' activity of ''Manage Records.'' Although the ''Manage Records'' activity was determined to be a common activity, application-specific cycle times were developed by weighting the tasks of the ''Manage Records'' activity. For example, the creation of an alien file (A-file) varies according to the application or petition file. Since not all applications result in an A-file creation, this task had to be weighted to produce an application or petition-specific cycle time.

Cycle times for the unique activities for applications that were not observed as a result of low volume and lack of opportunity to observe were developed in two ways: (1) Using average observed timings of similarly processed applications or (2) using expert opinion. The Fee Study Team used the average cycle time of producing a naturalization certificate for the ''Issue End Product'' activity for the Form N–643, Application for Certificate of

Citizenship in Behalf of an Adopted Child, since the Team was unable to observe the creation of a naturalization certificate for that form. The Fee Study Team did, however, observe the actual adjudication of a representative sample of the Form N–643; the cycle time for ''Adjudicate Application'' for the Form N–643 is based on those observations. Cycle times for the Form I–17, Petition for Approval of School for Attendance by Nonimmigrant Students, Form I–526, Immigrant Petition by Alien Entrepreneur, and Form I–829, Petition by Entrepreneur to Remove Conditions (applications and petitions processed at volumes too low to qualify for statistical sampling) were based on expert opinion of INS subject matter experts from both the field and headquarters who contributed their knowledge of application processing to develop cycle times for these applications.

The cycle times that resulted from the data gathering and data normalization stages of the Fee Study were used as the activity ''drivers'' to assign costs from activities to cost objects. Detailed information on the cycle time development process is available from the INS upon request. Please refer to the ''For Further Information Contract'' section of this proposed rule for instructions on obtaining this information.

Determining Application and Petition Volumes

The Service estimated FY 1998 application and petition volumes by performing regression analysis on five years of actual receipt data obtained from the PAS data base. As stated earlier, the PAS is an INS system that provides operational statistics for a broad range of services, including the numbers of immigration adjudication and naturalization applications and petitions received and processed. The INS'' Workload Projection Group reviews immigration and naturalization application and petition volume projections and will adjust them, either upward or downward, when it is determined that legislative changes, policy decisions, operational changes, or other factors would significantly affect the number of immigration adjudication and naturalization applications and petitions filed. The FY 1998 projected volumes for the applications and petitions that were reviewed during the Fee Study are presented in Figure 4.

FIGURE 4.—PROJECTED FY 1998 APPLICATION/PETITION VOLUMES AND WAIVER PERCENTAGES

Form No.	Description	Projected FY 1998 volume	Waiver percentage	Fee-waived volume	Fee-paying volume
I–17	Petition for Approval of School Attendance by Non-immigrant Student.	800	20%	160	640
I–90	Application to Replace Alien Registration Card	275,500	5%	13,775	261,725
I–102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document.	8,000	0%	0	8,000
I–129/I–129H/I–129L	Petitions for Nonimmigrant Worker	253,500	15%	38,025	215,475
I–129F	Petition for Alien Fiance(e)	109,000	0%	0	109,000
I–130	Petition for Alien Relative	657,000	0%	0	657,000
I–131	Application for Travel Document	365,000	0%	0	365,000
I–140	Immigrant Petition for Alien Worker	56,000	0%	0	56,000
I–485	Application to Register Permanent Residence or Adjust Status.	423,930	0%	0	423,930
I–526	Immigrant Petition by Alien Entrepreneur	500	0%	0	500
I–539	Application to Extend/Change Nonimmigrant Status	206,9001	10%	20,690	186,210
I–600/I–600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing or Orphan Petition.	14,000	0%	0	14,000
I–724	Waiver Applications [1]	27,000	2%	540	26,460
I–751	Petition to Remove the Conditions on Residence	130,000	0%	0	130,000
I–765	Application for Employment Authorization	972,000	50%	486,000	486,000
I–817	Application for Voluntary Departure under the Family Unity Program.	22,000	0%	0	22,000
I–824	Application for Action on an Approved Application or Petition.	44,000	0%	0	44,000
I–829	Petition by Entrepreneur to Remove Conditions	403	0%	0	403
N–400	Application for Naturalization	1,306,900	17%	222,173	1,084,727
N–565	Application for Replacement of Naturalization/Citizenship Document.	16,700	0%	0	16,700
N–600	Application for Certification of Citizenship	32,700	0%	0	32,700
N–643	Application for Certification of Citizenship in Behalf of an Adopted Child.	7,400	0%	0	7,400

[1] Waiver Applications include the Forms I–191, Application for Advance Permission to Return to Unrelinquished Domicile; I–192, Application for Advance Permission to Enter as a Non-immigrant; I–193, Application for Waiver of Passport and/or Visa; I–212, Application to Reapply for Admission into the U.S. After Deportation; I–601, Application for Waiver on Grounds of Excludability; and I–612, Application for Waiver of the Foreign Residence Requirement.

Assigning Activity Costs to Immigration Adjudication and Naturalization Applications and Petitions

The cycle times for each activity were converted to percentages to assign activity costs to the various applications and/or petitions that consume the resources of that activity. Cycle time assignment percentages were calculated for each activity. The assignment percentages were applied to total activity costs to determine an application or petition's pro-rata share of the activity cost. Each application or petition could have up to eight different activity costs. Each application or petition's pro-rata share of the activity cost was then divided by its anticipated FY 1998 volume to arrive at a per application or petition activity cost. The activity cost for each application or petition was totaled, along with any application-specific cost assigned directly, to arrive at the total processing cost for each application or petition. Figure 5 displays the processing costs for each application and petition by activity. In order to arrive

at a final fee amount, however, an amount to recover fee waiver and exempt costs, and the asylum and refugee surcharge must be added to the application and petition processing costs.

FIGURE 5.—IMMIGRATION ADJUDICATION AND NATURALIZATION APPLICATION AND PETITION PROCESSING COSTS APPLICATION PROCESS MODEL

Form No.	Activity costs									Unit processing cost
	Receive application	Record fee	Input application data	Manage records	Adjudicate application	Prepare outgoing correction	Issue end product	Respond to inquiry	Application specific costs	
I–17	$1.91	$1.09	$3.52	$10.37	$99.60	$6.60	$0.00	$10.43	$9.61	$143.13
I–90	1.94	1.30	3.55	10.83	22.68	6.88	5.58	10.59	16.13	79.48
I–102	1.91	1.37	3.52	10.03	12.87	6.60	0.00	10.43	16.01	62.74
I–129	1.94	1.15	3.55	9.76	26.08	8.31	0.00	10.59	16.11	77.49
I–129F	1.91	1.36	3.49	19.85	9.96	7.89	0.00	10.43	12.56	67.45
I–130	1.94	1.37	3.55	10.50	27.79	6.88	0.00	10.59	16.13	78.75
I–131	1.94	1.37	3.55	9.33	10.13	6.88	8.12	10.59	16.07	67.98
I–140	1.94	1.37	3.55	10.64	29.92	7.08	0.00	10.59	16.78	81.87
I–485	1.94	1.37	3.55	21.28	58.79	12.49	5.58	10.59	43.15	158.74
I–526	1.91	1.36	3.49	10.45	200.36	6.55	0.00	10.43	16.06	250.61
I–539	1.91	1.24	3.52	9.46	36.75	6.60	0.00	10.43	16.31	86.22
I–600/I–600A	19.18	3.50	0.98	13.76	69.88	59.86	5.55	98.26	20.58	291.55
I–724 [1]	1.91	1.34	3.52	9.19	55.98	11.90	0.00	10.43	27.00	121.27
I–751	1.94	1.37	2.69	16.39	28.93	6.88	5.55	10.59	16.31	90.65
I–765	1.94	0.68	3.55	10.19	12.13	6.88	11.76	10.59	16.07	73.79
I–817	2.54	1.36	4.57	9.63	13.98	3.61	13.04	10.43	27.00	86.16
I–824	1.91	1.37	3.52	9.74	18.40	11.90	0.00	10.43	27.80	85.07
I–829	1.91	1.36	2.65	10.68	200.36	6.55	0.00	10.43	16.03	249.97
N–400	1.94	1.16	3.55	16.96	47.08	12.51	15.44	10.59	54.59	163.82
N–565	1.91	1.37	3.52	11.10	32.83	6.60	13.23	10.43	16.02	97.01
N–600	1.91	1.37	3.52	11.58	49.99	7.95	13.23	10.43	16.66	116.64
N–643	1.91	1.37	3.52	10.33	12.51	7.95	23.93	10.43	18.90	90.85

[1] Waiver Forms Include: I–191, Application for Advance Permission to Return to Unrelinquished Domicile; I–192, Application for Advance Permission to Enter as a Nonimmigrant; I–193, Application for Waiver of Passport and/or Visa; I–212, Application to Reapply for Admission into the U.S. After Deportation; I–601, Application for Waiver on Grounds of Excludability; and I–612, Application for Waiver of the Foreign Residence Requirement.

Waiver/Exempt Costs and the Asylum and Refugee (International Affairs) Surcharge

The final step in calculating the immigration adjudication and naturalization fees is to add amounts to recover waiver/exempt costs, and the surcharge to recover the cost of asylum and refugee services funded by the Examinations Fee Account. For purposes of this document, the surcharge that recovers the cost of the International Affairs program is known as the asylum and refugee surcharge. As stated earlier in this proposed rule, P.L. 101–515 authorizes the INS to set the immigration adjudication and naturalization fees at a level that will recover the costs of providing all immigration adjudication and naturalization services ''including the costs of similar services provided without charge to asylum applicants or other immigrants.'' (8 U.S.C. 1356(m)) The INS adds a surcharge to its immigration adjudication and naturalization fees to recover the cost of providing asylum and refugee services, and adds an additional amount to each fee to recover the cost of application and petitions that the INS processes at no charge, either through exempting certain classes of applicants from paying a fee or waiving the fee for those applicants for whom paying the fee would constitute a financial hardship.

Previously, the INS had assigned waiver/exempt costs and the asylum and refugee surcharge as a flat ''per application'' amount. While this method produced a single surcharge amount, the total percent of the surcharge to each fee type varied greatly. For example, as a result of the last fee adjustment in July 1994, the asylum and refugee surcharge was determined to be $9.00 per application. This $9.00 surcharge represented an assessment of 10% for an application costing $90.00, but it was an assessment of nearly 30% for an application costing $30.00. Audits of the INS fee setting methodology had been critical of this method of assigning the surcharge and other costs. The auditors felt that a more equitable method for assigning these amounts would be to base them on the relationship of the cost of the various applications and petitions. To prevent the disparity in the percentage of an application's or petition's fee that was attributable to the surcharge and waiver/exempt amount, the INS now assesses it waiver/exempt costs and surcharge as a flat percentage of each application's or petition's processing costs. While the amount of the waiver/exempt cost and surcharge will vary between fee types, the percentage of cost is constant.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) states that ''asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State. . .'' (INA, section 208(d)(5)(A)(I)) Under this provision, fingerprint checks will have to be completed prior to approving any asylum application. This requirement was not effective during the fee study, and is not reflected in the asylum and refugee surcharge. This requirement may result in additional resource requirements for the International Affairs program and an increase in the asylum and refugee surcharge amount to recover these resources.

The INS specifically solicits comments on whether a flat rate or

percentage should be used to assign waiver costs.

A. Waiver/Exempt Costs

The INS provides the initial Form I–765, Application for Employment Authorization, at no charge to persons granted asylum or refugee status, or when the INS cannot adjudicate an asylum or refugee application within 180 days of filing. For FY 1998, the INS estimates that approximately 50% of the Form I–765 applications will be processed at no charge to applicants, at a total cost of $35.9 million. In addition, persons filing certain applications or petitions may apply for a waiver of the fee when paying the fee would constitute a financial hardship. For FY 1998, the INS estimates that it will incur costs of approximately $42.3 million to process applications and petitions for which the fee has been waived. As stated previously, the revenue generated from the immigration adjudication and naturalization fees is the sole source of funding for these services. The INS does not receive appropriated funds (tax dollars) to provide these services. As a result, the fees must be set at a level that will recover the full cost of processing immigration adjudication and naturalization applications and petitions, including those applications and petitions for which the fees have been waived. The waiver/exempt costs were assessed to the various application and petition types in relation to the total cost assigned to each application/petition type; this amount was then divided by the estimated fee-paying volume of for each application/petition type to determine the per application/petition amount.

The INS is currently evaluating under what conditions a waiver of the fee should be granted. The INS specifically seeks comments on setting standards for application fee waivers.

B. Asylum and Refugee Surcharge

As noted previously, Congress has directed the INS to set its fees at a level that will generate sufficient revenue to fund the processing of asylum and refugee applications. Within the INS, the International Affairs program administers the adjudication of asylum and refugee applications. Approximately 15% of the total immigration adjudication and naturalization resource base funds asylum and refugee adjudications administered by the INS' International Affairs program. This amount is recovered through the fees by adding a surcharge to the immigration adjudication and naturalization fees. This surcharge is calculated similar to the assignment of waiver/exempt costs. The total amount of the International Affairs program is assigned to each application/petition type in the same ratio as their total processing costs. The amount assigned to each application/petition type is then divided by the total volume of applications/petitions expected to be received for the application/petition type to arrive at a per application/petition surcharge amount.

Proposed Fee Adjustments

The INS is proposing to increase 30 fees on the Examinations Fee Account fee schedule. The INS must adjust its fee schedule due to the increased costs experienced since the last fee adjustment in July 1994, which was based on resource requirements of $331 million. The INS estimates resource requirements in FY 1998 of $638.6 million for the processing of immigration adjudication and naturalization applications and petitions. Revenue projections for FY 1998, based on the current fee schedule and an estimated fee-paying volume of 4.3 million applications, are only $368.4 million. Increases in fees are necessary to generate sufficient revenue to ensure that funds are available to continue providing services to customers.

The INS performed a thorough review of its immigration adjudication and naturalization resources and activities, and the relationship of these resources and activities to the various applications and petitions for which a fee is charged. The resources were assigned to applications and petitions based on causal relationships, with the exception of the waiver/exempt costs, and the asylum and refugee surcharge. These costs were assigned to each application and petition based on their relationship to processing costs. The proposed adjustments to the fee schedule of the Examinations Fee Account is the total resource costs assigned to each application and petition type, plus the pro-rata share of waiver/exempt costs and the asylum and refugee surcharge. This amount is then rounded to the nearest whole five-dollar amount. The proposed adjusted fee schedule for the Immigration Examinations Fee Account is illustrated in Figure 6. Figure 6 provides information on the application or petition the INS proposes to adjust, the total processing costs assigned to each application or petition, the asylum and refugee surcharge, the amount for waiver/exempt costs, and the total costs per application and petition. The proposed rounded fees are compared to the current fee. (A summary of the approach and methodology used in the fee study is explained in this proposed rule. A comprehensive Fee Study report is available upon request. Please refer to the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for instructions on obtaining a copy of the fee schedule.)

FIGURE 6.—IMMIGRATION EXAMINATIONS FEE ACCOUNT PROPOSED FEE SCHEDULE ADJUSTMENTS

Application No.	Description	Processing cost	Waiver/exempt cost	Asylum and refugee surcharge	Total cost	Proposed fee	Current fee
I–17	Petition for Approval of School for Attendance by Non-immigrant Student.	$143.13	$24.71	$30.84	$198.68	$200.00	$140.00
I–90	Application to Replace Alien Registration Card.	79.48	13.72	17.12	110.32	110.00	75.00
I–102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record.	62.74	10.83	13.52	87.09	85.00	65.00
I–129/I–129H/I–129L	Petitions for Nonimmigrant Worker.	77.49	13.38	16.69	107.56	110.00	[1] 75.00
I–129F	Petition for Alien Fiance(e)	67.45	11.64	14.53	93.62	95.00	75.00
I–130	Petition for Alien Relative	78.75	13.59	16.96	109.30	110.00	80.00
I–131	Application for Travel Document.	67.98	11.73	14.64	94.35	95.00	70.00
I–140	Petition for Alien Worker	81.87	14.13	17.64	113.64	115.00	75.00

FIGURE 6.—IMMIGRATION EXAMINATIONS FEE ACCOUNT PROPOSED FEE SCHEDULE ADJUSTMENTS—Continued

Application No.	Description	Processing cost	Waiver/exempt cost	Asylum and refugee surcharge	Total cost	Proposed fee	Current fee
I–485	Application to Register Permanent Residence or Adjust Status.	158.74	27.40	34.19	220.33	220.00	130.00
I–526	Immigrant Petition by Alien Entrepreneur.	250.61	43.26	53.99	347.86	350.00	155.00
I–539	Application to Extend/Change Nonimmigrant Status.	86.22	14.88	18.58	119.68	120.00	75.00
I–600/I–600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition.	291.55	50.33	62.81	404.69	405.00	155.00
I–724	Waiver Forms[2]	121.27	20.93	26.13	168.33	170.00	95.00
I–751	Petition to Remove the Conditions of Residence.	90.65	15.65	19.53	125.83	125.00	80.00
I–765	Application for Employment Authorization.	73.79	12.74	15.90	102.43	100.00	70.00
I–817	Application for Voluntary Departure under the Family Unity Act.	86.16	14.87	18.56	119.59	120.00	80.00
I–824	Application for Action on an Approved Application or Petition.	85.07	14.68	18.32	118.07	120.00	30.00
I–829	Petition by Entrepreneur to Remove Conditions.	249.97	43.15	53.85	346.97	345.00	90.00
N–400	Application for Naturalization ..	163.82	28.28	35.29	227.39	225.00	95.00
N–565	Application for Replacement Naturalization/Citizenship Document.	97.01	16.74	20.90	134.65	135.00	65.00
N–600	Application for Certification of Citizenship.	116.64	20.13	25.13	161.90	160.00	100.00
N–643	Application for Certificate of Citizenship on Behalf of an Adopted Child.	90.85	15.68	19.57	126.10	125.00	80.00

[1] This amount represents the base fee currently charged for the Form I–129. In addition to the base fee, petitioners are currently required to add additional amounts depending upon the number of non-immigrant workers on each petition, or whether the petition is for an extension of stay, change of status, reclassification as a temporary worker or trainee, or to employee an intracompany transferee. The INS has simplified this fee structure by charging a uniform fee for each type of non-immigrant worker petition filed.

[2] Waiver Forms Include: I–191, Application for Advance Permission to Return to Unrelinquished Domicile; I–192, Application for Advance Permission to Enter as a Nonimmigrant; I–193, Application for Waiver of Passport and/or Visa; I–212, Application to Reapply for Admission into the U.S After Deportation; I–601, Application for Waiver on Grounds of Excludability; and I–612, Application for Waiver of the Foreign Residence Requirement.

Impact on Applicants and Petitioners

The INS recognizes that this proposed rule will have an impact on persons who file the effected applications and petitions, with a total impact in excess of $100 million annually. The fee increases will affect the over 4 million applicants who file immigration adjudication and naturalization applications and petitions each year. The financial impact on persons who file these applications and petitions will vary; the proposed fee increases range from $20.00 to $255.00 depending on the type of application or petition filed. Three fees will increase by amounts between $20.00 and $25.00; 11 fees will increase by amounts between $30.00 and $45.00; seven fees will increase by amounts between $60.00 and $75.00; four fees will increase by amounts between $80.00 and $90.00; and five fees will increase by amounts in excess of $100.00. (Please refer to Figure 6 for details on the proposed fee increases.)

During this fee setting process the INS used statistically valid methods to determine the processing time and the related costs of providing immigration adjudication and naturalization services. These processing times include the time necessary to receive applications, process data, manage records and files, adjudicate applications (including interviewing), provide clerical support, produce cards and certificates, and respond to inquiries. Prior fee setting efforts only considered the adjudicative and clerical time as direct costs of the immigration adjudication and naturalization applications and petitions. For this reason, some applications and petitions may increase more dramatically than others. These applications, particularly the Form N–400, Application for Citizenship, and the Form I–600, Petition to Classify Orphan as an Immediate Relative, require considerable time and attention to receive, process, and adjudicate. In past fee setting efforts, any costs that were not direct adjudicative, clerical, or card production costs were assigned to an indirect cost pool and spread evenly over all application and petitions types. This method obscured the true full cost of the individual applications and petitions. The current fee setting effort more closely aligns costs to application and petition type.

The fee increases are necessary to fund the various immigration adjudication and naturalization services provided by the INS. The INS does not receive an appropriation (tax dollars) to fund these activities and must rely on the revenue generated from its various immigration adjudication and naturalization fees to continue providing such services. The favorable

adjudication of immigration and naturalization applications and petitions results in the granting of status, rights, and benefits upon which it is difficult to place a monetary value. The INS accepts and adjudicates applications and petitions that: confer legal permanent resident, asylee, and refugee status; allow for family reunification; permit non-immigrants to enter the United States for employment purposes; allow legal permanent residents, asylees, and refugees to seek employment in the United States; allow foreign students to enter the United States for educational purposes; allow for the classification of non-resident orphans as immediate relatives for the purpose of adoption; provide reentry rights into the United States for persons who may otherwise be excludable; and allow immigrants to apply for and become citizens of the United States and partake of the benefits of a democratic society.

Without the funding provided through these fees, the INS could not continue to provide such services. The INS conducted a lengthy and thorough review of the costs of providing immigration adjudication and naturalization services and assigned those costs to the various immigration adjudication and naturalization applications and petitions in accordance with legislative intent and Federal cost accounting guidelines. The fee setting process is explained in this proposed rule and detailed documentation of the Fee Study is available from the INS upon request. The INS attempted to set each fee at the cost of resources consumed to providing specific services and without unduly burdening any particular class of applicants or petitioners. The INS has also established procedures by which applicants and petitioners may apply for a waiver of certain fees when paying the fee constitutes a financial hardship.

Changes in Certain Specific Fees

The INS is proposing to change the structure and eliminate several fees. The fee for the Form I–485A, Application to Register Permanent Residence or Adjust Status—Cuban Refugees, has been eliminated because the INS has rescinded the use of this form.

The maximum amount payable for families filing the Form I–817, Application for Voluntary Departure under the Family Unity Act, is also being eliminated. The INS is changing the processing procedures for the Form I–817. (New procedures for filing the I–817 will be addressed in a separate rule.) Previously, applicants for Family Unity benefits who desired employment authorization were required to file a separate Form I–765, Application for Employment Authorization, and pay the appropriate fee for that form. As part of the new processing procedures for the Form I–817, the INS will now issue an Employment Authorization Card (EAD) to each approved Form I–817 applicant. Family Unity applicants will no longer be required to file a Form I–765 and pay the additional fee in order to obtain an EAD. The INS had previously established a maximum fee amount for families of four or more that filed Forms I–817 concurrently. Most families of four or more members who filed for Family Unity benefits had heads of households, spouses, or minor children that wished to obtain employment authorization. The INS recognized that the cost of filing the Forms I–817 and I–765 concurrently for multiple family members would be a financial hardship. To mitigate this financial hardship, the INS capped the amount of the Form I–817 fee for families of four at $225.00.

With the new procedure of issuing an EAD with each approved Form I–817 application, the INS' processing costs will increase, but the burden on families of four or more filing concurrent Forms I–817 will decrease since these families will no longer be required to file the Form I–765 and pay the additional fee.

The INS has also simplified the fee structure for the Form I–129, Petition for Non-Immigrant Worker. Previously, the INS charged an additional fee for petitions with named beneficiaries requesting consulate or port-of-entry notification, and additional fees for workers requesting a change of status or extension of stay. Since the Form I–129 allows a petitioner to apply for several benefits on the same form, petitioners found the fee structure very confusing, and often submitted petitions with the wrong fee amount. This caused delays in adjudication since any application or petition filed with the wrong fee amount must be returned to the applicant or petitioner with a request to re-submit the application with the correct fee. To mitigate this confusion and prevent any delays in processing, the INS is proposing a single fee for each Form I–129 filed, regardless of the type of benefit requested. Future fees studies will further examine the fee structure of the Form
I–129 and refine the fee structure, if necessary. For the same reasons, the INS is eliminating the co-applicant fee on the Form I–539, Application to Extend or Change Nonimmigrant Status.

Regulatory Flexibility Act

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and by approving it has determined that this rule will not have a significant economic impact on a substantial number of small entities. The INS does acknowledge, however, that a number of small entities, particularly those filing business-related applications and petitions such as the Form I–129, Petition for Nonimmigrant Worker, may be affected by this rule. For FY 1998, the INS projects that approximately 254,000 Forms I–129 will be filed. However, this volume represents petitions filed by a variety of businesses, ranging from large multi-national corporations to small domestic businesses. The INS does not have statistics on the number of small businesses that may be affected by this rule. The INS tracks the number of petitions filed; these volume statistics do not indicate which types of businesses file petitions, or the size of the businesses filing the Form I–129.

The INS conducted an exhaustive review of the costs incurred by the INS for the processing the various immigration adjudication and naturalization applications and petitions. The INS believes that, as a result of this study, the proposed fees reflect, as closely as possible, the full cost of providing the specific service provided through the filing of an application or petition. The INS conducted its review and adjusted its fees in accordance with statutory mandates and Federal cost accounting standards. These statutes and standards require the INS to recover the full cost of providing services that confer a benefit that does not accrue to the public at large. The Form I–129 will increase from the current base fee of $75.00 to $110.00, an increase of $35.00. While this increase is notable, it is important to note that the immigration adjudication and naturalization fees have not increased in the past three years; during the same period the INS has experienced a significant increase in its costs. Additionally, the increased cost for the Form I–129 is modest indeed in the context of the total costs businesses incur in relocating non-immigrant workers to the United States.

Unfunded Mandates Reform Act of 1995

This rule will not impose a mandate or enforceable duty on State, local and tribal governments, in the aggregate, or on the private sector, and it will not significantly or uniquely affect small governments. This rule will only affect persons who file applications or petitions for immigration benefits. The increase in fees is necessary to defray the higher costs of adjudicating and

granting the benefits sought. The **SUPPLEMENTARY INFORMATION** portion of this rule explains in detail the basis for calculating these fee increases. No further actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is a major rule as defined by the Small Business Regulatory Enforcement Act of 1996. This rule will result in an annual effect on the economy of more than $100 million, in order to generate the revenue necessary to fund the increased expenses of the INS adjudication and naturalization program. The increased fees will be paid by persons who file applications or petitions to obtain immigration benefits.

Executive Order 12866

This rule is considered by the Department of Justice to be an economically ''significant regulatory action'' under Executive Order 12866, Regulatory Planning and Review, section 3(f), because it will have an annual effect on the economy of $100 million or more. Without the proposed increases, the INS estimates that it will collect $368.4 million in fees for immigration adjudication and naturalization services in FY 1998; with the proposed increase, the INS will collect approximately $648.7 million. The implementation of this proposed rule will provide the INS with an additional $280.3 million in revenue over the revenue that would be collected under the current fee structure. This increase in revenue will be used to fund the processing of immigration adjudication and naturalization applications and petitions. The revenue increase is based on INS costs and workload volumes that were available at the time of the fee study. The volume of applications and petitions filed is projected based on a regression analysis of a five-year history of actual applications and petitions received by the INS. The regression analysis is adjusted for any anticipated or actual changes in laws, policies, or procedures that may affect future filing patterns. The proposed fees will be paid by an estimated 4.3 million individuals and businesses filing immigration adjudication and naturalization applications and petitions. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Executive Order 12612

The regulations proposed 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This proposed rule does not impose any new reporting or recordkeeping requirements.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Forms, Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by removing the entry for ''Form I–485A'' and revising the entries for the following forms listed, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form I–17. For filing an application for school approval, except in the case of a school or school system owned or operated as a public educational institution or system by the United States or a state or political subdivision thereof—$200.00.

* * * * *

Form I–90. For filing an application for Alien Registration Receipt Card (Form I–551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name-$110.00.

* * * * *

Form I–102. For filing a petition for an application (Form I–102) for Arrival-Departure Record (Form I–94) or Crewman's Landing (Form I–95) , in lieu of one lost, mutilated, or destroyed—$85.00.

Form I–129. For filing a petition for a non-immigrant worker—$110.00.

Form I–129F. For filing petition to classify nonimmigrant as fiancee or fiance under section 214(d) of the Act—$95.00.

Form I–129H. For filing a petition to classify nonimmigrant as temporary worker or trainee under section 214(c) of the Act—$110.00.

Form I–129L. Petition to employ intracompany transferee—$110.00.

Form I–130. For filing a petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—$110.00.

Form I–131. For filing an application for travel documents—$95.00.

Form I–140. For filing a petition to classify preference status of an alien on basis of profession or occupation under section 204(a) of the Act—$115.00.

* * * * *

Form I–191. For filing applications for discretionary relief under section 212(c) of the Act—$170.00.

Form I–192. For filing application for discretionary relief under section 212(d)(3) of the Act, except, in an emergency case, or where the approval of the application is in the interest of the United States Government—$170.00.

Form I–193. For filing an application for waiver of passport and/or visa—$170.00.

Form I–212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—$170.00.

* * * * *

Form I–485. For filing application for permanent resident status or creation of a record of lawful permanent residence—$220.00 for an applicant 14 years of age or older; $160.00 for an applicant under the age of 14 years.

* * * * *

Form I–526. For filing a petition for an alien entrepreneur—$350.00.

* * * * *

Form I–539. For filing an application to extend or change nonimmigrant status—$120.00.

* * * * *

Form I–600. For filing a petition to classify orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$405.00.

Form I–600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$405.00.

Form I–601. For filing an application for waiver of ground of inadmissability under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when

the alien is applying simultaneously for a waiver under both those sub-sections.)—$170.00.

Form I–612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—$170.00.

* * * * *

Form I–751. For filing a petition to remove the conditions on residence, based on marriage—$125.00.

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—$100.00.

* * * * *

Form I–817. For filing an application for voluntary departure under the Family Unity Program—$120.00.

* * * * *

Form I–824. For filing for action on an approved application or petition—$120.00

Form I–829. For filing petition by entrepreneur to remove conditions—$345.00.

* * * * *

Form N–400. For filing an application for naturalization—$225.00. For filing an application for naturalization under section 405 of the Immigration Act of 1990, if the applicant will be interviewed in the Philippines—$250.00.

* * * * *

Form N–565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(b) or (d) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(c) of the Act—$135.00.

Form N–600. For filing an application for certificate of citizenship under section 309(c) or section 341 of the Act—$160.00.

Form N–643. For filing an application for a certificate of citizenship on behalf of an adopted child—$125.00.

* * * * *

Dated: January 5, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–576 Filed 1–9–98; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 305, 327, 335, 381, and 500

[Docket No. 95–025P]

RIN 0583–AC34

Rules of Practice

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to consolidate and amend its regulations concerning the rules of practice that apply to refusal, suspension, or withdrawal of inspection services. FSIS also is proposing to add specific language regarding the refusal, suspension, or withdrawal of inspection services when the Agency determines that an establishment's Hazard Analysis and Critical Control Point (HACCP) system is inadequate, an establishment is not meeting the *Salmonella* pathogen reduction performance standards, an establishment's Sanitation Standard Operating Procedures (Sanitation SOP's) are inadequate or ineffective, or an establishment is not complying with generic *E. coli* testing requirements. This proposal is part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry product inspection regulations.

DATES: Comments on the proposed regulations must be received on or before March 13, 1998.

ADDRESSES: Please send an original and two copies of comments to: FSIS Docket Clerk, Docket No. 95–025P, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, FSIS, Room 402, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250–3700; (202) 205–0699.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), FSIS can refuse to grant inspection, suspend inspection, or withdraw inspection services from establishments based on unsanitary conditions (9 CFR 335.13 and 381.234), inhumane livestock slaughtering (9 CFR 335.30–.32), or unfitness to engage in business because of prior criminal convictions (9 CFR 335.10 and 381.231). Inspection services also can be suspended or withdrawn if establishments fail to destroy condemned product (9 CFR 335.11 and 9 CFR 381.232), or if establishment personnel assault, intimidate, or interfere with inspection service employees (9 CFR 335.20–.21 and 381.235–.236). Additionally, FSIS can rescind approval of any marking, labeling, or container that is false or misleading (9 CFR 335.12 and 381.233).

As discussed in the ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) System'' final rule (61 FR 38806), FSIS also can refuse to grant, suspend, or withdraw the grant of inspection if an establishment has failed to: (1) Develop and implement a HACCP plan or operate in accordance with 9 CFR Part 417; (2) develop, implement, and maintain Sanitation SOP's in accordance with 9 CFR part 416; (3) conduct generic *E. coli* testing in accordance with 9 CFR 310.25(a) or 381.45(a); or (4) meet the pathogen reduction performance standard for *Salmonella* or, after failing two sample sets, reassess its HACCP plan in accordance with 9 CFR 310.25(b) or 381.94(b).

When FSIS determines to refuse to grant an application for inspection, to withdraw a grant of inspection, or to rescind or refuse to approve markings, labels or containers, the Agency initiates an administrative action under USDA's Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 CFR subtitle A, part 1, subpart H), as supplemented by its own ''Rules of Practice,'' which are set out in 9 CFR part 335 or part 381, subpart W. The Department's uniform Rules of Practice contain the procedures applicable to formal adjudicatory proceedings under various USDA implemented statutes, including specified sections of the FMIA and PPIA. The Department's Rules of Practice contain procedures that FSIS follows when filing a complaint with the Department's Hearing Clerk and requesting a hearing before an Administrative Law Judge. FSIS's current supplemental Rules of Practice regulations provide establishments an opportunity to correct problems before the Agency files a complaint to withdraw the establishment's grant of inspection. However, FSIS may suspend inspection services until the problem is corrected.

Generally, FSIS initially uses ''withholding actions'' to withhold the mark of inspection from an establishment's products that are deficient. A U.S. Retain Tag is placed on deficient product or a U.S. Rejected Tag is attached to deficient equipment. The withholding action is discontinued when the deficiencies are corrected.

In most cases, FSIS suspends inspection services only after repeated violations. A suspension may affect an entire establishment or may be limited to a specific process or production line within the establishment. A suspension will last until the establishment achieves compliance with the applicable laws and regulations. If the suspension involves an entire establishment, FSIS removes inspection personnel unless there is reason to believe that corrective action can be completed in a timeframe that is

consistent with the efficient assignment of program personnel. FSIS may allow the establishment to operate while under a suspension if the establishment presents adequate written assurances that corrective actions are being implemented. If establishments fail to take appropriate corrective actions, FSIS may proceed to file a complaint to withdraw inspection services, as discussed above.

FSIS is committed to providing establishments with appropriate notice and an opportunity to appeal withholding actions and suspensions of inspection. It recognizes the need for timely resolution of all such appeals. Withholding actions taken by FSIS inspectors can be appealed to the next level of supervision. The decision to suspend inspection services is made by the District Manager. Traditionally, appeal from this decision has been to the Assistant Deputy Administrator for Field Enforcement Operations. FSIS intends to continue handling appeals through the ''chain-of-command'' process, which is incorporated into FSIS's existing regulations (9 CFR 306.5 and 381.35). However, the Agency has received comments raising concerns about the timeliness of this process, especially when operations have been shut down.

FSIS welcomes comments on the adequacy of its approach. One possible alternative to the Agency's traditional approach would be for it to include specific appeal procedures in the supplemental Rules of Practice regulations concerning the procedures that the Agency will follow in providing notice and an opportunity to contest a suspension. For example, the appeal procedures could be modeled after the Food and Drug Administration's procedures for supervisory review (21 CFR 10.75) . FSIS also requests comments on how it should provide notice of a suspension action and on whether additional procedures are necessary and appropriate if an establishment wishes to appeal a suspension. FSIS will consider the comments it receives on these issues and intends to provide the most appropriate review mechanisms in any final rule that it issues.

Proposed Rule

For the most part, FSIS's supplemental Rules of Practice duplicate each other and the Department's uniform Rules of Practice regulations. FSIS's regulations do, however, establish procedures for the suspension of inspection services. However, these regulations are difficult to read and do not clearly outline the process. Therefore, as part of FSIS's ongoing efforts to consolidate, streamline, and clarify the meat and poultry products inspection regulations, FSIS is proposing to reorganize and revise these regulations to eliminate redundancy and to clearly identify the processes and situations involved when FSIS suspends inspection services.

FSIS is proposing to revise and consolidate the existing regulations into a new part, CFR Part 500, ''Rules of Practice.'' Section 500.11 in this proposed new part is titled, ''Refusal to Grant Inspection'' and sets out the following different bases on which FSIS may refuse to grant inspection services to an applicant: (1) Failure to develop a HACCP plan as required by §§ 417.2 and 417.4; (2) failure to develop Sanitation SOP's as required by part 416; (3) failure to demonstrate that adequate sanitary conditions exist in accordance with part 416, and part 308 or part 381, subpart H; or (4) failure to demonstrate that livestock will be handled and slaughtered humanely (proposed § 500.11(a)). Proposed § 500.11(b) states that, if FSIS refuses to grant inspection, the applicant will be notified and have an opportunity for a hearing in accordance with the uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

Section 500.12 in the proposed new part is titled ''Conditions for the Suspension or Withdrawal of Inspection.'' This section lists the following as the different bases on which FSIS may suspend or withdraw inspection: (a) Failure to implement HACCP or operate in accordance with part 417; (b) failure to implement or maintain Sanitation SOP's in accordance with part 416; (c) failure to collect and analyze samples for *E. coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a); (d) failure to meet the *Salmonella* performance standard requirements or reassess a HACCP plan in accordance with §§ 310.25(b) or 381.45(b); (e) failure to maintain sanitary conditions in accordance with part 308 or part 381, subpart H; (f) failure to destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, within three days of notification; (g) assault, threat of assault, intimidation or other interference with an inspection service employee's performance of official duties; or (h) inhumane slaughtering or handling of livestock.

Section 500.13 of the proposed new part is titled ''Suspension of Inspection.'' It states that inspection services may be suspended at an establishment that has a condition described in § 500.12, and that if inspection is suspended, an establishment will receive a written ''Notice of Suspension of Inspection.'' Under proposed § 500.13(b), the notice will include the following: (1) The effective date of the suspension; (2) the reasons for the suspension; and (3) the name and address where an appeal may be sent. Proposed § 500.13(c) states that a suspension of inspection will remain in effect until an establishment brings itself into compliance with the regulations.

Section 500.14 of the proposed new part is ''Withdrawal of Inspection.'' It states that inspection services may be withdrawn at an establishment that fails to correct conditions in § 500.12 (proposed § 500.14(a)) and that FSIS will initiate a complaint to withdraw inspection in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H (proposed § 500.14(b)).

Section 500.15 of the proposed new part is titled ''Rescinding the Approval of Marks, Labels, or Containers'' and states that FSIS will rescind or refuse approval of false or misleading marks or labels or container sizes or forms for use with any meat or poultry product under section 7 of the FMIA, or under section 8 of the PPIA, in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H. Proposed § 500.15(b) states that the Agency will provide notification that explains the basis for any such action, grants an opportunity to modify the marking, labeling, or container so that it is no longer false or misleading, and advises the firm of its opportunity for a hearing with respect to the merits or validity of the Agency's determination about the product's labeling.

Section 500.16 of the proposed new part is titled ''Refusing or Withdrawing Inspection Service for Unfitness to Engage in Business Requiring Federal Inspection'' and states that applicants for inspection services or recipients of inspection services unfit to engage in business requiring inspection as specified in section 401 of the FMIA or section 18(a) of the PPIA will be refused or have their inspection services withdrawn in accordance with the Uniform Rules of Practice, 7 CFR Subtitle A, part 1, subpart H.

There is one provision in the current regulations that FSIS has not incorporated into the proposed regulations. Under the current regulations in section 335.13, establishments operating under insanitary conditions are notified by FSIS as to what action is necessary to

correct the violations and of the time period within which corrections must be made. FSIS has decided not to incorporate this provision in these proposed regulations because, as discussed in the Pathogen Reduction/ HACCP final rule, it is the establishment's responsibility to identify problems that exist and to determine how best to correct them.

FSIS also is proposing to delete some of its other regulations that are duplicative. First, this proposal would eliminate § 305.5, (9 CFR 305.5) ''Withdrawal of Inspection; Statement of Policy.'' The subject that this statement of policy addresses is dealt with fully in proposed Part 500. Similarly, the Agency is proposing to eliminate § 381.29, which is duplicative for the same reason.

The Agency is also proposing to eliminate all portions of §§ 304.2, 327.6 and 381.21 that refer to denying or refusing an application for inspection or import reinspection services and to replace those portions with a statement indicating that any application for inspection services can be denied in accordance with the rules of practice in Part 500.

Lastly, FSIS is proposing to remove part 335, subpart E. This subpart, also referred to as the ''present your views'' (PYV) provision, was added in 1988 under the Processed Products Inspection Improvement Act of 1986 (Pub. L. 99–641, Title VI), which was not reauthorized by Congress in 1992.

The PYV provision allows suspected violators of the FMIA an opportunity to present their views regarding the alleged criminal violation to the Secretary of Agriculture before FSIS refers the violation to the Department of Justice for prosecution. Because the PYV provision can be a useful administrative procedure, FSIS will continue to use the PYV process, as a matter of administrative discretion, in appropriate situations. However, FSIS has determined that it is unnecessary to continue to include the provision in its regulations.

Executive Order 12866 and Regulatory Flexibility Act

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

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

There are no direct costs or benefits associated with this proposal. Costs and benefits are related to the regulatory actions, not the proceedings. At the present time, there is no way to predict whether ''down time'' will increase or decrease under these proposed rules of practice. To the extent that disputes can be resolved in a timely and more efficient manner, there are potential benefits to both industry and the government. To the extent that clear rules of practice promote timely and effective regulatory action, there would also be consumer protection benefits.

When disputes are related to public health issues, there is a risk reduction component to having operations suspended during the period of resolution. There are also costs associated with actions that suspend production operations.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If the proposed rule becomes final: (1) All state and local laws and regulations that are inconsistent with this rule would be preempted; (2) no retroactive effect would be given to this rule; and (3) administrative proceedings would not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

This proposed rule does not include any new paperwork requirements.

List of Subjects

9 CFR Part 304

Meat inspection.

9 CFR Part 305

Meat inspection.

9 CFR Part 327

Imports, Meat inspection.

9 CFR Part 381

Poultry and poultry products.

9 CFR Part 500

Administrative practice and procedure, Crime, Government employees, Meat inspection.

For the reasons set forth in this preamble, 9 CFR chapter III would be amended as follows:

PART 304—APPLICATION FOR INSPECTION; GRANT OF INSPECTION

1. The authority citation for part 304 would continue to read as follows:

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

2. Part 304 would be amended by revising the title to read as set forth above, amending § 304.2 to remove paragraphs (c) and (e), redesignating paragraph (d) as paragraph (c), and removing the last sentence of paragraph (b) and replacing it with a sentence to read as follows:

§ 304.2 Information to be furnished; grant or refusal of inspection.

* * * * *

(b) * * * Any application for inspection services may be refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

PART 305—OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATION

3. The authority citation for part 305 would continue to read as follows:

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

4. Part 305 would be amended by removing section 305.5.

PART 327—IMPORTED PRODUCTS

5. The authority citation for part 327 would continue to read as follows:

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

6. Section 327.6 would be amended by removing the last four sentences in paragraph (f) and replacing them with one sentence to read as follows:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers

* * * * *

(f) * * * Any application for inspection services under this section may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

* * * * *

PART 335—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT

7. Part 335 would be removed.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

8. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450, 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

9. Section 381.21 would be revised to read as follows:

§ 381.21 Refusal of inspection.

Any application for inspection services in accordance with this part may be denied or refused in accordance with the rules of practice in part 500 of this chapter.

10. Part 381 would be amended by removing section 381.29.

11. Part 381 would be amended by removing Subpart W.

SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT

12. Subchapter E would be amended by adding a new Part 500 to read as follows:

PART 500—RULES OF PRACTICE

Sec.

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470, 601–695; 7 CFR 2.18, 2.53.

§ 500.11 Refusal to grant inspection.

(a) Inspection services may be refused to be granted at an establishment for any of the following reasons:

(1) Failing to develop a HACCP plan as required by §§ 417.2 and 417.4 of this chapter; or

(2) Failing to develop Sanitation SOP's as required by part 416 of this chapter; or

(3) Failing to demonstrate that adequate sanitary conditions exist as required by part 308 or part 381, subpart H, and part 416 of this chapter; or

(4) Failing to demonstrate that livestock will be handled and slaughtered humanely.

(b) If FSIS refuses to grant inspection services, the applicant will be notified and given an opportunity for a hearing in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.12 Conditions for the suspension or withdrawal of inspection.

Inspection services may be suspended or withdrawn at an establishment for any of the following reasons:

(a) Failing to implement HACCP or operate in accordance with part 417 of this chapter; or

(b) Failing to implement or maintain Sanitation SOP's in accordance with part 416 of this chapter; or

(c) Failing to maintain sanitary conditions in accordance with part 308 or part 381, subpart H, and part 416 of this chapter; or

(d) Failing to collect and analyze samples for *Escherichia coli* Biotype I and record results in accordance with §§ 310.25(a) or 381.94(a) of this chapter; or

(e) Failing to meet the *Salmonella* performance standard requirements in accordance with §§ 310.25(b)(3)(iii) and 381.94(b)(3)(ii) of this chapter; or

(f) Failing to destroy a condemned meat or poultry carcass, or part or product thereof, in accordance with part 314 or part 381, subpart L, of this chapter within three days of notification; or

(g) Impairing inspection because of assaults, threats of assault, intimidation or other interference that prevents a program official from conducting official duties; or

(h) Slaughtering or handling livestock inhumanely.

§ 500.13 Suspension of inspection.

(a) Inspection services may be suspended at an establishment for any of the conditions described in § 500.12 of this part.

(b) If inspection services are suspended, an establishment will receive a written ''Notice of Suspension of Inspection.'' The notice will provide the following:

(1) The effective date of the suspension.

(2) The reasons for the suspension.

(3) The name and address where an appeal may be sent.

(c) A suspension of inspection services will remain in effect until an establishment is found to be in compliance with the regulations in this chapter.

§ 500.14 Withdrawal of inspection.

(a) A grant of inspection services may be withdrawn at an establishment that fails to correct any of the conditions described in § 500.12 of this part.

(b) FSIS will initiate a complaint to withdraw inspection services in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.15 Rescinding or refusing approval of marks, labels, and containers

(a) FSIS will rescind or refuse approval of false or misleading marks, labels, or sizes or forms of any container for use with any meat or poultry product under section 7 of the FMIA, or under section 8 of the PPIA, in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

(b) FSIS will provide written notification that:

(1) Explains the reason for rescinding or refusing the approval,

(2) Provides an opportunity to modify the marking, labeling, or container so that it will no longer be false or misleading, and

(3) Advises the firm of its opportunity to submit a written statement to answer the notification and to request a hearing with respect to the merits or validity of FSIS's determination.

(c) Effective upon service of the notification in accordance with § 1.147 of the Uniform Rules of Practice (7 CFR 1.147), the use of the marking, labeling, or container shall cease.

(d) If a hearing is requested, FSIS will initiate a complaint in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

§ 500.16 Refusing or withdrawing inspection for applicants or recipients unfit to engage in business.

If the Administrator has reason to believe that an applicant for inspection services or recipient of inspection services is unfit to engage in any business requiring inspection because of any of the reasons specified in section 401 of the FMIA or section 18(a) of the PPIA, inspection services will be refused or withdrawn in accordance with the Uniform Rules of Practice, 7 CFR, subtitle A, part 1, subpart H.

Done at Washington, DC on: January 5, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–573 Filed 1–9–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. 97–079P]

RIN 0583–AC40

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Salmonella Performance Standard for Fresh Pork Sausage

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: FSIS is proposing to add a *Salmonella* performance standard for fresh pork sausage to the Federal meat inspection regulations. On November 14, 1997, FSIS published this performance standard in a direct final rule. The Agency received an adverse

comment regarding the performance standard. Accordingly, FSIS has withdrawn the performance standard regulatory amendment (published elsewhere in this issue of the **Federal Register**) and is issuing this proposed rule.

DATES: Comments must be received on or before February 11, 1998.

ADDRESSES: Send an original and two copies of written comments to: FSIS Docket Clerk, Docket #97–079P, Room 102, Cotton Annex, 300 12th Street, SW, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. Reference materials cited in this docket will be available for public inspection in the FSIS Docket Room from 8:30 to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation; (202) 205–0699.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 1997, FSIS published the direct final rule ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Sample Collection—Technical Amendments'' (62 FR 61007). Among other things, that direct final rule established a *Salmonella* performance standard for fresh pork sausage (9 CFR 310.25(b)(1)). During the 30-day comment FSIS received an adverse comment to this regulatory amendment from the law firm of McDermott, Will, & Emery, representing Jimmy Dean Foods, Inc. and Odom's Tennessee Pride Sausage, Inc. The comment raised concerns regarding the methodology used to establish the performance standard and stated that ''it is our clients'' intention to provide additional data and information within the context of notice and comment rulemaking on this issue.'' Therefore, FSIS has withdrawn the performance standard established in 9 CFR 310.25 in a withdrawal notification published elsewhere in this issue of the **Federal Register**.

As stated in FSIS's direct final rule, if the Agency received adverse comments within the scope of the rulemaking, then a proposed rule would be issue. Accordingly, FSIS is proposing a *Salmonella* performance standard for fresh pork sausages. The performance standard is 30% (percent positive for *Salmonella*), the number of samples tested (n) equals 53, and the maximum number of positives to achieve the standard (c) equals 18. The same methodology was used to develop this performance standard as for ground beef and ground poultry. To further explain how the performance standard was developed, FSIS is making available copies of the paper ''Estimation of *Salmonella* Prevalence in 25-gram Portions of Fresh Ground Pork'' in the FSIS Docket Room.

Executive Order 12866 and Regulatory Flexibility Act

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

The Administrator has made an initial determination that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

The Pathogen Reduction/HACCP final rule included a Final Regulatory Impact Assessment (FRIA) (61 FR 38945). This proposed rule does not change the cost and benefit estimates and impact assessments presented in the FRIA.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule becomes final: (1) All state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

The Pathogen Reduction/HACCP final rule included a paperwork analysis (61 FR 38862) prepared in accordance with the Paperwork Reduction Act. FSIS has determined that this proposed rule will not change any information collection burden hours.

Proposed Rule

List of Subjects in 9 CFR Part 310

Animal diseases, Meat inspection.

For the reason set forth in this preamble, 9 CFR chapter III would be amended as follows:

PART 310—POST MORTEM INSPECTION

1. The authority citation for part 310 would continue to read as follows:

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

2. Section 310.25 would be amended by revising Table 2 in paragraph (b)(1) to read as follows:

§ 310.25 Contamination with microorganisms; pathogen reduction performance standards for Salmonella.

* * * * *

(b) * * *

(1) * * *

TABLE 2.—SALMONELLA PERFORMANCE STANDARDS

Class of product	Performance Standard (percent positive for *Salmonella*) [a]	Number of samples tested (n)	Maximum number of positives to achieve Standard (c)
Steers/heifers	1.0	82	1
Cows/bulls	2.7	58	2
Ground beef	7.5	53	5
Hogs	8.7	55	6
Fresh pork sausages	30	53	18

[a] Performance Standards are FSIS's calculation of the national prevalence of *Salmonella* on the indicated raw product based on data developed by FSIS in its nationwide microbiological data collection programs and surveys. (Copies of Reports on FSIS's Nationwide Microbiological Data Collection Programs and Nationwide Microbiological Surveys used in determining the prevalence of *Salmonella* on raw products are available in the FSIS Docket Room.)

* * * * *

Done at Washington, DC, on January 5, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–574 Filed 1–9–98; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Notice of Intent to Request Public Comments on Rules

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its systematic review of all current Commission regulations and guides, the Federal Trade Commission (''Commission'') gives notice that it intends to request public comments on the guides and exemption procedures listed below during 1998. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the guides and procedures; possible conflict between the guides and procedures and state, local, or other federal laws or regulations; and the effect on the guides and procedures of any technological, economic, or other industry changes. No Commission determination on the need for or the substance of a guide or procedure should be inferred from the intent to publish requests for comments.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the contact person listed for each particular item.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of and solicit public comments on the following rules during 1998:

(1) Used Auto Parts Industry Guides, 16 CFR Part 20.

Agency Contact: David V. Plottner, Federal Trade Commission, Cleveland Regional Office, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, OH 44114, (216) 263–3409.

(2) Adhesive Compositions Guides, 16 CFR Part 235.

Agency Contact: Erika Wodinsky, Federal Trade Commission, San Francisco Regional Office, Suite 570, 901 Market Street, San Francisco, CA 94103, (415) 356–5290.

(3) Decorative Wall Paneling Guides, 16 CFR Part 243.

Agency Contact: Eric Nickerson, Federal Trade Commission, Denver Regional Office, Suite 1523, 1961 Stout Street, Denver, CO 80294–0101, (303) 844–2272.

(4) Procedures for State Application for Exemptions from the Fair Debt Collection Practices Act, 16 CFR Part 901.

Agency Contact: John Lefevre, Federal Trade Commission, Bureau of Consumer Protection, Division of Credit Practices, Room S–4429, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3029.

As part of its ongoing program to review all current Commission regulations and guides, the Commission also has tentatively scheduled reviews of other rules and guides for 1999 through 2007. A copy of this tentative schedule is appended. The Commission may in its discretion modify or reorder the schedule in the future to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission, Commissioner Thompson and Commissioner Swindle not participating.

Donald S. Clark,

Secretary.

APPENDIX—REGULATORY REVIEW MODIFIED REVOLVING TEN-YEAR SCHEDULE

16 CFR Part	Topic	Year to Review
20	Used Auto Parts Industry Guides	1998
243	Decorative Wall Paneling Guides	1998
235	Adhesive Compositions Guides	1998
901	Procedures for State Application for Exemptions from the Fair Debt Collection Practices Act	1998
240	Guides for Ad Allowances and Merchandising Payments	1999
256	Guides for the Law Book Industry	1999
259	Fuel Economy Guides	1999
307	Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986	1999
453	Funeral Industry Practices Rule	1999
600	Statements of General Policy or Interpretations	1999
233	Guides Against Deceptive Pricing	2000
238	Guides Against Bait Advertising	2000
241	Guides for the Dog and Cat Food Industry	2000
250	Guides for the Household Furniture Industry	2000
251	Guide Concerning Use of the Word ''Free''	2000
310	Telemarketing Sales Rule	2000
228	Tire Advertising and Labeling Guides	2001
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2001
424	Retail Food Store Advertising and Marketing Practices	2001
433	Holder-In-Due-Course Rule	2001
801	Hart-Scott-Rodino Coverage Rules (Mergers)	2001
802	Hart-Scott-Rodino Exemption Rules (Mergers)	2001
803	Hart-Scott-Rodino Transmittal Rules (Mergers)	2001
306	Automotive Fuel Ratings Rule	2003
435	Mail or Telephone Order Merchandise Rule	2003
18	Guides for the Nursery Industry	2004
305	Appliance Labeling Rule	2004
410	Television Picture Size Rule	2004
500	Regulations under Section 4 of the Fair Packaging and Labeling Act (FPLA)	2004
501	Exemptions from Part 500 of FPLA	2004
502	Regulations under Section 5(c) of FPLA	2004
503	Statements of General Policy or Interpretations under FPLA	2004
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2005
309	Labeling Requirements for Alternative Fuels and Alternatively Fueled Vehicles	2005

APPENDIX—REGULATORY REVIEW MODIFIED REVOLVING TEN-YEAR SCHEDULE—Continued

16 CFR Part	Topic	Year to Review
311	Recycled Oil Rule	2005
429	Cooling Off Rule	2005
444	Credit Practices Rule	2005
455	Used Car Rule	2005
24	Leather Products Guides	2006
23	Jewelry Industry Guides	2007

[FR Doc. 98–711 Filed 1–9–98; 8:45 am]
BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104062–97]

RIN 1545–AV88

Consolidated Returns—Limitations on the Use of Certain Losses and Credits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that will govern the use of certain tax credits and losses of a consolidated group and its members. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments and outlines of topics to be discussed at the public hearing scheduled for May 7, 1998, must be received by April 13, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R [REG–104062–97], room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R [REG–104062–97], 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 on the 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 has been scheduled for May 7, 1998, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, in general, Roy Hirschhorn (202) 622–7770; concerning amendments related to foreign tax credits and foreign losses, Seth Goldstein (202) 622–3850; concerning submissions and the hearing, Mike Slaughter (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1502. The temporary regulations provide rules that will govern the use of certain tax credits and losses of a consolidated group and its members. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

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 is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect persons filing consolidated federal income tax returns that have carryover or carryback of credits from separate return limitation years. Available data indicates that many consolidated return filers are large companies (not small businesses). In addition, the data indicates that an insubstantial number of consolidated return filers that are smaller companies have credit carryovers or carrybacks, and thus even fewer of these filers have credit carryovers or carrybacks that are subject to the separate return limitation year rules. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) 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 (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for May 7, 1998, at 10 a.m., in room 2615. 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 who wish to present oral comments at the hearing must submit written comments and an outline of the topics (signed original and eight (8) copies) to be discussed by April 13, 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 Roy A. Hirschhorn of the Office of Assistant Chief Counsel (Corporate). Other personnel from the IRS and Treasury 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 26 CFR part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–3 also issued under 26 U.S.C. 1502.

Section 1.1502–4 also issued under 26 U.S.C. 1502.

Section 1.1502–9 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–23 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–55 also issued under 26 U.S.C. 1502. * * *

Par. 2. In § 1.1502–3, paragraph (c) is revised to read as follows:

§ 1.1502–3 Consolidated investment credit.

* * * * *

(c) [The text of the proposed paragraph (c) of this section is the same as the text of § 1.1502–3T(c) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 3. In § 1.1502–4, paragraphs (f)(3) and (g)(3) are added to read as follows:

§ 1.1502–4 Consolidated foreign tax credit.

* * * * *

(f) * * *

(3) [The text of the proposed paragraph (f)(3) of this section is the same as the text of § 1.1502–4T(f)(3) published elsewhere in this issue of the **Federal Register**.]

(g) * * *

(3) [The text of the proposed paragraph (g)(3) of this section is the same as the text of § 1.1502–4T(g)(3) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 4. In § 1.1502–9, paragraph (b)(1)(v) is added to read as follows:

§ 1.1502–9 Application of overall foreign losses recapture rules to corporations filing consolidated returns.

* * * * *

(b) * * *

(1) * * *

(v) [The text of the proposed paragraph (b)(1)(v) of this section is the same as the text of § 1.1502–9T(b)(1)(v) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 5. Section 1.1502–21, as proposed to be added at 61 FR 33394, June 27, 1996, is amended in paragraph (c)(1)(iii) by adding *Example 5.* to read as follows:

§ 1.1502–21 Net operating losses.

* * * * *

(c) * * *

(1) * * *

(iii) [The text of the proposed paragraph (c)(1)(iii) *Example 5* of this section is the same as the text of § 1.1502–21T(c)(1)(iii) *Example 5* published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 6. Section 1.1502–23, as proposed to be added at 61 FR 33395, June 27, 1996, is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) and adding a new paragraph (b) to read as follows:

§ 1.1502–23 Consolidated net section 1231 gain or loss.

* * * * *

(b) [The text of the proposed paragraph (b) of this section is the same as the text of § 1.1502–23T(b) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 7. Section 1.1502–55, as proposed to be added at 57 FR 62257, December 30, 1992, is amended by adding paragraph (h)(4)(iii) to read as follows:

§ 1.1502–55 Computation of alternative minimum tax of consolidated groups.

* * * * *

(h) * * *

(4) * * *

(iii) [The text of the proposed paragraph (h)(4)(iii) of this section is the same as the text of § 1.1502–55T(h)(4)(iii) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–44 Filed 1–9–98; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE–12–1–5886; FRL–5948–9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware—New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing conditional approval of the State Implementation Plan (SIP) revision submitted by the State of Delaware for the purpose of meeting certain requirements of the Clean Air Act (Act), as amended in 1990, with regard to new source review (NSR) in areas that have not attained the national ambient air quality standards (NAAQS). The changes primarily pertain to the ozone precursors, volatile organic compounds (VOCs) and nitrogen oxides (NO_x). This SIP revision was submitted by Delaware to satisfy certain federal requirements for NSR in the State of Delaware. The proposed changes to the Delaware NSR regulation primarily address the definitions of major source size and the increase in emission offset ratios based upon the classifications of ozone nonattainment areas. EPA is proposing conditional approval because the NSR SIP revisions submitted by Delaware strengthen the SIP, but Delaware failed to revise the NSR regulations to adopt provisions relating to modifications in serious and severe ozone nonattainment areas, required by the 1990 Clean Air Act Amendments, and provisions relating to emission offsets and public participation, required by EPA regulations prior to the 1990 Clean Air Act Amendments.

DATES: Comments must be received on or before February 11, 1998.

ADDRESSES: Comments may be mailed to Ms. Kathleen Henry, Chief, Permit Programs Section, Air, Radiation, and Toxics Division (3AT23), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Moran, (215) 566–2064, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

For ozone nonattainment areas and ozone transport regions, sections 182(a)(2)(C) and 184(b) require States to submit to EPA by November 15, 1992, a revision that includes each of the following: (1) Provisions to require permits, in accordance with sections 172(c)(5) and 173 of the Act, for the construction and operation of each new or modified major stationary source

(with respect to ozone) to be located in the area (section 182(a)(2)(C)(i) of the Act); and (2) provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) of the Act (as in effect immediately before November 15, 1990) as interpreted in EPA regulations promulgated as of November 15, 1990 (section 182(a)(2)(C)(ii) of the Act).

On January 11, 1993, the State of Delaware submitted a revision for Regulation 25, ''Requirements for Preconstruction Review,'' sections 1 and 2 (pertaining to nonattainment NSR). The NSR-related revision consists of changes in the definitions of major source size and increases in the emission offset ratios based on the classifications of Delaware's ozone nonattainment areas. The changes primarily pertain to the ozone precursors, VOCs and NO_X. The changes apply to New Castle, Kent, and Sussex Counties. New Castle and Kent Counties are designated nonattainment for ozone and classified as severe. See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.308. Sussex County is designated as nonattainment for ozone and is classified as marginal. See 40 CFR 81.308. Delaware is located in the northeast ozone transport region (OTR). See section 184(a) of the Act. Because Delaware is located in the OTR, at a minimum, the NSR requirements applicable to moderate ozone nonattainment areas apply. Therefore, in Sussex County, the Act's NSR requirements for a moderate area apply and must be made part of the SIP.

II. Summary of Delaware's NSR Revisions

For all classifications of ozone nonattainment areas and for the OTR, States must adopt the appropriate major source size thresholds and offset ratios. Under the Act, NO_X as well as VOCs is regulated as an ozone precursor, and states must adopt provisions to ensure that any new or modified major stationary source of NO_X in an ozone nonattainment area or the OTR satisfies the NSR requirements applicable to any major source of VOCs, unless a special NO_X exemption is granted by the Administrator under the provisions of section 182(j).

Delaware has established new major source size thresholds for NSR applicability and increased offset ratios for subject sources, in accordance with the Act as follows:

1. Delaware Regulation 25 at section 2.2(B)(2) defines a major source size applicability threshold in Sussex County (a marginal ozone nonattainment area required to meet moderate area NSR provisions because it is located in the OTR) as 50 tons per year (TPY) potential to emit for VOCs and 100 TPY potential to emit for NO_X. Section 2.3(C)(2) requires an offset ratio of 1.15 to 1 (which means that for every 1 ton increase in allowable emissions from a new major stationary source, 1.15 tons of actual emissions must be reduced from existing sources). These provisions satisfy the Act's NSR requirements for defining a major stationary source and for establishing the offset ratios in moderate ozone nonattainment areas.

2. Delaware Regulation 25 at section 2.2(B)(1) defines the major source size applicability threshold for New Castle and Kent Counties (which are classified as severe nonattainment areas for ozone) as 25 TPY potential to emit for VOCs and NO_X. Section 2.3(C)(1) requires an offset ratio of 1.3 to 1 (which means that for every 1 ton increase in allowable emissions from a new major stationary source, 1.3 tons of actual emissions must be reduced from existing sources).

Delaware's plan submittal reflects appropriate modifications to applicability levels, including a de minimis level of 25 tons, as provided in Regulation 25, section 1.9(V)(1), definition of ''Significant.'' This section provides that increases in net emissions shall not exceed 25 tons per year in New Castle and Kent Counties, or 40 tons per year in Sussex County, when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years which includes the calendar year in which such increases occur. Delaware Regulation 25, section 1.9(V)(1), also provides that no emission reductions from major stationary sources will be creditable if they occurred prior to January 1, 1991, by specifying that no part of the five consecutive calendar year period shall extend before January 1, 1991.

EPA believes that the above changes to Delaware's NSR regulation are consistent with the Act and strengthen the SIP. However, Delaware's SIP revision fails to fully meet the requirements of section 182(a)(2)(C)(i) of the Act, because it does not address the additional requirements of the Clean Air Act Amendments summarized in section III.A. Further, EPA finds that Delaware's SIP revision fails to meet the requirements of section 182(a)(2)(C)(ii) of the Act, because it does not address several provisions related to emissions offsets and public participation which were required by the NSR regulations (40 CFR 51.165) prior to the 1990 Clean Air Act Amendments. These deficiencies are summarized in section III.B.

III. NSR Deficiencies

A. 1990 Clean Air Act Amendment NSR Deficiencies

Section 182(a)(2)(C)(i) requires that states must submit, by November 15, 1992, a revision to the SIP which contains provisions to require permits, in accordance with sections 172(c)(5) and 173 of the Act, for the construction and operation of each new or modified source (with respect to ozone) to be located in the area. EPA finds that Delaware's January 11, 1993 submittal does not meet the requirements of section 182(a)(2)(C)(i) because Regulation No. 25 does not include the following provisions:

1. Consistent with sections 182(c) (7) and (8) of the Act, provisions for the special rule for modifications of sources in serious and severe ozone nonattainment areas. Section 182(c)(7) applies to facilities with potential emissions of VOC or NO_X of less than 100 TPY, where the modification results in an other than de minimus increase in emissions. The owner or operator may choose to offset the emissions of the proposed source with those elsewhere in the same facility at a ratio of at least 1.3 to 1 in order to avoid having the proposed source be considered a modification. If the facility does not offset at the required ratio, the change shall be considered a modification, but the facility would be required to install Best Available Control Technology (BACT) instead of Lowest Achievable Emissions Rate (LAER) technology. Section 182(c)(8) applies to facilities with potential emissions of 100 TPY or more of VOC or NO_X, where the modification results in an other than de minimus increase in emissions. The increase shall be considered a modification, but the source may choose to offset the emissions from the proposed source with emission reductions elsewhere in the same facility at an internal offset ratio of 1.3 to 1 in order to avoid installing LAER.

B. Pre-1990 NSR Deficiencies

Section 182(a)(2)(C)(ii) requires that states must submit, by November 15, 1992, a revision to the SIP which contains provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) of the Act (as in effect immediately before November 15, 1990) as interpreted in EPA regulations promulgated as of November 15, 1990. EPA finds that

Delaware's January 11, 1993 submittal does not meet the requirements of section 182(a)(2)(C)(ii) because Regulation No. 25 does not include the following provisions:

1. Public participation procedures consistent with 40 CFR 51.161. While section 3 of Delaware's Regulation No. 25, pertaining to the Prevention of Significant Deterioration of Air Quality, contains public participation procedures, Regulation No. 25 does not specify the public participation procedures to be used in issuing nonattainment NSR permits.

2. A requirement that where the emissions limit under the SIP allows greater emissions than the potential to emit of the source, emission offset credit will be allowed only for control below this potential. See 40 CFR 51.165(a)(3)(ii)(A).

3. Provisions for granting emission offset credit for fuel switching, consistent with 40 CFR 51.165(a)(3)(ii)(B).

4. Requirements consistent with 40 CFR 51.165(a)(3)(ii)(C)(1) for the crediting of emission reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels (shutdown credits). These requirements must include a provision that such reductions may be credited if they are permanent, quantifiable and federally-enforceable, and if the area has an EPA-approved attainment plan.

Delaware may also include provisions consistent with 40 CFR 51.165(a)(3)(ii)(C)(2) which allow the use of shutdown credits in areas without an approved attainment demonstration. EPA notes that the Agency proposed two alternative revisions to these requirements in the NSR Reform Rulemaking. See 61 FR 38325 (July 23, 1996).

5. A requirement that the shutdown or curtailment is creditable only if it occurred after the date of the most recent emissions inventory or attainment demonstration. See 40 CFR 51.165(a)(3)(ii)(C)(1).

6. A requirement that all emission reductions claimed as offset credit shall be federally enforceable. See 40 CFR 51.165(a)(3)(ii)(E).

7. Requirements for the permissible location of offsetting emissions. See 40 CFR 51.165(a)(3)(ii)(F) and section 173(c)(1) of the Act.

8. A requirement that credit for an emission reduction can be claimed to the extent that the State has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51 (i.e., the SIP), or the State has not relied on it in a demonstration of attainment or reasonable further progress. See 40 CFR 51.165(a)(3)(ii)(G) and sections 173(c) (1) and (2) of the Act.

Because of the deficiencies identified in Sections III.A. and III.B. above, EPA is proposing conditional approval of the Delaware SIP revision for the NSR regulation, amended Delaware Regulation 25, sections 1 and 2, which was submitted on January 11, 1993. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Proposed Action

In light of the above deficiencies, EPA is proposing conditional approval of this SIP revision under section 110(k)(4) of the Act. EPA is proposing conditional approval of the Delaware NSR SIP if Delaware commits, in writing, within 30 days of EPA's proposal to correct the deficiencies identified in this rulemaking. If the State does not make the required written commitment to EPA within 30 days, EPA will withdraw this proposed conditional approval action. If the State does make a timely commitment, but the conditions are not met by the specified date within one year, EPA is proposing that the rulemaking will convert to a final disapproval. EPA would notify Delaware by letter that the conditions have not been met and that the conditional approval of the NSR SIP has converted to a disapproval. Each of the conditions must be fulfilled by Delaware and submitted to EPA as an amendment to the SIP.

If Delaware corrects the deficiencies within one year of conditional approval, and submits a revised NSR SIP revision, EPA will conduct rulemaking to fully approve the revision. In order to make this NSR SIP approvable, Delaware must revise its NSR regulations to include the provisions described in section III of this document by no later than 12 months after EPA's final conditional approval.

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

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

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

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must

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

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

The Regional Administrator's decision to approve or disapprove this SIP revision regarding Delaware's NSR program will be based on whether it meets the requirements of section 110(a)(2)(a)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, New source review, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401—7671q.

Dated: December 18, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–673 Filed 1–9–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 971223310–7310–01; I.D. 101194C]

Endangered and Threatened Species; Withdrawal of Proposed Rule to List Snake River Spring/Summer Chinook Salmon and Fall Chinook Salmon as Endangered

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

ACTION: Proposed rule; withdrawal.

SUMMARY: NMFS is withdrawing the proposed rule which published on December 28, 1994, to reclassify Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and Snake River fall chinook salmon (*O. tshawytscha*) from threatened to endangered under the Endangered Species Act of 1973 (ESA). Events have taken place since the proposal that make the reclassification action unnecessary. Increasing abundance, combined with the effects of improved management, indicate that the risks facing these species are now lower than they were at the time of the proposal. While the status of these species has improved since the proposal, conservation efforts must continue to recover Snake River chinook salmon to sustainable levels.

DATES: This proposed rule is withdrawn on January 12, 1998.

ADDRESSES: Environmental and Technical Services Division, NMFS, Northwest Region, 525 NE Oregon Street—Suite 500, Portland, OR 97232–2737.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Protected Resources Division, Northwest Region, telephone (503) 231–2005, or Joe Blum, NMFS, Office of Protected Resources, telephone (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

In response to a June 1990 petition to list under the ESA Snake River chinook salmon, NMFS prepared status review reports for Snake River spring and summer chinook salmon (Matthews and Waples, 1991) and Snake River fall chinook salmon (Waples *et al.*, 1991) providing detailed information, discussion, and references relevant to the level of risk faced by the species, including historical and current abundance, population trends, distribution of fish in space and time, and other information indicative of the health of the population.

NMFS proposed listing Snake River spring/summer chinook salmon (56 FR 29542) and Snake River fall chinook salmon (56 FR 29547) as threatened on June 27, 1991. The final determination listing Snake River spring/summer chinook salmon and Snake River fall chinook salmon as threatened was published on April 22, 1992 (57 FR 14653), and corrected on June 3, 1992 (57 FR 23458). The decision to list was based in part on a determination that the populations constituted evolutionarily significant units (ESUs) pursuant to NMFS' policy on applying the ESA species definition to Pacific salmon published on November 20, 1991 (56 FR 58612). Critical habitat was designated for Snake River spring/summer chinook salmon and Snake River fall chinook salmon on December 28, 1993 (58 FR 68543).

In an emergency rule published in the **Federal Register** on August 18, 1994 (59 FR 42529), NMFS determined that the status of Snake River spring/summer chinook salmon and the status of Snake River fall chinook salmon warranted reclassification to endangered, based on projected declines and continued low abundance levels of adult chinook salmon. Under the ESA (16 U.S.C. 1533(b)(7)) and its implementing regulations at 50 CFR 424.20(a), an emergency rule ceases to have force after 240 days unless additional actions are taken.

NMFS published a proposed rule to reclassify Snake River spring/summer and Snake River fall chinook salmon as endangered on December 28, 1994 (59 FR 66784), and solicited comments from peer reviewers, the public, and interested parties.

After the proposed reclassification, a moratorium on listing actions was enacted by Congress which precluded work on this action. As a result of the moratorium and associated delays in its listing actions, NMFS prioritized its pending listing actions, with reclassifications receiving a low priority. NMFS has now assessed comments and information received in response to the proposed rule. A summary of this information, along with NMFS' analysis and conclusions follows.

Summary of Comments

One hundred fifty-four written comments were received in response to the proposed rule to reclassify Snake River chinook salmon as endangered. NMFS has considered all comments received, including oral testimony from two public hearings (60 FR 7744, February 9, 1995) on the proposal. The majority of comments received voiced opposition to the proposed rule on the basis of potential economic impacts of the designation and questions regarding NMFS' jurisdiction over Snake River spring/summer and fall chinook salmon. Only four of these comments contained information of a technical nature relevant to NMFS' status determination. Several commenters provided information pertinent to research needs and recovery planning; information of this type will be addressed in the

recovery plan for these species and is not addressed here.

Under a joint U.S. Fish and Wildlife Service/NMFS policy published July 1, 1994 (59 FR 34270), NMFS solicits the expert opinion of three appropriate and independent specialists regarding the pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information for species under consideration for listing. Accordingly, NMFS solicited independent review from the following experts: Dr. Lyle Calvin, Oregon State University; Dr. Jack Stanford, University of Montana; and Dr. Ray Hilborn, University of Washington. Comments were received from Dr. Stanford regarding the proposed rule.

Consideration of Economic and Jurisdictional Factors

Comment: Numerous commenters stated that the potential economic impacts of these Snake River spring/summer and fall chinook salmon listings have not been properly addressed.

Response: In determining whether to list a species as threatened or endangered, ESA implementing regulations 50 CFR 424.11(b) clearly state that such decisions must be made ''solely on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such a determination.'' Therefore, in making its listing determination, NMFS did not consider the economic impacts associated with the listing action. However, during the process of designating critical habitat and identifying recovery measures, economic considerations are (and have been) taken into account. With regard to Snake River spring/summer and fall chinook salmon, descriptions of such analyses can be found in the final rule designating critical habitat published on December 28, 1993 (58 FR 68543).

Comment: Numerous commenters questioned NMFS' jurisdiction in dealing with matters in the state of Idaho.

Response: Under section 4(a)(1) of the ESA, the Secretary of Interior and the Secretary of Commerce (Secretaries) have authority to implement the ESA to protect and conserve threatened and endangered species. Authority for commercial fishery species (i.e., salmon species) management was transferred to the Department of Commerce from the Department of Interior under Reorganization Plan No. 4 of 1970. Therefore, based on the ESA and this Reorganization Plan, NMFS retains ESA jurisdiction over Snake River spring/summer and fall chinook salmon.

Consideration as a Species

Comment: Several commenters contended that Snake River spring/summer and fall chinook salmon are likely to be ''subspecies'' of a species which is abundant in other portions of its range. Therefore, neither Snake River spring/summer nor fall chinook salmon should be considered a ''species'' under the ESA.

Response: In the final determination listing Snake River spring/summer and fall chinook as threatened under the ESA (57 FR 14653, April 22, 1992), NMFS determined that Snake River spring/summer and fall chinook salmon constitute ''species'' under the ESA. The present determination has no effect on the earlier determination. Section 3(15) of the ESA defines a ''species'' as including ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' NMFS' final policy on how it will apply the ESA ''species'' definition in evaluating Pacific salmon was published on November 20, 1991 (56 FR 58612).

Further guidance on the application of this policy is contained in the NMFS policy paper ''Pacific Salmon and the Definition of 'Species'' Under the Endangered Species Act'' (Waples 1991). NMFS' determination is consistent with this policy and guidance.

Factors Contributing to the Decline of Snake River Spring/Summer and Fall Chinook Salmon

Comment: The majority of commenters identified specific factors that they believe to be responsible for causing the decline of these species. Many contended that mortality associated with dams on the Columbia and Snake Rivers has been the primary cause for decline, while others identified poor ocean conditions, in-river harvest, and predation as major factors for decline. Several commenters took exception to NMFS identifying mining as a factor for the species' decline.

Response: NMFS agrees that there are a variety of factors which have contributed to the decline of these species. In the proposed rule to reclassify Snake River spring/summer and fall chinook as endangered (59 FR 66784, December 28, 1994), NMFS identified a range of factors which have contributed to the decline of these species including: Hydropower development, water withdrawal and storage, irrigation diversions, siltation and pollution from sewage, farming, grazing, logging, mining, harvest and hatchery impacts, predation, and drought. NMFS recognizes that, for some of these human-induced factors, steps have been taken by Federal, state, and private entities to identify and reduce adverse impacts on Snake River chinook salmon. NMFS is hopeful that continued attention to these factors will ultimately result in the recovery of Snake River chinook salmon.

Comment: Numerous commenters insisted that declines in Snake River spring/summer and fall chinook salmon have occurred as a result of natural evolutionary processes.

Response: The proposed rule to reclassify Snake River spring/summer and fall chinook salmon from threatened to endangered was based on the biological status of the species. Assessing the source or cause (either natural or manmade) of a species' decline does not affect the outcome of NMFS' status determination but, instead, focuses remedial action on those factors which contribute to the threat to the species. With respect to the commenters' concern, NMFS is unaware of scientific research which supports the claim that these species have declined primarily as a result of natural evolutionary processes. Available research has documented that mortality resulting from human activities has significantly contributed to the decline of these species. Therefore, NMFS believes that human activities, and not natural evolutionary processes, are the primary factors which have led to the decline of Snake River chinook salmon.

Existing Regulatory Mechanisms

Comment: Several commenters contended that existing state and Federal regulations are sufficient to guarantee that no adverse impacts to water quality or habitat will occur in the Snake River basin. Similarly, several commenters stated that management practices have improved such that further degradation of salmon habitat will not occur.

Response: NMFS believes that, since Snake River spring/summer and fall chinook salmon were proposed for reclassification as endangered species, progress has been made in improving salmon management, passage, harvest, and habitat conditions in the Columbia and Snake River systems. All of these improvements have likely resulted in increased survival by juvenile and adult Snake River chinook salmon. Further discussion of this issue is provided

under ''Summary of Factors Affecting the Species.''

Evaluating the Status of Snake River Spring/Summer and Fall Chinook Salmon

The state of Alaska, Department of Fish and Game (ADFG) submitted a report which addresses several issues pertaining to the proposed reclassification of Snake River fall chinook salmon (ADFG, 1995). In its report, ADFG asserts that an analysis of the following factors should occur prior to reclassification: escapement, likelihood of extinction, probability of persistence with respect to survival, spawner/recruit relationship, and forecasts of adult returns. These comments also apply to the proposed reclassification of Snake River spring/summer chinook salmon since similar risk assessment methods were used for this species. A discussion of the major points in the comments submitted by ADFG follows.

Comment: ADFG concluded that reclassifying Snake River fall chinook salmon from threatened to endangered is not warranted because the species has increased in abundance since the time the species was listed as threatened.

Response: NMFS agrees that since the time of this proposal, Snake River spring/summer and fall chinook salmon have increased in abundance. Below we present a brief summary of recent returns of Snake River spring/summer and fall chinook salmon. Table 1 summarizes this abundance data:

TABLE 1.—SUMMARY OF SNAKE RIVER SPRING/SUMMER AND FALL CHINOOK ADULT RETURNS AT LOWER GRANITE DAM

Year	Spring/summer chinook total adult returns	Spring/summer chinook naturally-spawning escapement	Fall chinook total adult returns	Fall chinook naturally-spawning escapement
1994[P]	3,915	1,721	774	406
1995	1,799	1,116	1,042	350
1996	6,823	3,487	1,270	639
1997	45,082	[E] 6,500	[E] 2,100	[E] 726

[P] = Proposed rule published on December 28, 1994.
[E] = Estimated return (Personal Communication, Robert Bayley, NMFS 1997; TAC 1997b).

Spring/Summer Chinook Salmon Abundance

In 1994 when NMFS proposed reclassifying Snake River spring/summer chinook salmon as endangered, total adult returns (hatchery-origin and naturally-spawning) of this species to Lower Granite Dam were 3,915 (FPC 1995). (Dam counts at Lower Granite Dam are typically used as an indicator for Snake River salmon escapement since this is the uppermost fish counting ladder in the Snake River.) In 1995, subsequent to the proposed listing, total adult returns to Lower Granite Dam were 1,799 (FPC 1996). In 1996, total adult returns to Lower Granite Dam increased to 6,823 (FPC 1997), about 1.7 times greater than 1994 returns. More recently, total returns of spring/summer chinook have increased substantially. In 1997, a total of 45,082 spring/summer chinook adults have returned to Lower Granite Dam (U.S. Army Core Of Engineers (COE), 1997), about 11 times greater than 1994 returns.

In 1994, at the time of the proposed reclassification, 1,721 naturally spawning spring/summer chinook salmon escaped past Lower Granite Dam, while in 1995, escapement decreased to 1,116 naturally spawning adults past Lower Granite Dam (Technical Advisory Committee (TAC) 1997a). In 1996, escapement increased to 3,487 (TAC, 1997a), about 2 times greater than 1994 escapement. Estimates indicate that about 6,500 naturally spawning spring/summer chinook will escape past Lower Granite Dam in 1997 (Personal Communication, Robert Bayley, NMFS 1997; TAC 1997b).

Fall Chinook Salmon Abundance

In 1994 when NMFS proposed reclassifying Snake River chinook salmon as endangered, total adult returns of fall chinook (hatchery-origin and naturally spawning) to Lower Granite Dam numbered 774 (FPC, 1995). Adult returns to Lower Granite Dam in 1995 numbered 1,042 (FPC, 1996), about 1.3 times greater than 1994 returns. This increasing trend continued in 1996, with a total adult return of 1,270 at Lower Granite Dam (FPC, 1997)—about 1.6 times greater than 1994 returns. Estimates indicate that about 2,100 fall chinook will return to Lower Granite Dam in 1997 (Personal Communication, Robert Bayley, NMFS, 1997; TAC 1997b).

In 1994, at the time of the proposed reclassification, 406 naturally spawning, fall chinook salmon escaped past Lower Granite Dam (TAC, 1997c). In 1995, escapement decreased to 350 naturally-spawning fall chinook past Lower Granite Dam (TAC, 1997c). In 1996, 639 naturally spawning chinook salmon escaped past Lower Granite Dam (TAC, 1997c). Estimates indicate that in 1997, about 726 naturally-spawning fall chinook salmon will escape past Lower Granite Dam (Personal Communication, Robert Bayley, NMFS, 1997; TAC, 1997b).

Comment: In addition to comments regarding recent escapement, ADFG concluded that the risk for Snake River fall chinook salmon extinction (as measured by stochastic forecasts based on observed escapement) has declined since the initial listing of this species. The ADFG also commented on the difficulty of reproducing results of a ''likelihood-of-extinction'' model cited in the Snake River fall chinook salmon status review (Waples *et al.,* 1991).

Response: NMFS agrees that extinction risk for Snake River fall chinook salmon has decreased since 1994 due to conservation efforts and based on recent increased run sizes.

NMFS acknowledges that, due to a slight data error, the Dennis *et al.* model results reported in the NMFS' status review are difficult to reproduce. However, independent analyses provide estimates very similar to those cited in NMFS' status review (Cramer and Neeley, 1993).

Comment: ADFG concluded that forecasts for future adult fall chinook salmon run size cited in the reclassification proposal have significantly underestimated the actual escapements past Lower Granite Dam. Further, ADFG stated that these projections have so underestimated actual escapements that the use of these data is inconsistent with the ESA requirement to use the best available scientific and commercial data when a listing decision is made.

Response: Contrary to ADFG's comments, NMFS believes that projected natural-origin escapements have not significantly underestimated actual escapements. Based on run reconstruction data developed by the Columbia River Technical Advisory Committee established under *U.S.* v. *Oregon*, the 1994 Snake River fall chinook salmon run size at Lower Granite Dam was estimated to range from 269 to 488 adults (CRTS, 1994). Actual escapement past Lower Granite Dam in 1994 was estimated to be 406 adults (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW), 1995). NMFS agrees, however, that it would be unwise to base a species status reclassification, such as this rulemaking, solely on the results of predictive models which are sensitive to unforeseeable environmental conditions.

Comment: ADFG derived estimates of the number of spawners needed to produce maximum sustainable yield (MSY) and maximum return ranging from 440 and 570 adult spawners above Lower Granite Dam, and estimated that escapements on the order of 1,000 adults would produce strong returns.

Response: While the estimates presented by ADFG appear reasonable given the data that were used, NMFS questions ADFG's treatment of the data in deriving these estimates. In addition, ADFG did not present any confidence intervals for its estimates of MSY. NMFS' previous experience with similar analyses suggests that such confidence intervals would be quite large; hence, conclusions regarding this analysis must be viewed as highly uncertain.

Comment: ADFG raised several concerns regarding stray hatchery fish and the genetic integrity of the Snake River fall chinook salmon ESU. The ADFG stated that, based on dilution models, the gene pool of the progeny of wild fish is likely different today than it was a few years ago.

Response: NMFS has not attempted to verify the results presented by ADFG for its dilution model, but agrees that unidirectional gene flow (from non-ESU stocks into the listed ESU) results in a dilution of the native gene pool. The potential and, given the evidence of past straying into the Snake River, likely adverse impacts of this cumulative dilution underscores NMFS' concern for the genetic integrity of the Snake River spring/summer and fall chinook salmon ESUs.

Summary of Factors Affecting the Species

Section 4(a)(1) of the ESA specifies five factors to be evaluated during a status review of a species or population proposed for listing or reclassification. A discussion of these factors with respect to Snake River spring/summer chinook salmon and Snake River fall chinook salmon follows.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

In the December 1994 proposed rule to reclassify Snake River spring/summer and fall chinook, NMFS stated that hydropower development, water withdrawal and storage, irrigation diversions, and other land management activities had degraded Snake River salmon habitat. NMFS further stated in the proposed rule that changes in the operation of lower Snake and Columbia River Dams and changes in land and water management activities would likely result in long-term improvements in survival of adult and juvenile chinook salmon, but that such improvements had not yet been realized.

NMFS now concludes that migration conditions in the Columbia and Snake Rivers have improved since the time of listing due to increased spill and natural flow, as well as physical modifications to mainstem dams. For example, seven of eight Columbia and Snake River mainstem dams now have bypass systems through which outmigrating juvenile Snake River chinook salmon can pass more safely. Also, through the implementation of the proposed Snake River Salmon Recovery Plan, additional spill and flow augmentation have occurred during the juvenile outmigration.

Since the listing of Snake River chinook salmon, NMFS has undertaken numerous consultations on activities in the region. Examples of such activities include timber and grazing permits issued by the U.S. Forest Service and Bureau of Land Management, dredge and fill activities authorized by COE, and licensing of hydroelectric projects by the Federal Energy Regulatory Commission. Benefits of these actions include the following: Between 1991 and 1995, there has been a net loss of 622 miles of roads (sources of sediment) in nine Idaho National Forests; all irrigation diversions in critical habitat located in the state of Washington have been screened; and NMFS has successfully settled one of the largest Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) claims in the history of the statute (Blackbird Mine), which will eventually result in reopening over 100 miles of spawning habitat historically used by chinook salmon in Idaho.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

At the time of the proposed reclassification, NMFS stated that several measures had been taken between 1991 and 1993 to reduce incidental harvest rates on Snake River fall chinook salmon to approximately 50 percent. However, continued and projected low returns indicated that these efforts had not reversed the decline of the species.

Since the proposed rule, returns of Snake River chinook have increased. This indicates that impacts from commercial and recreational fisheries have decreased. Commercial and recreational fisheries in the Columbia River basin remain restricted to low levels relative to previous years. For example, the Southeast Alaska troll fishery for fall chinook salmon was substantially curtailed in both 1995 and 1996. Current restrictions in this fishery have resulted in a catch of about 80,000 fewer chinook than early 1990 quotas. Furthermore, Canada has taken steps to substantially reduce its fisheries off the west coast of Vancouver Island and in other areas. Also, through the Columbia River Fisheries Management Planning process, harvest on spring/summer and fall chinook salmon has been set with specific constraints based on Snake River salmon run size. As an example, recent agreements regarding fall chinook salmon harvest in Columbia River fisheries will ensure under most circumstances that harvest rates achieve a 30-percent reduction relative to the 1988–93 average Snake River fall chinook harvest rate.

As stated in the proposed reclassification, there are a number of scientific research programs which involve handling, tagging, and moving fish in the Columbia and Snake Rivers. However, NMFS believes that the contribution of these programs to the decline of listed Snake River chinook salmon is negligible.

C. Disease or Predation

Chinook salmon are exposed to numerous bacterial, protozoan, viral, and parasitic organisms; however, these organisms' impacts on Snake River chinook salmon are largely unknown.

Predator populations, particularly northern squawfish (*Ptychocheilus oregonensis*), have increased due to hydroelectric development that created

impoundments providing ideal predator foraging areas. Turbulent conditions in dam turbines, bypasses, and spillways have increased predator success by stunning or disorienting passing juvenile salmon migrants. Increased efforts to reduce populations of northern squawfish should result in survival improvements of listed salmon, but the benefits are not yet fully known.

Marine mammal numbers, especially harbor seals (*Phoca vitulina*) and California sea lions (*Zalophus californianus*), are increasing on the West Coast, and increases in predation by pinnipeds have been noted in some Northwest salmonid fisheries. Since the time of this proposed reclassification, NMFS has published a report describing the impacts of California sea lions and Pacific harbor seals upon salmonids and on the coastal ecosystems of Washington, Oregon, and California (NMFS, 1997d). This report concludes that in certain cases where pinniped populations co-occur with depressed salmonid populations, salmon populations may experience severe impacts due to predation. An example of such a situation is Ballard Locks, Washington, where sea lions are known to consume significant numbers of adult winter steelhead. This study further concludes that data regarding pinniped predation is quite limited, and that substantial additional research is needed to fully address this issue. Existing information on the seriously depressed status of many salmonid stocks is sufficient to warrant actions to remove pinnipeds in areas of co-occurrence where pinnipeds prey on depressed salmonid populations (NMFS 1997).

D. The Inadequacy of Existing Regulatory Mechanisms

In the proposed reclassification, NMFS stated that improvements in existing regulatory mechanisms had been made since the original listing of Snake River chinook. However, due to projected declines in abundance during the 1991 through 1993 period, NMFS believed that regulatory mechanisms which were in place were inadequate.

NMFS now concludes that since the time of listing, existing regulatory mechanisms have improved. For example, regulations aimed at improving river flow and juvenile acclimation for upper Columbia River fall chinook salmon are believed to have reduced straying impacts on listed fall chinook populations. Commercial and recreational harvest regulations have been implemented which appear to be minimizing the impacts of these actions on Snake River chinook. A single scientific advisory body (Independent Scientific Group) has been established to address Columbia River Basin scientific issues. A result of this board's formation should be to streamline the management and decision-making process with respect to Snake River salmon issues. Furthermore, implementation of the proposed Snake River Salmon Recovery Plan has begun; finalization of this document in 1997 will provide a clear direction for the region in achieving recovery of its Pacific salmon stocks.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Drought conditions have contributed to the decline of Snake River chinook salmon; however, these conditions have subsided in recent years. In the Northwest, annual mean streamflows for the 1977 water year (October to September) were the lowest recorded for many streams since the late nineteenth century (Columbia River Water Management Group (CRWMG), 1978). Precipitation levels in the Snake River Basin above Ice Harbor Dam also were below the 25-year average (1961–1985) in the 1979, 1981, 1985, 1987, 1988, and 1990 water years. The 1990 water year became a fourth consecutive year of drought condition (CRWMG, 1991). Drought conditions persisted in the Columbia River basin during the period of 1990 to 1994. However, changes in weather patterns in 1995, 1996, and 1997 have resulted in above average rainfall for Snake and Columbia River basins.

Long-term trends in marine productivity associated with atmospheric conditions in the North Pacific Ocean may have a major influence on salmon production. Unusually warm ocean surface temperatures and associated changes in coastal currents and upwelling, known as El Niño conditions, result in ecosystem alterations such as reductions in primary and secondary productivity and changes in prey and predator species distributions. The degree to which adverse ocean conditions can influence Snake River chinook salmon production is not known; however, juvenile salmon adapting to the nearshore ocean environment are probably particularly vulnerable.

Artificial propagation has, in some cases, impacted listed Snake River spring/summer chinook salmon. Potential problems associated with hatchery programs include genetic impacts on indigenous wild populations from stock transfers, reduced natural production due to collection of wild adults for hatchery brood stocks, competition with wild salmon, predation of wild salmon by hatchery salmon, and disease transmission.

Changes have been made in many chinook salmon hatchery programs which should decrease the impacts associated with artificial propagation. For example, measures have been taken to reduce straying of Umatilla River fall chinook hatchery stock into the Snake River. These measures include increasing river flows, marking all hatchery-raised fish, and acclimating stocks in the Umatilla River prior to their release. NMFS continues to monitor, evaluate, and refine changes that have been made to chinook salmon hatchery programs. This process should help ensure that hatchery programs do not impede recovery of these stocks.

Finding and Withdrawal

At the time the reclassification proposal was made, Snake River spring/summer chinook salmon and Snake River fall chinook salmon appeared to be near critically low abundance levels. However, since that time, the abundance of both stocks has increased. These increases, combined with the effects of improved management, indicate that the risks facing these species are now lower than they were at the time of the reclassification proposal. Based on this information, NMFS concludes that reclassification of Snake River spring/summer and fall chinook salmon from threatened to endangered is not warranted at this time. Therefore, NMFS withdraws the proposed rule to reclassify Snake River spring/summer and fall chinook salmon as endangered under the ESA. NMFS will continue to closely monitor the status of these species as well as evaluate the effectiveness of existing and future protective and conservation measures to determine whether a change in the status of either species is warranted in the future.

References

A complete list of all references cited is available upon request (see **ADDRESSES**).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 5, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–622 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

50 CFR Part 300

[Docket No. 971223311–7311–01; I.D. 120997B]

RIN 0648–AK18

Fisheries in the Exclusive Economic Zone Off Alaska; Pacific Halibut Fisheries; Remove Regulatory Areas 4A and 4B From the Catch Sharing Plan

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

ACTION: Proposed rule and amendment to the catch sharing plan; request for comments.

SUMMARY: This proposed action would amend the halibut catch sharing plan (CSP) by removing Halibut Regulatory Areas 4A and 4B, leaving the specification of catch limits for Pacific halibut in these areas to the International Pacific Halibut Commission (IPHC), and making a corresponding change to the implementing regulations. This action is necessary to facilitate new stock assessment methods developed by the IPHC to determine catch limits for the Pacific halibut resource in Regulatory Area 4. This action is intended to further the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to the Pacific halibut fishery, consistent with the regulations and resource management objectives of the IPHC.

DATES: Comments on the proposed amendment to the CSP and the proposed change to the implementing regulations must be received by February 11, 1998.

ADDRESSES: Comments must be sent to the Assistant Regional Administrator for the Sustainable Fisheries Division, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) is responsible for implementing the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), at 16 U.S.C. 773c. Section 773c(c) authorizes the Regional Fishery Management Council having authority for the geographical area concerned to develop regulations governing the allocation of Pacific halibut among U.S. fishermen. Such regulations may be in addition to, but must not conflict with, regulations developed by the IPHC and must be approved by the Secretary before being implemented. Accordingly, the Council developed a halibut fishery management regime that established for IPHC Areas 2C through 4E an Individual Fishing Quota (IFQ) limited access system and, for IPHC Areas 4B through 4E, a Community Development Quota (CDQ) program for certain western Alaska communities. The IFQ and CDQ programs were designed to allocate specific harvesting privileges among U.S. fishermen to resolve conservation and management problems that stem from ''open access'' management and to promote the development of the seafood industry in western Alaska. Both programs were approved by the Secretary on January 29, 1993, and were initially implemented by rules published in the **Federal Register** on November 9, 1993 (58 FR 59375). Fishing for halibut under the IFQ and CDQ programs began on March 15, 1995.

The CSP was approved by the Secretary and published in the **Federal Register** on March 20, 1996 (61 FR 11337). The CSP apportions the catch limit specified by the IPHC for Regulatory Area 4 among Areas 4A, 4B, 4C, 4D, and 4E, in accordance with the Halibut Act. In February 1995, the IPHC informed the Council that no basis existed other than allocation based on historical commercial harvests for distribution of catch limits among regulatory areas 4C, 4D, and 4E. Given indications of separate halibut populations in Areas 4A and 4B, IPHC staff recommended moving toward a biomass-based method of setting catch limits for these two areas, while as yet no biological or conservation basis exists for setting separate catch limits for Areas 4C, 4D, and 4E. At that time, the IPHC staff indicated that it was still reviewing its methods of calculating biomass for Areas 4A and 4B and that they were 1- to 2 years away from making final recommendations to the IPHC on a biomass-based methodology for Area 4. The IPHC staff acknowledged no evidence of harm to the Area 4 halibut resource due to the traditional method of apportioning the catch limit among areas. In order to achieve the socio-economic objectives of the IFQ and CDQ programs, the historical apportionment of catch limits among areas must be considered, and the Halibut Act authorizes the development of regulations that have allocation of harvesting privileges as a primary objective. Therefore, the Council initiated an analysis of a CSP as an interim method for setting catch limits for Areas 4A–4E. In December 1995, the Council approved the Area 4 CSP while the IPHC staff refined its biomass-based methodology for determining catch limits in Area 4. NMFS implemented the CSP beginning in March 1996 (61 FR 11337, March 3, 1996).

The Proposed Revision of the CSP

Halibut Areas 4A and 4B would be removed from the CSP. The revised CSP would thus constitute a framework applied to the annual combined Areas 4C, 4D, and 4E catch limit established by the IPHC. The purpose of the revised CSP would be to provide for the apportionment of Area 4C, 4D, and 4E catch limits apart from Areas 4A and 4B as necessary to carry out the objectives of the IFQ and CDQ programs, which allocate halibut among U.S. fishermen. The IPHC, consistent with its authority and responsibilities, would implement the measures specified in this CSP at its next annual meeting in January 1998. This revised CSP would continue in effect until amended by the Council or superseded by action of the IPHC.

Areas 4C, 4D, and 4E: For purposes of this revised CSP, definitions of these areas are republished as follows:

Area 4C includes all waters in the Bering Sea north of Areas 4A and north of the closed area, as defined in 62 FR 12759 (March 18, 1997), that are east of 171°00′00″ N. lat., and west of 168°00′00″ W. long.

Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.

Area 4E includes all waters in the Bering Sea north and east of the closed area, defined in 62 FR 12759 (March 18, 1997), east of 168°00′00″ W. long and south of 65°34′00″ N. lat.

Catch limit apportionments: The catch limits for Areas 4C, 4D, and 4E would be allocated as the percentages of the combined Area 4C–E catch limit specified annually by the IPHC, as follows:

Area 4C, 46.42 percent
Area 4D, 46.42 percent
Area 4E, 7.14 percent

Removal of Areas 4A and 4B from the CSP would have a secondary effect on the additional 80,000 lb (36.3 mt) allocation to Area 4E CDQ fishermen. The CSP currently provides that the

amount of the Area 4 catch limit greater than 5,920,000 lb (2,685.3 mt) but less than or equal to 6,000,000 lb (2,721.6 mt) be allocated to Area 4E. With the proposed removal of Areas 4A and 4B from the CSP, the amount of the combined area 4C–E greater than 1,657,600 lb (752 mt, based on 28 percent of the total 1995 Area 4 catch limit) and less than 1,737,600 lb (788.2 mt) would be assigned to Area 4E. The amount of the combined area 4C–E catch limit greater than 1,737,600 lb (788.2 mt) would be distributed among areas 4C, 4D, and 4E according to the revised CSP apportionment schedule.

Example: If the IPHC specified the Area 4 catch limit to be 5,920,000 lb (2,685.3 mt), 31.1 percent or 1,859,780 lb (843.6 mt) of this total would be apportioned to the combined area 4C–4E. Of that combined area 4C–4E catch limit, 1,657,600 lb (752 mt) plus 122,180 lb (55.4 mt, the remaining amount over 1,737,600 lb (788.2 mt)) would be distributed among Areas 4C, 4D, and 4E according to the revised CSP apportionment schedule, and 80,000 lb (36.2 mt) added to the Area 4E apportionment, as follows:

Area			Lb	Mt
4C	.4642×1,779,780	=	826,174	374.8
4D	.4642×1,779,780	=	826,174	374.8
4E	.0714×1,779,780+80,000	=	207,076	93.9
Totals	.9998	....	1,859,324	843.4

Classification

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 proposed revision to the CSP would not have a significant economic impact on a substantial number of small entities as follows:

The 1996 CSP set aside the first 80,000 lb (36.3 mt) of the total Area 4 catch limit greater than 5,920,000 lb (2,685.3 mt), and so distributed the impact of removing those pounds from the Area 4 catch limit among the 720 IFQ and 159 CDQ fishermen in Areas 4A–4D. The revised CSP would set aside the first 80,000 lb (36.3 mt) of the combined Area 4C–4E catch limit over 1,657,600 lb (752 mt). The analysis prepared by the Council for this proposed revision of the CSP indicates that the impact of the removal of that 80,000 lb (36.3 mt) would, under the revised CSP, be borne by the 146 IFQ and 119 CDQ fishermen in the remaining CSP Areas 4C and 4D. All of these entities are considered small entities, and all would be affected by this action. Thus, this action would affect a substantial number of small entities. However, the analysis indicates that the potentially foregone amounts of halibut from fishermen in Areas 4C and 4D would amount to less than 5 percent of the annual gross revenues for fishermen in these areas. The proposed revision of the CSP would not increase compliance costs for any IFQ or CDQ fishermen.

Therefore, an initial regulatory flexibility analysis was not prepared.

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

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: January 5, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

Authority: 16 U.S.C. 773 *et seq.*

2. In § 300.63, paragraph (b) is revised to read as follows:

§ 300.63 Catch sharing plans and domestic management measures.

* * * * *

(b) The catch sharing plan for area 4 allocates the annual TAC among Areas 4C, 4D, and 4E, and will be implemented by the Commission in annual management measures published pursuant to § 300.62.

[FR Doc. 98–621 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 971128281–7281–01; I.D. 102197D]

RIN 0648–AG27

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 8

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This proposed rule would limit access to the commercial snapper-grouper fishery; allow the retention of snapper-grouper in excess of the bag limits on a permitted vessel that has a single bait net or cast nets on board; and, subject to specific conditions, exempt snapper-grouper lawfully harvested in Bahamian waters from the requirement that they be maintained on board a vessel in the exclusive economic zone (EEZ) of the South Atlantic with head and fins intact. In addition, Amendment 8 would redefine ''optimum yield,'' ''overfished,'' and ''overfishing'' for snapper-grouper and establish a ''threshold level'' for snapper-grouper, i.e., the level of spawning potential ratio at which the South Atlantic Fishery Management Council (Council) will take appropriate action including, but not limited to, eliminating directed fishing mortality and evaluating measures to eliminate any bycatch mortality. The intended effects of this rule are to conserve and manage the snapper-grouper resources off the southern Atlantic states.

DATES: Written comments must be received on or before February 26, 1998.

ADDRESSES: Comments on the proposed rule or on the initial regulatory flexibility analysis (IRFA) must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N.,

St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of Amendment 8, which includes a final supplemental environmental impact statement, a regulatory impact review, an IRFA, and a social impact assessment, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; phone: 803–571–4366; fax: 803–769–4520.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Limited Access

The purposes of the proposed limited access program for the commercial snapper-grouper fishery are to promote stability in the fishery, facilitate long-term planning for the prosecution and management of the fishery, promote orderly utilization of the resource, decrease the incentive for overcapitalization, prevent continual dissipation of returns from fishing caused by open access to the fishery, prevent increases in fishing effort and habitat damage that would result from open access to the fishery, and provide a more flexible management system. To achieve these objectives, the Council proposes to limit participation in the commercial fishery to owners who had vessels with commercial vessel permits for snapper-grouper at any time from February 11, 1996, through February 11, 1997, and had at least one landing of snapper-grouper from January 1, 1993, through August 20, 1996.

Specifically, an owner of a vessel that had landings of snapper-grouper from the South Atlantic of at least 1,000 lb (453.6 kg), whole weight, during any one of the years 1993, 1994, or 1995, or in 1996 through August 20, would receive a transferable commercial permit. An owner of a vessel that did not have landings of at least 1,000 lb during any one of these years but had at least one landing of snapper-grouper from the South Atlantic from January 1, 1993, through August 20, 1996, would receive a trip-limited commercial permit. A vessel with a trip-limited permit would be limited on any trip to 225 lb (102.1 kg) of snapper-grouper.

The Council chose these limited access measures to minimize exclusion of present participants from the fishery. These measures would not result in reduced fishing mortality in the short term, but would minimize the possibility of increasing fishing pressure in the long term.

Historical Landings

Eligibility for limited access permits based on landings of snapper-grouper from the South Atlantic would be determined from fishing vessel logbooks received by NMFS on or before August 20, 1996. The Council chose August 20, 1996, because that was the date when the Council decided to base eligibility on such landings. The Council was concerned that allowing consideration of landings from logbooks received after that date would provide an incentive for vessel owners to submit fraudulent logbooks that showed landings meeting the criteria. State trip ticket data may be considered in support of landings claims provided that such information was received by the state on or before September 20, 1996. Only landings that were recorded during the period when the vessel had a valid Federal permit and only landings that were harvested, landed, and sold in compliance with all state and Federal regulations would be used to determine eligibility for commercial snapper-grouper limited access permits.

If a vessel with documented landings of snapper-grouper during the qualifying period changed ownership, the owner at the time of the landings would retain credit for such landings for the purpose of determining eligibility for a limited access permit, unless the sale of the vessel included a written agreement that credit for such landings transfers to the new owner. If a snapper-grouper catch history is transferred under such an agreement, the entire snapper-grouper landings history would be transferred—partial transfers would not be recognized.

Permit Application/Issuance/ Reconsideration

Proposed § 622.18(d) would set forth the procedures for permit application, issuance, and reconsideration. Applications for permits would have to be made within 90 days after publication of the final rule. Permits would be initially issued to qualifying vessel owners. Effective 150 days after publication of the final rule, the only commercial vessel permits that would be valid for the commercial snapper-grouper fishery would be those issued under Amendment 8's limited access criteria.

An Application Oversight Board (Board) would be established to assist the Regional Administrator, Southeast Region, NMFS (Regional Administrator), in resolving disputes over eligibility for limited access permits. The Board would be made up of the state directors (or their designees) from each state in the Council's area of jurisdiction. If an applicant requests the Regional Administrator to reconsider a determination of initial permit eligibility, the Regional Administrator will forward the application and related materials to the Board for its consideration. The Board would consider whether the eligibility criteria for a limited access permit were applied to an applicant in a proper manner. The Board could not consider ''hardship'' applications in which vessel owners seek issuance of a permit based on personal, economic, social, or other considerations, other than the eligibility criteria. Each member would provide his/her individual recommendation on each application for reconsideration to the Regional Administrator for final administrative decision.

Transfer of Permits

Upon request, NMFS may transfer a transferable permit on a one-for-one basis to a replacement vessel, including a new vessel, or upon a change of ownership of a permitted vessel to an immediate family member. In other words, one commercial snapper-grouper permit issued according to the limited access criteria may be surrendered to the Regional Administrator in exchange for one limited access permit issued to the same owner or an immediate family member of the owner. In addition, if an individual has a written contract entered into and dated not later than August 20, 1996, that provides for a permit transfer with the purchase of a vessel that qualifies for a transferable permit, NMFS will transfer the permit to that individual on a one-for-one basis. In this case, the entire catch history of a vessel being purchased would be transferred—partial transfers of the catch history would not be recognized. An individual intending to qualify under the written contract provision would be required to provide a copy of the contract to the Regional Administrator not later than 150 days after the final rule is published.

NMFS will transfer a transferable permit under circumstances other than those described above if a vessel owner surrenders two existing snapper-grouper transferable permits to the Regional Administrator in exchange for one new

permit. The entire catch histories of the vessels whose permits are exchanged for the one new permit would be transferred to the owner of the vessel receiving the new permit.

The Council intends that the two-for-one permit transfer requirement would apply until the optimum number of vessels in the fishery is reached. Amendment 8 states the Council's intent to amend the FMP to eliminate the two-for-one permit transfer requirement once data become available to determine this optimum number and that number is reached.

By application from an owner of a vessel with a trip-limited permit, the Regional Administrator may transfer the permit to a replacement vessel, provided the replacement vessel is equal to or less than the size (length and gross tonnage) of the replaced vessel. A replacement vessel could be a new vessel or a vessel replacing a lost or damaged vessel.

As is the case for all commercial vessel permits issued by the Regional Administrator, a snapper-grouper limited access permit would be valid only for the vessel and owner named on the permit. Accordingly, a person desiring a change in either the vessel or the owner of a limited access permit would have to submit an application for transfer to the Regional Administrator. NMFS would charge an administrative fee to cover the cost of processing such application for transfer.

Permit Renewal

NMFS will not reissue a limited access permit if the permit is revoked or if an application for renewal is not received by the Regional Administrator within 60 days of the permit's expiration date. The current earned income or gross sales requirement for a commercial vessel permit for snapper-grouper would not apply for issuance of a limited access permit.

Use of Nets for Bait

Amendment 8 proposes to allow the use of cast and bait nets on board permitted vessels. The possession of bait nets would be limited to one per vessel. The bait net could be up to 50 ft (15.2 m) long by 10 ft (3.1 m) high with a stretched mesh size of not more than 1.5 inches (3.8 cm). Currently, the possession of nets on board severely limits the authorized possession of snapper-grouper. This proposal would allow fishermen on permitted vessels to use nets to catch bait while fishing for South Atlantic snapper-grouper on the same trip.

Snapper-grouper From Bahamian Waters

Amendment 8 proposes to exempt snapper-grouper caught in Bahamian waters in accordance with Bahamian law from the requirement that they be maintained with head and fins intact on board a vessel in the South Atlantic EEZ. This exemption would apply provided the vessel is in transit from the Bahamas and valid Bahamian fishing and cruising permits are on board. Vessels in transit from the Bahamas would not be allowed to fish in the South Atlantic EEZ. This proposal would allow fishermen legally fishing in Bahamian waters to return to ports in the southern Atlantic states with filleted fish or fish that otherwise do not have head and fins intact.

Optimum Yield, Overfished, Overfishing, and Threshold Level

Amendment 8 proposes to define optimum yield (OY) for snapper-grouper species as the yield from a stock with a 40–percent spawning potential ratio (SPR). The present definition of OY is any harvest level for a species which maintains, or is expected to maintain, over time, a survival rate of biomass into the stock of spawning age fish that will achieve at least a level of 30–percent spawning stock biomass per recruit (SSBR) relative to the SSBR that would occur with no fishing. The proposed definition of OY is more conservative than the current OY (i.e., it would provide more biological protection to the resource). The Council is changing from SSBR to SPR as a basis for specifying OY because SPR is technically a more correct reference to the spawning population and is used in the most recent stock assessment. SPR represents the number of spawning females of a species when it is being fished divided by the number of spawning females of the species when it is not being fished (i.e., when only natural mortality occurs).

Amendment 8 would define a snapper-grouper species as being overfished when the SPR is below 20 percent. Presently, a snapper-grouper species is considered overfished when the spawning stock is below the level of 30 percent of that which would occur in the absence of fishing (i.e., when the SPR is below 30 percent). Also, Amendment 8 would define overfishing for a stock that is not overfished as a fishing mortality rate that exceeds the fishing mortality rate that would produce an SPR of 20 percent.

The proposed changes to the definitions of overfishing and overfished stocks may not be in compliance with national standards 1 (prevent overfishing) and 2 (use the best scientific information available) of the Magnuson-Stevens Act. The Magnuson-Stevens Act requires the specification of a time period for ending overfishing and rebuilding the fishery that is as short as possible and does not exceed ten years, unless limited exceptions apply. The Magnuson-Stevens Act defines overfishing as the rate of fishing that jeopardizes the capacity of a fishery to produce MSY on a continuing basis. Although information defining the stock size that would produce MSY for snapper-grouper species is not yet available, the best scientific information available indicates that an acceptable substitute for the MSY fishing mortality rate is a fishing mortality rate that results in an SPR of 30–40 percent. It appears that changing the definitions of overfishing and overfished stocks from 30–percent SPR to 20–percent SPR would allow a fishing mortality rate that is too high to produce MSY. Therefore, the new definitions may not prevent overfishing or enable overfished stocks to be rebuilt to target levels.

This amendment would also establish a ''threshold level'' criterion of 10–percent SPR that would trigger management action by the Council. If the SPR falls below the 10–percent threshold level, the Council would take appropriate action to prevent further population decline, including but not limited to, eliminating fishing mortality due to directed fishing and evaluating measures to eliminate any bycatch mortality. The NMFS proposed National Standard Guidelines for the Magnuson-Stevens Act (62 FR 41907, August 4, 1997) state that the minimum stock size threshold should be set at the greater of either one-half the MSY stock size or the minimum stock size at which rebuilding to the MSY level would be expected to occur within 10 years if the stock were exploited at the specified maximum fishing mortality threshold. Given that the best scientific information available indicates a target SPR for species in the snapper-grouper management unit between 30 and 40 percent, the 10–percent threshold level appears to be too low to prevent overfishing and rebuild stocks within the appropriate time frame. As a result, it may not comply with national standards 1 and 2.

According to Amendment 8, when there is insufficient information available to determine if a species is overfished, overfishing would be defined as a fishing mortality rate in excess of the fishing mortality rate corresponding to a default SPR of 30 percent. If overfishing is occurring, a program to reduce fishing mortality

rates to at least the level corresponding to management target levels would be implemented.

The time frame in the FMP for recovery of overfished stocks would remain unchanged. For shorter lived, faster growing species (e.g., snapper, excluding red snapper; greater amberjack; black sea bass; and red porgy), the time frame is not to exceed 10 years. For longer lived, slower growing species (e.g., red snapper and groupers), the time frame is not to exceed 15 years.

Availability of Amendment 8

Additional background and rationale for the measures discussed above are contained in Amendment 8, the availability of which was announced in the **Federal Register** (62 FR 58703, October 30, 1997). Written comments on Amendment 8 must have been received by December 29, 1997. All comments received on Amendment 8 or on this proposed rule during their respective comment periods will be addressed in the final rule.

Changes Proposed by NMFS

For clarity, NMFS proposes to add to § 622.39(a) a reference to the bag and other limits of South Atlantic snapper-grouper that apply to persons aboard permitted vessels that have on board longlines in the longline closed areas.

For standardization and enforceability, NMFS proposes to specify at § 622.44 that all weights applicable to commercial trip limits are round or eviscerated weights. Currently, trip limits are monitored by the landed weight, whether whole, eviscerated, or mixed. Under this procedure, a person monitoring a trip does not have to sort fish between whole and eviscerated, weigh each group, and apply conversion factors to the eviscerated fish to determine equivalent whole weights. Accordingly, this standardization of the regulatory language does not constitute a change in practices in the fisheries.

Classification

At this time, NMFS has not determined that Amendment 8 is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 8.

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

The Council prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. Based on the IRFA, NMFS agrees with the Council's conclusion that Amendment 8, if approved and implemented through final regulations, would have a significant economic impact on a substantial number of small entities. A summary of the IRFA's assessment of the significant impacts on small entities follows.

Amendment 8 would affect most of the roughly 2,500 commercial vessels that currently hold valid commercial snapper-grouper permits, because the vast majority of such vessels operate in the EEZ for at least part of the year. All of the vessels that would be affected by Amendment 8 are considered small business entities for the purposes of the Regulatory Flexibility Act, because their individual annual gross revenues are less than $3 million. The vessels that would be affected by Amendment 8 generate annual gross revenues ranging from $53,000 (vessels that use vertical fishing lines) to about $237,000 (vessels that use longlines). The exvessel value of catches from these vessels in 1995 was approximately $15.5 million.

The Council estimates that the limited entry action may reduce annual gross revenue of commercial fishermen by approximately $1.0 million (6.5 percent of current revenue) during the first year under that action. This estimate may be high, because some of the 513 vessels listed as having landed snapper-grouper species that would not qualify under the limited entry program may no longer be participating in the fishery. Also, other vessels may be eligible for a trip-limited permit that would allow them to harvest fish with a 225–lb (102.1–kg) trip limit. Thus, the actual reduction in gross revenue could be less than the estimated $1.0 million.

Allowing the use of cast and bait nets for capturing bait would reduce costs for fishermen and could enhance fishing success, because live bait is more effective than frozen bait. Also, this measure clarifies the use of gear and should enhance enforcement of gear regulations.

Allowing the transit of Bahamian caught fish through the South Atlantic EEZ would increase demand for for-hire trips to the Bahamas and, as a result, increase revenue to the for-hire fishery. Also, allowing fishermen to fillet their Bahamian catch would reduce storage costs and enhance quality of fish during transit. This should result in increased satisfaction for anglers who generally prize fresh fish for consumption.

The Council considered the status quo as an alternative to each proposed action. For the limited entry system, the Council also considered a number of alternatives that would have established different dates and/or pounds of snapper-grouper as criteria to determine initial eligibility. One alternative for the limited entry system also contained other options regarding the composition of the Application Oversight Board, permit transfers, and permit renewals. Relative to the proposed actions, the Council concluded that all of the alternatives would result in reduced net benefits from the fishery in the long term. Some of the alternatives would minimize economic impacts on small entities in the short term, but would not achieve the Council's goal of managing species in the management unit at the optimum yield level. Thus, these alternatives would not meet the stated objectives of the FMP.

A copy of the IRFA is available for comment (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number.

This rule contains three, new, one-time collection-of-information requirements subject to the PRA—namely, the submission of applications for limited access commercial permits for snapper-grouper, reconsideration of determinations that applicants are not eligible for initial limited access commercial permits, and submission of contracts that provide for transfers of rights to limited access commercial permits. These requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated at 20, 45, and 15 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding: Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collections of information, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: January 5, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, paragraph (a)(2)(vi) and the first sentence of paragraph (g) are revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(vi) *South Atlantic snapper-grouper.* For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ north of 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), either a transferable commercial permit for South Atlantic snapper-grouper or a trip-limited commercial permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with longline gear and more than 200 lb (90.7 kg) of tilefish aboard is considered to be in the directed fishery for tilefish. It is a rebuttable presumption that a fishing vessel with more than 200 lb of tilefish aboard harvested such tilefish in the EEZ. A vessel with a trip-limited commercial permit is limited on any trip to 225 lb (102.1 kg) of snapper-grouper. (See § 622.18 for information on limited access transferable and trip-limited commercial permits for the South Atlantic snapper-grouper fishery.)

* * * * *

(g) * * * A vessel permit or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (p) of this section for a red snapper endorsement, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. * * *

* * * * *

3. In § 622.7, paragraph (b) is revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(b) Falsify information on an application for a permit or endorsement or submitted in support of such application, as specified in § 622.4(b) or (g) or §§ 622.17 or 622.18.

* * * * *

4. Section 622.18 is added to subpart B to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

(a) *Applicability.* Effective 150 days after the date of publication of the final rule, the only valid permits for South Atlantic snapper-grouper are those that have been issued under the limited access criteria in this section. A vessel may have either a transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper.

(b) *Initial eligibility.* A vessel is eligible for an initial limited access commercial permit for South Atlantic snapper-grouper if the owner had a vessel with a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and had at least one landing of snapper-grouper from the South Atlantic from permitted vessels from January 1, 1993, through August 20, 1996, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996. An owner whose permitted vessels had landings of snapper-grouper from the South Atlantic of at least 1,000 lb (453.6 kg), whole weight, from permitted vessels in any one of the years 1993, 1994, or 1995, or in 1996 through August 20, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996, is eligible for an initial transferable permit. All other qualifying owners are eligible for an initial trip-limited permit.

(c) *Determinations of eligibility*—(1) *Permit history.* The sole basis for determining whether a vessel had a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, is NMFS' permit records. An owner of a currently permitted vessel who believes he/she meets the February 11, 1996, through February 11, 1997, permit history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history.

(2) *Landings.* (i) Landings of snapper-grouper from the South Atlantic during the qualifying period are determined from fishing vessel logbooks received by the SRD on or before August 20, 1996. State trip ticket data may be considered in support of claimed landings provided such trip ticket data were received by the state on or before September 20, 1996.

(ii) Only landings when a vessel had a valid commercial permit for snapper-grouper and only landings that were harvested, landed, and sold in compliance with state and Federal regulations may be used to establish eligibility.

(iii) For the purpose of eligibility for a limited access commercial permit for snapper-grouper, the owner of a vessel that had a commercial snapper-grouper permit during the qualifying period retains the snapper-grouper landings record of that vessel during the time of his/her ownership unless a sale of the vessel included a written agreement that credit for such landings was transferred to the new owner. Such transfer of credit must be for the vessel's entire record of landings of snapper-grouper from the South Atlantic.

(d) *Implementation procedures*—(1) *Notification of status.* On or about 10 days after the date the final rule is published, the RD will notify each owner of a vessel that had a commercial permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and each owner of a vessel that has a commercial permit for South Atlantic snapper-grouper on the date the final rule is published, of NMFS' initial determination of eligibility for either a transferable or trip-limited limited access commercial permit for South Atlantic snapper-grouper. Each notification will include an application for such permit. Addresses for such notifications will be based on NMFS' permit records. A vessel owner who believes he/she qualifies for a limited access commercial permit for South Atlantic snapper-grouper and who does not receive such notification must obtain an application from the RD.

(2) *Applications.* (i) An owner of a vessel who desires a limited access commercial permit for South Atlantic snapper-grouper must submit an application for such permit postmarked

or hand-delivered not later than 90 days after the date of publication of the final rule. Failure to apply in a timely manner will preclude permit issuance even when the vessel owner meets the eligibility criteria for such permit.

(ii) A vessel owner who agrees with NMFS' initial determination of eligibility, including type of permit (transferable or trip-limited), need provide no documentation of eligibility with his/her application.

(iii) A vessel owner who disagrees with the initial determination of eligibility or type of permit, must specify the type of permit applied for and provide documentation of eligibility. Documentation and other information submitted on or with an application are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation or information may disqualify an owner from initial participation in the limited access commercial South Atlantic snapper-grouper fishery and is a violation of the regulations in this part.

(iv) If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the owner fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(3) *Issuance*. (i) If a complete application is submitted in a timely manner and the eligibility requirements specified in paragraph (b) of this section are met, the RD will issue an initial commercial vessel permit, transferable or trip-limited, as appropriate, and mail it to the vessel owner not later than 140 days after the date the final rule is published.

(ii) If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the applicant fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(iii) If the eligibility requirements specified in paragraph (b) of this section are not met, the RD will notify the vessel owner, in writing, not later than 120 days after the date of publication of the final rule of such determination and the reasons for it.

(4) *Reconsideration*. (i) A vessel owner may request reconsideration of the RD's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RD. Such request must be postmarked or hand-delivered within 20 days of the date of the RD's notification denying initial permit issuance and must provide written documentation supporting permit eligibility.

(ii) Upon receipt of a request for reconsideration, the RD will forward the initial application, the RD's response to that application, the request for reconsideration, and pertinent records to an Application Oversight Board consisting of state directors (or their designees) from each state in the Council's area of jurisdiction. Upon request, a vessel owner may make a personal appearance before the Application Oversight Board.

(iii) If reconsideration by the Application Oversight Board is requested, such request constitutes the vessel owner's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq*.) for the RD to make available to the Application Oversight Board members such confidential catch and other records as are pertinent to the matter under reconsideration.

(iv) The Application Oversight Board may only deliberate whether the eligibility criteria specified in paragraph (b) of this section were applied correctly in the vessel owner's case, based solely on the available record, including documentation submitted by the owner. The Application Oversight Board may not consider whether an owner should have been eligible for a commercial vessel permit because of hardship or other factors. The Application Oversight Board members will provide their individual recommendations for each application for reconsideration to the RD.

(v) The RD will make a final decision based on the eligibility criteria specified in paragraph (b) of this section and the available record, including documentation submitted by the vessel owner, and the recommendations and comments from members of the Application Oversight Board. The RD may not consider whether a vessel owner should have been eligible for a commercial vessel permit because of hardship or other factors. The RD will notify the owner of the decision and the reason for it, in writing, within 15 days of receiving the recommendations from the Application Oversight Board members. The RD's decision will constitute the final administrative action by NMFS.

(e) *Transfers of permits*. A snapper-grouper limited access permit is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, an application for transfer must be submitted to the RD.

(1) *Transferable permits*. (i) An owner of a vessel with a transferable permit may request that the RD transfer the permit to another vessel owned by the same entity.

(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(iii) A transferable permit may be transferred to an owner who had, as of August 20, 1996, a written contract for the purchase of a vessel that included a provision transferring to the new owner the rights to any limited access permit to which the former owner might become entitled under the provisions for initial issue of limited access permits. To be considered, any such written contract must be submitted to the RD postmarked or hand delivered on or before the date that is 150 days after the date of publication of the final rule that contains this paragraph.

(iv) Except as provided in paragraphs (e)(1)(i), (ii), and (iii) of this section, a person desiring to acquire a limited access transferable permit for South Atlantic snapper-grouper must obtain and exchange two such permits for one new permit.

(v) A transfer of a permit that is undertaken under paragraph (e)(1)(ii), (iii), or (iv) of this section will constitute a transfer of the vessel's entire catch history to the new owner.

(2) *Trip-limited permits*. An owner of a vessel with a trip-limited permit may request that the RD transfer the permit to another vessel owned by the same entity provided the length and gross tonnage of the replacement vessel are equal to or less than the length and gross tonnage of the replaced vessel.

(f) *Renewal*. NMFS will not reissue a commercial vessel permit for South Atlantic snapper-grouper if the permit is revoked or if the RD does not receive an application for renewal within 60 days of the permit's expiration date.

5. In § 622.38, paragraph (a) is revised and paragraph (h) is added to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(a) The following must be maintained with head and fins intact: A cobia in or from the Gulf or South Atlantic EEZ; a king mackerel or Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ; except as specified in paragraphs (e) and (h) of this section, a South Atlantic snapper-grouper in or from the South Atlantic EEZ; a

yellowtail snapper in or from the Caribbean EEZ; and, except as specified in paragraphs (c) and (d) of this section, a finfish in or from the Gulf EEZ. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition.

* * * * *

(h) In the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact provided valid Bahamian fishing and cruising permits are on board the vessel and the vessel is in transit through the South Atlantic EEZ. For the purpose of this paragraph, a vessel is in transit when it is on a direct and continuous course through the EEZ and it does not fish in the EEZ.

6. In § 622.39, paragraph (a)(3) is added to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(3) Paragraph (a)(1) of this section notwithstanding, the bag and other limits specified in § 622.35(b) apply for South Atlantic snapper-grouper in or from the EEZ to a person aboard a vessel for which a commercial permit for South Atlantic snapper-grouper has been issued that has on board a longline in the longline closed area.

* * * * *

7. In § 622.41, paragraph (d)(2)(ii) introductory text is revised and paragraphs (d)(4) and (d)(5) are added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(d) * * *

(2) * * *

(ii) Except as specified in paragraphs (d)(3) through (d)(5) of this section, a person aboard a vessel with unauthorized gear on board, other than trawl gear, that fishes in the EEZ on a trip is limited on that trip to:

* * * * *

(4) *Use of bait nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ on a trip with a bait net on board, may retain otherwise legal South Atlantic snapper-grouper taken on that trip with bandit gear, buoy gear, handline, rod and reel, or sea bass pot, provided only one such net is on board. For the purpose of this paragraph (d)(4), a bait net is a gillnet not exceeding 50 ft (15.2 m) in length or 10 ft (3.1 m) in height with stretched mesh measurements of 1.5 inches (3.8 cm) or smaller that is attached to the vessel when deployed.

(5) *Use of cast nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ on a trip with a cast net on board, may retain otherwise legal South Atlantic snapper-grouper taken on that trip with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(5), a cast net is a cone-shaped net thrown by hand and designed to spread out and capture fish as the weighted circumference sinks to the bottom and comes together when pulled by a line.

* * * * *

8. In § 622.44, the last sentence of the introductory text and paragraph (c) are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * For fisheries governed by this part, commercial trip limits apply as follows (all weights are round or eviscerated weights):

* * * * *

(c) *South Atlantic snapper-grouper.* When a vessel fishes on a trip in the South Atlantic EEZ, the vessel trip limits specified in this paragraph (c) apply, provided persons aboard the vessel are not subject to the bag limits. See § 622.39(a) for applicability of the bag limits.

(1) *Trip-limited permits.* A vessel for which a trip-limited permit for South Atlantic snapper-grouper has been issued is limited to 225 lb (102.1 kg) of snapper-grouper.

(2) *Golden tilefish.* (i) Until the fishing year quota specified in § 622.42(e)(2) is reached, 5,000 lb (2,268 kg).

(ii) After the fishing year quota specified in § 622.42(e)(2) is reached, 300 lb (136 kg).

(3) *Snowy grouper.* (i) Until the fishing year quota specified in § 622.42(e)(1) is reached, 2,500 lb (1,134 kg).

(ii) After the fishing year quota specified in § 622.42(e)(1) is reached, 300 lb (136 kg).

* * * * *

[FR Doc. 98–702 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 63, No. 7

Monday, January 12, 1998

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 COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of January 1998, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in January for the following periods:

	Period
Antidumping Duty Proceedings	
Brazil:	
Brass Sheet and Strip, A–351–603	1/1/97–12/31/97
Stainless Steel Wire Rod, A–351–819	1/1/97–12/31/97
Canada:	
Brass Sheet and Strip, A–122–601	1/1/97–12/31/97
Color Picture Tubes, A–122–605	1/1/97–12/31/97
France:	
Anhydrous Sodium Metasilicate (ASM), A–427–098	1/1/97–12/31/97
Stainless Steel Wire Rods, A–427–811	1/1/97–12/31/97
Japan:	
Color Picture Tubes, A–588–609	1/1/97–12/31/97
Singapore:	
Color Picture Tubes, A–559–601	1/1/97–12/31/97
South Africa:	
Brazing Copper Wire and Rod, A–791–502	1/1/97–12/31/97
Spain:	
Potassium Permanganate, A–469–007	1/1/97–12/31/97
Taiwan:	
Stainless Steel Cooking Ware, A–583–603	1/1/97–12/31/97
The People's Republic of China:	
Potassium Permanganate, A–570–001	1/1/97–12/31/97
The Republic of Korea:	
Brass Sheet and Strip, A–580–603	1/1/97–12/31/97
Antidumping Duty Proceedings	
The Republic of Korea:	
Color Picture Tubes, A–580–605	1/1/97–12/31/97
Stainless Steel Cooking Ware, A–580–601	1/1/97–12/31/97
Countervailing Duty Proceedings	
Brazil:	
Brass Sheet and Strip, C–351–604	1/1/97–12/31/97
Spain:	
Stainless Steel Wire Rod, C–469–004	1/1/97–12/31/97
Taiwan:	
Stainless Steel Cooking Ware, C–583–604	1/1/97–12/31/97
The Republic of Korea:	
Stainless Steel Cooking Ware, C–580–602	1/1/97–12/31/97
Suspension Agreements	
Canada:	

	Period
Potassium Chloride, A–122–701	1/1/97–12/31/97
Japan:	
Sodium Azide, A–588–839	1/1/97–12/31/97

In accordance with § 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In recent revisions to its regulations, the Department changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1996)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which export(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of January 1998. If the Department does not receive, by the last day of January 1998, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 6, 1998.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 98–612 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815 & A–580–816]

Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Extension of Time Limits for Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Extension of time limits for antidumping duty administrative reviews of certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limits for the final results of the third antidumping duty administrative reviews of the antidumping orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea. These reviews cover three manufacturers and exporters of the subject merchandise: Dongbu Steel Co., Ltd., Union Steel Manufacturing Co., Ltd., and Pohang Iron and Steel Co., Ltd. The period of review is August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Alain Letort or John R. Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–4243 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION: The Department published the preliminary results of these administrative reviews in the **Federal Register** on September 9, 1997 (62 FR 47422). Because it is not practicable to complete these reviews by the current deadline of January 7, 1998, the Department is extending the time limits for the final results of the aforementioned reviews to March 9, 1998, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended by the Uruguay Round Agreements Act of 1994. See memorandum from Joseph A. Spetrini to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters.

This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: December 29, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 98–607 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–570–849]

Amended Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski, Doreen Chen, or Stephen Jacques, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–1385, (202) 482–0413 or (202) 482–1391, respectively.

Scope of the Review

The products covered by this investigation are hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in this petition are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Amendment of Final Determination

On November 20, 1997, the Department of Commerce (the Department) published the final determination of the less than fair value (''LTFV'') investigation on certain cut-to-length carbon steel plate from the People's Republic of China (''PRC''). See Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China (''Final Determination''), 62 FR 61964 (November 20, 1997). This investigation covered the following PRC firms unless otherwise indicated:

(1) China Metallurgical Import & Export Liaoning Company (''Liaoning''), an exporter of subject merchandise; Wuyang Iron and Steel Company (''Wuyang''), which produced the merchandise sold by Liaoning;

(2) Anshan Iron and Steel Complex (''AISCO''), a producer of subject merchandise; Angang International Trade Corporation (''Anshan International''), a wholly-owned AISCO subsidiary in China which exported subject merchandise made by AISCO, and Sincerely Asia, Limited (''SAL''), a partially-owned Hong Kong affiliate of AISCO involved in sales of subject merchandise to the United States (collectively, ''Anshan'');

(3) Baoshan Iron & Steel Corporation (''Bao''), a producer of subject merchandise; Bao Steel International Trade Corporation (''Bao Steel ITC''), a wholly-owned subsidiary of Bao responsible for selling Bao material domestically and abroad; and Bao Steel Metals Trading Corporation (''B.M. International''), a partially-owned U.S. subsidiary involved in U.S. sales (collectively, ''Baoshan'');

(4) Wuhan Iron & Steel Company (''Wuhan''), a producer of subject merchandise; International Economic and Trading Corporation (''IETC''), a wholly-owned subsidiary responsible for exporting Wuhan merchandise; Cheerwu Trader Ltd. (''Cheerwu''), a partially-owned Hong Kong affiliate of Wuhan involved in sales of subject merchandise to the United States (collectively, ''WISCO'');

(5) Shanghai Pudong Iron and Steel Company (''Shanghai Pudong''), a producer and exporter of subject merchandise. During the investigation, we also requested information from and conducted verification of Shanghai No. 1, a non-exporting producer of subject merchandise which Shanghai Pudong had earlier indicated shared a common trustee, Shanghai Metallurgical Holding (Group) Co. (''Shanghai Metallurgical'').

We consider Liaoning, Anshan, Baoshan, WISCO and Shanghai Pudong to be sellers of the subject merchandise during the period of investigation (POI). The POI is April 1, 1996, through September 30, 1996.

On November 7, 1997, we received a submission from Anshan, Baoshan, Shanghai Pudong, and WISCO (''respondents'') alleging clerical errors with regard to the final determination in the LTFV investigation of certain cut-to-length carbon steel plate from the PRC. On November 19, 1997, counsel for the petitioning companies, Geneva Steel Company and Gulf States Steel Company (''petitioners'') submitted rebuttal comments. The allegations and rebuttal comments of both parties were filed in a timely fashion.

Respondents allege that the Department made eleven ministerial errors in the final results. First, respondents contend that the Department did not value silicon sand in the same manner for all companies. In particular, the Department, they allege, valued silicon sand based on ''stones, sand, and gravel'' from the UN Trade Commodity Statistics for one company and based on pure silicon for another company. To avoid asymmetrical treatment of respondents, they argue that, in an amended final determination, the Department should value silicon sand using the value for ''stones, sand, and gravel'' for both companies using this input. Petitioners did not comment on this issue.

We agree with respondents that this error was clerical in nature and have made the suggested correction for the amended final determination.

Second, respondents additionally contend that the Department erred in assigning consumption factor information field names for two inputs for WISCO. Petitioners did not comment on this issue.

We agree with respondents that this error was clerical in nature and have made the suggested correction for the amended final determination. Because this issue involves business proprietary information, please see the Concurrence Memorandum which corresponds to this Amended Final Determination for more information.

Third, respondents allege that the Department incorrectly increased a certain factor for each of WISCO's control numbers, citing a clerical error in the spreadsheets for the iron-making stage of production. Respondents state that there does not appear to be any error in the calculation of this factor and the Department should use the original factor. Petitioners maintain that the Department was clear that it was correcting an error made by respondents, and thus the correction is not a ministerial error.

We have determined that the correction at issue was not an error but an appropriate correction made as a result of the Department's identification of an error made by respondents in the spreadsheets. Because this information involves business proprietary information, please see the Concurrence Memorandum corresponding to this Amended Final Determination for a further explanation of this issue.

Fourth, respondents argue that Department erred in assigning adverse

facts available to certain of WISCO's inputs which were not reported prior to verification. Instead, because the Department verified the actual consumption information, they argue that the Department should use the verified information as facts available. In addition, respondents state that it is the Department's practice, under Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC, 59 FR 22585, 22591 (May 2, 1994) and Porcelain-on-Steel Cooking Ware from the PRC: Final Results of the Antidumping Duty Administrative Review, 62 FR 32757, 32760 (June 17, 1997), to use verified information in the final determination. Petitioners disagree with respondents and state that this decision was clearly methodological in nature.

We agree with petitioners that this decision was methodological in nature; see WISCO's Calculation Memorandum dated October 24, 1997 at 3 and the Concurrence Memorandum dated October 24, 1997 (''Final Determination Concurrence Memorandum'') at 25–26. As much of this information is business proprietary, please see the Final Determination Concurrence Memorandum that corresponds to this Amended Final Determination for a more detailed explanation of this issue.

Fifth, respondents allege that the Department erroneously used incorrect factor information for three of Anshan's factors. Petitioners argue that the Department's treatment of these factors is the result of a substantive methodological choice.

We have determined that we did use the correct factor information for these factors in our margin calculation for Anshan. For a further explanation of this issue, please see the Concurrence Memorandum which corresponds to this Amended Final Determination.

Sixth, respondents contend that the Department erroneously used incorrect factor information for one of Baoshan's factors. Petitioners argue that the Department should reject this allegation since Baoshan failed to state what the correct value should be for this input.

The Department has determined that it used the correct consumption factor in its calculations. See Baoshan's Calculation Memorandum at 5 and in Baoshan's Margin Calculation program at line 654 and 662. See the Concurrence Memorandum which corresponds to this Amended Final Determination for more information.

Seventh, respondents argue that the Department incorrectly rejected gas factors for both Baoshan and WISCO. For Baoshan, respondents assert that the three justifications that the Department gives for not using the reported factors are factually incorrect; they claim that Baoshan submitted complete information within the deadline set for the supplemental questionnaire response, and that this information was verified by the Department. For WISCO, respondents contend that gas information was submitted within the deadline set by the Department's regulations, and thus rejection of this information constitutes a ''manifest legal error.'' Petitioners contend that the record shows that the Department carefully considered Baoshan's and WISCO's claims that they had submitted complete, accurate, and timely information on factors of production for gases. Thus, the decision to reject information for both Baoshan and WISCO was clearly methodological in nature and involves the Department's rejection of information based on the fact that respondents failed to provide complete and timely information in a useable form.

We agree with petitioners that the Department's decision with respect to the gas factors of both companies was clearly methodological. See Final Determination at 61976–61977 and Final Determination Concurrence Memorandum at 20–21 and 28–29. As much of this information is business proprietary, please refer to the Concurrence Memorandum that corresponds to this Amended Final Determination for a more detailed explanation of this issue.

Eighth, respondents contend that the Department erred in applying adverse facts available to surrogate values for certain inputs and freight charges for WISCO and that the Department was, in fact, able to verify the terms of sale for these market economy purchases. Petitioners argue that the Department is clear that it was not able to verify all the terms of sale, and thus these items could not be considered ''verified.'' Because the Department is required to base its final determination on verified information, petitioners claim that the Department was correct in applying facts available to this input.

We have determined that this decision was clearly methodological in nature. See Final Determination at 61997 and Final Determination Concurrence Memorandum at 27. As much of this information is business proprietary, please see the Concurrence Memorandum corresponding to this Amended Final Determination for a complete explanation of this issue.

Ninth, respondents argue that the Department erred, in two respects, in its implementation of the decision of *Sigma* v. *United States,* 117 F.2d 1401 (Fed. Cir. 1997) (''*Sigma*''). First, respondents allege the Department misapplied the *Sigma* decision for all of WISCO's inputs valued using CIF surrogate data by adding freight charges to WISCO's inputs valued using CIF surrogate data when instead, the Department should not have added any freight cost to these inputs since WISCO is located on a port. Second, respondents allege that the Department misapplied the *Sigma* decision when determining the ''highest calculated freight rate'' as best information available for Anshan, Baoshan and WISCO. Respondents argue that the Department erred by using as the ''highest calculated freight rate'' the highest freight charge for any input based on a weighted average freight calculation of all suppliers of that input. Respondents maintain that based on the *Sigma* decision, the highest calculated freight rate for inputs valued using freight-inclusive surrogate values should be, instead, the highest of freight charges calculated for any input based on either (1) the shortest distance from the respondents to the closest port; or (2) the shortest distance from the respondent to the closest supplier. Petitioners argue that the Department's methodology conforms to the *Sigma* decision. Petitioners argue that the Department's choice of freight methodology is not a ministerial error, and the court in *Sigma* did not dictate what the Department's freight methodology should be.

We agree that this decision was clearly methodological in nature. See Final Determination at 61977. See the Concurrence Memorandum which corresponds to this Amended Final Determination for a more detailed explanation.

Tenth, respondents suggest that the Department committed a clerical error by averaging the river freight rates from two sources in the final determination. Petitioners state that the decision to average the two rates is a deliberate methodological choice, based on the Department's reservations about using either set of rates exclusively.

We agree that the decision was clearly methodological in nature. See Final Determination at 61983–61984 and Final Determination Concurrence Memorandum at 13–14.

Eleventh, respondents allege that the Department erred in its calculation of overhead, SG&A and profit rates because the Department based its calculations on only two Indian companies' annual reports used instead of using six submitted annual reports for Indian companies and the industry financial information from the Reserve

Bank of India Bulletin, all of which were also on the record. Respondents argue that one of the two Indian companies whose reports were used by the Department did not produce subject merchandise as of 1993. Therefore respondents argue that the Department was not justified in rejecting the financial statements of the other four companies for not being ''actual producers of subject merchandise in the surrogate country.'' Petitioners argue that the Department's decision to use financial data from only two Indian companies, SAIL and TATA, was correct and consistent with Department's practice in other investigations. Petitioners point out that the Department stated that its decision to include TATA's annual reports in their calculations was based on the statement that TATA is a significant producer of steel and hot rolled coils and TATA may also produce products that the Department considers to be plate, but which may be incorporated into TATA's annual report in the category ''sheets.'' See Final Determination at 61970.

We agree with petitioners this decision was clearly methodological in nature. See Final Determination at 61969–70. Although one sentence in TATA's annual report indicates that TATA has not produced any ''plate'' since 1993, another section of the same annual report lists plate as a product produced by TATA. In addition, Iron and Steel Works of the World, 12th Edition lists both companies as producers of plate.

Amended Final Results of Review

As a result of our review of the errors alleged and the correction of the two ministerial errors described above, we have determined that the following margins exist:

Weighted-average manufacturer/exporter	Margin (percent)
Anshan (AISCO/Anshan International/Sincerely Asia Ltd).	30.68
Baoshan (Bao/Baoshan International Trade Corp/Bao Steel Metals Trading Corp). ..	30.51
Liaoning	17.33
Shanghai Pudong	38.16
WISCO (Wuhan/International Economic and Trading Corp/ Cheerwu Trader Ltd).	128.59
China-wide Rate	128.59

China-wide Rate

The China-wide rate applies to all entries of the subject merchandise except for entries from exporters that are identified individually above.

On October 24, 1997, the Department entered into an Agreement with the Government of the PRC suspending this investigation. Pursuant to Section 734(g) of the Act, petitioners, Liaoning and Wuyang requested that this investigation be continued. Because the International Trade Commission's determination was affirmative, the Agreement shall remain in force but the Department shall not issue an Antidumping duty order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsection (d) and (l) of the Act, and the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. See Section 734(f)(3)(B) of the Act.

This determination is published pursuant to section 735(d) of the Act.

Dated: December 22, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–609 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–812]

Dynamic Random Access Memory Semiconductors of One Megabyte or Above From the Republic of Korea Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of extension of time limits of preliminary results of review.

SUMMARY: The Department of Commerce is extending the time limit of the preliminary results of the fourth antidumping duty administrative review of dynamic random access memory semiconductors one megabyte and above from the Republic of Korea. The review covers two manufacturers/ exporters of the subject merchandise to the United States and the period May 1, 1996 through April 30, 1997.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Blankenbaker or John Conniff, AD/CVD Enforcement, Group II, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–0989/ 1009.

SUPPLEMENTARY INFORMATION: Currently, the preliminary results for the fourth review of Dynamic Random Access Memory Semiconductors (DRAMS) from Korea are due January 30, 1998. This review covers the period May 1, 1996 to April 30, 1997. The Department has received submissions from three respondents: LG Semicon, Hyundai and Techgrow Limited. However, due to the complexity of the issues involved in this case, including an allegation of transhipment through third country exporters and the requests by respondents for revocation the Department has determined that it is not practicable to complete this review within the time limits set forth by section 751(a)(3)(A) of the Tariff Act of 1930, as amended, Therefore, the Department is extending the time limit for completion of the preliminary results until March 2, 1998. This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Dated: January 5, 1998.

[FR Doc. 98–610 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–040]

Stainless Steel Plate From Sweden: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 8, 1997, the Department of Commerce (the Department) published the preliminary results of the review of the antidumping duty finding on stainless steel plate from Sweden. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1995 through May 31, 1996.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W.,

Washington, D.C. 20230; telephone (202) 482–4475/3833.

APPLICABLE STATUTE: 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 (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to Part 353 of 19 CFR (1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of the Treasury published an antidumping finding on stainless steel plate from Sweden on June 8, 1973 (38 FR 15079). On July 8, 1997, the Department published in the **Federal Register** the preliminary results of antidumping duty administrative review of this antidumping finding (62 FR 36495). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory 365 days. On August 27, 1997, the Department extended the time limits for these final results in this case: See Stainless Steel Plate from Sweden: Extension of Time Limit for Antidumping Administrative Review (62 FR 45397). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act.

Scope of the Review

Imports covered by this review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7219.11.00.00, 7219.12.00.05, 7209.12.00.15, 7219.12.00.45, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.21.00.05, 7219.21.00.50, 7219.22.00.05, 7219.23.00.10, 7219.22.00.30, 7219.22.00.60, 7219.31.00.10, 7219.31.00.50, 7220.11.00.00, 7222.30.00.00, and 7228.40.00.00. Although the subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

On July 11, 1995, the Department determined that Stavax ESR (Stavax), UHB Ramax (Ramax), and UHB 904L (904L) when flat-rolled are within the scope of antidumping finding.

On November 3, 1995, the Department determined that stainless steel plate products Stavax, Ramax, and 904L when forged, are within the scope of the antidumping finding.

On December 30, 1997 the Department determined that merchandise rolled into hot bands in Sweden from British slabs is subject to the finding.

The review covers the period June 1, 1995 through May 31, 1996. The Department has now completed this review in accordance with section 751 of the Act, as amended.

Verification

As provided in section 782(i) of the Tariff Act, from August 10 through August 15, 1997, we verified information submitted by Avesta. We used standard verification procedures including on-site inspection of respondent's production facilities and examination of relevant sales and financial records. The results of this verification are outlined in the public version of the verification report dated September 8, 1997.

On August 11, 1997, Avesta submitted corrections regarding its claims for the following home market charges: inland freight, warranty expenses, indirect selling expenses, and inventory carrying costs. We verified Avesta's revised claim for these charges, and have included the verified amount for these charges in these final results.

During the verification, we determined that more similar matches existed in the home market for three U.S. models. We revised Avesta's April 24, 1997 concordance to reflect those more similar matches, and have adjusted our calculations accordingly.

Additionally, based upon verified data provided by Avesta, we converted three sales denominated in Finnish Marks into Swedish Kronor before including those sales in our calculation of normal value.

We determined during the verification that Avesta could not substantiate, and we could not verify the inland freight charges reported by its hot rolled products (HRP) division. Section 776(a)(2) of the Act provides that ''if an interested party or any other person * * * provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d) use the facts otherwise available in reaching the applicable determination under this title.''

Because Avesta could not substantiate the home market inland freight incurred on its HRP sales, we calculated this adjustment based upon facts otherwise available, pursuant to section 776. (See memo concerning revision to verification report dated December 9, 1996 and verification report at 12). As facts available, we used in these final results the average inland freight charges incurred by the HRP division on the pre-selected and surprise sales examined during the verification. (See Avesta Final Results Analysis Memorandum of January 5, 1998.)

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. We received timely comments from Uddeholm and Avesta. We received timely rebuttal comments from the petitioners.

Comment 1

Uddeholm and Avesta note that in its preliminary calculations, the Department incorrectly matched U.S. sales to non-contemporaneous home market sales. Uddeholm and Avesta contend that in the final results, the Department should match U.S. sales with contemporaneous home market sales occurring within the 90/60 day window.

Department's Position

We agree with Avesta and Uddeholm. We have corrected this programming error in our final results, and matched U.S. sales with contemporaneous home market sales occurring within the 90/60 day window.

Comment 2

Uddeholm contends that the Department incorrectly calculated the CEP offset in its preliminary results. Uddeholm contends that the Department should base its calculation of the CEP offset on indirect selling expenses incurred during the month of the contemporaneous home market sale.

Department's Response

We agree with Uddeholm. In these final results we have corrected this error, and based our calculation of the CEP offset on indirect selling expenses incurred during the month of the contemporaneous home market sale.

Comment 3

Uddeholm argues that the Department should make no distinction in its model-match program for forged and flat-rolled versions of Stavax and Ramax. Uddeholm contends that both versions of these products are identical.

Uddeholm asserts that the Department concluded in its October 10, 1997 scope determination that the method of manufacture (forging or flat-rolling) did

not result in physical differences in the product. Uddeholm, therefore, contends that the Department should not differentiate between forged and flat-rolled versions of Stavax and Ramax in its margin calculations.

Petitioners note that the Department based its preliminary calculations on the classifications and product codes provided by Uddeholm. Petitioners additionally assert that the Department did not find in its October 10, 1997 scope redetermination on remand that forged and flat-rolled versions of Stavax and Ramax are ''indistinguishable on any other basis'' such as price or cost of manufacture.

Department's Response

We disagree with Uddeholm, and agree with petitioners. In its October 26, 1996 questionnaire response. Uddeholm provided separate product codes for forged and flat-rolled versions of Stavax and Ramax. We based our model match selections upon the product codes provided by Uddeholm.

The proper method for making sales comparisons is not addressed in our October 10, 1997 scope determination. In that scope redetermination, we applied the ''totality of circumstances'' test outlined in *United States* v. *Carborundum Co (Carborundum)* 536 F. 2d 373.337 (C.C.P.A.) 1976). In making this scope redetermination, we adhered to the instructions of the Court of International Trade which was to limit the analysis to record evidence before the Treasury Department in 1976. In considering that 1976 record evidence, we noted that Uddeholm made ''no distinction between Stavax and Ramax when flat-rolled, and Stavax and Ramax when forced * * *.''

While we determined in our October 10, 1997 scope redetermination that both forged and flat-rolled versions of Stavax and Ramax are subject to the scope of the finding, it does not follow from that analysis that these two versions of the product are identical to each other, or that no price differences exist between forged and flat-rolled versions of Stavax and Ramax. Because Uddeholm listed separate product codes for forged and flat-rolled versions of Stavax and Ramax, and because there is no evidence in the record indicating that forged and flat-rolled versions of the product are identical within the meaning of section 771(16) of the Tariff Act, we have continued in these final results to make separate comparisons for forged and flat-rolled versions of these products.

Comment 4

Avesta contends that the Department should make a deduction from the home market selling price for pre-sale warehousing expenses.

Department's Position

We agree. In these final results we have made an adjustment for pre-sale warehousing expenses incurred after the merchandise left the original place of shipment.

Comment 5

Avesta contends that the Department should recalculate the CEP profit ratio by applying the CEP ratio only to U.S. selling expenses related to individual U.S. sales transactions. Avesta contends that discounts, rebates and movement charges should be excluded from this calculation because they are not ''selling expenses'' as the Department defines and interprets the term for purposes of determining the CEP profit ratio.

Department's Position

We agree with Avesta. Consistent with our normal practice, we have not applied the CEP ratio to discounts, rebates, and movement charges.

Comment 6

Avesta contends that in the final results, the Department occasionally used an incorrect amount for difmer. Avesta contends that this error arose because the Department sometimes matched the U.S. model to a different home market model and month than that listed in the Department's product concordance. Avesta argues that in its final results, the Department should either (1) utilize a revised concordance submitted by Avesta in its affirmative comments (this concordance incorporates the matching scheme used by the Department in its preliminary results) or (2) recalculate difmer by utilizing the variable cost of manufacture information provided on Avesta's home market and U.S. sales listing.

Petitioners contend that Avesta has already submitted several product concordances some of which petitioners have found to be defective. Petitioners also observe that Avesta submitted this revised concordance after the deadline for submitting new information. Accordingly, petitioners argue that the Department should either disregard Avesta's recalculation of difmer, or ''make its own calculations rather than relying on the data submitted out of time by Avesta.''

Department's Position

In these final results, we have recalculated difmer to correspond with the model match selections made in our margin calculations. We based our calculation of difmer upon the verified variable cost of manufacture data provided by Avesta in its home market and U.S. sales listings. Finally, because the concordance provided by Avesta in its affirmative comments summarizes cost information previously analyzed and verified by the Department, we do not consider that concordance to be new information. The Department's practice is to reject untimely filings to the extent they contain new information. See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 62 FR 65674, December 15, 1997 (where the Department rejected by striking from the record certain untimely new information contained in a party's case brief). We, thus, have maintained that concordance on the record of this proceeding.

Final Results of Review

As a result of this review, we determine that the following margins exist for the period June 1, 1995 through May 31, 1996:

Company	Margin (percent)
Avesta	29.36
Uddeholm	2.95

The U.S. Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of stainless steel plate from Sweden entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for reviewed firms will be the rate established in the final results of administrative review, (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter

is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original fair value investigation, the cash deposit rate will be 4.46%.

We will calculate importer-specific duty assessment rates on a unit value per pound basis. To calculate the per pound unit value for assessment, we summed the margins on U.S. sales with positive margins, and then divided this sum by the entered pounds of all U.S. sales.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 5, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–611 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–811]

Certain Stainless Steel Wire Rods From France: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results for the third review of certain stainless steel wire rods from France. This review covers the period January 1, 1996 through December 31, 1996.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Bob Bolling or Stephen Jacques at 202–482–3434 or 482–1391; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Preliminary Results

The Department previously extended the preliminary results of this review by 90 days from October 3, 1997 to January 2, 1998. The Department has determined that it is not practicable to issue its preliminary results within the revised time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration, January 2, 1998). Therefore, the Department is extending the time limit for completion of the preliminary results until January 16, 1998 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of these reviews will continue to be 90 days after publication of the preliminary results.

Dated: January 2, 1998.

Richard O. Weible,

Acting Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–608 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–810]

Certain Steel Products From France; Notice of Court Decision and Suspension of Liquidation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On December 5, 1997, in *Inland Steel Industries, Inc.* v. *United States,* Consol. Court No. 93–09–00567–CVD, a lawsuit challenging the Department of Commerce's final affirmative countervailing duty determination of certain steel products from France, the Court of International Trade affirmed the Department's redetermination on remand. As a result, the final net subsidy rate for all programs for Usinor Sacilor has increased from 15.12% to 15.13% *ad valorem,* and the ''country-wide'' rate has increased from 15.12% to 15.13% *ad valorem.*

Consistent with the decision of the Court of Appeals for the Federal Circuit in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990), Commerce will direct the Customs Service to change the cash deposit rates being used in connection with the suspension of liquidation of the subject merchandise once there is a ''conclusive'' decision in this case.

EFFECTIVE DATE: January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells, Office 1, Group 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington D.C. 20230, telephone: (202) 482–6309.

SUPPLEMENTARY INFORMATION:

Background:

On July 9, 1993, the Department of Commerce (the ''Department'' or ''Commerce'') published notice of its final affirmative countervailing duty determinations of certain steel products from France. *Final Affirmative Countervailing Duty Determinations; Certain Steel Products from France,* 58

FR 37304 (July 9, 1993). In those determinations, the Department set forth its finding of a final net subsidy rate of 15.49% *ad valorem* for Usinor Sacilor and 15.49% *ad valorem* for the ''country-wide'' rate. On August 17, 1993, the Department published a countervailing duty order correcting ministerial errors and instructing the Customs Service to collect cash deposits, at the rate of 15.12% *ad valorem* for Usinor Sacilor and 15.12% *ad valorem* for the ''country-wide'' rate, on entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after that date. 58 FR 43759.

Following publication of the Department's countervailing duty order, petitioners and respondents filed lawsuits with the Court of International Trade (''CIT'') challenging the Department's final determination.

Thereafter, in *British Steel plc* v. *United States*, Consol. Ct. No. 93–09–00550–CVD, which addressed general issues common to various certain steel products countervailing duty investigations which concurrently had been before the Department, including the French investigation, the CIT rejected the Department's reliance on IRS tables showing industry-specific average useful life of assets in determining an allocation period of 15 years. 879 F. Supp. 1254 (1995). In a subsequent remand determination, dated June 30, 1995, the Department calculated a company-specific allocation period for Usinor Sacilor based on the average useful life of non-renewable physical assets, and the CIT affirmed it. 929 F. Supp. 426 (1996).

More recently, in *Inland Steel Industries, Inc.* v. *United States*, Consol. Ct. No. 93–09–00567–CVD, the CIT issued Slip Opinion 97–71 and an Order, dated June 2, 1997, accepting the Department's request for a voluntary remand on one issue. Specifically, during the verification of Usinor Sacilor's questionnaire responses, the Department had discovered that six Credit National loans included in the 1991 consolidation of outstanding Credit National loans were export promotion loans. Although in its final concurrence memorandum the Department stated that it would determine these loans to be specific, it inadvertently overlooked these loans in its final determination and calculations. On July 7, 1997, the Department filed its required remand results with the CIT. On December 5, 1997, the CIT affirmed the Department's remand results. *Inland Steel Industries, Inc.* v. *United States*, Consol. Court No. 93–09–00567–CVD, Slip Op. 97–168.

As a result of the two remands, the net subsidy rate for all programs for Usinor Sacilor has increased from 15.12% to 15.13% *ad valorem*, and the ''country-wide'' rate has increased from 15.12% to 15.13% *ad valorem*.

Suspension of Liquidation

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Court of Appeals for the Federal Circuit (''CAFC'') held that the Department must publish notice of a decision of the CIT or the CAFC which is not ''in harmony'' with the Department's determination. Publication of this notice fulfills that obligation. The CAFC also held that the Department must suspend liquidation of the subject merchandise until there is a ''conclusive'' decision in the case. Therefore, pursuant to *Timken*, Commerce must suspend liquidation pending the expiration of the period to appeal the CIT's December 5, 1997 ruling or, if that ruling is appealed, pending a final decision by the CAFC. However, because entries of the subject merchandise already are being suspended pursuant to the countervailing duty order in effect, the Department need not order the Customs Service to suspend liquidation. Further, consistent with *Timken*, the Department will order the Customs Service to change the relevant cash deposit rates in the event that the CIT's ruling is not appealed or the CAFC issues a final decision affirming the CIT's ruling.

Dated: January 6, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–691 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Public Meeting To Discuss the Development of Methods for Micromachining Electrical Test Structures Replicated in Silicon-On-Insulator Films To Enable the Use of High-Resolution Transmission-Electron Microscopy for CD–Metrology

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on January 30, 1998, to discuss the development of Methods for Micromachining Electrical Test Structures Replicated in Silicon-On-Insulator Films to Enable the Use of High-Resolution Transmission-Electron Microscopy for CD–Metrology. Attendees will be expected to sign a non-disclosure agreement before participating in the meeting.

DATES: The Meeting will take place at 9 a.m. on January 30, 1998. Interested parties should contact NIST to confirm their interest at the address, telephone number, or FAX number shown below.

ADDRESSES: The meeting will take place at Conference Room 4020, National Institute of Standards and Technology, Boulder, Colorado. Inquiries should be sent to Room B360, Building 225, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT:

Michael Cresswell, 301–975–2072; FAX 301–948–4081; e-mail: michael.cresswell@nist.gov.

SUPPLEMENTARY INFORMATION: Any development program subsequent to the meeting will be within the scope and confines of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), which provides federal laboratories, including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment, and facilities but no funds to the cooperative research program. This is not a grant program.

NIST and Sandia National Laboratories, in collaboration with 16 industry partners and SEMATECH, have recently completed an evaluation of the first of two types of SOI films for linewidth reference-material applications. The results have indicated that if a means of certifying the electrical widths of reference features could be found, then a range of low-cost reference materials for linewidth and related dimensions could be developed for future SIA Roadmap applications.

Dated: January 6, 1998.

Michael R. Rubin,

Deputy Chief Counsel.

[FR Doc. 98–656 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122297G]

Magnuson Act Provisions; Essential Fish Habitat; Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: NMFS is convening a meeting of the west coast salmon essential fish habitat (EFH) technical team to review EFH descriptions for salmon and adverse affects on salmon EFH. The meeting is open to the public.

DATES: The EFH technical team meeting is on February 10, 1998, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be at the Park Plaza International Hotel - San Francisco, 1177 Airport Blvd., Burlingame, CA.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, NMFS, 206–526–6143.

SUPPLEMENTARY INFORMATION: NMFS is in the process of developing recommendations on EFH for west coast salmon in accordance with recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act. EFH recommendations to be presented to the Pacific Fishery Management Council for an amendment to the salmon fishery management plan include a description of EFH for coho salmon, chinook salmon, pink salmon and sockeye salmon; a description of adverse effects to EFH, including fishing and non-fishing threats; and a description of measures to ensure the conservation and enhancement of EFH.

NMFS has formed a technical team consisting of industry, state, tribal, university, and Federal individuals to provide technical input and advice on the development of the NMFS recommendations. The technical team met once before in November to review draft EFH documents. The February 10 EFH salmon technical team meeting will be open to the public and the public will have an opportunity to comment. EFH documents will be available at the meeting. EFH background material can also be found on the Pacific States Marine Fisheries Commission website at www.psmfc.org/efh.html.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be requested at least 5 working days prior to the meeting date (see **FOR FURTHER INFORMATION CONTACT**).

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

Dated: January 5, 1998.

Richard W. Surdi,

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

[FR Doc. 98–619 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122297H]

Magnuson-Stevens Act Provisions; Essential Fish Habitat; Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: NMFS is convening a meeting of the Pacific coast groundfish essential fish habitat (EFH) technical team to review EFH descriptions for groundfish and adverse effects on groundfish EFH. The meeting is open to the public.

DATES: The technical team meeting is on January 30, 1998, from 10:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council offices, 2130 SW Fifth Ave., Suite 224, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, NMFS, 206–526–6120.

SUPPLEMENTARY INFORMATION: NMFS is in the process of developing recommendations on EFH for Pacific coast groundfish in accordance with recent amendments to the Magnuson-Stevens Fishery Conservation and Management Act. EFH recommendations to be presented to the Pacific Fishery Management Council for an amendment to the Pacific Coast groundfish fishery management plan (FMP) include a description of EFH for groundfish species managed by the FMP; a description of adverse effects to EFH, including fishing and non-fishing threats; and a description of measures to ensure the conservation and enhancement of EFH.

NMFS has formed a technical team consisting of individuals from fishing industry, environmental, state, tribal, and Federal interests and agencies to provide technical input and advice on the development of the NMFS recommendations. The technical team will meet on January 30 and in early March to review draft EFH documents as they are prepared. The first meeting of the technical team is scheduled for January 30, 1997, and will focus on the description of EFH. The meetings will be open to the public, and the public will have an opportunity to comment. EFH documents will be available at the meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be requested at least 5 working days prior to the meeting date (see **FOR FUTHER INFORMATION CONTACT**).

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

Dated: January 5, 1998.

Richard W. Surdi,

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

[FR Doc. 98–620 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010698B]

Mid-Atlantic 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 Mid-Atlantic Fishery Management Council and its Committee Chairmen; Surfclam and Ocean Quahog Committee; Habitat Committee and Coastal Migratory Committee, together with Habitat Advisors and the Scientific and Statistical Committee (SSC); Executive Committee; Large Pelagics Committee; and Atlantic Mackerel, Squid, and Butterfish Committee will hold a public meeting.

DATES: The meetings will be held on Tuesday, January 27, 1998 through Thursday, January 29, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: These meetings will be held at the Sheraton Atlantic City West, 6821 Black Horse Pike, Atlantic City West, NJ 08234, telephone: 1–800–782–9237.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New

Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The meetings are as follows:

Tuesday, January 27, 1998

8:00–10:00 a.m., the Committee Chairmen will meet.

10:00 a.m. until noon, the Surfclam and Ocean Quahog Committee will meet.

1:00–5:00 p.m., the Habitat Committee (with Advisors and the SSC).

7:00 p.m., there will be a scoping meeting for Amendment 11 to the Surfclam and Ocean Quahog Fishery Management Plan (FMP); Amendment 11 to the Summer Flounder, Scup, and Black Sea Bass FMP; and Amendment 7 to the Atlantic Mackerel, Squid, and Butterfish FMP.

Wednesday, January 28, 1998

8:00 a.m. until noon, Council will meet.

12:00 noon until 1:30 p.m., the Executive Committee will have a luncheon meeting.

1:30–2:00 p.m., Council will meet.

2:00–5:00 p.m., the Atlantic Mackerel, Squid, and Butterfish Committee will meet.

5:00–5:30 p.m., the Comprehensive Management Committee will meet.

7:00 p.m., there will be a Monkfish FMP Public Hearing.

Thursday, January 29, 1998

8:00–11:15 a.m., Council will meet at which time there will be a Stock Assessment Workshop which is scheduled to last approximately 2 hours.

Agenda items include: Reviewing the 1998 work schedule; demand forecasting as part of the surfclam and ocean quahog quota setting process; Interim final guidelines on Essential Fish Habitat (EFH), nonfishing threats to EFH, description and identification of bluefish EFH, and fishing gear impacts on EFH; possible recommendations concerning proposed regulation changes for highly migratory species; revision to Election Policy in Statement of Operating Practices and Procedures (SOPPs), review SOPPs regarding Council-staff interaction, and possible adoption of a revised 1998 budget; discuss Amendment 7 (particularly mackerel entry limitation) for Atlantic mackerel, squid, and butterfish; and discuss vessel replacement criteria and scup/*Loligo* interaction.

The above agenda items may not be taken in the order in which they appear and are subject to change as necessary; other items may be added. These meeting may also be closed at any time to discuss employment or other internal administrative matters.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during these meetings. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: January 6, 1998.

George H. Darcy,

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

[FR Doc. 98–699 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010598A]

Marine Mammals; Scientific Research Permit (PHF# 774–1439)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Robert L. Brownell, Jr., NMFS, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038, has applied in due form for a permit to take marine mammals of several species for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before February 11, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Southwest Region, NMFS,501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Protected Species Program Manager, Pacific Area Office, 2570 Dole St., Rm. 106, Honolulu, HI 96822–2396 (808/973–2987).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by email or other electronic media.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

The purpose of the proposed research is to collect data to estimate abundance by species and to determine population structure for these species. Research surveys will be conducted in U.S. territorial and international waters over a five-year period and harassment of several marine mammal species may occur in the form of vessel approach, helicopter and small plane photogrammetry, biopsy sample collection, photography, and tagging and tracking of individual animals.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: January 6, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–700 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure

AGENCY: Technology Administration, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure will hold a meeting on February 25–26, 1998. The Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure was established by the Secretary of Commerce to provide industry advice to the Department on encryption key recovery for use by federal government agencies. All sessions will be open to the public.

DATES: The meeting will be held on February 26–27, 1998 from 9:00 a.m. to 6:00 p.m.

ADDRESS: The meeting will take place at the Holiday Inn Select, 595 Hotel Circle South, San Diego, CA.

FOR FURTHER INFORMATION CONTACT: Edward Roback, Committee Secretary and Designated Federal Official, Computer Security Division, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, Maryland, 20899; telephone 301–975–3696. Please do not call the conference facility regarding details of this meeting.

SUPPLEMENTARY INFORMATION:

1. Agenda:

Opening Remarks
Chairperson's Remarks
News Updates (Members, Federal Liaisons, Secretariat)
Working Group (WG) Reports
Intellectual Property Issues (as necessary)
Public Participation
Plans for Next Meeting
Closing Remarks

Note: The items in this agenda are tentative and subject to change due to logistics and speaker availability.

2. Public Participation: The Committee meeting will include a period of time, not to exceed thirty minutes, for oral comments from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the individual identified in the ''for further information'' section. In addition, written statements are invited and may be submitted to the Committee at any time. Written comments should be directed to the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if sixty copies could be submitted for distribution to the Committee and other meeting attendees.

3. Additional information regarding the Committee is available at its world wide web homepage at: http://csrc.nist.gov/tacdfipsfkmi/.

4. Should this meeting be canceled, a notice to that effect will be published in the **Federal Register** and a similar notice placed on the Committee's electronic homepage.

Dated: January 7, 1998.

Mark Bohannon,

Chief Counsel for Technology Administration.

[FR Doc. 98–657 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–CN–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Quota and Visa Requirements for Certain Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

January 6, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending quota and visa requirements.

EFFECTIVE DATE: January 14, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In exchange of notes dated November 22, 1997 and December 22, 1997, the Governments of the United States and Malaysia agreed that discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5516.14.0005, 5516.14.0025 and 5516.14.0085 in Category 611 which is produced or manufactured in Malaysia and imported on or after January 1, 1998 will no longer be subject to visa requirements and will not be subject to 1998 limits. The new designation for Category 611 will be 611–O. The 1998 quota level for the new part-Category 611–O remains unchanged.

Effective on January 14, 1998, products in Category 611, produced or manufactured in Malaysia and exported from Malaysia on or after January 1, 1998 must be accompanied by a 611–O part-category visa. There will be a grace period from January 1, 1998 through January 31, 1998 during which products exported from Malaysia in Category 611 may be accompanied by the whole or new part-category visa. A visa will not be required for discharge printed fabric in Category 611 beginning on January 1, 1998, regardless of the date of export.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend export quota and visa requirements.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 52 FR 32158, published on August 26, 1987; and 62 FR 18758, published on April 17, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 6, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Malaysia and exported during the twelve-month period which begins on January 1, 1998 and extends through December 31, 1998.

Effective on January 14, 1998, discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5516.14.0005, 5516.14.0025, 5516.14.0085 in Category 611 which is produced or manufactured in Malaysia and imported on or after January 1, 1998 will no longer be subject to visa requirements and will not be subject to 1998

limits, pursuant to exchange of notes dated November 22, 1997 and December 22, 1997 between the Governments of the United States and Malaysia and under the terms of the Uruguay Round Agreement on Textiles and Clothing. The new designation for Category 611 will be 611–O [1].

The import restraint limit for the new part-Category 611–O remains the same as the 1998 limit for Category 611.

Effective on January 14, 1998, you are directed to require a part-category visa for products in Category 611–O, produced or manufactured in Malaysia and exported on or after January 1, 1998. There will be a grace period from January 1, 1998 through January 31, 1998 during which products exported from Malaysia in Category 611 may be accompanied by the whole or new part-category visa. A visa will not be required for discharge printed fabric in Category 611 beginning on January 1, 1998, regardless of the date of export.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–606 Filed 1–9–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection: Comment Request

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) , as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. § 3508(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation for National and Community Service is soliciting comments concerning its proposed National Senior Service Corps Accomplishment Surveys. Copies of the information collection requests can be obtained by contacting the office listed below in the address section of this notice.

The Corporation for National and Community Service is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the addresses section by March 13, 1998.

ADDRESSES: Send comments to the Corporation for National and Community Service; Office of Evaluation, Room 9814; 1201 New York Ave., N.W.; Washington, D.C., 20525; ATTN: Chuck Helfer.

FOR FURTHER INFORMATION CONTACT: Chuck Helfer, (202) 606–5000, ext. 248.

SUPPLEMENTARY INFORMATION:

Part I. (Foster Grandparent Program Accomplishment Survey)

I. Background

The Corporation for National and Community Service has been working on conducting accomplishment surveys for all its programs to assess the direct accomplishments of volunteers and members in their communities and at their workstations. To date, accomplishment data has not been collected for the Foster Grandparent Program (FGP).

II. Current

The Corporation for National and Community Service seeks an accomplishment survey for the Foster Grandparent Program (FGP). Program accomplishments refer to the outputs resulting from the service activities of the programs.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Foster Grandparent Program Accomplishment Survey.

OMB Number: 3045-None.

Agency Number: None.

Affected Public: Individuals and non-profit institutions served by FGP volunteers.

Total Respondents: 1,250.

Frequency: Annually.

Average Time Per Response: 45 minutes.

Estimated Total Burden Hours: 937.5 hours.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

Part II. (Retired and Senior Volunteer Program Accomplishment Survey)

I. Background

The Corporation for National and Community Service has been working on conducting accomplishment surveys for all its programs to assess the direct accomplishments of volunteers and members in their communities and at their workstations. Accomplishment data has been collected once in 1995 for the Retired and Senior Volunteer Program (RSVP).

II. Current Action

The Corporation for National and Community Service seeks an accomplishment survey for the Retired and Senior Volunteer Program (RSVP). Program accomplishments refer to the outputs resulting from the service activities of the programs.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Retired and Senior Volunteer Program Accomplishment Survey.

OMB Number: 3045-None.

Agency Number: None.

Affected Public: Individuals and non-profit institutions served by RSVP volunteers.

Total Respondents: 1,250.

Frequency: Annually.

Average Time Per Response: 45 minutes.

Total Burden Hours: 937.5 hours.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

Part III. (Senior Companion Program Accomplishment Survey)

I. Background

The Corporation for National and Community Service has been working

on conducting accomplishment surveys for all its programs to assess the direct accomplishments of volunteers and members in their communities and at their workstations. To date, accomplishment data has not been collected for the Senior Companion Program (SCP).

II. Current Action

The Corporation for National and Community Service seeks an accomplishment survey for the Senior Companion Program (SCP). Program accomplishments refer to the outputs resulting from the service activities of the programs.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Senior Companion Program Accomplishment Survey.

OMB Number: 3045-None.

Agency Number: None.

Affected Public: Individuals and non-profit institutions served by SCP volunteers.

Total Respondents: 1,250.

Frequency: Annually.

Average Time Per Response: 45 minutes.

Estimated Total Burden Hours: 937.5 hours.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 6, 1998.

Lance D. Potter,

Director, Office of Evaluation.

[FR Doc. 98–663 Filed 1–9–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0137]

Proposed Collection; Comment Request Entitled Simplified Acquisition Procedures/FACNET

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Simplified Acquisition Procedures/FACNET. The clearance currently expires on April 30, 1998.

DATES: Comments may be submitted on or before March 13, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Nelson, Federal Acquisition Policy Division, GSA (202) 501–1900.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0137, Simplified Acquisition Procedures/FACNET, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Title IX of the Federal Acquisition Streamlining Act of 1994 (the Act) amended the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*) by adding new sections regarding the establishment of a program for the development and implementation of a Federal Acquisition Computer Network (hereinafter referred to as FACNET) which allows electronic interchange of procurement information between the private sector and the Federal Government and among Federal agencies. Specific functions of FACNET are set forth under Section 30 of the Act.

Regulatory coverage on FACNET is included under FAR Subpart 4.5—Electronic Commerce in Contracting. FAR section 4.503 requires contractors to provide registration information to the Central Contractor Registration in order to conduct business through electronic commerce (EC) with the Federal Government. Contractor registration information is collected electronically as a prerequisite for conducting EC with the Federal Government. The process for collection of contractor information uses the Federal Implementation Conventions ANSI X12, Trading Partner Profile, in accordance with the Federal Information Processing Standards 161(FIPS). These standards are published by the National Institute for Standards and Technology (NIST). The information required to be submitted as part of contractor registration is the same as that currently provided by the SF 129, Solicitation Mailing List Application; the SF 3881, ACH vendor/Miscellaneous Payment Enrollment Form for paper transactions. In addition, information pertaining to a contractor assignment of commercial and Government entity (CAGE) code (where applicable); electronic data interchange (EDI) capabilities, including ANSI X12 transaction set and version number status for production, testing, sending and receiving; and the registrant's value added network (VAN) or value added service (VAS) electronic communications number also needs to be provided as part of the registration process. Requiring information consistent with the existing forms that Government contractors are familiar with simplifies the process of gathering current, factual data to input into the Registration System. The additional information is information contractors should have readily available when they have established EC/EDI capability.

The information submitted by contractors will permit the Central Contractor Registration to establish a central repository for all vendors doing business with the Federal Government, information that is accessible by all Government contracting activities

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *100,000*; responses per respondent, *1*; total annual responses, *100,000*; preparation hours per response, *.25*; and total response burden hours, *25,000*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *100,000*; hours per recordkeeper, .25; and total recordkeeping burden hours, *25,000*.

Obtaining Copies of Proposals:

Requester may obtain a copy the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4037, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0137, Simplified Acquisition

Procedures/FACNET, in all correspondence.

Dated: January 6, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–623 Filed 1–9–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Improving the Regulatory Process in Lee and Collier Counties in Southwest Florida

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare a Draft Environmental Impact Statement for improving the regulatory process in Lee and Collier Counties in Southwest Florida. The study is a cooperative effort among the U.S. Army Corps of Engineers and other government entities being invited to participate. The invited parties include the two counties and certain other government agencies at the local, regional, state, and Federal level.

FOR FURTHER INFORMATION CONTACT: Kenneth Dugger, 904–232–1686, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

SUPPLEMENTARY INFORMATION: Pursuant to Section 404 of the Clean Water Act, the Corps of Engineers has regulatory authority to permit the discharge of dredged or fill material into wetlands and other waters of the United States. The guidelines pursuant to Section 404(b) of the act require that impacts to the aquatic environment be avoided and minimized to the extent practicable. Also, unavoidable impacts are to be compensated (mitigated) to the extent practicable. In determining whether to issue a permit, the Corps must also comply with other requirements including, but not limited to, the Endangered Species Act, the National Environmental Policy Act, the Coastal Zone Management Act, Section 401 of the Clean Water Act, and other applicable Federal laws. Modifying land for new uses also involves zoning, land use planning, water management, and other regulatory/planning requirements at the local, regional, state, and Federal level.

The purpose of this effort is to establish a better foundation of information and knowledge of existing conditions and identification of future alternatives for balancing the demands of growth and conservation. The goal of this effort is a more effective, timely, streamlined, cost-conscious, objective, productive, and predictable environmental permitting process for projects within the study area. The proposed action consists of one or more of several measures (see Alternatives below). The purpose of these measures is to facilitate efficient, timely, and appropriate planning and permitting while affording an appropriate level of environmental protection and wise use of natural resources.

Alternatives

In addition to ''no action'', alternative measures being considered include the following: (1) Establishing overall conditions or concepts for permit approval; (2) identification of critical concerns, important natural resources, and sensitive ecological areas; (3) identifying an opportunity for one or more regional permits for expedited permitting of actions meeting established criteria; (4) establishing better communication and coordination among the regulating and planning agencies; and (5) other measures identified through scoping, public involvement, and interagency coordination.

Issues

The EIS will consider impacts on protected species, health, conservation, economics, aesthetics, general environmental concerns, wetlands (and other aquatic resources), historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people, and other issues identified through scoping, public involvement, and interagency coordination. At the present time, our primary areas of environmental concern are endangered species, wetland loss, mitigation, habitat fragmentation, surface water management, and surface water quality.

Scoping

A Memorandum of Understanding (MOU) among the proposed cooperating and participating agencies is being developed concerning the EIS. A draft of this MOU was circulated for comment in July 1997. Comments on the draft were shared by notice of August 25, 1997. We expect additional public meetings will be held by the Corps and/or other cooperating agencies prior to completion of the Draft EIS. If a formal public scoping meeting is held by the Corps, it will be announced. In addition, all parties are invited to participate in the scoping process by identifying any additional concerns on issues, studies needed, alternatives, procedures, and other matters related to the scoping process.

Public Involvement

We invite the participation of affected Federal, state and local agencies, affected Indian tribes, and other interested private organizations and individuals.

Coordination

The proposed action is being coordinated with a number of Federal, state, regional, and local agencies including but not limited to the following: U.S. Fish and Wildlife Service, National Marine Fisheries Service, U.S. Environmental Protection Agency, Florida Department of Environmental Protection, State Historic Preservation Officer, South Florida Water Management District, Lee and Collier Counties, Florida Department of Community Affairs, Florida Game and Freshwater Fish Commission, Florida Department of Transportation, Estero Bay Agency for Bay Management, Southwest Florida Regional Planning Council, Governor's Commission for Sustainable South Florida (Southwest Florida Issues Group), and other agencies as identified in scoping, public involvement, and agency coordination.

Other Environmental Review and Consultation

The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b) of the Clean Water Act, application (to the State of Florida) for Water Quality Certification pursuant to Section 401 of the Clean Water Act, and determination of Coastal Zone Management Act consistency.

Agency Role

Cooperating agencies include the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and other Federal, state, and local agencies. The cooperating agencies will (1) help define and develop alternatives, (2) participate in or sponsor public meetings, and (3) provide technical assessment of impacts and benefits.

DEIS Preparation

We estimate that the DEIS will be available to the public on or about October 1998.

John R. Hall,

Acting Chief, Planning Division.

[FR Doc. 98–684 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army

Reserve Officers' Training Corps (ROTC) Program Subcommittee

AGENCY: U.S. Army Cadet Command.

ACTION: Notice of meeting.

SUMMARY: 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:

Name of Committee: Reserve Officers' Training Corps (ROTC) Program Subcommittee

Dates of Meeting: February 3 & 4, 1998.

Place of Meeting: The Pentagon, Room (To be determined).

Time of Meeting: 8:30 a.m. to 5:00 p.m. on February 3, 1998, and 8:30 a.m. to 12:00 p.m. on February 4, 1998.

Proposed Agenda: Review and discussion of changes to the major ROTC programs since the July 1997 meeting at the Pentagon.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Spadafora, U.S. Army Cadet Command, ATCC–TE, Fort Monroe, Virginia 23651–5000; phone (757) 727–4595.

SUPPLEMENTARY INFORMATION:

1. The Subcommittee will review the significant changes in ROTC scholarships, missioning, advertising strategy, marketing, camps and on-campus training, the Junior High School Program and ROTC Nursing.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intent to attend the February 3 & 4, 1998 meeting.

3. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits, the Committee chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory committee should be directed to the above address.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–683 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–18–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Chemical and Biological Defense Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 207 and 37 CFR part 404, announcement is made of the availability for licensing of U.S. Patent application for non-exclusive, exclusive, or partially exclusive licensing. The patent application listed below has been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: Low Concentration Aerosol Generator.

Description: This invention relates to an apparatus which is capable of generating and counting low concentrations of individual aerosol particles.

Patent Application Number: 08/837,362.

Filing Date: April 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army CBDCOM, ATTN: AMSCB–GC (Bldg E4435), APG, MD 21010–5423, Phone: (410) 671–1158: FAX: 410–671–2534 or E/mail: ujbiffon@cbdcom.apgea.army.mil.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–685 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Prospective Grant of Exclusive Patent License

AGENCY: U.S. Army Chemical and Biological Defense Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with the provisions of 15 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), CBDCOM hereby gives notice that it is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Number 08/941,990 filed 10/1/97, entitled, ''System and Method for Detection, Identification and Monitoring of Submicron-Sized Particles'' to EnVirion, L.L.C. having a place of business in Midlothian, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army CBDCOM, *Attn:* AMSCB–GC (Bldg. E4434), APG, MD 21010–5423, *Phone:* (401) 671–1158; *FAX:* 410–671–2534 or *E-mail:* ujbiffon@cbdcom.apgea.army.mil.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless within sixty days from the date of this published Notice, CBDCOM receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7

U.S. Patent Application 08/941,990 pertains to an automated detection and monitoring device and method which samples submicron sized particles or macromolecules. It provides for the sampling of viruses and virus-like agents in bioaerosols and fluids, especially biological fluids.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–686 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing

AGENCY: U.S. Army Chemical and Biological Defense Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 207 and 37 CFR Part 404, announcement is made of the availability for licensing of U.S. Patent application for non-exclusive, exclusive, or partially exclusive licensing. The patent application listed below has been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: System and Method for Detection, Identification and Monitoring of Submicron-Sized Particles.

Description: This invention pertains to an automated detection and monitoring device and method which samples submicron sized particles or macromolecules. It provides for the sampling of viruses and virus-like agents in bioaerosols and fluids, especially biological fluids.

Patent Application Number: 08/941,990.

Filing Date: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army CBDCOM, *Attn:* AMSCB–GC (Bldg E4435), APG, MD 21010–5423, *Phone:* (410) 671–1158; *FAX:* 410–671–2534 or *E-mail:* ujbiffon@dbdcom.apgea,army.mil.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–687 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Prospective Grant of Exclusive Patent License

AGENCY: U.S. Army Chemical and Biological Defense Command (USACBDCOM), DOD.

ACTION: Notice.

SUMMARY: In accordance with the provisions of 15 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), CBDCOM hereby gives notice that it is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Application Number 08/871,665, filed June 9, 1997, entitled, ''Rapidly Deployable, Man-Portable, Inflatable, Chemical, Biological, Radiological & Explosive Containment System'' to Zumro, Inc., having a place of business in Willow Grove, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army CBDCOM, ATTN: AMSCB–GC (Bldg E4435), APG, MD 21010–5423, *Phone:* (410) 671–1158; *FAX:* (410) 671–2534 or *E-mail:* ujbiffon@cbdcom.apgea.army.mil.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless within sixty days from the date of this published Notice, CBDCOM receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

U.S. Patent Applications 08/871,665 relates to a relatively light weight containment system which can be used to contain or mitigate the effects of explosively disseminated chemical and/or biological devices.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–688 Filed 1–9–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Finding of No Significant Impact for the Defense Logistics Agency Human Resources Operation Restructuring

AGENCY: Defense Logistics Agency (DLA), Defense.

ACTION: Notice.

SUMMARY: An environmental assessment on the restructuring of the DLA human resources operation was prepared pursuant to the National Environmental Policy Act (NEPA) as amended (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality Guidelines (40 CFR part 1500–1508). The environmental assessment concluded that there will be no significant impact on the environment and that preparation of an Environmental Impact Statement will not be necessary. Interested parties may submit comments to the address listed below for a 30-day period from the date of this Notice.

EFFECTIVE DATE: January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Dan McGinty, Staff Director, Congressional and Public Affairs Office, Defense Logistics Agency, 8725 John J. Kingman Road, Ft. Belvoir, VA 22060–6221, (703) 767–6222.

SUPPLEMENTARY INFORMATION: Civilian workforce reductions, cost controls, economies of scale, and the Department of Defense (DoD) mandates to have a ratio of one human resource employee per 61 employees have caused the DLA to develop a strategy to restructure its personnel service while still maintaining quality support to customers. Further, DoD has established a goal of improving its service ratio to 1:100 by Fiscal Year 2003. The mandates and the goal can only be achieved by consolidating functions and installing modern personnel information systems to continue the current and projected levels of service.

DLA has Offices of Civilian Personnel (OCP) at nine locations. Given the DoD directive, DLA decided to establish a Human Resources Operations Center (HROC) at the most favorable location. Determination of the most cost effective site for the HROC was the result of a DLA study completed in mid-1996. The study reviewed each of the existing field locations and facilities. Each site was considered on an equal basis and evaluated using the same criteria. The criteria included the availability of office space, parking, meeting space, telecommunications, and automated data processing (ADP); timing; and cost. The Defense Supply Center Columbus (DSCC), located near Columbus, Ohio, emerged as the facility having the most favorable space and support services available at a reasonable cost. In addition, the Columbus site offered the advantage of colocation with other DLA components that provide ADP system support to current personnel operations.

Modernizing civilian personnel systems is an important aspect of increasing the efficiency of human resources specialists. The DoD personnel community has been working on this issue aggressively since 1989. Most of the effort has capitalized on economies of scale while maintaining or improving the quality of service without impairing chain-of-command accountability. Further, DoD realizes that restructuring alone will not achieve DoD goals for personnel management. DoD must also engage in efforts to modernize its personnel system to a single DoD system using the latest technology. The Columbus location offers an excellent site for progressive system upgrading.

For DLA, the regionalization of civilian personnel support functions would incorporate a division of personnel duties between the HROC at DSCC and the nine OCPs.

There would be reductions in staff at each OCP associated with the loss of some of the personnel functions currently being provided at these locations, including losses from the OCP at the DSCC. At four OCPs, 50 or more staff could be lost:

- DSCC—96 staff.
- Defense Distribution Region West (DDRW near Stockton, California)—131 staff.
- Defense Supply Center Richmond (DSCR near Richmond, Virginia)—87 staff.
- Defense Personnel Support Center (DPSC Philadelphia, Pennsylvania)—84 staff.

The environmental effects of the gains and losses on these locations are analyzed in the environmental assessment. At the remaining five locations, less than 50 staff would be lost per site. The environmental effects of these losses are not analyzed because

they are covered by a categorical exclusion (DLA NEPA Regulation—Categorical Exclusion #10).

There would also be increases in staff associated with regional personnel functions to be transferred to the HROC at DSCC. Approximately 250 staff would be required for the HROC, so there could be a net increase of 154 people at DSCC. The additional staff would be housed in existing facilities at the DSCC. Only minor modifications to the facilities would be required. The level of modifications that would be undertaken would be covered by a categorical exclusion and would not require additional environmental analysis. Therefore, this environmental assessment does not analyze facility modifications that might be required by this action.

The environmental assessment considered the environmental and socioeconomic impacts of the proposed action and the no action alternative. The conclusion of the assessment is that the restructuring of DLA's human resource operation placing a regional office at DSCC is not a major action significantly affecting the quality of the human environment or requiring the development of an Environmental Impact Statement.

A public comment period regarding the environmental assessment will begin on the date of publication of this Notice and will conclude 30 days later. Copies of the environmental assessment are available for inspection at the DLA Congressional and Public Affairs Office and from the contacts listed below. Interested parties may also contact the DLA Congressional and Public Affairs Office at telephone (703) 767–6222.

Jack Allen (DSCC–DEB), Defense Supply Center Columbus, 3990 E. Broad Street, Columbus, OH 43216–5000, Tel: (614) 692–2328

Donna Foore (DSCR–DB), Defense Supply Center Richomond, Richmond, VA 23297–5000, Tel: (804) 279–3139/3209

Frank Johnson (DPSC–DB), Defense Personnel Support Center, 2800 South 20th Street, Philadelphia, PA 19145–8419, Tel: (215) 737–2311/2312

Doug Imberi (ASCW–WP), Defense Distribution Region West, Office of Public Affairs, 700 East Roth Road, Bldg. S1, Stockton, CA 95296–0010, Tel: (209) 982–2839

Carol J. Simpson (DRMS–XB), Defense Reutilization and Marketing Service, Defense Logistics Service Center, Federal Center, Battle Creek, MI 49017–3092, Tel: (616) 961–7014/7015

Ann Jensis-Dale (DCMDE–DB), Defense Contract Management District East, Office of Public Affairs, 495 Summer Street, Boston, MA 02210–2184, Tel: (617) 753–4298

Gay Maund (DCMDW–DB), Defense Contract Management District West, Office of Public Affairs, 222 North Sepulveda Blvd, El Segundo, CA 90245–4320, Tel: (310) 335–4440

Keith Beebe (DDC–DB), Defense Distribution Center, Office of Command Affairs, 14 Dedication Drive, Suite 2, New Cumberland, PA 17070–5001, Tel: (717) 770–7209/6223

Dennis J. Lillo,

Director, Environmental Quality, (Environmental and Safety Policy).

[FR Doc. 98–617 Filed 1–9–98; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning the Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following: RTD/EU(CA)–17 for the transfer of 32,288 grams of natural uranium hexafluoride from Cameco Corp. in Saskatchewan, Canada, to Urenco Limited in Capenhurst, United Kingdom, for the purpose of toll enrichment, for use in commercial power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 6, 1998.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 98–676 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning the Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following: RTD/EU(CA)-16 for the transfer of 79,929.300 grams of natural uranium ore concentrates from Cameco Corp. in Saskatchwan, Canada to the British Nuclear Fuels Plc. (BNFL) in Lancashire, United Kingdom, for the purpose of toll conversion, for use in commercial power reactors.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 6, 1998.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 98–677 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL)

DATES:

Tuesday, January 20, 1998 from 7:30 a.m. to 6:00 p.m., Mountain Standard Time (MST)

Wednesday, January 21, 1998 from 8:00 a.m. to 5:00 p.m. MST. There will be public comment sessions on Tuesday, January 20, 1998 from 5:00 p.m. to 6:00 p.m. MST and Wednesday, January 21, 1998 from 1:00 p.m. to 1:30 p.m. MST.

ADDRESSES: Doubletree Hotel Boise Downtown, 1800 Fairview Avenue, Boise, Idaho 83702.

FOR FURTHER INFORMATION CONTACT: INEEL Information (1–800–708–2680) or Wendy Green Lowe, Jason Associates Corp. (208–522–1662).

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The EM SSAB, INEEL will finalize recommendations on the Proposed Plans for Waste Area Groups 8 and 9, the proposed remedial action for Waste Area Group 3, and the role of the Board. The Board will also receive a presentation on the Budget for Fiscal Year 2000 and on the Resource Conservation and Recovery Act permitting for the Calciner at the Idaho Chemical Processing Plant, and will have an interactive session with members of the Idaho legislature on the roles and responsibilities of the Board. For a most current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526–0561, or Wendy Green Lowe, Jason Associates Corp., (208) 522–1662. The final agenda will be available at the meeting.

Public Participation: The two-day meeting is open to the public, with public comment sessions scheduled for Tuesday, January 20, 1998 from 5:00 p.m. to 6:00 p.m. MST and Wednesday, January 21, 1998 from 1:00 p.m. to 1:30 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with its current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the INEEL Information line or Wendy Green Lowe, Jason Associates Corp., at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays.

Issued at Washington, DC on January 7, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–679 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATES: Wednesday, January 21, 1998: 6:00 p.m.–9:00 p.m. (Mountain Standard Time).

ADDRESSES: South Broadway Cultural Center, 1025 Broadway SE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m.—Kirtland Air Force Base Working Group Meeting
7:00 p.m.—Call to Order/Roll Call—Jamie Welles
7:02 p.m.—Public Comments
7:12 p.m.—Approval of Agenda
7:14 p.m.—Approval of 11/19/97 Minutes
7:19 p.m.—Chair's Report—Jamie Welles
7:24 p.m.—Break
7:34 p.m.—Basic Radiological Principles—Presentation
7:44 p.m.—Basic Radiological Principles—Discussion
7:54 p.m.—Mixed Waste Landfill—Presentation
8:04 p.m.—Mixed Waste Landfill—Discussion
8:14 p.m.—Los Alamos National Laboratory NEWNET and the Community Radiation Monitoring Group—Presentation
8:34 p.m.—Self-Evaluation Committee Report
8:44 p.m.—New/Other Business
8:54 p.m.—Public Comments
8:58 p.m.—Announcement of Next Meeting—February 18, 1998
9:00 p.m.—Adjourn

A final agenda will be available at the meeting Wednesday, January 21, 1998.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on January 7, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–680 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 98–09; Energy Biosciences

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant preapplications.

SUMMARY: The Office of Basic Energy Sciences of the Office of Energy Research (ER), U.S. Department of Energy (DOE) invites preapplications from potential applicants for research funding in the Energy Biosciences program area. The intent in asking for a preapplication is to save the time and effort of applicants in preparing and submitting a formal project application that may be inappropriate for the program. The preapplication should consist of a two-to three-page concept paper on the research contemplated for an application to the Energy Biosciences program. The concept paper should focus on the scientific objectives and significance of the planned research, and include an outline of the approaches planned, and any other information relating to the planned research. No budget information or biographical data need be included; nor is an institutional endorsement necessary. The preapplication gives us the opportunity to advise potential applicants on the suitability of their research ideas to the mission of the DOE Energy Biosciences program. A response indicating the appropriateness of submitting a formal application will be sent from the Division of Energy Biosciences office in time to allow for an adequate preparation period for a formal application.

DATES: For timely consideration, all preapplications should be received by February 27, 1998. However, earlier submissions will be gladly accepted. A response to timely preapplications will be communicated by April 17, 1998. The deadline for receipt of formal applications is June 17, 1998.

ADDRESSES: Preapplications referencing Program Notice 98–09 should be forwarded to: U.S. Department of Energy, Office of Basic Energy Sciences, ER–17, Division of Energy Biosciences, 19901 Germantown Road, Germantown, MD 20874–1290, Attn: Program Notice 98–09. Fax submissions are acceptable at (301) 903–1003.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Snyder, Division of Energy Biosciences, Office of Basic Energy Sciences, ER–17, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–2873; E-mail pat.snyder@oer.doe.gov.

SUPPLEMENTARY INFORMATION: Potential applicants should submit a brief preapplication which consists of two to three pages of narrative describing research objectives. These will be reviewed relative to the scope and the research needs of the Energy Biosciences program. The Energy Biosciences program has the mission of generating *fundamental* biological information about plants and non-medical related microorganisms that can provide support for future energy related biotechnologies. The objective is to pursue *basic* biochemical, genetic and physiological investigations that may contribute towards providing alternate fuels, petroleum replacement products, energy conservation measures as well as other technologies such as phytoremediation related to DOE programs. Areas of interest include bioenergetic systems, including photosynthesis; control of plant growth and development, including metabolic, genetic, and hormonal and ambient factor regulation, metabolic diversity, ion uptake, transport and accumulation, stress physiology and adaptation; genetic transmission and expression; plant-microbial interactions, plant cell wall structure and function; lignocellulose degradative mechanisms; mechanisms of fermentations, genetics of neglected microorganisms, energetics and membrane phenomena; thermophily (molecular basis of high temperature tolerance); microbial interactions; and one-carbon metabolism, which is the basis of biotransformations such as methanogenesis. The objective is to discern and understand basic mechanisms and principles.

Funds are expected to be available for new grant awards in FY 1999. The magnitude of these funds available and the number of awards which can be made will depend on the budget process. The awards made during FY 1997 averaged close to $100,000 per year, mostly for a three-year duration. The principal purpose in using preapplications at this time is to reduce the expenditure of time and effort of all parties. Information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the 10 CFR part 605 and the Application Guide for the Office of Energy Research Financial Assistance Program. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following Web Site address: http://www.er.doe.gov/production/grants/grants.html

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, D.C., on January 5, 1998

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 98–675 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is given of a meeting of the Fusion Energy Sciences Advisory Committee (FESAC).

DATES: Thursday, January 22, 1998, 8:30 a.m. to 3:30 p.m.

ADDRESSES: U.S. Department of Energy, 19901 Germantown Road, Auditorium, Germantown, Maryland 20874.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, III, Executive Assistant, Office of Fusion Energy Sciences, U.S. Department of Energy, Germantown, MD 20874, Telephone: 301–903–4941.

SUPPLEMENT INFORMATION:

Purpose of the Meeting

The purpose of this meeting is to (1) make comments and recommendations on the *Strategic Plan for International Collaborations on Fusion Science and technology Research;* and (2) begin the FESAC review of the Fusion Materials research program.

Tentative Agenda

DOE Perspective by Martha Krebs
Discussion of Strategic Plan for International Collaborations
Public Comment
Presentations: Fusion Material Research
Prepare Letter to DOE

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker@mailgw.er.doe.gov (e-mail). Requests to make oral statements must be received 5 days prior to the meeting; reasonable provision will be made to include the statement in the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes:

The minutes of this meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, I–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 7, 1998.

Rachel Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 98–678 Filed 1–9–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–102–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective January 1, 1998:

Thirtieth Revised Sheet No. 8
Thirtieth Revised Sheet No. 9
Twenty-ninth Revised Sheet No. 13
Thirty-fourth Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to commence recovery of approximately $2.2 million of additional pricing differential (PD) and carrying costs that were incurred by ANR during the period June 1, 1997 through October 31, 1997 as a result of the implementation of Order Nos. 636, et seq. ANR proposes a reservation fee surcharge applicable to its Part 284 firm transportation customers to recover ninety percent (90%) of the PD costs, and an adjustment to the maximum base tariff rates applicable to Rate Schedule ITS and overrun service rendered pursuant to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR has requested that the Commission accept the tendered sheets to become effective January 1, 1998. ANR advises that the proposed charges would increase its PD surcharge from $0.196 to $0.228 per Dth per month.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–638 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–107–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, and Original Volume No. 2, the following tariff sheets proposed to be effective February 1, 1998:

Sixth Revised Sheet No. 2
Twentieth Revised Sheet No. 17
First Revised Sheet No. 202
Third Revised Sheet No. 210
Original Volume No. 2 Fourteenth Revised Sheet No. 14

ANR states that the referenced tariff sheets are being submitted as part of ANR's Ninth Annual Reconciliation of buyout buydown costs being recovered by means as Volumetric Buyout Buydown Surcharges contained in Docket Nos. RP91–33, et.al., and RP96–328. The proposed charges are designed to recover $21.7 million less on an annual basis than the currently effective volumetric surcharges, due to lower interest on decreasing principal balances. The surcharges will expire in April, 1998 and August, 1998.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–643 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4442–000]

Central Power and Light Company; Notice of Filing

January 6, 1998.

Take notice that on December 24, 1997, Central Power & Light Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–625 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–197–005]

Chandeleur Pipe Line Company; Notice of Compliance Filing

January 6, 1998.

Take notice that on December 31, 1997, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets hereto in compliance with the Commission's Letter Order Pursuant to 18 CFR 375.307 (b)(1) and (b)(3) issued December 11, 1997 in the above-referenced docket, Tariff Sheet Nos. 19, 19A, 19B, 29 and 67 to be effective November 1, 1997 in order to implement the GISB Standards adopted under Order No. 587–C and Tariff Sheet No. 69, to be effective June 1, 1997 to reflect correct GISB version numbers and to delete reference to GISB standards 4.3.5.

Chandeleur states that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–631 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–004]

CNG Transmission Corporation; Notice of Compliance and Motion Filing

January 6, 1998.

Take notice that on December 31, 1997, CNG Transmission Corporation (CNG), tendered for filing and moved to place into effect as part of its FERC Gas Tariff, Second Revised Volume No. 1, various tariff sheets as listed on Appendix A to the transmittal letter of CNG's filing. CNG requests an effective date of January 1, 1998, for its proposed tariff sheets.

CNG states that the purpose of its filing is to move its revised tariff sheets into effect, and to include revised tariff sheets in order to address compliance matters raised by the Commission in its suspension and rehearing orders in this proceeding, as well as to reflect the small customer rate revisions it filed on November 26, 1997, in Docket No. RP98–65–000. CNG states that its filing also reflects two voluntary rate reduction to its rates in an effect to reduce the impact of the otherwise applicable increase to CNG's customers. CNG states that it reserves the right to seek perspective recovery of the full increase reflects in its July 1, 1997 filing.

CNG states that copies of its filing have been mailed to parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 13, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–634 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–103–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, CNG Transmission Corporation (CNGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of February 1, 1998:

Thirty-Fourth Revised Sheet No. 32
Thirty-Fourth Revised Sheet No. 33

CNGT states that the purpose of this filing is to submit CNGT's quarterly revision of the Section 18.2.B. Surcharge, effective for the three-month period commencing February 1, 1998. The charge for the quarter ending January 31, 1998 has been $0.0269 per Dt, as authorized by Commission Order dated November 4, 1997 in Docket No. RP98–10. CNGT's proposed Section 18.2.B. surcharge for the next quarterly period is ($0.0459) per Dt. The revised surcharge is designed to credit $355,186 in Stranded Account No. 858 Costs.

CNGT states that copies of this letter of transmittal and enclosures are being mailed to CNGT's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations.

All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–639 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–408–022]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of February 1, 1998:

Twenty-fourth Revised Sheet No. 25
Twenty-fourth Revised Sheet No. 26
Twenty-fourth Revised Sheet No. 27
Twenty-fourth Revised Sheet No. 28
Fourteenth Revised Sheet No. 30
Tenth Revised Sheet No. 30A
Ninth Revised Sheet No. 31

Columbia states that this filing is being submitted pursuant to the settlement in Docket No. RP95–408 et al. approved by the Commission on April 17, 1997 (79 FERC ¶61,044 (1997)) (Settlement). Pursuant to the Settlement, subject to other adjustments provided for in the Settlement, the base tariff settlement rates applicable to services for the period beginning February 1, 1998, are set forth on an attachment to the Settlement. Columbia is making this filing to move into effect those rates for the period beginning February 1, 1998, subject to the ''Settlement Component'' adjustment filing Columbia made on December 22, 1997, in Docket No. RP98–94.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–629 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–012]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, the following revised tariff sheets, with an effective date of September 1, 1997:

3rd Sub Second Revised Sheet No. 262
3rd Sub Second Revised Sheet No. 263

Equitrans states that these revised tariff sheets are submitted in compliance with the Commission's December 15, 1997 Letter Order on Equitrans' negotiated rates tariff filing. The Commission held that the revised tariff sheets generally complied with its prior orders and requirements for negotiated rates. However, the Commission required Equitrans to additionally modify Sections 30.3 and 30.4 of its General Terms and Conditions to provide that when evaluating competing recourse and negotiated rate proposals, only the reservation charge or other form of guaranteed revenue may be considered and that guaranteed revenue will be considered in evaluating capacity release revenue. Equitrans states that the proposed revisions to Section 30.3 and 30.4 of the General Terms and Conditions clarify that reservation charges will be used to compare discounted and recourse rates for capacity allocation, curtailment, and capacity release purposes.

Equitrans states that copies of this rate filing were served on the parties to this proceeding, as well as Equitrans' jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–632 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–100–000]

Florida Gas Transmission Company; Notice of Filing of Report of Cash-Out Activity and Request for Waiver

January 6, 1998.

Take notice that on December 30, 1997 Florida Gas Transmission Company (FGT) tendered for filing schedules detailing certain information related to the Cash-Out mechanism from October 1, 1996 through September 30, 1997. No tariff changes are proposed therein.

FGT states that Section 19.1 of the General Terms and Conditions (GTC) of its FERC Gas Tariff provides for an Annual Report containing an accounting for costs and revenues associated with the Cast Out Mechanism, Fuel Recovery Mechanism and various Balancing Tools provided for in FGT's Tariff. FGT states the instant filing is made in compliance with those provisions. FGT proposes to carry forward to the next Settlement Period a total of $757,543 in excess costs related to the Mechanisms which are the subject of the Annual Report.

Further, FGT requests waiver of the provisions of Section 19.1B.4 of the GTC which requires a concurrent tariff filing to increase non-compliance penalties in the event of excess costs. FGT states that it is analyzing the revenue deficiency and reserves the right to make later tariff filings following this analysis and discussions with its shippers.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1998. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–636 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–106–000]

K N Interstate Gas Transmission Company; Notice of Filing of Reconciliation Report

January 6, 1998.

Take notice that on December 31, 1997, K N Interstate Gas Transmission Company (KNI) tendered for filing its reconciliation report in the above captioned docket. The filing relates to KNI's reporting requirement pursuant to Section 27 (Crediting of Excess Rate Schedule IT Revenue); Section 28 (Crediting of Out of Path Zone Revenue); and Section 35 (Crediting of Imbalance Revenue) of its FERC Gas Tariff, Third Revised Volume No. 1–B, as well as KNI's reporting requirement for its Buffalo Wallow system pursuant to Section 31 (Crediting of Excess Rate Schedule IT Revenue) of its FERC Gas Tariff, First Revised Volume No. 1–D. The reconciliation report presents the results of KNI's various crediting requirements and displays the proposed disposition of amounts to be refunded for the reporting period of October 1, 1996 through September 30, 1997.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C., 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before January 13, 1998. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–642 Filed 1–9–98; 8:45 am]

BILLING CODE 4717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–000]

Koch Gateway Pipeline Company; Notice of Informal Settlement Conference

January 6, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on January 13, 1998, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Edith A. Gilmore at (202) 208–2158 or Sandra J. Delude at (202) 208–0583.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–633 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–108–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, Mississippi River Transmission Corporation (MRT) filed a request for extension of the Gas Supply Realignment Costs Price Differential Recovery Filings.

MRT is seeking privileged and confidential treatment of this filing pursuant to Sections 388.112 and 385.1112 of the Commission's Regulations. Any customer affected by the filing, or other interventing party, may review this information at MRT's offices in St. Louis, Missouri in accordance with and upon execution of a Confidentiality and Non-Disclosure Agreement.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–644 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–6–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

January 6, 1998.

Take notice that on December 31, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Seventh Revised Sheet No. 9, with a proposed effective date of January 1, 1998.

National states that pursuant to Article I, Section 4, of the approved settlement at Docket Nos. RP94–367–000, *et al.*, National is required to redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 12.08 cents per dth.

Further, National states that under Article II, Section 2, of the approved settlement, National is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG Rate of 16 cents per dth.

Any person desiring to be heard or to protest said failing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–648 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–029]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective January 1, 1998:

Third Revised Sheet No. 7M

NGT states that the purpose of this filing is to report a modification to an existing negotiated rate term.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–630 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–536–000]

PJM Interconnection, L.L.C.; Notice of Filing

January 6, 1998.

Take notice that on December 22, 1997, PJM Interconnection, L.L.C. tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 16, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–626 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–99–000]

Tennessee Gas Pipeline Company; Notice of Filing

January 6, 1998.

Take notice that on December 30, 1997, Tennessee Gas Pipeline Company (Tennessee), pursuant to Section 4 of the Natural Gas Act and Part 154 of the Regulations of the Federal Energy Regulation Commission filed original and revised tariff sheets setting forth a new rate schedule, Rate Schedule FT–BH, under which Tennessee will provide a new type of firm backhaul transportation service in addition to the firm backhaul service currently available under Tennessee's Rate Schedules FT–G, FT–GS, and FT–A. The new service will be performed under Part 284 of the Commission's regulations and is proposed to be effective March 1, 1998. A list of the tariff sheets comprising Rate Schedule FT–BH and a list of the revised tariff sheets is set forth in Appendix A to the filing.

Tennessee states that the proposed tariff sheets provide for a specialized, firm backhaul service at a rate that is lower than Tennessee's generally available maximum firm transportation rate. By limiting the availability and utilization of the FT–BH service, Tennessee can take advantage of conditions that exist on its system to meet the needs of its customers by offering an additional transportation option that it otherwise could not offer.

Tennessee states that the proposed tariff sheets also provide that FT–BH service will be a firm point-to-point service with limited Part 284 rights. The FT–BH service will not include the right to utilize secondary receipt and delivery points, and therefore will be limited to the use of primary receipt and delivery points only. Tennessee states that shippers will not have the right to segment their capacity rights nor the ability to do so because of this limitation. Tennessee explains that these limitations are necessary because given secondary rights, a shipper could utilize a secondary receipt point located upstream of a primary delivery point to effect a forward haul transaction.

Tennessee states that offering this service with the primary point restriction is the only way it can be offered at all to avoid impacting secondary rights for firm forward haul shippers under other rate schedules.

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 Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–635 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–17–000]

Texas Eastern Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing to become effective February 1, 1998.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each February 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers and to also reflect the EPC Surcharge which is designed to clear the balance in the Deferred EPC Account.

Texas Eastern states that these revised tariff sheets are being filed to reflect a small decrease in Texas Eastern's EPC Adjustment effective February 1, 1998. Texas Eastern states that it has utilized its latest actual twelve months of electric power costs and its latest actual twelve months service quantities as its projections for the future period. Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$(0.006)/dth	$(0.0004)dth	$(0.0006)dth.
Market 2	(0.018)/dth	(0.0014)dth	(0.0020)dth.
Market 3	(0.028)/dth	(0.0021)dth	(0.0030)dth.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern an current interruptible shippers and interested state commissions.

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 sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–645 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 30, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective February 1, 1998:

Twenty-fourth Revised Sheet No. 10
Seventh Revised Sheet No. 10A
Twenty-first Revised Sheet No. 11
Eighth Revised Sheet No. 11B

Texas Gas states that the filing reflects the MRCA, as required by Article IV of Texas Gas's Docket No. RP94–423 settlement agreement approved by the Commission's letter order issued February 20, 1996, and the respective Section 29 of the General Terms and Conditions of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1. Additionally, the filing reflects the proposed ISS Revenue Credit Adjustment, in compliance with Section 5.3 of Rate Schedule ISS of Texas Gas's FERC Gas Tariff, First Revised Volume No. 1, effective April 1, 1995.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commission.

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, DC 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–647 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–101–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 30, 1997, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 6A, proposed to be effective January 1, 1998.

Viking states that the purpose of this filing is to revise the language in Viking's tariff regarding the calculation of customer load factors for GRI purposes. The revised language eliminates references to the November 1994 through October 1995 calendar year and states that Viking uses the most recently completed twelve month period running from November through October when calculating customer load factors for GRI purposes. This change has no effect other than to increase administrative efficiency by eliminating the need for Viking to make recurrent filings to change the year used to calculate customer load factors. The calculation of customer load factors remains pursuant to the ''Stipulation and Agreement Concerning Post-1993 GRI Funding Mechanism.''

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

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, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–637 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–158–000]

Warren Transportation, Inc.; Notice of Request Under Blanket Authorization

January 6, 1998.

Take notice that on December 23, 1997, Warren Transportation, Inc. (WTI), 1000 Louisiana, Suite 5800, Houston, Texas 77002–5050, filed in Docket No. CP98–158–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct, own and operate a new delivery point in Garfield County, Oklahoma, to accommodate deliveries to Transok Inc. (Transok) an Oklahoma intrastate pipeline company. WTI makes such request under its blanket certificate issued in Docket No. CP97–281–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WTI states that this request to construct and operate a delivery point to Transok, is at the request of Natural Gas Clearinghouse (NGC) a current shipper on WTI's system, and as a result of the current consolidation of the processing and gathering facilities of Warren. The delivery facilities will be comprised of dual 8-inch meter tubes for bi-directional purposes, capable of delivering up to 68,000 Dt. per day at a MAOP of 960 psi, although initial volumes are estimated at 15,000 Dt. per day. In addition, approximately 280 feet of 8-inch coated and wrapped pipe of .219 wall thickness will be installed to connect WTI and Transok. WTI states that it's tariff does not prohibit the addition of new delivery points, and states that it will transport gas and provide service under its Rate Schedule FTS and ITS. WTI estimates this project will cost approximately $161,875.

WTI states that it provides open-access transportation services, pursuant to a certificate issued by the Commission in Docket No. CP97–279, et. al., and the Commission's Regulations found at 18 CFR Part 284, and transports natural gas approximately 27 miles from the tailgate of Warren NGL Inc.'s (Warren) Rodman Processing Plant in Garfield County, Oklahoma to an interconnect with Williams Natural Gas Company, located in Alfalfa County, Oklahoma. It is further stated that Warren currently has a delivery point with Transok at the tailgate of its Ringwood Plant, stating that gas production behind the Ringwood Plant is being consolidated to Warren's Rodman Plant, the tailgate volumes of which are delivered to WTI. WTI indicates that this consolidation will make the existing Warren-Transok interconnect unavailable due to lower line pressures, and state that in order for the production behind the Ringwood Plant to continue to be delivered to Transok, WTI must establish the delivery point requested by the filing in this proceeding. WTI avers that in order to provide service requested by shippers, the installed facilities will be bi-directional, allowing gas to be received from Transok or delivered to Transok, depending on market conditions. (WTI states that when this point is used to receive gas from Transok, the point will function as a gas supply facility, qualifying as an eligible facility for automatic authorization.)

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–624 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–105–000 and RP89–193–076]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 6, 1998.

Take notice that on December 31, 1997, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of February 1, 1998:

Twenty Fourth Revised Sheet No. 6A
Third Revised Sheet Nos. 8E and 8F

WNG states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. WNG hereby submits its first quarter, 1998, report of take-or-pay buyout, buydown and contract reformation costs and as supply related transition costs, and the application or distribution of those costs and refunds.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–641 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–104–000]

Williston Basin Interstate Pipeline; Notice of Tariff Filing

January 6, 1998.

Take notice that on December 31, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective February 1, 1998:

Fourth Revised Sheet No. 2
First Revised Sheet No. 373
First Revised Sheet No. 374
Sheet Nos. 375–499

Williston Basin states that the revised tariff sheets reflect the implementation of a paper pooling service pursuant to a request by one of its shippers as more fully detailed in the filing.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–640 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–49–000]

Williston Basin Interstate Pipeline Company; Notice of Fuel Reimbursement Charge Filing

January 6, 1998.

Take notice that on December 31, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, and Original Volume No. 2, the following revised tariff sheets to become effective February 1, 1998:

Second Revised Volume No. 1
Twenty-ninth Revised Sheet No. 15
Eleventh Revised Sheet No. 15A
Thirty-second Revised Sheet No. 16
Eleventh Revised Sheet No. 16A
Twenty-eighth Revised Sheet No. 18
Eleventh Revised Sheet No. 18A
Eleventh Revised Sheet No. 19
Eleventh Revised Sheet No. 20
Twenty-fifth Revised Sheet No. 21
Original Volume No. 2
Seventy-third Revised Sheet No. 11B

Williston Basin states that the revised tariff sheets reflect revisions to the fuel reimbursement charge and percentage components of the Company's relevant gathering, transportation and storage rates, pursuant to Williston Basin's Fuel Reimbursement Adjustment Provision contained in Section 38 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–646 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Recreation Plan (Exhibit–R)

January 6, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Amendment of Recreation Plan (Exhibit–R).

b. Project No.: 349–051.

c. Date Filed: December 4, 1997.

d. Applicant: Alabama Power Company (APC).

e. Name of Project: Martin Dam Project.

f. Location: The proposed recreation plan amendment is for the Martin Reservoir on the Tallapoosa River in Tallapoosa, Coosa and Elmore Counties, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant contact: Barry Lovett, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291, (205) 257–1268.

i. FERC contact: J.K. Hannula, (202) 219–0116.

j. Comment date: February 18, 1998.

k. Description of the Application: APC proposes to amend its approved Recreation Plan to (1) Remove the 30-acre Tallassi site, (2) add 40 acres to

Recreational Use Area (RUA) No. 1, (3) change the use classification of Area 8 (Chapman Creek, 92 acres) from Recreation to Natural Undeveloped, and (4) construct a boat ramp, docking pier and parking near the Union Community in the south-east area of the lake.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–627 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Interim Steelhead Protection Plan

January 6, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Filing: Interim Steelhead Protection Plan.

b. Project No: 2114–064.

c. Date Filed: October 16, 1997.

d. Licensee: Public Utility District No. 2 of Grant County.

e. Name of Projects: Priest Rapids Hydroelectric Project.

f. Location: The project is located on the Columbia River in Grand County, Washington.

g. Licensee Contract:

William J. Madden, Jr., John A. Whittaker, IV, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502, (202) 371–5700

Ray A. Foianini, Foianini & Sears, P.O. Box 908, 109 Division West, Ephrata, WA 98823

Attorneys for Public Utility District No. 2 of Grant County

h. FERC Contact: Timothy J. Welch (202) 219–2666.

i. Comment Date: February 12, 1998.

j. Description of Filing: The Public Utility District No. 2 of Chelan County (licensee) has filed, for Commission approval, an Interim Steelhead Protection Plan. The plan includes modifications or additions to structures and operations at the Priest Rapids Hydroelectric Project (including Priest Rapids and Wanapum Dams) that may impact migrating steelhead trout. The National Marine Fisheries Service has listed steelhead in the Upper Columbia River as endangered under the Endangered Species Act. The principal components of the plan include continuation of the juvenile fish bypass development program, squawfish removal program, interim spill program, total dissolved gas monitoring, dissolved gas abatement, avian predator control, operation of fish ladders, and fish counting.

k. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–628 Filed 1–9–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

January 7, 1998.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: January 14, 1998, 10:00 a.m.

Place: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

Status: Open.

Matters to be Considered: Agenda,* Note—Items listed on the agenda may be deleted without further notice.

Contact Person for More Information: David P. Boergers, Acting Secretary, Telephone (202) 208–0400 for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro 689th meeting—January 14, 1998; Regular meeting (10:00 a.m.)

CAH–1. Docket# P–2389 027 Edwards Manufacturing Company, Inc.
CAH–2. Docket# P–2552 025 Central Maine Power Company
CAH–3.
Docket# P–201 011 Petersburg Municipal Power & Light
Other#s DI97–2 001 Petersburg Municipal Power & Light
CAH–4. Docket# P–2645 050 Niagara Mohawk Power Corporation
CAH–5. Docket# P–4715 008 Felts Mills Energy Partners, L.P.

Consent Agenda—Electric

CAE–1. Docket# ER98–702 000 Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company
CAE–2. Docket# ER98–830 000 Millennium Power Partners, L.P.
CAE–3. Docket# ER98–901 000 Sierra Pacific Power Company
CAE–4. Docket# ER98–421 000 Cinergy Services, Inc.
CAE–5. Docket# ER98–792 000 Edison Source
CAE–6.
Docket# ER98–524 000 Boston Edison Company
Other#s ER98–616 000 Boston Edison Company
CAE–7. Docket# ER98–570 000 Maine Yankee Atomic Power Company
CAE–8.
Docket# ER98–861 000 Montaup Electric Company
Other#s ER97–4691 000 Montaup Electric Company
CAE–9. Docket# ER97–4498 002 Virginia Electric and Power Company
CAE–10. Docket# EL97–39 001 Schuylkill Energy Resources, Inc. v. Pennsylvania Power & Light Company
CAE–11. Docket# OA97–97 000 Atlantic City Electric Company
Other#s
OA97–2 000 Nevada Power Company
OA97–121 000 Orange & Rockland Utilities, Inc.
OA97–127 000 New England Power Company, Massachusetts Electric Company and Nantucket Electric Company, et al.
OA97–181 000 Green Mountain Power Corporation
OA97–291 000 Public Service Company of Colorado and Cheyenne Light, Fuel & Power Company
OA97–419 000 Cinergy Corp., Cincinnati Gas & Electric Company and PSI Energy
OA97–444 000 Vermont Electric Power Company, Inc.
OA97–451 000 Central Illinois Light Company and QST Energy Trading, Inc.
OA97–467 000 Delmarva Power & Light Company
OA97–485 000 UGI Utilities, Inc.
OA97–596 000 Central Illinois Light Company and QST Energy Trading, Inc.

Consent Agenda—Gas and Oil

CAG–1. Docket# RP97–518 001 Transcontinental Gas Pipe Line Corporation
CAG–2. Docket# RP98–56 000 Tennessee Gas Pipeline Company
CAG–3.
Docket# RP98–91 000 CNG Transmission Corporation
Other#s RP97–406 000 CNG Transmission Corporation
RP98–65 000 CNG Transmission Corporation
CAG–4. Docket# GT98–8 000 El Paso Natural Gas Company
CAG–5. Docket# RP98–90 000 K N Interstate Gas Transmission Company
CAG–6. Omitted
CAG–7. Docket# RP96–275 003 Tennessee Gas Pipeline Company
CAG–8. Docket# RP97–465 001 ANR Pipeline Company
CAG–9. Omitted
CAG–10. Omitted
CAG–11. Docket# RP96–320 018 Koch Gateway Pipeline Company
CAG–12. Docket# RP95–363 011 El Paso Natural Gas Company
CAG–13. Docket# RP97–248 003 Northern Natural Gas Company
CAG–14. Docket# RP97–411 004 Sea Robin Pipeline Company
CAG–15. Docket # RP96–275 004 Tennessee Gas Pipeline Company
CAG–16. Docket # RP98–3 002 Williston Basin Interstate Pipeline Company
CAG–17. Omitted
CAG–18. Docket # RP97–28 002 Wyoming Interstate Company, Ltd.
CAG–19. Docket # OR98–1 000 Arco Products Company, A Division of Atlantic Richfield Company and Texaco Refining and Marketing, Inc. et al. v. SFPP, L.P.
Other #s OR98–2 000 Ultramar Diamond Shamrock Corporation V. SFPP, L.P.
CAG–20. Docket # MG98–2 000 Midwestern Gas Transmission Company
CAG–21. Docket # MG98–3 000 East Tennessee Natural Gas Company
CAG–22. Docket # MG98–4 000 Tennessee Gas Pipeline Company
CAG–23. Docket # CP95–194 006 Northern Border Pipeline Company
CAG–24. Docket # CP96–213 005 Columbia Gas Transmission Corporation
CAG–25. Docket # CP96–321 002 El Paso Natural Gas Company
CAG–26. Omitted
CAG–27. Omitted
CAG–28. Omitted
CAG–29. Omitted
CAG–30. Docket # CP90–2158 004 Northwest Pipeline Corporation
Other #s CP90–1849 006 Washington Water Power Company
CAG–31. Docket # CP97–514 000 Southern Natural Gas Company
CAG–32. Omitted
CAG–33. Omitted
CAG–34. Docket # CP97–331 000 Transcontinental Gas Pipe Line Corporation
CAG–35. Omitted
CAG–36. Omitted
CAG–37. Docket # CP97–723 001 Southern Natural Gas Company

Hydro Agenda

H–1. Reserved

Electric Agenda

E–1. Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters
PR–1. Reserved
II. Pipeline Certificate Matters
PC–1. Reserved

David P. Boergers,

Acting Secretary.

[FR Doc. 98–727 Filed 1–7–98; 4:47 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Sunshine Act Meeting

January 7, 1998.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 14, 1998 (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:

(1) Docket No. RP97–232–000, Amoco Production Company and Amoco Energy Trading Company v. Natural Gas Pipeline Company of America.

(2) Docket No. RP97–431–000, Natural Gas Pipeline Company of America.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Acting Secretary, Telephone (202) 208–0400.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–762 Filed 1–8–98; 11:00 a.m.]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5949–1]

Notice of Meeting, Board of Scientific Counselors (BOSC) Executive Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C., App. 2), notice is hereby given that the Environmental Protection Agency (EPA), Office of Research and Development (ORD), Board of Scientific Counselors (BOSC), will hold its Executive Committee Meeting, January 27–28, 1998, at the Arlington Hilton and Towers, 950 North Stafford Street, Arlington, Virginia 22203. On Tuesday, January 27, the meeting will begin at 9:00 am and will recess at 4:30 pm, and on Wednesday, January 28, the meeting will begin at 9:00 am and will adjourn at 4:00 pm. All times noted are Eastern Time. Agenda items will include, but not be limited to: State or ORD, BOSC/SAB Interactions, Process of BOSC Subcommittee Reviews of ORD Laboratory/Center, and Research Policy and Planning. Anyone desiring a draft BOSC agenda may fax their request to Shirley R. Hamilton (202) 565–2444. The meeting is open to the public. Any member of the public wishing to make a presentation at the meeting should contact Shirley Hamilton, Designated Federal Officer, Office of Research and Development (8701R), 401 M Street, S.W., Washington DC 20460; by telephone at (202) 564–6853. In general, each individual making an oral presentation will be limited to a total of three minutes.

FOR FURTHER INFORMATION CONTACT:

Shirley R. Hamilton, Designated Federal Officer, U.S. Environmental Protection Agency, Office of Research and Development, NCERQA (MC8701R), 401 M Street, SW, Washington D.C. 20460, (202) 564–6853.

Dated: January 5, 1998.

Henry L. Longest, II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 98–672 Filed 1–9–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

January 6, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 11, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0795.

Title: ULS TIN Registration and FCC Form 606.

Form No.: FCC Form 606.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; businesses or other for profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 411,000.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: N/A.

Total Annual Burden: 411,000 hours.

Needs and Uses: The Taxpayer Identification Number (TIN) supplied by the licensee will be used to populate the Universal Licensing System (ULS) with a unique sequential number assigned to each licensee. This sequential number will be used to service inquiries and create a link to the Collections System for fee sufficiency and debt collection purposes.

OMB Control No.: 3060–0704.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96–61.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for profit.

Number of Respondents: 519.

Estimated Time Per Response: 146 hours (avg).

Frequency of Response: On occasion reporting requirement; one-time filing requirement; recordkeeping requirement.

Cost to Respondents: $600 filing fee per respondent.

Total Annual Burden: 75,895 hours.

Needs and Uses: Pursuant to CC Docket No. 96–61, nondominant carriers must: (1) file annual certifications that they are in compliance with their statutory rate integration and geographic rate averaging obligations under section 254(g); (2) maintain price and service information on all their interstate, domestic, interexchange services that they can make available to the Commission upon request. Nondominant interexchange carriers are forbidden from filing tariffs except as specified in the Order on Reconsideration in this proceeding.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–604 Filed 1–9–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

January 6, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Public Law 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0801.
Expiration Date: 03/31/98.
Title: Amendment to the Commission's Rules Regarding Installment Payment Financing for C Block Personal Communications Service (PCS) Licensees.
Form No.: N/A.
Estimated Annual Burden: 743 annual hour; average .5–4 hours per respondent; 345 respondents.
Description: This information collection allows the Federal Communications Commission to offer C block PCS licensees various options for their existing installment payment obligations. This will allow the licensees to meet their financial obligations and ensure rapid provision for PCS to the public.

OMB Control No.: 3060–0318.
Expiration Date: 12/31/2000.
Title: Notification of Commencement of Service or of Additional or Modified Facilities.
Form No.: 489.
Estimated Annual Burden: 8,960 annual hours; .5–3.6 hours per respondent; 7,000 respondents.
Description: Commercial mobile radio service carriers file FCC 489 form to notify the Commission that they have commenced service to subscribers and/or added or made minor modifications to their facilities. The reporting requirement is necessary to ensure that the spectrum is effectively utilized and to maintain an accurate database of spectrum assignments.

OMB Control No.: 3060–0259.
Expiration Date: 12/31/2000.
Title: Section 90.263 Substitution of frequencies below 25 Mhz.
Form No.: N/A.
Estimated Annual Burden: 30 annual hours; .5 hours per respondent; 60 respondents.
Description: Section 90.263 requires showing by applicant to demonstrate safety of life reasons why frequencies above 25 Mhz will not meet the applicants requirements.

OMB Control No.: 3060–0202.
Expiration Date: 12/31/2000.
Title: Section 87.37 Developmental license.
Form No.: N/A.
Estimated Annual Burden: 96 annual hours; 8 hours per respondent; 12 respondents.
Description: Section 87.37 is needed to gather data on developmental programs for which a developmental authorization was granted to determine whether the developmental authorization should be renewed or whether to initiate proceedings to include such operations within the normal scope of aviation services.

OMB Control No.: 3060–0625.
Expiration Date: 11/30/2000.
Title: Amendment to the Commission's Rules to Establish New Personal Communications Services—Section 24.237.
Form No.: N/A.
Estimated Annual Burden: 200 annual hours; 2 hours per respondent; 100 respondents.
Description: Section 24.237 requires results of coordination process between incumbent microwave users and PCS licensees to be reported only if parties fail to agree. Each broadband PCS licensee must perform an engineering analysis to assure that there will be no interference to existing OFS stations.

OMB Control No.: 3060–0297.
Expiration Date: 12/31/2000.
Title: Section 80.503 Cooperative Use of Facilities.
Form No.: N/A.
Estimated Annual Burden: 1,600 annual hours; 16 hours per respondent; 100 respondents.
Description: Section 80.503 is needed to ensure licensees that share private facilities operate within the specified cope of service on a non-profit basis, and do not function as common carriers providing ship-to-shore correspondence service.

OMB Control No.: 3060–0132.
Expiration Date: 12/31/2000.
Title: Supplemental Information 72–76 MHz Operational Fixed Stations.
Form No.: FCC 1068–A .
Estimated Annual Burden: 150 annual hours; .5 hours per respondent; 300 respondents.
Description: This collection of supplemental information is required for evaluating applicants for authorization in the Operational Fixed Private Land Mobile Stations in the 72–76 MHz frequency band.

OMB Control No.: 3060–0438.
Expiration Date: 12/31/2000.
Title: Transmittal Sheet for Cellular Applications for Unserved Areas.
Form No.: FCC–464 .
Estimated Annual Burden: 8 annual hours; 10 minutes per respondent; 49 respondents.
Description: FCC 464 is a cover sheet to be used to transmit Phase 1 unserved area applications by those seeking authority to operate a cellular radio station. The applicant must certify on the form that the application is complete and contains all information required by the Commission's rules.

OMB Control No.: 3060–0136.
Expiration Date: 12/31/2000.
Title: Temporary Permit to Operate a General Mobile Radio Service System.
Form No.: 574–T.
Estimated Annual Burden: 150 annual hours; 6 minutes per respondent; 1,500 respondents.
Description: Eligible applicants for new or modified radio stations in the General Mobile Radio Service complete the FCC Form T for immediate authorization to operate the radio station. The applicant retains this form during processing of the application for license grant.

OMB Control No.: 3060–0021.
Expiration Date: 12/31/2000.
Title: Civil Air Patrol Radio Station License.
Form No.: FCC 480.
Estimated Annual Burden: 1 annual hours; 5 minutes per respondent; 12 respondents.
Description: FCC 480 is used to apply for a new, renewal or modified Civil Air Patrol Radio Station License. The data is used by Commission personnel to evaluate the application, to provide information for enforcement and rulemaking proceedings and to maintain a current inventory of licenses.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–603 Filed 1–9–98; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 98–N–1]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1996–97 eighth quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1996–97 eighth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before February 26, 1998.

ADDRESSES: FHLBank members selected for the 1996–97 eighth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Compliance Assistance Division, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006; or by electronic mail: COMSUP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Compliance Assistance Division, at 202/408–2574; at the following electronic mail address: COMSUP@FHFB.GOV; or at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1).The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board amended its community support requirement regulation effective June 30, 1997. *See* 62 FR 28983 (May 29, 1997), *codified at* 12 CFR part 936.

As amended, the community support requirement regulation establishes standards a FHLBank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR 936.3. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the February 26, 1998 deadline prescribed in this notice. *Id.* § 936.2(b)(1)(ii), (c). On or before January 27, 1998, each FHLBank will notify the members in its district that have been selected for the 1996–97 eighth quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1996–97 eighth quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Savings Bank of Danbury	Danbury	CT
American Eagle FCU	East Hartford	CT
Mechanics Savings Bank	Hartford	CT
Savings Bank Life Insurance	Hartford	CT
Village Bank and Trust	Ridgefield	CT
Stafford Savings Bank	Stafford Springs	CT
Sikorsky FCU	Stratford	CT
Torrington Savings Bank	Torrington	CT
Constitution State Corporate Credit Union	Wallingford	CT
Webster Bank	Waterbury	CT
New England Bank and Trust	Windsor	CT
Provident Institution for Savings	Amesbury	MA
Athol-Clinton Co-op	Athol	MA
Boston Edison Employees CU	Boston	MA
Boston Post Office Employees Credit Union	Boston	MA
Citizens Bank	Boston	MA
Mount Washington Co-op Bank	Boston	MA
Bridgewater Savings Bank	Bridgewater	MA
Metropolitan Credit Union	Chelsea	MA
Pilgrim Co-operative	Cohasset	MA
Everett Co-operative Bank	Everett	MA
St. Anne's Credit Union of Fall River	Fall River	MA

I–C Federal Credit Union	Fitchburg	MA
Safety Fund National Bank	Fitchburg	MA
Hudson National Bank	Hudson	MA
Lexington Savings Bank	Lexington	MA
Jeanne D-Arc Credit Union	Lowell	MA
St. Mary's Credit Union	Marlborough	MA
Medway Co-operative Bank	Medway	MA
Auburndale Co-op Bank	Newton	MA
City Savings Bank of Pittsfield	Pittsfield	MA
Greylock Federal Credit Union	Pittsfield	MA
Winter Hill Federal Savings Bank	Somerville	MA
Fleet National Bank	Springfield	MA
Webster Five Cents Savings Bank	Webster	MA
Mutual Federal S.B.—Plymouth County	Whitman	MA
Winchester Savings Bank	Winchester	MA
Maine State Employee Credit Union	Augusta	ME
Biddeford Savings Bank	Biddeford	ME
St. John's Federal Credit Union	Brunswick	ME
Ocean National Bank of Kennebunk	Kennebunk	ME
Community Credit Union	Lewiston	ME
Rainbow Federal Credit Union	Lewiston	ME
Ste. Croix Parish Federal Credit Union	Lewiston	ME
Portland Regional Federal Credit Union	Portland	ME
S.D. Warren Credit Union	Westbrook	ME
Ledyard National Bank	Hanover	NH
Telephone Credit Union	Manchester	NH
Awane Bank, FSB	Peterborough	NH
Pemigewasset National Bank	Plymouth	NH
Northeast Federal Credit Union	Portsmouth	NH
Woodsville Guaranty Savings Bank	Woodsville	NH
People's Credit Union	Middleton	RI
Pawtucket Credit Union	Pawtucket	RI
Coastway Credit Union	Providence	RI
Vermont Development Credit Union	Burlington	VT
Community National Bank	Derby	VT
First National Bank of Orwell	Orwell	VT
Wells River Savings Bank	Wells River	VT

Federal Home Loan Bank of New York—District 2

Covenant Bank	Haddonfield	NJ
Sun National Bank	Medford	NJ
Sterling Bank	Mount Laurel	NJ
Broad National Bank	Newark	NJ
Valley National Bank	Passaic	NJ
Roselle Savings Bank	Roselle	NJ
Summit FS&LA	Summit	NJ
Great Falls Bank	Totowa	NJ
Wayne Savings Bank, FSB	Wayne	NJ
Marathon National Bank of New York	Astoria	NY
Seneca FS&LA	Baldwinsville	NY
Ballston Spa National Bank	Ballston Spa	NY
Dime Savings Bank of Williamsburgh	Brooklyn	NY
Central National Bank	Canajoharie	NY
Community Bank, N.A.	Canton	NY
Carthage FS&LA	Carthage	NY
Lake Shore Savings and Loan Association	Dunkirk	NY
Ellenville National Bank	Ellenville	NY
Pawling Savings Bank	Fishkill	NY
Savings Bank of the Finger Lakes	Geneva	NY
Evergreen Bank, N.A.	Glens Falls	NY
City National Bank and Trust	Gloverville	NY
First National Bank of Jeffersonville	Jeffersonville	NY
Sound FS&LA	Mamaroneck	NY
North Fork Bank	Mattituck	NY
Bank Audi (USA)	New York	NY
New York National Bank	New York	NY
Ridgewood Savings Bank	New York	NY
First National Bank	Norfolk	NY
North Country Savings Bank	Ogdensburg	NY
Oneida Valley National Bank	Oneida	NY
First National Bank of the Hudson Valley	Poughkeepsie	NY
ESL Federal Credit Union	Rochester	NY
Skaneateles Savings Bank	Skaneateles	NY
Geddes FS&LA	Syracuse	NY
National Bank of Delaware County	Walton	NY

Fajardo Federal Savings Bank	Fajardo	PR
RG Premier Bank of Puerto Rico	Guaynabo	PR
Eurobank and Trust Company	Hato Rey	PR
First Virgin Islands Federal Savings Bank	St. Thomas	VI

Federal Home Loan Bank of Pittsburgh—District 3

Ambassador Bank of the Commonwealth	Allentown	PA
First National Bank of Berwick	Berwick	PA
American Eagle Savings Bank, PaSA	Boothwyn	PA
Reliable Savings Bank, PaSA	Bridgeville	PA
Commerce Bank/Harrisburg, N.A.	Camp Hill	PA
Pioneer American Bank, N.A.	Carbondale	PA
Croydon Building and Loan Association	Croydon	PA
FNB Bank, N.A.	Danville	PA
Marquette Savings Bank	Erie	PA
First United National Bank	Fryburg	PA
Prime Bank	Ft. Washington	PA
Adams County National Bank	Gettysburg	PA
First National Bank of Greencastle	Greencastle	PA
Huntingdon Savings Bank, PASA	Huntingdon	PA
Huntingdon Valley FS&LA	Huntingdon Valley	PA
First Commonwealth Bank	Indiana	PA
Abington Savings Bank	Jenkintown	PA
Merchants National Bank of Kittanning	Kittanning	PA
Fulton Bank	Lancaster	PA
Citizens National Bank of Lansford	Lansford	PA
Lebanon Valley National Bank	Lebanon	PA
First National Bank of Lilly	Lilly	PA
Savings and Loan Association of Milton	Milton	PA
First Western Bank, N.A.	New Castle	PA
First National Bank of Newport	Newport	PA
Northumberland National Bank	Northumberland	PA
Berean Federal Savings Bank	Philadelphia	PA
First Republic Bank	Philadelphia	PA
Jozef Poniatowski B&L Association	Philadelphia	PA
Regent National Bank	Philadelphia	PA
Tioga-Franklin Savings Association	Philadelphia	PA
United Savings Bank	Philadelphia	PA
Fidelity Savings Bank	Pittsburgh	PA
Prestige Bank	Pittsburgh	PA
Spring Hill Savings Bank, FSB	Pittsburgh	PA
Progress Federal Savings Bank	Plymouth Meeting	PA
Heritage National Bank	Pottsville	PA
First Western Bank, F.S.B.	Sharon	PA
Bank of Lancaster County	Strasburg	PA
West Milton State Bank	West Milton	PA
Bank of Raleigh	Beckley	WV
First State Bank and Trust	Beckley	WV
Bank of Charles Town	Charles Town	WV
First National Bank of Chester	Chester	WV
Farmers & Merchants Bank of Ritchie Co	Harrisville	WV
F&M Bank—Martinsburg	Martinsburg	WV
Potomac Valley Bank	Petersburg	WV
Bank of Ripley	Ripley	WV
Capon Valley Bank	Wardensville	WV
Citizens Bank of Weston, Inc	Weston	WV

Federal Home Loan Bank of Atlanta—District 4

First National Bank of Central Alabama	Aliceville	AL
Farmers and Merchants Bank	Centre	AL
Cullman Savings Bank	Cullman	AL
First Commercial Bank of the South	Fort Deposit	AL
Gulf Federal Bank, a FSB	Mobile	AL
First Metro Bank	Muscle Shoals	AL
West Alabama Bank and Trust	Reform	AL
Bank Independent	Sheffield	AL
First Southern National Bank	Stevenson	AL
National Bank of Commerce	Tuscaloosa	AL
Franklin National Bank of Washington, D.C.	Washington	DC
First National Bank of Southwest Florida	Cape Coral	FL
Popular Bank of Florida	Coral Gables	FL
Destin Bank	Destin	FL
Englewood Bank	Englewood	FL
Jacksonville Fireman's Credit Union	Jacksonville	FL

Sun Bank/North Florida, N.A	Jacksonville	FL
CNB National Bank	Lake City	FL
Consumers Savings Bank	Miami	FL
Executive National Bank	Miami	FL
Gulf Bank	Miami	FL
Fifth Third Bank of Florida	Naples	FL
Skylake State Bank	North Miami Beach	FL
Turnberry Bank	North Miami Beach	FL
American National Bank	Oakland Park	FL
Bank of Central Florida	Orlando	FL
Madison Bank, a Savings Bank	Palm Harbor	FL
First American Bank of Pensacola, N.A	Pensacola	FL
Sunshine State FS&LA	Plant City	FL
SunTrust Bank, Gulf Coast	Sarasota	FL
West Coast Bank	Sarasota	FL
Partners Bank of Florida	Tampa	FL
National Bank of Commerce	Winter Park	FL
Ashburn Bank	Ashburn	GA
Community National Bank	Ashburn	GA
Georgia National Bank	Athens	GA
First Capital Bank	Atlanta	GA
First National Bank of Northwest Georgia	Calhoun	GA
Bartow County Bank	Cartersville	GA
First Community Bank and Trust	Cartersville	GA
Bank of Ellijay	Ellijay	GA
Citizens Union Bank	Greensboro	GA
Towns County Bank	Hiawasee	GA
Heritage Bank	Jonesboro	GA
Charter Bank and Trust Company	Marietta	GA
The First State Bank of Ocilla	Ocilla	GA
First Bulloch Bank and Trust Company	Statesboro	GA
Allied Bank of Georgia	Thomson	GA
United Bank of Pike	Zebulon	GA
Harbor Bank of Maryland	Baltimore	MD
Colombo Savings Bank F.S.B.	Bethesda	MD
Sequoia National Bank—Maryland	Bethesda	MD
Peoples Bank of Maryland	Denton	MD
Home Federal Savings Bank	Hagerstown	MD
Wilmington Trust FSB	Salisbury	MD
Farmers and Merchants Bank	Upperco	MD
Four Oaks Bank & Trust Company	Four Oaks	NC
Kenly Savings Bank, Inc., S.S.B	Kenly	NC
Bank of Union	Monroe	NC
Bank of Currituck	Moyock	NC
Triangle Bank	Raleigh	NC
Roanoke Rapids Savings Bank, SSB	Roanoke Rapids	NC
Home Savings Bank of Siler City, S.S.B	Siler City	NC
Jackson Savings Bank, S.S.B	Sylva	NC
Tarboro Savings Bank, SSB	Tarboro	NC
Peoples Savings Bank, S.S.B	Wilmington	NC
Security Federal Savings Bank	Aiken	SC
Bank of Columbia	Columbia	SC
BB&T of South Carolina	Greenville	SC
Summit National Bank	Greenville	SC
Greenwood Bank and Trust	Greenwood	SC
Palmetto State Bank	Hampton	SC
First National South	Marion	SC
Newberry Federal Savings Bank	Newberry	SC
Highlands Union Bank	Abingdon	VA
First National Bank of Altavista	Altavista	VA
Bank of Clarke County	Berryville	VA
Guaranty Bank	Charlottesville	VA
Capital One, F.S.B	Falls Church	VA
Bank of Floyd	Floyd	VA
Miners and Merchants Bank and Trust Co	Grundy	VA
Rockingham Heritage Bank	Harrisonburg	VA
Chesapeake Bank	Kilmarnock	VA
First Bank and Trust Company	Lebanon	VA
Bank of Marion	Marion	VA
Heritage Bank and Trust	Norfolk	VA
Resource Bank	Virginia Beach	VA
Fauquier Bank	Warrenton	VA
F & M Bank—Winchester	Winchester	VA

Federal Home Loan Bank of Cincinnati—District 5

Auburn Banking Company	Auburn	KY

The Peoples Exchange Bank of Beattyville	Beattyville	KY
United Commonwealth Bank	Benton	KY
Central Appalachian Peoples	Berea	KY
Farmers State Bank	Booneville	KY
Bowling Green Bank & Trust Company	Bowling Green	KY
First National Bank	Brooksville	KY
Brownsville Deposit Bank	Brownsville	KY
Heritage Bank, Inc.	Burlington	KY
Community Trust Bank, F.S.B	Campbellsville	KY
First National Bank of Clinton	Clinton	KY
Bank of Crittenden	Crittenden	KY
Bank of Ohio County	Dundee	KY
Elkton Bank and Trust Company	Elkton	KY
Farmers Deposit Bank	Eminence	KY
Bank of Kentucky, Inc	Florence	KY
First Federal Savings Bank of Frankfort	Frankfort	KY
Commercial Bank of Grayson	Grayson	KY
First National Bank of Grayson	Grayson	KY
Hebron Deposit Bank	Hebron	KY
Ohio Valley National Bank	Henderson	KY
First City Bank and Trust Company	Hopkinsville	KY
Hyden Citizens Bank, Inc	Hyden	KY
Citizens Guaranty Bank	Irvine	KY
Citizens Bank & Trust Co. of Jackson	Jackson	KY
Peoples Bank	Lebanon	KY
Lewisburg Banking Company	Lewisburg	KY
Vine Street Trust Company	Lexington	KY
First National Bank and Trust	London	KY
Mid-America Bank of Louisville & Trust	Louisville	KY
Stock Yards Bank & Trust Company	Louisville	KY
First State Bank and Trust Company	Manchester	KY
Security Bank and Trust Company	Maysville	KY
Citizens Bank	Morehead	KY
Peoples Bank of Murray	Murray	KY
Citizens Bank of Campbell County	Newport	KY
First Farmers Bank and Trust Company	Owenton	KY
Citizens Bank & Trust Company	Paducah	KY
Paducah Bank and Trust Company	Paducah	KY
Kentucky Bank	Paris	KY
Farmers Bank and Trust Company	Princeton	KY
Kentucky Bank and Trust of Greenup Co	Russell	KY
Southern Deposit Bank	Russellville	KY
Salyersville National Bank	Salyersville	KY
Peoples Bank	Sandy Hook	KY
Citizens Union Bank of Shelbyville	Shelbyville	KY
Alliance Bank	Somerset	KY
First and Farmers Bank	Somerset	KY
First & Peoples Bank	Springfield	KY
Peoples Bank of Hustonville	Stanford	KY
Bank of the Mountains	West Liberty	KY
Winchester Federal Savings Bank	Winchester	KY
North Akron Savings Association	Akron	OH
Andover Bank	Andover	OH
Sutton State Bank	Attica	OH
Park View Federal Savings Bank	Bedford Heights	OH
Blue Ash Building and Loan Company	Blue Ash	OH
First National Bank Northwest Ohio	Bryan	OH
Farmers National Bank	Canfield	OH
Cincinnatus Savings and Loan Company	Cheviot	OH
Foundation Savings Bank	Cincinnati	OH
Provident Bank	Cincinnati	OH
Sycamore National Bank	Cincinnati	OH
Fifth Third Bank of Columbus	Columbus	OH
Union Bank Company	Columbus Grove	OH
Heartland Federal Credit Union	Dayton	OH
State Bank and Trust Company	Defiance	OH
Potters Savings and Loan Company	East Liverpool	OH
Ohio Bank	Findlay	OH
Fremont Federal Credit Union	Fremont	OH
Ohio Valley Bank Company	Gallipolis	OH
Harrison Building and Loan	Harrison	OH
Jackson Savings Bank	Jackson	OH
Oak Hill Banks	Jackson	OH
Bank of Leipsic Company	Leipsic	OH
Lorain National Bank	Lorain	OH
Peoples Banking and Trust Company	Marietta	OH

Marion Bank	Marion	OH
Minster State Bank	Minster	OH
First National Bank of New Bremen	New Bremen	OH
Farmers State Bank and Trust Company	New Madison	OH
Citizens Banking Company	Salineville	OH
Sherwood State Bank	Sherwood	OH
First Bank of Ohio—Tiffin	Tiffin	OH
Mid American National Bank	Toledo	OH
Citizens National Bank of Urbana	Urbana	OH
Waverly Banking and Loan Company	Waverly	OH
National Bank and Trust Company	Wilmington	OH
Woodsfield Savings Bank	Woodsfield	OH
Wayne County National Bank	Wooster	OH
Mahoning National Bank	Youngstown	OH
First South Bank	Bolivar	TN
First State Bank	Brownsville	TN
Citizens Bank	Collierville	TN
First Bank of Polk County	Copperhill	TN
First State Bank of Covington, Tennessee	Covington	TN
Meigs County Bank	Decatur	TN
Weakley County Bank	Dresden	TN
Franklin National Bank	Franklin	TN
Bank of Friendship	Friendship	TN
Union Planters Bank of West Tennessee	Humboldt	TN
BankFirst	Knoxville	TN
First National Bank of LaFollette	LaFollette	TN
McKenzie Banking Company	McKenzie	TN
Security Federal Savings Bank	McMinnville	TN
Financial Federal Savings Bank	Memphis	TN
First Commerical Bank, N.A. of Memphis	Memphis	TN
First Tennessee Bank, N.A. Memphis	Memphis	TN
Nashoba Bank	Memphis	TN
Nashville Bank of Commerce	Memphis	TN
Union Planters National Bank	Memphis	TN
Bank of Troy	Morristown	TN
Munford Union Bank	Munford	TN
Premier Bank of East Tennessee	Niota	TN
Bank of Ripley	Ripley	TN
First Community Bank of East Tennessee	Rogersville	TN
Hardin County Bank	Savannah	TN
Valley Bank	Sweetwater	TN
Bank of Commerce	Trenton	TN
First Volunteer Bank	Union City	TN
Wayne County Bank	Waynesboro	TN

Federal Home Loan Bank of Indianapolis—District 6

Central National Bank & Trust Company	Attica	IN
Bloomfield State Bank	Bloomfield	IN
Wayne Bank and Trust Company	Cambridge City	IN
Citizens National Bank	Evansville	IN
Old National Bank in Evansville	Evansville	IN
Fowler State Bank	Fowler	IN
Peoples State Bank of Francesville	Francesville	IN
Friendship State Bank	Friendship	IN
Goodland State Bank	Goodland	IN
Sand Ridge Bank	Highland	IN
First Bank of Huntingburg	Huntingburg	IN
German American Bank	Jasper	IN
Lafayette Bank and Trust Company	Lafayette	IN
Union County National Bank	Liberty	IN
Lynnville National Bank	Lynnville	IN
STAR Financial Bank	Marion	IN
STAR Financial Bank, New Castle	Muncie	IN
Citizens State Bank	New Castle	IN
Union Bank & Trust Company	North Vernon	IN
State Bank of Oxford	Oxford	IN
Orange County Bank	Paoli	IN
First Federal Savings Bank	Rochester	IN
First Source Bank	South Bend	IN
First National Bank, Valparaiso	Valparaiso	IN
Veedersburg State Bank	Veedersburg	IN
Merchants Bank & Trust Company	West Harrison	IN
Centier Bank	Whiting	IN
Shoreline Bank	Benton Harbor	MI
State Bank of Caledonia	Caledonia	MI

Century Bank and Trust	Coldwater	MI
Southern Michigan Bank and Trust	Coldwater	MI
First State Bank	Decatur	MI
FMB—Old State Bank	Fremont	MI
BayBank	Gladstone	MI
Bank of Hudsonville	Hudsonville	MI
Independent Bank	Ionia	MI
Miners State Bank of Iron River	Iron River	MI
Peninsula Bank	Ishpeming	MI
Arcadia Bank and Trust Company	Kalamazoo	MI
Dart National Bank	Mason	MI
MFC First National Bank	Menominee	MI
Oxford Bank	Oxford	MI
Independent Bank—West Michigan	Rockford	MI
FMB—Sault Bank	Sault Saint Marie	MI
West Shore Bank	Scottville	MI
Pinnacle Bank	St. Joseph	MI
United Bank and Trust	Tecumseh	MI

Federal Home Loan Bank of Chicago—District 7

Old Second National Bank of Aurora	Aurora	IL
State Bank of Aviston	Aviston	IL
Beardstown Savings s.b	Beardstown	IL
First Federal Savings and Loan Association	Bloomington	IL
First National Bank of Blue Island	Blue Island	IL
First Bank, bc	Capron	IL
Farmers State Bank of Ferris	Carthage	IL
Marine Trust Company of Carthage	Carthage	IL
Buena Vista National Bank of Chester	Chester	IL
Chester Savings Bank, FSB	Chester	IL
Corus Bank	Chicago	IL
LaSalle Northwest National Bank	Chicago	IL
Northern Trust Company	Chicago	IL
St. Anthony Bank, a FSB	Cicero	IL
American Savings Bank of Danville	Danville	IL
Republic Bank of Chicago	Darien	IL
First National Bank of Decatur	Decatur	IL
First National Bank of Dietrich	Dietrich	IL
East Dubuque Savings Bank	East Dubuque	IL
Bank of Edwardsville	Edwardsville	IL
C.P. Burnett and Sons, Bankers	Eldorado	IL
First State Bank	Eldorado	IL
First Bank and Trust of Evanston	Evanston	IL
Fairfield National Bank	Fairfield	IL
Flora Savings Bank	Flora	IL
Farmers and Mechanics Bank	Galesburg	IL
Heritage Community Bank	Glenwood	IL
Golden State Bank	Golden	IL
Greenup National Bank	Greenup	IL
Bank of Ladd	Ladd	IL
Clay County State Bank	Louisville	IL
Manteno Bank	Manteno	IL
First Federal Savings Bank of Mascoutah	Mascoutah	IL
First FS&LA of Mattoon	Mattoon	IL
Morton Community Bank	Morton	IL
First National Bank of Mount Pulaski	Mount Pulaski	IL
Mt. Morris Savings and Loan	Mt. Morris	IL
First State Bank of Newman	Newman	IL
Oak Brook Bank	Oak Brook	IL
First National Bank of Oblong	Oblong	IL
Olney Trust Bank	Olney	IL
First Federal Savings Bank	Ottawa	IL
First Bank and Trust, s.b	Paris	IL
Corn Belt Bank and Trust Company	Pittsfield	IL
Bank of Rantoul	Rantoul	IL
First National Bank & Trust Company	Rochelle	IL
Northwest Bank of Rockford	Rockford	IL
Sandwich State Bank	Sandwich	IL
Illinois One Bank, N.A	Shawneetown	IL
First Community Bank	Sherrard	IL
South Holland Trust and Savings Bank	South Holland	IL
Independent Bankers Bank of Illinois	Springfield	IL
Sterling Federal Bank, F.S.B	Sterling	IL
Streator Home Building & Loan Association	Streator	IL
UnionBank	Streator	IL

First National Bank of Sullivan	Sullivan	IL
Thomson State Bank	Thomson	IL
Tiskilwa State Bank	Tiskilwa	IL
Tempo Bank, FSB	Trenton	IL
Heritage Bank, Central Illinois	Trivoli	IL
Midwest Bank of McHenry County	Union	IL
Iroquois FS&LA	Watseka	IL
Watseka First National Bank	Watseka	IL
Bank of Waukegan	Waukegan	IL
National Bank of Northern Illinois	Waukegan	IL
Wemple State Bank	Waverly	IL
Weldon State Bank and Trust	Weldon	IL
State Bank of Illinois	West Chicago	IL
First Banking Center—Albany	Albany	WI
F & M Bank Appleton	Appleton	WI
First Banking Center—Burlington	Burlington	WI
Cambridge State Bank	Cambridge	WI
DeForest-Morrisonville Bank	DeForest	WI
Charter Bank Eau Claire	Eau Claire	WI
Royal Credit Union	Eau Claire	WI
Grafton State Bank	Grafton	WI
Hartford Savings Bank	Hartford	WI
Heritage Bank Rock County, N.A	Janesville	WI
Bank of Kaukauna	Kaukauna	WI
F&M Bank—Lancaster	Lancaster	WI
First National Bank in Manitowoc	Manitowoc	WI
Stephenson National Bank and Trust	Marinette	WI
Marshfield Savings Bank	Marshfield	WI
Mayville Savings Bank	Mayville	WI
McFarland State Bank	McFarland	WI
Associated Bank Milwaukee	Milwaukee	WI
North Milwaukee State Bank	Milwaukee	WI
Norwest Bank Wisconsin, N.A	Milwaukee	WI
Monona State Bank	Monona	WI
First National Bank and Trust	Monroe	WI
Oostburg State Bank	Oostburg	WI
United Bank	Osseo	WI
Owen-Curtiss State Bank	Owen	WI
Port Washington State Bank	Port Washington	WI
Peoples State Bank	Prairie du Chien	WI
Prairie City Bank	Prairie du Chien	WI
F & M Bank—Northeast	Pulaski	WI
Community First Bank	Rosholt	WI
Community First State Bank	Spooner	WI
F&M Bank, Portage County	Stevens Point	WI
First National Bank of Stoughton	Stoughton	WI
Stratford State Bank	Stratford	WI
Bank of Turtle Lake	Turtle Lake	WI
First National Bank	Waupaca	WI
People's State Bank	Wausau	WI
State Bank of Withee	Withee	WI
F&M Bank, Lakeland	Woodruff	WI

Federal Home Loan Bank of Des Moines—District 8

The First National Bank of Akron	Akron	IA
Farmers State Bank	Algona	IA
Iowa State Bank	Algona	IA
The Lakes National Bank	Arnolds Park	IA
Rolling Hills Bank and Trust	Atlantic	IA
Benton County State Bank	Blairstown	IA
First State Bank	Britt	IA
Poweshiek County Savings Bank	Brooklyn	IA
Tri-County Bank and Trust	Cascade	IA
Center Point Bank and Trust Company	Center Point	IA
The Clinton National Bank	Clinton	IA
First Community National Bank	Corning	IA
Northwest Bank and Trust Company	Davenport	IA
First Central State Bank	DeWitt	IA
Community First National Bank	Decorah	IA
American Vanguard Life Insurance Co	Des Moines	IA
Bankers Trust Company	Des Moines	IA
Brenton Bank	Des Moines	IA
State Employees Community Credit Union	Des Moines	IA
American Trust and Savings Bank	Dubuque	IA
First National Bank	Essex	IA

First Security State Bank	Evansdale	IA
Manufacturers Bank and Trust Company	Forest City	IA
Garnavillo Savings Bank	Garnavillo	IA
Hancock County Bank and Trust	Garner	IA
Heritage Bank, N.A	Holstein	IA
Iowa State Bank	Hull	IA
United Bank of Iowa	Ida Grove	IA
Iowa State Bank and Trust Company	Iowa City	IA
University of Iowa Community Credit Union	Iowa City	IA
Le Mars Bank and Trust Company	Le Mars	IA
Luana Savings Bank	Luana	IA
Central State Bank	Muscatine	IA
Mahaska State Bank	Oskaloosa	IA
Central Valley Bank	Ottumwa	IA
Pioneer Bank	Sergeant Bluff	IA
Commercial Trust & Savings Bank	Storm Lake	IA
First State Bank	Stuart	IA
American Savings Bank	Tripoli	IA
West Des Moines State Bank	West Des Moines	IA
Farmers Trust and Savings Bank	Williamsburg	IA
Security State Bank of Aitkin	Aitkin	MN
Stearns Bank, N.A	Albany	MN
Americana National Bank	Albert Lea	MN
West Central Bank	Barrett	MN
First Federal Banking and Savings, F.S.B	Bemidji	MN
Security State Bank of Bemidji	Bemidji	MN
First American Bank N.A	Breckenridge	MN
Americana Bank	Edina	MN
First National Bank of Elk River	Elk River	MN
First State Bank of Emmons	Emmons	MN
Security State Bank of Fergus Falls	Fergus Falls	MN
First State Bank of Finlayson	Finlayson	MN
First National Bank	Hawley	MN
Stearns Bank of Holdingford	Holdingford	MN
American Bank, Lake City	Lake City	MN
First National Bank of Little Falls	Little Falls	MN
Farmers State Bank of Madelia, Inc	Madelia	MN
Security State Bank of Mankato	Mankato	MN
Pioneer Bank	Mapleton	MN
State Bank of McGregor	McGregor	MN
Marquette Capital Bank, N.A	Minneapolis	MN
Kanabec State Bank	Mora	MN
F&M Alliance Bank	New Ulm	MN
Farmers and Merchants State Bank	New York Mills	MN
Valley Bank	North Mankato	MN
Redwood Falls FS&LA	Redwood Falls	MN
Eastwood Bank	Rochester	MN
First National Bank of the North	Sandstone	MN
First National Bank of Sauk Centre	Sauk Centre	MN
Citizens State Bank of St. James	St. James	MN
Midway National Bank of St. Paul	St. Paul	MN
Community State Bank of Twin Harbors	Twin Harbors	MN
Stearns Bank of Upsala	Upsala	MN
Mid-Central Federal Savings Bank	Wadena	MN
The First National Bank of Waseca	Waseca	MN
Signal Bank, Inc.	West St. Paul	MN
Bank 10	Belton	MO
Magna Bank, N.A	Brentwood	MO
Cameron Savings and Loan Association	Cameron	MO
Farmers State Bank	Cameron	MO
First State Bank and Trust Company, Inc	Caruthersville	MO
Citizens Bank and Trust Company	Chillicothe	MO
First National Bank of Clinton	Clinton	MO
Community Bank of Excelsior Springs	Excelsior Springs	MO
Hume Bank	Hume	MO
Capital Savings Bank, F.S.B	Jefferson City	MO
Home Savings and Loan Association	Jefferson City	MO
First State Bank of Joplin	Joplin	MO
Bank of Lee's Summit	Lee's Summit	MO
Farmers Bank of Lincoln	Lincoln	MO
First National Bank of Mount Vernon	Mount Vernon	MO
Community Bank and Trust	Neosho	MO
Citizens Bank	New Haven	MO
Security Pacific Bank	Pacific	MO
The Paris National Bank	Paris	MO
Bank of the LeadBelt	Park Hills	MO

Irondale Bank	Potosi	MO
Phelps County Bank	Rolla	MO
Systematic Savings and Loan Association	Springfield	MO
Farmers and Merchants Bank of St. Clair	St. Clair	MO
Allegiant Bank	St. Louis	MO
Heartland Bank	St. Louis	MO
Sac River Valley Bank	Stockton	MO
First Community Bank	Sweet Springs	MO
Osage Valley Bank	Warsaw	MO
Bank of Beulah	Beulah	ND
Dakota Western Bank	Bowman	ND
Western State Bank	Devils Lake	ND
First State Bank of LaMoure	LaMoure	ND
Commercial Trust and Savings Bank	Mitchell	SD
Community First State Bank	Vermillion	SD

Federal Home Loan Bank of Dallas—District 9

Bank of Ashdown, N.A	Ashdown	AR
Bank of Bentonville	Bentonville	AR
Citizens Bank	Booneville	AR
Danville State Bank	Danville	AR
First State Bank of DeQueen	DeQueen	AR
First Community Bank of Southeast AR	Dermott	AR
Superior Federal Bank, FSB	Fort Smith	AR
Farmers Bank	Hamburg	AR
Citizens National Bank of Hope	Hope	AR
First Bank of South Arkansas	Junction City	AR
Buffalo Island Bank	Leachville	AR
Eagle Bank and Trust	Little Rock	AR
First National Bank	Mena	AR
Peoples Bank and Trust Company	Mountain Home	AR
First National Bank of Nashville	Nashville	AR
First State Bank	Plainview	AR
Portland Bank	Portland	AR
State First National Bank	Texarkana	AR
Scott County Bank	Waldron	AR
First National Bank	Wynne	AR
Caldwell Bank and Trust Company	Columbia	LA
Tri-Parish Bank	Eunice	LA
MidSouth National Bank	Lafayette	LA
Louisiana Delta Bank	Lake Providence	LA
Omni Bank	Metairie	LA
Gulf Coast Bank & Trust Company	New Orleans	LA
United Bank and Trust Company	New Orleans	LA
First FS&LA of Allen Parish	Oakdale	LA
St. Landry Homestead Federal Savings Bank	Opelousas	LA
Community Bank of LaFourche	Raceland	LA
First Republic Bank	Rayville	LA
ArgentBank	Thibodaux	LA
First American Bank and Trust	Vacherie	LA
Louisiana Central Bank	Vidalia	LA
American Security Bank	Ville Platte	LA
First FS & LA of Aberdeen	Aberdeen	MS
Farmers and Merchants Bank	Baldwyn	MS
Bank Plus	Belzoni	MS
NBC Bank FSB	Belzoni	MS
First Federal Bank for Savings	Columbus	MS
Union Planters Bank of Mississippi	Grenada	MS
Copiah Bank, N.A	Hazlehurst	MS
Planters Bank & Trust Company	Indianola	MS
First American National Bank	Iuka	MS
Pike County National Bank	McComb	MS
United Mississippi Bank	Natchez	MS
National Bank of Commerce of Mississippi	Starkville	MS
Community Federal Savings Bank	Tupelo	MS
Western Bank	Alamogordo	NM
Western Bank	Artesia	NM
Western Commerce Bank	Carlsbad	NM
Citizens Bank	Farmington	NM
First National Bank of Dona Ana County	Las Cruces	NM
Los Alamos National Bank	Los Alamos	NM
Mountain Community Bank	Los Alamos	NM
Portales National Bank	Portales	NM
First National Bank in Alpine	Alpine	TX
Boatmen's First National Bank of Amarillo	Amarillo	TX

First Bank	Azle	TX
First National Bank of Baird	Baird	TX
Citizens Bank and Trust Company	Baytown	TX
Western American National Bank	Bedford	TX
Citizens National Bank of Texas	Bellaire	TX
Blanco National Bank	Blanco	TX
First National Bank in Bronte	Bronte	TX
First National Bank of Bullard	Bullard	TX
First National Bank in Burkburnett	Burkburnett	TX
Corsicana National Bank and Trust	Corsicana	TX
U.S. Trust Company of Texas, N.A	Dallas	TX
First National Bank of Eagle Lake	Eagle Lake	TX
Continental National Bank	El Paso	TX
Montwood National Bank	El Paso	TX
First National Bank of Emory	Emory	TX
Greater South Texas Bank, F.S.B	Falfurrias	TX
Fidelity Bank and Trust, N.A	Fort Worth	TX
Security State Bank and Trust	Fredericksburg	TX
Heritage National Bank	Granbury	TX
First National Bank of Grapevine	Grapevine	TX
American Bank	Houston	TX
Banktexas, N.A	Houston	TX
Citizens National Bank	Houston	TX
Preferred Bank, fsb	Houston	TX
QuestStar Bank, N.A	Houston	TX
Sterling Bank	Houston	TX
Stewart Title Guaranty Co	Houston	TX
Huntington State Bank	Huntington	TX
Texas Independent Bank	Irving	TX
Jacksboro National Bank	Jacksboro	TX
Community Bank	Katy	TX
First Bank	Katy	TX
Citizens Bank	Knox City	TX
Lake Worth National Bank	Lake Worth	TX
NBC Bank, Laredo, NA	Laredo	TX
South Texas National Bank of Laredo	Laredo	TX
Bank of Commerce	McLean	TX
USAA Federal Savings Bank	San Antonio	TX
Sanderson State Bank	Sanderson	TX
First American Bank and Mortgage, N.A	Sulphur Springs	TX
City National Bank of Taylor	Taylor	TX
First National Bank of Trenton	Trenton	TX
First National Bank	Uvalde	TX
Van Horn State Bank	Van Horn	TX
Central National Bank	Waco	TX
Norwest Bank Texas, Waco, N.A	Waco	TX
Wallis State Bank	Wallis	TX

Federal Home Loan Bank of Topeka—District 10

FirstBank North, Arvada	Arvada	CO
Colonial Bank	Aurora	CO
FirstBank of Boulder, N.A	Boulder	CO
FirstBank of Breckenridge, N.A	Breckenridge	CO
State Bank & Trust of Colorado Springs	Colorado Springs	CO
First Security Bank Craig	Craig	CO
Colorado Business Bank	Denver	CO
First Community Industrial Bank	Denver	CO
Eaton Bank	Eaton	CO
Farmers Bank	Eaton	CO
FirstBank of Tech Center	Englewood	CO
First National Bank	Estes Park	CO
First Bank of Northern Colorado	Fort Collins	CO
Colorado Community First National Bank	Fort Morgan	CO
First National Bank	Fowler	CO
Union Colony Bank	Greeley	CO
Colorado Community First National Bank	Gunnison	CO
Gunnison Bank and Trust Company	Gunnison	CO
Red Rocks Federal Credit Union	Highlands Ranch	CO
Lafayette State Bank	Lafayette	CO
Valley State Bank	Lamar	CO
Colorado Business Bank	Littleton	CO
Woodman of the World	Littleton	CO
Firstbank of Longmont	Longmont	CO
Equitable Savings and Loan Association	Sterling	CO
Community First National Bank	Thornton	CO

First National Bank	Walsenburg	CO
State Bank of Wiley	Wiley	CO
First National Bank in Alma	Alma	KS
American Bank	Baxter Springs	KS
Commercial State Bank of Bonner Springs	Bonner Springs	KS
First Kansas Bank and Trust	Gardner	KS
First National Bank	Goodland	KS
First United National Bank & Trust Co	Great Bend	KS
Morrill and Janes Bank and Trust Company	Hiawatha	KS
Hoisington National Bank	Hoisington	KS
Denison State Bank	Holton	KS
First State Bank and Trust Co. of Larned	Larned	KS
Lyons Federal Savings Association	Lyons	KS
Morrill State Bank and Trust Company	Sabetha	KS
Sunflower Bank, N.A	Salina	KS
First National Bank of Clifton	St. Marys	KS
St. Marys State Bank	St. Marys	KS
Emprise Bank	Wichita	KS
The First National Bank of Albion	Albion	NE
First National Bank & Trust Co. in Aurora	Aurora	NE
Hastings State Bank	Hastings	NE
American National Bank	Omaha	NE
American National Bank of Sarpy County	Papillion	NE
Nebraska State Bank	South Sioux City	NE
Farmers State Bank & Trust Company	Superior	NE
Wahoo State Bank	Wahoo	NE
Citizens Bank of Ardmore	Ardmore	OK
Exchange National Bank and Trust Co	Ardmore	OK
Peoples State Bank	Blair	OK
Union National Bank of Chandler	Chandler	OK
First National Bank of Coweta	Coweta	OK
First National Bank of Davis	Davis	OK
Idabel National Bank	Idabel	OK
First National Bank of Midwest City	Midwest City	OK
Frontier State Bank	Oklahoma City	OK
Guaranty Bank & Trust Company	Oklahoma City	OK
Quail Creek Bank, n.a	Oklahoma City	OK
Rockwell Bank, N.A	Oklahoma City	OK
Prague National Bank	Prague	OK
The First National Bank of Stigler	Stigler	OK
Stroud National Bank	Stroud	OK
Bank of Oklahoma, N.A	Tulsa	OK
Tulsa National Bank	Tulsa	OK
Waurika National Bank	Waurika	OK

Federal Home Loan Bank of San Francisco—District 11

Arizona Bank	Tucson	AZ
National Bank of Arizona	Tucson	AZ
Tri Counties Bank	Chico	CA
North Island Federal Credit Union	Chula Vista	CA
Cupertino National Bank and Trust	Cupertino	CA
Bank of Lake County	Lakeport	CA
Cedars Bank	Los Angeles	CA
Manufacturers Bank	Los Angeles	CA
Standard Pacific Savings, F.A	Newport Beach	CA
Kaiperm Federal Credit Union	Oakland	CA
Citizens Business Bank	Ontario	CA
Bank of the Sierra	Porterville	CA
American River Bank	Sacramento	CA
First FS&LA of San Bernardino	San Bernardino	CA
Mission Federal Credit Union	San Diego	CA
University and State ECU	San Diego	CA
America California Bank	San Francisco	CA
National American Bank	San Francisco	CA
Sanwa Bank California	San Francisco	CA
Metro Commerce Bank, N.A	San Rafael	CA
California Thrift and Loan	Santa Barbara	CA
Simi Valley Bank	Simi Valley	CA
Union Safe Deposit Bank	Stockton	CA
Industrial Bank	Van Nuys	CA
Kaweah National Bank	Visalia	CA
World Savings Bank, FSB	Warren	CA
North Coast Bank	Windsor	CA
First Republic Savings Bank	Las Vegas	NV

Federal Home Loan Bank of Seattle—District 12		
Alaska Federal Savings Bank	Juneau	AK
First Hawaiian Bank	Honolulu	HI
Hawaii National Bank	Honolulu	HI
International S&LA, Ltd	Honolulu	HI
Rainbow Financial Corporation	Honolulu	HI
Idaho Independent Bank	Coeur D'Alene	ID
Bank of Eastern Idaho	Idaho Falls	ID
Flathead Bank of Bigfork	Bigfork	MT
First Interstate Bank	Billings	MT
Norwest Bank Montana, N.A	Billings	MT
Yellowstone Bank	Billings	MT
Security State Bank and Trust Company	Polson	MT
United States National Bank of Red Lodge	Red Lodge	MT
Valley Bank of Ronan	Ronan	MT
Citizens Bank	Corvallis	OR
Oregon Pacific Banking Company	Florence	OR
Pacific State Bank	Reedsport	OR
State Bank of Southern Utah	Cedar City	UT
Central Bank	Provo	UT
Far West Bank	Provo	UT
Liberty Bank	Salt Lake City	UT
First Mutual Savings Bank	Bellevue	WA
United Security Bank	Chewelah	WA
Frontier Bank	Everett	WA
Bank of Fife	Fife	WA
City Bank	Lynnwood	WA
Redmond National Bank	Redmond	WA
Spokane Railway Credit Union	Spokane	WA
Washington Trust Bank	Spokane	WA
Columbia State Bank	Tacoma	WA
Northwest National Bank	Vancouver	WA
Baker Boyer National Bank	Walla Walla	WA
Mid State Bank	Waterville	WA
Pioneer National Bank	Yakima	WA
First National Bank of Buffalo	Buffalo	WY
Dubois National Bank	Dubois	WY
Riverton State Bank	Riverton	WY
First Interstate Bank of Commerce—Sheridan	Sheridan	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before January 27, 1998, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1996–97 eighth quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1996–97 eighth quarter review cycle must be delivered to the Finance Board on or before the February 26, 1998 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–483 Filed 1–9–98; 8:45 am]

BILLING CODE 6725–01–U

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011603.

Title: Great White Fleet and Tropical Shipping & Construction Co., Ltd. Slot Charter Agreement.

Parties: Great White Fleet, Ltd. (''GWF''), Tropical Shipping & Construction Co., Ltd. (''Tropical'').

Synopsis: The proposed Agreement would permit GWF to charter space to Tropical on a space available, as needed, basis in the trade between United States Atlantic and Gulf ports, and inland U.S. points via such ports, and ports and points in Guatemala, Honduras, Nicaragua, El Salvador, and Costa Rica. GWF will be a sales agent for Tropical for the solicitation of shipments in the trade.

Agreement No.: 202–011604.

Title: USA Conference.

Parties: Sea-Land Service, Inc., A.P. Moller-Maersk Line, Farrell Lines Incorporated.

Synopsis: The proposed Agreement establishes a conference of U.S. flag vessel operators covering the transport of household goods shipments, originating with U.S. Government agencies and moving under through government bills of lading, in the trade to/from and via U.S. and Mediterranean ports.

Dated: January 6, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–649 Filed 1–9–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 26, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Billy Gene Matthews, Abbeville, Louisiana; Juanette Matthews, Abbeville, Louisiana; Billy Gene Matthews, Jr., Youngsville, Louisiana; Louis Matthews, Natalia, Texas; Nancy Ann Matthews, Kaplan, Louisiana; and Whitney J. Matthews, Abbeville, Louisiana; to acquire the voting shares of Vermilion Bancshares, Inc., Kaplan, Louisiana, and thereby indirectly acquire Vermilion Bank & Trust Company, Kaplan, Louisiana.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Lester Asher McKinley, DeWitt, Arkansas; and Georgea McKinley Greaves, Greenville, South Carolina, to acquire voting shares of DeWitt First Bankshares Corporation, DeWitt, Arkansas, and thereby indirectly acquire First National Bank of DeWitt, DeWitt, Arkansas.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Pieschel Family Limited Partnership, Springfield, Minnesota; Paul D. Pieschel, Peggy A. Van Hoomissen, Martha J. Pieschel, and Mary E. Esselman, as general partners, and G.M. Pieschel, and Shirley J. Pieschel, as limited partners, all of Springfield, Minnesota; to acquire the voting shares of Springfield Investment Company, Springfield, Minnesota, and thereby indirectly acquire Farmers and Merchants State Bank of Springfield, Springfield, Minnesota.

Board of Governors of the Federal Reserve System, January 6, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–667 Filed 1–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Tarpon Coast Bancorp, Inc., Port Charlotte, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Tarpon Coast National Bank, Port Charlotte, Florida.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. TSB Bankshares, Inc., Lomira, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares Theresa State Bank, Lomira, Wisconsin.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Harlingen Bancshares, Inc., La Feria, Texas; to acquire 100 percent of the voting shares of Lower Rio Grande Valley Bancshares, Inc., La Feria, Texas, and thereby indirectly acquire First National Bank, La Feria, Texas.

Board of Governors of the Federal Reserve System, January 6, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–668 Filed 1–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 26, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Ambank Company, Inc., Sioux Center, Iowa; to engage *de novo* through its subsidiary Amlend Mortgage Services, Inc., Sioux Center, Iowa in real estate appraisal services pursuant to § 225.28(b)(2)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 6, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–666 Filed 1–9–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 981–0081]

TRW Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 13, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William Baer, Federal Trade Commission, 6th & Pennsylvania Ave., NW, H–374, Washington, DC 20580. (202) 326–2932. George S. Cary, Federal Trade Commission, 6th & Pennsylvania Ave., NW, H–374, Washington, DC 20580. (202) 326–3741.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home page (for December 24, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted subject to final approval an agreement containing a proposed Consent Order from TRW Inc. (''TRW''), under which TRW will be required to divest all of the assets relating to the provision of systems engineering and technical assistance (''SETA'') services in support of the Department of Defense's Ballistic Missile Defense Organization (''BMDO'').

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the proposed Consent Order and the comments received, and will decide whether it should withdraw from the proposed Consent Order or make final the proposed Order.

On November 20, 1997, TRW and BDM International Inc. (''BDM'') entered into an Agreement and Plan of Merger whereby TRW will acquire all of the issued and outstanding common shares of BDM for approximately $942 million. The proposed Complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the market for the research, development, manufacture and sales of a Ballistic Missile Defense System.

The United Missile Defense Corporation, a joint venture including TRW, is one of only two competitors for the Ballistic Missile Defense Organization's Lead Systems Integrator (''LSI'') contract, and BDM is the Ballistic Missile Defense Organization's sole supplier of SETA services for the LSI program. In its capacity as SETA contractor for the LSI program, BDM is charged with the responsibility for, among other things, developing technical and other specifications for the LSI procurement, assessing bid and other proposals submitted by the two competitors, and evaluating the cost and quality performance of the winning bidder. If the proposed acquisition takes place, TRW, one of the two LSI competitors, would become the LSI SETA contractor as well.

The proposed acquisition of BDM by TRW raises antitrust concerns in two areas. First, to perform the function of SETA contractor for the LSI program, it is necessary for BDM to obtain a great deal of highly competitively sensitive information from the two LSI competitors. If TRW acquires BDM, and thus becomes the SETA contractor, TRW will have access to this information from its only LSI program competitor. Access to this information may enable TRW to raise prices for the LSI contract by bidding less aggressively than it otherwise would. Second, if TRW assumes the role of LSI SETA contractor, it may be able to anticompetitively favor itself and disfavor its competitor in a variety of ways, such as setting unfair procurement specifications or submitting unfair performance evaluations.

The proposed Consent Order requires TRW to divest BDM's SETA services contract with the BMDO, including its SETA responsibilities for the LSI program, and all of BDM's assets associated with the performance of that contract, within one hundred and twenty (120) days from the date TRW consummates its proposed acquisition of BDM. The proposed Consent Order states that this divestiture shall be to an acquirer approved by the Commission and the Department of Defense. If TWR fails to divest the assets within one hundred and twenty (120) days from the date it consummates the proposed acquisition of BDM, a trustee may be appointed to accomplish the divestiture. An Agreement to Hold Separate signed by TRW provides that until BDM's SETA services contract is divested, BDM's SETA services business will be operated independently of TRW. The proposed Consent Order also requires TRW to provide technical assistance to the acquirer for a period of one (1) year, at the request of either the acquirer or the Ballistic Missile Defense Organization.

The Order also requires TRW to provide the Commission a report of compliance with the divestiture

provisions of the Order within thirty (30) days following the date the Order becomes final, and every thirty (30) days thereafter until TRW has completed the required divestiture.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga in TRW Inc./BDM, File No. 981 0081

I agree with my colleagues that the final decision and order that the Commission accepts today for public comment properly addresses the anticompetitive implications of the proposed transaction. I concur in the Commission's action except to the extent that Paragraph II.B. of the proposed order makes the Department of Defense a participant with the Commission in giving antitrust approval to any divestiture proposed under Paragraph II.A. of the order.

As I said in my concurring statement in *Litton Industries, Inc./PRC,* File No. C–3656 (decision and order, May 7, 1996), with due deference to the Department of Defense and in full recognition that it has the power to decide with which firms it will contract for the provision of goods and services vital to the national security, no persuasive argument has been presented to suggest that the Department has or should have a role in deciding the competitive implications of a particular divestiture. In addition, no showing has been made that this case is unique, that national security issues or concerns relating to the integrity of the Ballistic Missile Defense Organization's Lead Systems Integrator Program, to the extent they may be affected by this order, could not have been addressed, as they apparently have been in other defense-related transactions,[1] without inclusion of the Department of Defense as a necessary participant in a decision committed by statute to the Commission.

The need to obtain technical assistance in reviewing commercial transactions in sophisticated markets is not uncommon. Nor should the Commission forget that national security is the province of the country's defense agencies. The Commission might well find it necessary to consult with the Department of Defense both to assess the viability of a proposed buyer of the BDM assets to be divested and to ensure that a proposed transaction is not inconsistent with national security. I would have preferred, however, to accommodate that need in this case by means other than making the Department of Defense a partner with the Commission in interpreting and applying a final order of the Commission.

[1] See Lockheed Corporation, C–3576, decision and order (May 9, 1995); see also ARKLA, Inc., 112 F.T.C. 509 (1989).

[FR Doc. 98–709 Filed 1–9–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 931–0028]

Urological Stone Surgeons, Inc., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 13, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William Baer or Robert Leibenluft, FTC/H–374, Washington, D.C. 20580. (202) 326–2932 or 326–3688.

C. Steven Baker, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1437, Chicago, IL. 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page (for January 6, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order settling charges that Urological Stone Surgeons, Inc. (''USS''), Stone Centers of America, L.L.C. (''SCA''), and Urological Services, Ltd. (''USL'') (doing business as Parkside Kidney Stone Center (''Parkside'')), and Marc A. Rubenstein, M.D., and Donald M. Norris, M.D. (individually, and as officers, directors, and shareholders of USS, as shareholders of SCA, and as owners and officers of USL), violated Section 5 of the Federal Trade Commission Act by agreeing on prices to be charged for the physician services provided by urologists as part of performing lithotripsy.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way.

The proposed consent order has been entered into for settlement purposes only, and does not constitute an admission by USS, SCA, USL, Dr. Rubenstein, or Dr. Norris that the law has been violated as alleged in the complaint.

The Complaint

Extracorporeal shock wave lithotripsy (''lithotripsy'') is a non-surgical alternative for treating kidney stones. It

requires the services of a urologist (a physician specializing in the diagnosis and treatment of diseases or medical conditions of the urogenital system) to operate a lithotripsy machine, which shatters the kidney stones into sand-like particles by means of high-energy pressure waves. The complaint charges that the five proposed respondents, and other unnamed urologists agreed to fix the price for their professional services in providing lithotripsy (''lithotripsy professional services'') at Parkside.

Parkside is one of about eight providers of lithotripsy in the Chicago metropolitan area. Parkside operates two lithotripsy facilities: one in Park Ridge, Illinois; and a second in LaGrange, Illinois. The owners of USS and SCA, who constitute approximately 45 percent of the urologists in the Chicago metropolitan area, have jointly invested in the purchase and operation of the two lithotripsy machines that Parkside operates. USS, which is owned by 35 urologists, including Drs. Rubenstein and Norris, purchased and provides the lithotripsy machine for Parkside's Park Ridge facility. SCA, which is owned by USS and approximately 66 additional urologists, purchased and provides the lithotripsy machine for Parkside's LaGrange facility.

The complaint alleges that, beginning in 1985, the proposed respondents and unnamed urologists agreed to fix the price of lithotripsy professional services delivered at Parkside, and in furtherance of that agreement: (1) Agreed to use a common billing agent and to establish a uniform charge for lithotripsy professional services; (2) prepared and distributed fee schedules for lithotripsy professional services at Parkside; (3) billed a uniform amount, either the amount listed in the fee schedules or an amount negotiated on behalf of all urologists at Parkside.

In particular, in March 1985, USS informed its prospective investors, all of whom were urologists, that USS or its agent (USL) would bill and collect an estimated $2,000 professional fee for each lithotripsy professional service provided at Parkside, and remit such fee to the provider urologist. In April 1985, in furtherance of this agreement, USS agreed to use its best efforts to establish a lithotripsy professional fee of $2,000, subject to annual increases to reflect the changes in the cost of medical services in the Chicago metropolitan area. USL produced and disseminated to the urologists a fee schedule that included an initial lithotripsy professional fee of $2,000. The urologists, in turn, agreed to accept the amount established by USL and to use USL as their common billing agent for all services provided at Parkside. Each year thereafter, pursuant to the April 1986 agreement, USL increased the charges for lithotripsy professional services and distributed revised fee schedules.

The complaint further alleges that USL, acting in accordance with this series of agreements, uniformly billed the then-current fee schedule amount for lithotripsy professional services regardless of which urologist provided the service. In addition, USL, on behalf of all the urologists providing lithotripsy professional services at Parkside, negotiated contracts with puchasers of lithotripsy services. Pursuant to these contracts, each purchaser agreed to reimburse for such services on the basis of either a negotiated uniform percentage discount from charges, or a negotiated uniform bundled or ''global'' fee (which included the fee for use of the lithotripsy machine, the urologist's professional fee, and the fee for the anesthesiologist's services in the lithotripsy procedure). Through each such contract, the urologists effectively agreed collectively to offer their lithotripsy professional services to each purchaser at a fixed price or discount.

The ''global fee'' established at Parkside merely aggregates three uniformly necessary inputs to a single medical procedure—lithotripsy—where the usage, costs, and relative proportions of the inputs do not vary substantially from case to case.[1] Thus, the ''global fee'' used at Parkside is unlike arrangements in which health care providers, for a fixed, pre-determined ''global fee'' (sometimes called an ''all-inclusive case rate''), agree to provide all needed services for a patient's complex or extended course of treatment, such as cardiac care or cancer treatment. This type of global fee arrangement, in contrast to the arrangement used by Parkside, may involve the sharing of substantial financial risk by the participants, and provide incentives for them to determine and use the most efficient combination of treatment inputs for each case. Under these circumstances, their collective setting of the global fee may be reasonably necessary for them to achieve significant efficiencies, and therefore judged under the rule of reason rather than treated as unlawful price fixing.[2]

The complaint charges that, while the owners of USS and SCA have financially integrated by joint investing in the purchase and operation of the two lithotripsy machines that Parkside operates, collective setting of the price for their lithotripsy professional services, or for other non-investor urologists using Parkside, is not reasonably necessary (or ''ancillary'') to achieving any efficiencies that may be realized through their legitimate joint ownership and operation of the machines.[3] Moreover, the complaint alleges that the urologists providing lithotripsy professional services at Parkside, which also includes urologists who are not investors in the machine joint venture, have not substantially integrated their professional practices so as to justify respondents' agreement to fix the price for urologists' lithotripsy professional services at Parkside.

About two-thirds of the lithotripsy procedures performed in the Chicago metropolitan area are, and for several years have been, performed at Parkside. The complaint charges that the agreement to fix the price of lithotripsy professional services at Parkside has injured consumers by restraining competition among urologists in the provision of lithotripsy professional services and fixing or increasing the prices for such services.

The Proposed Consent Order

Part II.A. of the proposed consent order would prohibit the five proposed respondents from engaging in any agreement with each other or with any other urologist: (1) To fix the price for lithotripsy professional services; and (2) concerning any other term of sale for lithotripsy professional services. In addition, under Part II.B. of the proposed consent order, USS, SCA, and USL would be required to terminate any agreement with any third-party payer for the provision of lithotripsy professional services that does not comply with Part II.A. of the order at the earlier of: (1) The termination or renewal date of the agreement; or (2) receipt of a written request from the third-party payer to terminate such agreement.

Despite these provisions, however, the proposed consent order would not prevent the five proposed respondents from providing lithotripsy professional services pursuant to any existing

[1] Anesthesia charges may vary somewhat, if a procedure takes slightly more or less time. However, even this variation is quite limited, since there are limits set on how much exposure to the shock waves generated by lithotripsy that patients may receive at any treatment.

[2] *See* U.S. Department of Justice and Federal Trade Commission Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996) at 68–69, 71–72; 107–110.

[3] *Id.* at 18–19

agreement with any third-party payer until the earlier of (1) the termination or renewal date of the agreement, or (2) receipt of a written request from the third-party payer to terminate such agreement, In addition, the proposed consent order would not prevent either Dr. Rubenstein or Dr. Norris from entering into an agreement with any other physician with whom he practices in partnership or in a professional corporation, or who is employed by the same person as Dr. Rubenstein or Dr. Norris, to deal with any patient, purchaser, or their-party payer on collectively determined terms.

Nothing in the proposed order would prevent USS, SCA, or USL from offering a bundled or ''global'' fee that included the lithotripsy machine fee and the anesthesia fee, without the lithotripsy professional service fee, since such an arrangement would not involve any agreement on fees of lithotripsy professional services. Likewise, the proposed order would not prohibit them from contracting with purchasers of payers using a ''messenger model'' arrangement that did not involve any explicit or implicit agreement among urologist regarding the prices, discounts, or other terms of sale or reimbursement of their services.

The proposed consent order also would not prohibit any of the respondents from dealing through an integrated joint venture with any purchaser on collectively determined terms regarding lithotripsy professional services, provided that the respondent first notifies the Federal Trade Commission of any such joint venture activity in writing at least forty-five (45) days prior to the activity.

Part III of the proposed consent order would require USS, SCA, and USL to distribute copies of the proposed order and accompanying complaint to (a) persons whose activities are affected by the order, or who have responsibilities with respect to the subject matter of the order, and (b) each urologist who provides lithotripsy professional services at Parkside. In addition, the proposed consent order would require USS, SCA, and USL to distribute copies of the proposed order and accompanying complaint, together with the NOTICE attached to the order, to each third-party payer with whom they have an agreement that does not comply with Part II.A. of the order.

Parts IV, V, and VI of the proposed order impose certain reporting requirements in order to assist the Commission in monitoring compliance with the order.

The proposed consent order would terminate 20 years after the date it is issued.

Donald S. Clark,

Secretary.

Separate Statement of Commissioner Mary L. Azcuenaga Concurring in Part and Dissenting in Part in Parkside Kidney Stone Center, File No. 391–0028

I agree that an order requiring the respondents to cease and desist from fixing the price of professional lithotripsy services is warranted, but the requirement that the respondents, for ten years, give the Commission 45 days notice before ''forming or participating in an integrated joint venture'' that deals on collectively determined terms for lithotripsy services is unjustified and unnecessary.[1] The prior notice requirement departs from the Commission's policy adopting a presumption against prior approval and prior notice provisions in merger and joint venture orders.[2] An exception to the policy may be appropriate, if these is a credible risk that prior notice is necessary to prevent repetition of the unlawful conduct. Given the express prohibition in the proposed order of the allegedly unlawful conduct, the potential liability for civil penalties for a violation, and the periodic reports of compliance that may be required under the order, no such necessity appears. I dissent from the prior notice requirement.

[FR Doc. 98–710 Filed 1–9–98; 8:45 am]

BILLING CODE 6750–01–M

[1] The prior notice requirement is inconsistent with the weight of Commission precedent. Similar cases in the health care field typically have not imposed any notice requirements or have required notice within 30 days after certain joint venture activity. *See e.g.*, Physicians Group, Inc., Docket C–3620 (Aug. 11, 1995); Trauma Associates of North Broward, Inc., Docket C–3541 (Nov. 1, 1994); Southbank IPA, Inc., 114 F.T.C. 783 (1991); Preferred Physicians, Inc., 110 F.T.C. 157 (1988); Medical Staff of Doctors' Hospital of Prince George's County, 100 F.T.C. 476 (1988). *But see Montana Associated Physicians, Inc.*, Docket C–3704 (Jan 13, 1997) (20-year prior approval); *College of Physicians-Surgeons of Puerto Rico*, File No. 971–0011 (filed D. Puerto Rico Oct. 2, 1997) (Commissioner Azcuenaga concurring in part and dissenting from perpetual prior approval requirement).

[2] Prior Approval Policy Statement (June 1955), *Reprinted in* 4 Trade Reg. Rept. Rep. (CCH) ¶13,241.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC) and Subcommittee on Genetic Testing: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meetings.

Name: Subcommittee on Genetic Testing, Clinical Laboratory Improvement Advisory Committee (CLIAC).

Times and Dates: 8:30 a.m.–4:30 p.m., January 27, 1998; 8:30 a.m.–4:30 p.m., January 28, 1998.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee advises CLIAC on issues related to Genetic Testing.

Matters To Be Discussed: Agenda items include a discussion on the definition of Genetic Testing under the Clinical Laboratory Improvement Amendments (CLIA) regulations; and the use of general versus specific CLIA requirements for pre-analytic, analytic, and post-analytic components of genetic testing.

Agenda items are subject to change as priorities dictate.

Name: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 8:30 a.m.–4:30 p.m., January 29, 1998; 8 a.m.–4:30 p.m., January 30, 1998.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, E, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate the technological advances.

Matters To Be Discussed: Agenda items include an update on CLIA implementation; CLIA requirements for the pre-analytic, analytic, and post-analytic components of Genetic Testing; International Guidelines for Proficiency Testing (PT) programs; and criteria for adding analytes to CLIA PT requirements.

Agenda items are subject to change as priorities dictate.

Contact Person: John C. Ridderhof, Dr. P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, M/S G–25, Atlanta, Georgia 30341–3724, telephone 770/488–4674.

Dated: January 5, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–652 Filed 1–9–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Application and program reporting requirements for the Children's Justice Act authorized by the Child Abuse Prevention and Treatment Act (as amended).

OMB No.: 0980–0196.

Description: Application information is required when a State wishes to be considered for a Children's Justice Act grant award. Program reports are used by Children's Bureau and the States as a mechanism for monitoring, evaluating and measuring State achievements in addressing the problems of child abuse and neglect. State reports also provide information for the Congress.

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2,080
Performance Report	52	1	20	1,040

Estimated Total Annual Burden Hours: 3,120.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 7, 1998

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–664 Filed 1–9–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301)443–8005.

Proposed Project

Obligated Service for Mental Health Traineeships: Regulations and Forms—Extension—SAMHSA's Center for Mental Health Services (CMHS) awards grants to institutions for training instruction and traineeships in mental health and related disciplines. Graduate student recipients of these clinical traineeships must perform service, as determined by the Secretary to be appropriate in terms of the individual's training and experience, for a length of time equal to the period of support. The clinical trainees are required to submit the SMA 111, which ensures agency receipt of a termination notice prior to the end of support, and the SMA 111–2, which is an annual report on employment status and any changes in name and/or address, to SAMHSA.

The annual burden estimate is as follows:

	Annual Number of respondents	Number of responses/respondent	Average burden (hours per response)	Annual burden hours
Section 64a.104 (Form SMA–111, 111–1)	50	1	.10	5
Section 64a.105 (Form SMA–111–2)	500	1	.18	90
Total Burden	550			95

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Daniel J. Chenok, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, DC 20503.

Dated: January 6, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–650 Filed 1–9–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–960–1060–02–24 1A]

Notice of Request To Extend Approval of Information Collection, OMB Number 1004–0042

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request renewal of an existing approval to collect certain information from those individuals requesting to adopt a wild horse or burro. BLM needs this information to determine whether or not individuals are qualified to provide humane care and proper treatment, including proper transportation, feeding and handling, to an adopted wild horse or burro.

DATES: Comments on the proposed collection must be received by March 13, 1998 to be assured of consideration.

ADDRESSES: *Comments may be mailed to:* Regulatory Affairs Group (WO–630), Bureau of Land Management, 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240. *Comments may be sent by Internet to:* WoComment@wo.blm.gov. Please submit comments as an ASCII file to avoid using special characters and any form of encryption. Please also include ''Attn: 1004–0042'' and your name and address in your internet message. If you do not receive a confirmation from the system that we have received your message, contact us directly at (202) 452–5030. You may hand deliver comments to BLM at 1620 L St., NW., Room 401, Washington, DC.

Comments will be available for review at the L Street address during regular business hours, 7:45 a.m. to 4:15 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Carole Smith, (202) 452–0367.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide a 60-day notice in the **Federal Register** concerning a collection of information contained in a published current rule on (a) whether the proposed collection of information is necessary for 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, including the validity of the methodology and assumptions used; (c) ways to enhance the clarity, quality and utility 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. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Section 3(b)(2)(B) of the Wild Free-Roaming Horse and Burro Act requires that BLM provide healthy excess animals for adoption by individuals that the Secretary determines are qualified to provide humane care and proper treatment. The implementing regulations are found at 43 CFR Subpart 4750—Private Maintenance. Individuals must inform BLM of their interest and willingness to adopt. The adoption application requirement provides individuals with a mechanism to inform BLM of their interest and to submit their credentials for determining their qualifications.

The Application for Adoption of Wild Horse(s) and Burros(s), Form 4710–10, is required by the Wild Horse and Burro Regulations at 43 CFR 4750.3. BLM uses the form to determine an individual's qualifications for providing humane treatment and care for wild horses and burros. The application form requires that the applicant furnish the following information: (1) Applicant's name, address and telephone number; (2) applicant's social security number; (3) applicant's birth date; (4) an indication of the number and species of animals that the applicant wishes to adopt; (5) a map to whether the adopted wild horse and/or burro will be located; (6) questions about whether the applicant understands the restrictions related to adopting an animal; (7) information requested about the physical characteristics of the site where the animal(s) will be kept; (8) information about whether more than four untitled animals will be kept at that location; (9) information about whether someone will select, transport, or care for the animals; and (10) whether the applicant has ever been convicted of abuse or inhumane treatment of animals, violation of the Act or the regulations.

BLM uses the information to determine whether individuals are qualified to provide humane care and proper treatment to one or more adopted wild horses or burros. When BLM approves the application and the individual completes a Private Maintenance and Care Agreement, the individual may adopt up to four wild horses or burros at one time. The information, which is required by law, is a voluntary, non-recurring submission necessary to receive a benefit. There is no other source for the required information, and failure to furnish the required information will result in the applicant's not being able to adopt a wild horse or burro.

The collection of information is short, simple and not inconvenient to the applicant. Valuable dialogue normally occurs during the approval process when BLM conducts an interview with the applicant to ensure that the applicant understands the obligations and prohibited acts and that the adopter is knowledgeable about horses and burros or has access to assistance from a knowledgeable individual. Based on BLM's experience in administering the activities described above, the public reporting burden is estimated 10 minutes per response. The estimated number of respondents is 30,000 per year, for a total estimated burden of 5,000 hours to read the instructions, gather and supply the information and send the applications to BLM.

Any interested member of the public may request and obtain, without charge, a copy of Form 4710–10, the Adoption Form, by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

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: January 6, 1998.

Carole Smith,

Bureau of Land Management, Information Collection Officer.

[FR Doc. 98–614 Filed 1–9–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–08–0777–52]

Utah Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Advisory Council meeting.

SUMMARY: Utah's Resource Advisory Council (RAC) will meet January 28–29, 1998, at the Bureau of Land Management's Dixie Field Office, 345 East Riverside Drive, St. George, Utah. On January 28, the RAC will be touring portions of the Dixie Resource Area to be shown examples of emerging issues facing public land managers resulting from the pressure of urban growth. This tour will focus on recreation conflicts and opportunities, other issues pertaining to community-based planning initiatives, the Washington County Habitat Conservation Plan, land exchange impacts, and Wild and Scenic River Studies. The RAC will be briefed on how these matters are being addressed in the Dixie Resource Management Plan (which is expected to be published later in the year).

On January 29, the RAC along with Utah's Leadership Team will be given a presentation on the Automated Land and Mineral Record System (ALMRS). ALMRS/Modernization will substantially increase BLM's internal efficiency and level of customer service.

FOR FURTHER INFORMATION: Resource Advisory Council meetings are open to the public; however, transportation, meals, and overnight accommodations are the responsibility of the participating public. A public comment period has been set for January 29, from 8:00–8:30 a.m. Anyone wishing to attend the meeting and/or to address the Council should contact Sherry Foot, Special Programs Coordinator, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah, 84111; telephone (801) 539–4195.

Dated: January 5, 1998.

G. William Lamb,

State Director.

[FR Doc. 98–651 Filed 1–9–98; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item from South Carolina in the Possession of the Museum of Early Southern Decorative Arts, Old Salem, Inc., Winston-Salem, NC

AGENCY: National Park Service, Interior.

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item from South Carolina in the possession of the Museum of Early Southern Decorative Arts, Old Salem, Inc., Winston-Salem, NC which meets the definition of ''unassociated funerary object'' under 43 CFR 10.2 (d).

The object is a crescent-shaped silver gorget. The gorget has the name ''FINEY GEORGE'' engraved on the front center surrounded by a Neo-classical engraved border. On the back of the gorget there are two snakes engraved in a different hand than the front engraving. The back also has two silversmith's marks, *Machen,* in script within a serrated rectangle.

In 1972, this gorget was donated to the Museum of Early Southern Decorative Arts, a division of Old Salem, Inc. By Mr. G. Wilson Douglas, Jr.. Donor information indicates Mr. Douglas purchased this gorget from Mr. John P. Hart, York, SC who had removed the gorget from an Indian grave on the Catawba River on the South Carolina side near Van Wyck, SC.

Based on the silversmith's mark, this gorget was made by Thomas W. Machen of New Bern, NC between 1800–1825. The area near Van Wyck, SC indicated by the donor information is an historic Catawba burial ground used as recently as the Civil War. Consultation evidence presented by representatives of the Catawba Indian Nation indicate the engraved name ''FINEY GEORGE'' is most likely a linguistic error in the spelling of Piney George, also known as Pine Tree George. Piney George appears in written histories of the Catawba (Brown, 1966), as well as in Revolutionary War pension rolls, which list Piney George as having the rank of Captain. Further, in Catawba tradition the rank of Captain would have been designated by the use of two snake effigies such as those that appear on the gorget.

Officials of Old Salem, Inc. have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of Old Salem, Inc. have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the Catawba Indian Nation.

This notice has been sent to officials of the Catawba Indian Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Hobart G. Cawood, President, Old Salem Inc., Box F, Salem Station, Winston-Salem, NC 27108; telephone (910) 721–7300 before February 11, 1998. Repatriation of this object to the Catawba Indian Nation may begin after that date if no additional claimants come forward.

Dated: January 6, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–660 Filed 1–9–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Oklahoma Historical Society, Oklahoma City, OK

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Oklahoma Historical Society, Oklahoma City, OK which meets the definition of ''sacred object'' and ''object of cultural patrimony'' under 43 CFR 10.2 (d).

The cultural item is a pipe consisting of a unworked tubular L-shaped catlinite bowl and wooden stem. The wooden stem is carved in alternating spiral and disc shapes, and the spiral sections have yellow, blue, and red paints applied. Attached to the stem is one broken semi-tanned thong and two additional thongs threaded through five tubular bone sections followed by a tin cone at the end.

In 1928, this pipe was donated to the Oklahoma Historical Society by Mr. W.T. Gault (Goit Collection). Donor information indicates that W.P. Campbell collected this pipe in Oklahoma City in 1911 from Burnt-All-Over. Accession records list this pipe as ''Cheyenne.'' However, a 1914 publication of the Society's *Historia* states that Mr. Goit ''received these items directly from the hands of the original owners'' and that the donation was actually made in 1914.

No information is known by the Oklahoma Historical Society or has been presented by the Northern Cheyenne Tribe of Montana regarding the pipe's possession by Burnt-All-Over (1837–1917). Oral tradition evidence presented by representatives of the Northern Cheyenne Tribe of Montana, including Mr. James Blackwolf, Keeper of the Sacred Medicine Hat Bundle, indicates this pipe originally came from the Sacred Medicine Hat Bundle. Representatives of the Northern Cheyenne Tribe of Montana have indicated this pipe is necessary for the practice of traditional Native American religion by present-day adherents. Representatives of the Northern Cheyenne have further stated that ''This Pipe was and still is essential to the wholeness and well-being of the Sacred Hat, a sacred covenant of the Cheyenne People which has been with them since time immemorial.'' Finally, representatives of the Northern Cheyenne Tribe of Montana have stated that this pipe has ongoing historical, traditional, and cultural importance central to the culture itself and could not be alienated by any individual.

Based on the above-mentioned information, officials of the Oklahoma Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(3), this cultural item is specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Oklahoma Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(4), this cultural item has ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the Oklahoma Historical Society have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and the Northern Cheyenne Tribe of Montana.

This notice has been sent to officials of the Cheyenne and Arapaho Tribes of Oklahoma and the Northern Cheyenne Tribe of Montana. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Jeffrey Briley, Registrar, Oklahoma Historical Society, 2100 N. Lincoln Blvd., Oklahoma City, OK 73105; telephone: (405) 522–5247 before February 11, 1998. Repatriation of these objects to the Northern Cheyenne Tribe of Montana may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: January 6, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–659 Filed 1–9–98; 8:45 am]

BILLING Code 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Maine in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Maine in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA.

A detailed assessment of the human remains was made by Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Aroostook Band of Micmac Indians, the Houlton Band of Maliseet Indians, the Passamaquoddy Indian Tribe, and the Penobscot Indian Nation.

In 1919, human remains representing one individual were donated to the Peabody Museum by Arlo and Oric Bates. No known individual was identified. No associated funerary objects are present.

Museum information indicates these human remains were collected by the donors from a shellheap on State Island, Frenchman Bay, Gouldsboro, ME. Other material culture recovered at this site indicates it has an Etchemin occupation dating to the late precontact period (1350–1600 A.D.). Historical documents and continuities of Etchemin material culture indicate the Etchemin groups in this particular area are an ancestral culture to both the present day Penobscot Indian Nation and the Passamaquoddy Indian Tribe.

Based on the above mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Penobscot Indian Nation and the Passamaquoddy Indian Tribe.

In 1878, human remains representing three individuals were recovered from a shell heap at Oak Point, Great Deer Island, ME by Manly Hardy during excavations conducted by a Peabody Museum expedition. No known individuals were identified. No associated funerary objects are present.

Based on material culture, the Oak Point site has been identified as having an Etchemin occupation dating to the late precontact period (1050–1600 A.D.). Further, historical documents and continuities of Etchemin material culture indicate that Etchemin groups are an ancestral culture in this particular region to the present day Penobscot Indian Nation.

In 1882, human remains representing one individual were donated to the Peabody Museum by James E. Knowlton. These remains are recorded in museum records as having come from Tatman's or Taplan's [Tappan's] Island on the Damariscotta River, ME and were collected by Fellows S. Knowlton. No known individual was identified. The nine associated funerary objects are ceramic sherds.

Based on the associated funerary objects, this site has been identified as having an Etchemin occupation dating to the late precontact period (1050–1600 A.D.). Further, historical documents and continuities of Etchemin material culture indicate that Etchemin groups are an ancestral culture in this particular region to the present day Penobscot Indian Nation.

In 1885, human remains representing one individual were donated to the Peabody Museum by James E. Knowlton. These remains are recorded as having come from a shell heap on

Friendship Long Island, ME and were collected by W.W. Knowlton. No known individual was identified. No associated funerary objects are present.

Based on material culture, this Friendship Long Island site has been identified as having an Etchemin occupation during the late precontact period (1050–1600 A.D.). Historical documents and continuities of Etchemin material culture in this particular region indicate the Etchemin are an ancestral culture to the present day Penobscot Indian Nation.

In 1886, human remains representing two individuals were recovered from the Whaleback Shell Mound, Damariscotta, ME by Abram T. Gamage during excavations conducted by a Peabody Museum expedition. No known individuals were identified. The six associated funerary objects consist of brass or copper beads.

Based on the associated funerary objects, these individuals have been determined to be Native American from the early contact period (post 1600 A.D.). The Whaleback Shell Mound is located within the historically documented territory of the Etchemin, a culture ancestral to the present day Penobscot Indian Nation.

In 1916, human remains representing one individual were acquired by the Peabody Museum as part of an exchange with the Warren Anatomical Museum, Harvard Medical School, Harvard University. No known individual was identified. No associated funerary objects are present.

Museum documentation lists the origin of these human remains as ''Penobscot Indian, Eastern Woodlands.''

In 1916, human remains representing one individual were donated to the Peabody Museum by The Boston Society of Natural History. Collection information indicates these human remains came from Maine and were collected in 1861 by Dr. J.F.W. Lane. No known individual was identified. No associated funerary objects are present.

Museum documentation describes these human remains as ''Penobscot Indian * * *''.

In 1919, human remains representing one individual were donated to the Peabody Museum by Arlo and Oric Bates who had removed the human remains from a shell heap on Ames Point (now known as the Crocker site), North Haven, ME at an earlier date. No known individual was identified. No associated funerary objects are present.

Based on material culture, the Crocker site has been identified as having an Etchemin occupation dating to the late precontact period (1050–1700 A.D.). Historical documents and continuities of Etchemin material culture indicate that Etchemin groups in this particular area are the ancestral culture to the present day Penobscot Indian Nation.

In 1956, human remains representing one individual were donated to the Peabody Museum by the R.S. Peabody Foundation, Andover, MA. These human remains were originally collected by Dexter W. Hodgdon, Jr. from Indian Town Island, Boothbay Harbor, ME. No known individual was identified. No associated funerary objects are present.

Based on material culture, Indian Town Island has been identified as having an Etchemin occupation from the late precontact period (1050–1600 A.D.). Historical documents and continuities of Etchemin material culture indicate the Etchemin in this particular area are the ancestral culture to the present day Penobscot Indian Nation.

In 1959, human remains representing one individual were acquired on permanent loan by the Peabody Museum from the Warren Anatomical Museum, Harvard Medical School, Harvard University. The Warren Anatomical Museum has authorized the Peabody Museum to proceed with the disposition of these human remains according to NAGPRA. No known individual was identified. No associated funerary objects are present.

Museum documentation lists the location of the recovery of these human remains as Tappan's Island, Damariscotta River, ME; and further describes these remains as ''Monhegan Indian.'' Additional documentation notes that the recovery site is a ''Formerly celebrated burial place, but not used in the past 200 years.'' Known material culture recovered from Tappan's Island indicates both late precontact and historic components dating to 1050–1750 A.D. representing Etchemin and Penobscot occupations. Historical documents and continuities of Etchemin material culture indicate that Etchemin groups in this particular area an ancestral culture to the present day Penobscot Indian Nation.

In 1967, human remains representing one individual were donated to the Peabody Museum by Mr. Guy Mellgren of Hingham, MA. No known individual was identified. No associated funerary objects are present.

Museum documentation indicates Mr. Mellgren collected these human remains from the Goddard site, Naskeag Point, Brooklin, ME. Based on a human collagen radiocarbon date of 679 +/- 59 BP, this individual is from the late precontact period. This date and the location of the Goddard site indicate this individual is most likely affiliated with the Etchemin culture. Historical documents and continuities of Etchemin material culture indicate that Etchemin groups in this particular area an ancestral culture to the present day Penobscot Indian Nation.

Based on morphological evidence, including aspects of cranio-facial and dental morphology, all human remains listed above have been determined to be Native American.

Based on the above mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 13 individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 15 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Penobscot Indian Nation.

This notice has been sent to officials of the Aroostook Band of Micmac Indians, the Houlton Band of Maliseet Indians, the Passamaquoddy Indian Tribe, and the Penobscot Indian Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Barbara Issac, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138; telephone: (617) 495–2254, before February 11, 1998. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

The National Park Service is not responsible for the determinations within this notice.

Dated: December 29, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 98–661 Filed 1–9–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

President's Advisory Board on Race

ACTION: President's Advisory Board on Race and related meetings; Revised Notice.

SUMMARY: This revises the notice of December 31, 1997 regarding the President's Advisory Board on Race meeting on January 13 and 14, 1998, in Phoenix, Arizona.

On January 13, 1998, Advisory Board memebers will visit local employment and training sites from 11:00 a.m. until 4:00 p.m. Beginning at 5:00 p.m. and ending at 7:00 p.m., the Advisory Board will meet with regional representatives of American Indian tribes in the auditorium of the Heard Museum located at 22 East Monte Vista Road in Phoenix. The meeting is open to the public on a first-come, first-seated basis.

On January 14, 1998, the Advisory Board will meet beginning at 9:00 a.m. at the Phoenix Prepatory Academy Auditorium at 735 East Fillmore Street in Phoenix. The meeting will bring together national experts to discuss whether economic opportunity is open to all Americans, the existence of discrimination and how it manifests itself, the challenges of building and maintaining a diverse work force, the causes of continued disparities, and possible programs and policies to address them. The public is welcome to attend on a first-come, first-seated basis; the meeting will conclude with a question and answer period. The meeting is expected to adjourn at 12:00 noon and reconvene at 4:15 p.m.

While the Advisory Board is in adjournment, there will be a Corporate and Labor Forum beginning at 1:30 p.m. and ending at 3:30 p.m. The public is welcome to attend on a first-come, first-seated basis; the meeting will conclude with a question and answer period.

At 4:15 p.m., the Advisory Board will reconvene for an open community forum for residents from the community to raise issues of general concern in the areas of race and racial reconciliation. The Board will adjourn for the day at 5:30 p.m.

All meetings will be open to the public on a first-come, first-seated basis. Interested persons are encouraged to attend. Members of the public will be provided an opportunity to make comments at the meetings on January 14, 1998 as outlined above. Members of the public may also submit to the contact person, any time before or after the meeting, written statements to the Board. Written comments may be submitted by mail, telegram, or facsimile, and should contain the writer's name, address and commercial, government, or organizational affiliation, if any.

FOR FURTHER INFORMATION CONTACT: Other comments or questions regarding this meeting may be directed to Randy D. Ayers, (202) 395–1010, or via facsimile, (202) 395–1020.

Dated: January 8, 1998.

Robert Wexler,

General Counsel.

[FR Doc. 98–775 Filed 1–8–98; 1:09 pm]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Bureau of Justice Statistics; Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Extension of a currently approved collection; Capital punishment report of inmates under sentence of death.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 7, 1997 at 62 FR 52360, allowing for a 60-day public comment period on this information collection. No comments were received by the Bureau of Justice Statistics. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for ''thirty days'' until February 11, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn.: Ms. Victoria Wassmer, 202–395–5871, Department of Justice Desk Officer, Room 10235, Office of Management and Budget, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285.

If you have additional comments, suggestions, or additional information, please write Jan M. Chaiken, Director, Bureau of Justice Statistics, 810 Seventh St., Washington, DC 20531. If you need a copy of the collection instrument with instructions, or have additional information, please contact Tracy L. Snell at 202–616–3288, or via facsimile at 202–307–1463.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the 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 collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of information collection. Extension of a currently approved collection.

(2) The title of the Form/Collection: Capital Punishment Report of Inmates Under Sentence of Death.

(3) The agency form number and the applicable component of the Department sponsoring the collection. Form: NPS–8 Report of Inmates Under Sentence of Death; NPS–8A Update Report of Inmates Under Sentence of Death; NPS–8B Status of Death Penalty—No Statute in Force; and NPS–8C Status of Death Penalty—Statute in Force. Corrections Unit, Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked to respond, as well as a brief abstract: Primary: State Departments of Corrections and Attorneys General. Others: The Federal Bureau of Prisons. Approximately 104 respondents (two from each State, the District of Columbia, and the Federal Bureau of Prisons) responsible for keeping records on inmates under sentence of death in their jurisdiction and in their custody will be asked to provide information for the following categories: condemned inmates' demographic characteristics, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal and current status if no longer

under sentence of death, method of execution, and cause of death by other than by execution. The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, State officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

(5) An estimate of the total number of responses and the amount of time estimated for an average response: 310 responses at 1 hour each for the NPS–8; 3,054 responses at ½ hour each for the NPS–8A; and 52 responses at ½ hour each for the NPS–8B or NPS–8C.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,863 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: January 6, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–698 Filed 1–9–98; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Sunshine Act Meeting

AGENCY: Institute of Museum and Library Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

TIME/DATE: 10:00 am–12:30 pm—Tuesday, January 27, 1998.

STATUS: Open.

ADDRESS: The Regal Biltmore Hotel, Corinthian Room, 506 South Grand Avenue, Los Angeles, CA 90071–2607.

FOR FURTHER INFORMATION CONTACT: Isa Bauerlein, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506—(202) 606–4649.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of Tuesday, January 27 will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

71st Meeting of the National Museum Services Board, the Regal Biltmore Hotel, Corinthian Room, Tuesday, January 27, 1998, Los Angeles, CA

Agenda

I. Chairman's Welcome and Approval of Minutes
II. Director's Report
III. Appropriations Report
IV. Legislative/Public Affairs Report
V. Office of Research and Technology Report
VI. Office of Museum Services Program Reports
VII. Office of Library Services Program Reports

Dated: December 11, 1997.

Linda Bell,

Director of Policy, Planning and Budget, National Foundation on the Arts and the Humanities, Institute of Museum and Library Services.

[FR Doc. 98–810 Filed 1–8–98; 3:31 pm]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

In the Matter of Long Island Lighting Company; (Nine Mile Point Nuclear Station Unit No. 2); Order Approving Application Regarding Acquisition of Long Island Lighting Company by Long Island Power Authority

I

Long Island Lighting Company (LILCO) is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to own and possess an 18-percent interest in Nine Mile Point Nuclear Station, Unit 2 (NMP2), under Facility Operating License No. NPF–69, issued by the Commission on July 2, 1987. In addition to LILCO, the other owners who may possess, but not operate, NMP2 are New York State Electric & Gas Corporation with an 18-percent interest, Rochester Gas and Electric Corporation with a 14-percent interest, and Central Hudson Gas & Electric Corporation with a 9-percent interest. Niagara Mohawk Power Company (NMPC) owns a 41-percent interest in NMP2, is authorized to act as agent for the other owners, and has exclusive responsibility and control over the operation and maintenance of NMP2. NMP2 is located in the town of Scriba, Oswego County, New York.

The Long Island Power Authority (LIPA) is a corporate municipal instrumentality of New York State, created by State legislation in 1986 with authority to acquire all or any part of LILCO's securities or assets.

II

Under cover of a letter dated September 8, 1997, from its counsel, LILCO submitted an application for consent by the Commission, pursuant to 10 CFR 50.80, regarding two proposed restructuring actions, each of which would result in the indirect transfer of the operating license for NMP2 to the extent held by LILCO. LILCO revised the application on October 8, 1997, such that the pending request for consent now involves only a proposed acquisition of LILCO by LIPA. LILCO modified and supplemented the application on November 7, 1997, to indicate that subsequent to the proposed acquisition by LIPA, LILCO would provide notification to the NRC regarding any future transfer of significant LILCO assets.

According to the application, LIPA proposes to acquire LILCO by purchasing its stock through a cash merger, at a time when LILCO consists of its electric transmission and distribution system, its retail electric business, substantially all of its current electric regulatory assets, and its 18-percent share in NMP2. LILCO thereby would become a subsidiary of LIPA. After this restructuring, LILCO would continue to exist as an ''electric utility'' as defined in 10 CFR 50.2, providing the same electric utility services it did immediately preceding the restructuring. LILCO would continue to be a licensee of NMP2, and no direct transfer of the operating license or interests in the station would result from the proposed restructuring. The transaction would not involve any change to either the management organization or technical personnel of NMPC, which has exclusive responsibility under the operating license for operating and maintaining

NMP2, and which is not involved in the proposed restructuring.

Notice of this application for approval was published in the **Federal Register** on November 7, 1997 (62 FR 60286), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on December 18, 1997 (62 FR 66400).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the application of September 8, as modified and supplemented by submittals dated October 8 and November 7, 1997, the NRC staff has determined that the acquisition and restructuring of LILCO as a subsidiary of LIPA will not affect the qualifications of LILCO as a holder of the license, and that the transfer of control of the license for NMP2, to the extent effected by the acquisition and restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated December 29, 1997.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the Commission approves the application regarding the proposed acquisition of LILCO by LIPA, subject to the following: (1) LILCO shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from LILCO to LIPA, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent (10%) of LILCO's consolidated net utility plant, as recorded on LILCO's books of account, and (2) should the acquisition and restructuring of LILCO by LIPA not be completed by December 31, 1998, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

IV

By February 5, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an Order designating the time and place of the hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing 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 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays, by the above date. Copies should be also sent to the Office of the General Counsel, and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John D. Leonard, Jr., Vice President Special Projects, Long Island Lighting Company, 1800 Old Walt Whitman Road, Melville, New York 11747.

For further details with respect to this Order, see the application for approval dated September 8, 1997, as modified and supplemented by letters dated October 8 and November 7, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 29th day of December 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–654 Filed 1–9–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1071 (which should be mentioned in all correspondence concerning this draft guide), is titled ''Standard Format and Content for Post-Shutdown Decommissioning Activities Report.'' The guide is intended for Division 1, ''Power Reactors.'' This draft guide is being developed to describe the information that should be provided in the Post-Shutdown Decommissioning Activities Report (PSDAR) before major decommissioning activities are begun on a nuclear power reactor. The guide also suggests a standard format for the PSDAR.

The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on Draft Regulatory Guide DG–1071. Comments may be accompanied by additional relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by March 31, 1998.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Printing, Graphics and Distribution Branch; or by fax at (301) 415–5272. Telephone requests cannot be accommodated. Regulatory guides are

not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 19th day of December 1997.

For the Nuclear Regulatory Commission.

Joseph A. Murphy,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–655 Filed 1–9–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 12, 1998.

A closed meeting will be held on Thursday, January 15, 1998, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, January 15, 1998, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: January 8, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–776 Filed 1–8–98; 12:39 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0577]

Exeter Capital Partners IV, L.P.; Notice of Issuance of a Small Business Investment Company License

On December 20, 1995, an application was filed by Exeter Capital Partners IV, L.P., at 10 East 53rd Street, 32nd Floor, New York, New York 10022, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/72–0577 on December 4, 1997, to Exeter Capital Partners IV, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 16, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–503 Filed 1–9–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 6 1/8 percent for the January–March quarter of FY 98.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

Jane Palsgrove Butler,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 98–504 Filed 1–9–98; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Initiation of a Review To Consider the Designation of Georgia as a Beneficiary Developing Country Under the GSP; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of Georgia for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of Georgia as a beneficiary developing country under the GSP program and solicits public comment relating to the designation criteria.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, N.W., Room 518, Washington, D.C. 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION: The government of Georgia has requested that it be granted eligibility for beneficiary status under the GSP program. The Trade Policy Staff Committee (TPSC) has initiated a review to determine if Georgia should be designated as a beneficiary developing country under the GSP program. A Country may not be designated a beneficiary developing country, absent a finding that such designation would be in the economic interests of the United States, if any one of several elements are found, including: the participation by the country in a commodity cartel that causes serious disruption to the world economy; the provision by the country of preferential treatment to products of other developed countries which has a significant adverse effect on U.S. commerce; the expropriation by the country of U.S.-owned property without compensation; a failure by the country to enforce arbitral awards in favor of U.S. persons; the support by the country of international terrorism; or a failure by the country to take steps to protect internationally recognized worker rights. Other factors taken into account in determining whether a country will be designated a beneficiary developing country include: the extent to which the country has assured the United States that it will provide market access of U.S. goods; the extent to which the country has taken action to reduce trade-distorting investment practices and policies; and the extent to which the country is providing adequate and

effective protection of intellectual property rights. The criteria for designation are set forth in full in section 502 of the Trade Act of 1974, as amended (19 U.S.C. 2461 *et. seq.*).

Interested parties are invited to submit comments regarding the eligibility of Georgia for designation as a GSP beneficiary developing country. Submission of comments must be made in English in 14 copies to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, and be received in Room 518 at 600 17th Street, N.W., Washington, D.C. 20508, no later than 5 p.m. on Friday, January 30, 1998. Except for submissions granted ''business confidential'' status pursuant to 15 CFR 2003.6, information and comments submitted regarding Georgia will be subject to public inspection by appointment with the staff of the USTR Public Reading Room. For an appointment, please call Ms. Brenda Webb at 202/395–6186. If the document contains business confidential information, 14 copies of a nonconfidential version of the submission along with 14 copies of the confidential version must be submitted. In addition, the submission should be clearly marked ''confidential'' at the top and bottom of each page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either ''public version'' or ''non-confidential'').

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 98–671 Filed 1–9–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29113]

Procedures for Processing Petitions for Interim Compliance Waivers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: This document presents a review of the procedures and information necessary for an operator of a Stage 2 noise level airplane subject to the phaseout regulations, promulgated pursuant to the Airport Noise and Capacity Act of 1990, to submit a request for a compliance waiver. As a result of its experience preceding the first two interim Stage 2 phaseout compliance dates, December 31, 1994, and December 31, 1996, the Federal Aviation Administration (FAA) reminds all affected operators of the procedures for applying for interim compliance waivers.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Albee, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3553, facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

Sections 91.865 and 91.867 of 14 CFR each require that as of December 31, 1998, an operator of Stage 2 airplanes either reduce the number of Stage 2 airplanes it operates by 75% from its base level, achieve a fleet mix of airplanes that is 75% Stage 3 airplanes, or in the case of a new entrant, achieve a fleet mix that is 75% Stage 3 airplanes. Section 91.871 allows operators to request waivers from interim compliance dates in limited circumstances. In order to facilitate compliance with the December 31, 1998, requirement, the FAA is summarizing the regulatory requirements for waiver requests from the Stage 3 transition regulations.

Filing Requests

As stated in § 91.871, applications for waivers must be filed at least 120 days prior to the compliance date from which the waiver is requested. This means that applications must be filed no later than Thursday, September 3, 1998, to ensure that they will be considered before the December 31, 1998, compliance date.

Each petition for an interim compliance waiver will be reviewed to determine whether it meets the basic criteria listed § 91.871. If the criteria are not met, the petitioner will receive a letter indicating that all of the required information has not been submitted. Petitioners will have an opportunity to submit missing information before any disposition is final.

Criteria (14 CFR 91.871)

All applications for a waiver must contain all of the following:

1. The operator's plan to achieve interim and final compliance;
2. An explanation of the operator's efforts to date to achieve compliance; and
3. Evidence or other information showing that a grant of the requested waiver is in the public interest.

In addition to the three criteria listed above, each petitioner must also explain why compliance with the December 31, 1998, requirement would be at least one of the following:

1. Financially onerous;
2. Physically impossible;
3. Technologically infeasible; or
4. Have an adverse effect either on competition or service to small communities.

Scope of Request

Each waiver will be considered only for the airplanes operated by the petitioner on the date the petition was submitted to the FAA. Operators are expected to have submitted viable compliance plans and abided by them. The FAA's analysis of any petition will take into account the total circumstances of the operator, including all actions taken up to the date of the petition.

Publication

Upon completion of the review and determination that the petition is complete in accordance with the criteria described above, a summary of the petition will be published in the **Federal Register** for public comment for a minimum of 14 days. A docket will be opened that contains the petition, any other pertinent information, and any comments received.

Response

After the close of the comment period, the Office of Environment and Energy (AEE) will analyze each request and draft a response that contains a narrative analysis of each required element. If the results of the analysis show that the petitioner has met the criteria, AEE will prepare documentation to grant the petition for waiver. If the analysis shows that the petitioner has failed to meet the criteria, AEE will prepare documentation to deny the petition. Part of a request may also be granted at the agency's discretion, depending on the circumstances. A copy of the approval or denial document will be placed in the docket, and it will be made available for public inspection.

Length of Waiver

Any waiver granted will be for the shortest possible time as required by the circumstances presented by the petitioner and the findings of the FAA. If the petitioner cannot achieve compliance within the time frame provided in a waiver, the petitioner must submit a new petition that will be evaluated under the same criteria as the original petition. New petitions that fail to provide more information than the original will be denied.

History of Waiver Requests

Ten petitions for waiver from the 1994 compliance date were submitted; seven were denied and three were withdrawn. In 1996, four petitions were submitted; four were withdrawn. Taken as a whole, the aviation industry has made a good faith effort to comply with the interim requirements, and is on track to meet the final compliance requirement by December 31, 1999.

Issued in Washington, DC on January 5, 1998.

James D. Erickson,

Director of Environment and Energy.

[FR Doc. 98–565 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Fayatteville Municipal Airport-Drake Field, Fayetteville, Arkansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Fayetteville Municipal Airport-Drake Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 11, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dale Frederick, Manager of Fayetteville Municipal Airport-Drake Field, at the following address: Dale Frederick, Airport Manager, Fayetteville Municipal Airport-Drake Field, 4500 South School Ave., Suite F, Fayetteville, AR 72701.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Fayetteville Municipal Airport-Drake Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 23, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 18, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1998.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $2,726,590.00.

PFC application number: 98–02–C–00–FYV.

Brief description of proposed projects:

Projects to Impose and Use PFC'S

Snow Removal Equipment, ARFF Building and ARFF Truck, Terminal Area Improvements, Commercial Ramp Rehabilitation and Extension, Part 107 Access Control System, and PFC Administrative Costs.

Proposed class or classes of air carriers to be exempted from collecting PFC's:

None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, AWS–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Fayetteville Municipal Airport-Drake Field.

Issued in Fort Worth, Texas on December 23, 1997.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 98–658 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3290]

Notice of Receipt of Petition for Decision That Nonconforming 1993–1997 Volkswagen Jetta Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993–1997 Volkswagen Jetta passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993–1997 Volkswagen Jetta passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 11, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA

has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (''G&K'') (Registered Importer 90–007) has petitioned NHTSA to decide whether 1993–1997 Volkswagen Jetta passenger cars are eligible for importation into the United States. The vehicles which G&K believes are substantially similar are the 1993–1997 Volkswagen Jetta passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Volkswagenwerke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993–1997 Volkswagen Jettas to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the non-U.S. certified 1993–1997 Volkswagen Jettas, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993–1997 Volkswagen Jettas are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 111 *Rearview Mirror,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1993–1997 Volkswagen Jettas comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 203 *Impact Protection for the Driver From the Steering Control System:* the petitioner states that the requirements of this standard will be met when the non-U.S. certified 1993–1997 Volkswagen Jettas are equipped with driver's and passenger's side air bags identical to those found on the vehicles' U.S. certified counterparts.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt warning buzzer; (b) installation of driver's and passenger's side air bags identical to those found on the vehicles' U.S.-certified counterparts. The petitioner states that the vehicles are equipped with Type 2 seat belts in the front and rear outboard designated seating positions, and with Type 1 seat belts in the rear center designated seating position.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 7, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–689 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3056]

Decision That Nonconforming 1992 BMW 7 Series Passenger Cars Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1992 BMW 7 Series passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 BMW 7 Series passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1992 BMW 7 Series), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective January 12, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland (''J.K.'') (Registered Importer 90–006) petitioned NHTSA to decide whether 1992 BMW 7 Series passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on November 10, 1997 (62 FR 60556) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from BMW of North America, Inc. (''BMW''), the United States representative of Bayerische Motoren Werke, A.G., the vehicle's manufacturer. In this comment, BMW stated that the petition erroneously claimed that non-U.S. certified 1992 BMW 7 Series passenger cars are equipped in both front seating positions with an automatic belt system identical to that found on the vehicles' U.S. certified counterparts. BMW stated that the company never certified the U.S. version of the 1992 BMW 7 Series to FMVSS No. 208, *Occupant Crash Protection,* through the use of automatic seat belts, and that it installed frontal air bag systems in those vehicles instead. BMW contended that air bags would have to be installed in a non-U.S. certified 1992 BMW 7 Series for that vehicle to comply with FMVSS No. 208.

According to BMW, it would be ''extremely difficult, if not impossible,'' for an air bag system to be properly installed.

NHTSA accorded J.K. an opportunity to respond to BMW's comment. In its response, J.K. acknowledged that the petition was in error to the extent that it described non-U.S. certified 1992 BMW 7 Series passenger cars as being equipped with automatic seat belts. J.K. agreed with BMW's assertion that these vehicles are equipped with air bag systems at both front outboard seating positions. Because the air bags in 1992 BMW 7 Series passenger cars manufactured for the European market are smaller than those furnished on the U.S. certified version of that vehicle, J.K. stated that it would be necessary to replace the air bags in European market vehicles with U.S. model components. J.K. did not address the difficulty of making such a replacement, although it indicated that if there were no existing air bag system in these vehicles, it would be possible to install one by changing the steering column and adding the necessary wiring and sensors to existing mounts.

NHTSA believes that J.K.'s response adequately addresses the issue that BMW has raised regarding its petition. NHTSA further notes that in recent years, air bag systems have been replaced with relative ease on BMWs and other similar vehicles, and that the need for this alteration would not preclude the non-U.S. certified 1992 BMW 7 Series from being found eligible for importation.

NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–232 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 BMW 7 Series passenger car is substantially similar to a 1992 BMW 7 Series passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 7, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–690 Filed 1–9–98; 8:45 am]

BILLING CODE 4910–59–P

UNITED STATES INFORMATION AGENCY

Proposed Collection; Comment Request

AGENCY: United States Information Agency.

ACTION: Proposed collection; comment request.

SUMMARY: The United States Information Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection requirement concerning the public use form entitled ''Proposal Submission Instructions (PSI), United Stated Information Agency, Bureau of Educational and Cultural Affairs''. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 [Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)].

USIA is requesting OMB approval for a three-year reinstatement and revision to the currently approved collection under OMB Number 3116–0212 which is scheduled to expire on April 30, 1998. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256.

DATES: Comments are due on or before March 13, 1998.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, *Attention:* Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information

Agency, M/AOL, 301 Fourth Street, S.W., Washington, D.C. 20547, telephone (202) 619–4408, internet address: JGiovett@USIA.GOV; and OMB review: Ms. Victoria Wassmer, Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0181) is estimated to average twenty (20) hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are voluntary and respondents will be required to respond only one time.

Comments are requested on the proposed information collection concerning (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/AOL, 301 Fourth Street, S.W., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503.

Current Actions: USIA is requesting OMB approval for a revision to the total annual burden and the reinstatement of this collection for a three-year period.

Title: Proposal Submission Instructions (PSI), United States Information Agency.

Form Numbers: IAP–135, IA–1285, M/KR–13, SF–LLL, M/KR–12, IA–1279, IA–1280 and IAP–100.

Abstract: Information collection from the public will enable the grant review panel and Associate Director to ensure that each application complies with the established procedures and approving and/or disapproving of funding is properly warranted.

Proposed Frequency of Responses: No. of Respondents—700; Recordkeeping Hours—20; Total Annual Burden—14,000.

Dated: January 6, 1998.

Rose Royal,

Federal Register Liaison.

[FR Doc. 98–605 Filed 1–9–98; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 63, No. 7

Monday, January 12, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Correction

In notice document 98–42 beginning on page 275, in the issue of Monday, January 5, 1998, make the following correction:

On page 276, in the first column, in the first full paragraph, in the sixth line from the bottom, insert ''each year. The staff also estimates that the average number of hours necessary for compliance with the Rule 11Aa3–2'' after ''Rule 11Aa3–2''.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39422; File No. SR-DTC-97-20]

Self Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Expanding the Money Market Instrument Settlement Program

Correction

In notice document 97–32821 beginning on page 66158, in the issue of Wednesday, December 17, 1997, make the following correction:

On page 66158, in the third column, in the first line, ''December 19, 1997'' should read ''December 10, 1997''.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-39176; File No. S7-21-96]

RIN 3235-AG99

Lost Securityholders

Correction

In rule document 97–26519 beginning on page 52229, in the issue of Tuesday, October 7, 1997, make the following correction:

§ 240.17Ad-17 [Corrected]

On page 52237, in the second column, in §240.17Ad-17 (a)(3)(i), in the second line ''decreased'' should read ''deceased''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97-ASW-21]

Amendment of Class E Airspace; New Braunfels Municipal, TX

Correction

In rule document 97–31930 beginning on page 64269 in the issue of Friday, December 5, 1997 make the following correction:

§ 71.1 [Corrected]

On page 64270, in the third column, in §71.1, under the heading **ASW TX E5–San Antonio, TX [Revised]**, in the eighth line ''(Lat. 29°38′39″N., long. 98°17′06″ W.)'' should read ''(Lat. 29°31′09″N., long. 98°17′06″ W.)

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-215B; Amdt Nos. 171-153, 172-154, 173-261, 175-86, 176-43, 178-119]

RIN 2137-AC82

Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions

Correction

In rule document 97–10481 beginning on page 24690 in the issue of Tuesday, May 6, 1997, make the following correction:

§ 173.62 [Corrected]

On page 24723, in § 173.62(c)(5), in the table, in entry 111, the third column should read ''Not necessary'', and the rest of the text in the third column for entry 111 should be moved to the fourth column under ''Boxes.''.

BILLING CODE 1505-01-D

Federal Register

Monday
January 12, 1998

Part II

Department of Housing and Urban Development

Single Family Property Disposition Officer Next Door Sales Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4277–N–01]

Single Family Property Disposition Officer Next Door Sales Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: Under its Single Family Property Disposition program, the Department has implemented an initiative to sell HUD-owned single family homes to law enforcement officers at a 50 percent discount. The initiative applies to properties located in Revitalization Areas and to other properties that meet certain exception criteria. These properties are being made available to law enforcement officers who agree to occupy them as their primary residence for at least three years. The Department has taken this action to ensure that homeownership opportunities are made available to law enforcement officers who are charged with the responsibility of ensuring the safety and well-being of residents in the communities they serve and to help promote safe neighborhoods by furthering the community policing efforts being made by numerous cities.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Asset Management Division, Department of Housing and Urban Development, 451 7th St. SW, Room 9174, Washington, D.C. 20410–8000), telephone number (202) 708–0740 (this is not a toll-free number). For hearing- and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A major goal of the Department is to use its resources in a manner that enhances the general well-being of American communities. Promoting safe neighborhoods is a critical component of the Nation's housing policy. One means of furthering this policy is to encourage law enforcement officers to purchase and reside in HUD-acquired single family properties. Accordingly, the Department is using its authority under 24 CFR part 291, Disposition of HUD-Acquired Single Family Property, to make single family properties nationwide available for this purpose.

II. Conditions for Purchase of Properties

For purposes of this program, law enforcement officers are defined as individuals who are employed full time by a federal, state, county, or municipal government and are sworn to uphold, and make arrests for violations of, federal, state, county, or municipal law.

Starting on August 11, 1997 and for one year thereafter, for this Officer Next Door Sales program only, the discount for both insurable and uninsurable properties that are located in Revitalization Areas as defined in HUD Notice H–96–81, dated September 30, 1996, and for properties located outside a Revitalization Area that meet the exception criteria (the property meets the standards for establishment of a Revitalization Area and is located in a neighborhood where seller concessions, such as take-back financing are common and/or a predominance of other buyers in the area are investor owners) is 50 percent. In addition, both insurable and uninsurable properties, for this program only, may be purchased on a direct sale basis by the unit of local government, nonprofit organization or law enforcement officer in Revitalization Areas and exception areas. Outside of these areas, law enforcement officers must use the standard sales procedure without any discount when purchasing from HUD.

It is intended that the full discount be passed on to the law enforcement officer if the property is first purchased by the unit of local government or nonprofit organization. If a real estate broker is engaged to handle the sale of these properties or closing costs are requested, the discount will be reduced by the amount of the broker's commission or closing costs paid. The special discount and the sale of properties directly to law enforcement officers under this program will expire on August 11, 1998.

This program is an extension of the current sales program. The procedures for implementing this program are as follows:

Upon an expression of interest to participate in this program by a government entity, nonprofit organization or law enforcement officer, the HUD Field Office will provide a listing of all newly acquired insurable and uninsurable properties available in the designated area of interest.

2. Where feasible, HUD Field Offices will invite interested law enforcement officers into the office for a face to face discussion of how the program operates in regard to property availability, discount, how to prepare and submit a sales contract, the role of a real estate broker if they choose to use one and how to view properties. If an office visit is not convenient, the local office representative will thoroughly explain the procedure over the telephone and provide detailed written information.

3. Normal direct sales procedures apply under this program. Interested parties must notify HUD of their preliminary interest within 5 days of property notification.

4. Governmental entities and nonprofit organizations purchasing properties with the intent of resale to law enforcement officers should so designate those specific properties when an interest to purchase is expressed to HUD. At the time the sales contract is submitted, the government agency or nonprofit must indicate if FHA-insured financing is desired.

5. To avoid the need for dual closings and the cost associated with each, Field Offices will allow the governmental entity or the nonprofit organization to assign the sales contract to the law enforcement officer.

6. To make the properties more affordable in those instances where an FHA-insured mortgage is requested by the law enforcement officer, the downpayment will be $100.

7. The law enforcement officer must occupy the property as his/her primary residence for the three year period.

8. The sales closing timeframes established by each HUD Office will apply to this program.

9. Deed restrictions will apply to these sales.

a. The following clause MUST be added to each deed for properties purchased by law enforcement officers under this program:

''The purpose of the following covenant is to insure that the property conveyed herein is used for homeownership and is occupied as a primary residence by a law enforcement officer in accordance with the objectives of the Grantor's Officer Next Door Sales Program. Grantee, a law enforcement officer, shall own and occupy, as a primary residence, the property conveyed herein. This covenant shall be subject and subordinate to any mortgage or deed of trust executed by Grantee to finance or refinance the acquisition of the property conveyed herein and shall be extinguished upon the foreclosure of such mortgage or the conveyance of the property by deed in lieu of foreclosure. The covenants and conditions contained in this paragraph shall terminate, shall be of no further effect, and shall not be enforceable on or after [date of third year anniversary of closing] or unless terminated earlier in writing by Grantor. The acceptance of this deed by the

Grantee shall constitute an acceptance of the use restrictions described in this paragraph.''

b. In those instances where a nonprofit organization or a unit of local government purchases and closes the sale, the following clause must be provided to the nonprofit organization or a unit of local government for inclusion as a restriction in their deed to the law enforcement officer:

''The purpose of the following covenant is to insure that the property conveyed herein is used for homeownership and is occupied as a primary residence by a law enforcement officer in accordance with the objectives of the U.S. Department of Housing and Urban Development's (HUD's) Officer Next Door Sales Program. Grantee, a law enforcement officer, shall own and occupy, as a primary residence, the property conveyed herein. This covenant shall be subject and subordinate to any mortgage or deed of trust executed by Grantee to finance or refinance the acquisition of the property conveyed herein and shall be extinguished upon the foreclosure of such mortgage or the conveyance of the property by deed in lieu of foreclosure. The covenants and conditions contained in this paragraph shall terminate, shall be of no further effect, and shall not be enforceable on or after [date of third year anniversary of closing] or unless terminated earlier in writing by HUD. The acceptance of this deed by the Grantee shall constitute an acceptance of the use restrictions described in this paragraph.''

III. Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0521. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

IV. Environmental Impact

This notice is subject to, and does not alter the environmental requirements of regulations in 24 CFR part 291. Accordingly, under 24 CFR 50.19(c)(5), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The environmental review provisions for the disposition of HUD-acquired single family property are in 24 CFR 291.100(e).

Authority: 12 U.S.C. 1709 and 1715b.

Dated: January 5, 1998.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98–669 Filed 1–9–98; 8:45 am]

BILLING CODE 4210–27–P

Reader Aids

Federal Register

Vol. 63, No. 7

Monday, January 12, 1998

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

E-mail **info@fedreg.nara.gov**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service with a fax machine. There is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list is updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, NW., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JANUARY

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 12, 1998

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry products:

Pathogen reduction; hazard analysis and critical control point (HACCP) systems

Generic E. coli testing of turkeys, etc.; sample collection; partial withdrawal; published 1-12-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Gulf of Alaska groundfish; published 12-12-97

Meetings:

Northeastern United States fisheries—

Atlantic mackerel, squid, and butterfish; published 1-12-98

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Florida; published 11-13-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; published 12-11-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Unauthorized changes of consumer's long distance carriers (slamming); policies and rules; published 8-14-97

Correction; published 9-17-97

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Federal Home Loan Bank bylaws; approval authority; published 12-11-97

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Multiple use mining; mining claims under general mining laws; published 12-12-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pratt & Whitney; published 12-8-97

Robinson Helicopter Co.; published 12-8-97

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Consolidated return regulations—

Consolidated groups; losses and credits, limitations on use; overall foreign loss accounts; published 1-12-98

VETERANS AFFAIRS DEPARTMENT

Disabilities rating schedule:

Cardiovascular system; published 12-11-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Raisins produced from grapes grown in California; comments due by 1-12-98; published 11-13-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; comments due by 1-12-98; published 11-12-97

Bering Sea and Aleutian Islands groundfish; comments due by 1-14-98; published 12-15-97

Bering Sea and Aleutian Islands groundfish; correction; comments due by 1-14-98; published 12-23-97

Gulf of Alaska groundfish; comments due by 1-14-98; published 12-15-97

Pacific halibut; comments due by 1-14-98; published 12-15-97

West States and Western Pacific fisheries—

Northern anchovy; comments due by 1-16-98; published 12-17-97

Marine mammals:

Commercial fishing authorizations—

Take reduction plan and emergency regulations; hearings; comments due by 1-14-98; published 12-12-97

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program; reimbursement; comments due by 1-13-98; published 11-14-97

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

North Dakota; comments due by 1-14-98; published 12-15-97

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 1-16-98; published 12-17-97

Colorado; correction; comments due by 1-16-98; published 12-17-97

Montana; comments due by 1-14-98; published 12-15-97

Texas; comments due by 1-16-98; published 12-17-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Alabama et al.; comments due by 1-12-98; published 12-2-97

Television broadcasting:

Cable television systems—

Inside wiring; comments due by 1-13-98; published 11-14-97

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Federal Home Loan Bank bylaws; approval authority; comments due by 1-12-98; published 12-11-97

FEDERAL RESERVE SYSTEM

Depository institutions; reserve requirements (Regulation D):

Weekly reporters requirements; move to lagged reserve maintenance system; comments due by 1-12-98; published 11-12-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Gray Wolf; comments due by 1-12-98; published 12-11-97

INTERIOR DEPARTMENT

National Park Service

Special regulations:

Delaware Water Gap National Recreation Area; designation of bicycle routes; comments due by 1-12-98; published 11-13-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Oklahoma; comments due by 1-14-98; published 12-15-97

Surface coal mining and reclamation operations:

Ownership and control, permit application process, and improvidently issued permits; comments due by 1-16-98; published 11-26-97

LABOR DEPARTMENT

Mine Safety and Health Administration

Program policy letters:

Occupational illnesses of miners, including retired or inactive miners; reporting requirements; comments due by 1-12-98; published 11-12-97

NATIONAL CREDIT UNION ADMINISTRATION

Freedom of Information Act and Privacy Act; implementation; comments due by 1-12-98; published 11-13-97

INTERIOR DEPARTMENT

National Indian Gaming Commission

Indian Gaming Regulatory Act:

Indian gaming operations; annual fees; comments

LIST OF PUBLIC LAWS

The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service for newly enacted public laws. To subscribe, send E-mail to **LISTPROC@ETC.FED.GOV** with the message:

SUBSCRIBE PUBLAWS-L FIRSTNAME LASTNAME

Note: This service is strictly for E-mail notification of new public laws only. The text of laws is not available through this service. We cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A "●" precedes each entry that is now available on-line through the Government Printing Office's *GPO Access* **service at http://www.access.gpo.gov/nara/cfr. For information about** *GPO Access* **call 1-888-293-6498 (toll free).**

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
●**1, 2 (2** Reserved)	(869–032–00001–8)	$5.00	Feb. 1, 1997
●**3** (1996 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
●**4**	(869–032–00003–4)	7.00	Jan. 1, 1997
5 Parts:			
●1–699	(869–032–00004–2)	34.00	Jan. 1, 1997
●700–1199	(869–032–00005–1)	26.00	Jan. 1, 1997
●1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
7 Parts:			
●0–26	(869–032–00007–7)	26.00	Jan. 1, 1997
●27–52	(869–032–00008–5)	30.00	Jan. 1, 1997
●53–209	(869–032–00009–3)	22.00	Jan. 1, 1997
●210–299	(869–032–00010–7)	44.00	Jan. 1, 1997
●300–399	(869–032–00011–5)	22.00	Jan. 1, 1997
●400–699	(869–032–00012–3)	28.00	Jan. 1, 1997
●700–899	(869–032–00013–1)	31.00	Jan. 1, 1997
●900–999	(869–032–00014–0)	40.00	Jan. 1, 1997
●1000–1199	(869–032–00015–8)	45.00	Jan. 1, 1997
●1200–1499	(869–032–00016–6)	33.00	Jan. 1, 1997
●1500–1899	(869–032–00017–4)	53.00	Jan. 1, 1997
●1900–1939	(869–032–00018–2)	19.00	Jan. 1, 1997
●1940–1949	(869–032–00019–1)	40.00	Jan. 1, 1997
●1950–1999	(869–032–00020–4)	42.00	Jan. 1, 1997
●2000–End	(869–032–00021–2)	20.00	Jan. 1, 1997
●**8**	(869–032–00022–1)	30.00	Jan. 1, 1997
9 Parts:			
●1–199	(869–032–00023–9)	39.00	Jan. 1, 1997
●200–End	(869–032–00024–7)	33.00	Jan. 1, 1997
10 Parts:			
●0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
●51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
●200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
●500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
●**11**	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
●1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
●200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
●220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
●300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
●500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
●600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
●**13**	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
●1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
●60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
●140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
●200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
●1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
●0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
●300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
●800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
●0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
●1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
●1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
●200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
●240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
●1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
●400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
●1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
●141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
●200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
●1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
●400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
●500–End	(869–032–00058–1)	42.00	Apr. 1, 1997
21 Parts:			
●1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
●100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
●170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
●200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
●300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
●500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
●600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
●800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
●1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
●1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
●300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
●**23**	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
●0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
●200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
●500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
●700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
●1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
●**25**	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
●§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
●§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
●§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
●§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
●§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
●§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
●§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
●§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
●§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
●§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
●§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
●§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
●2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
●40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
●50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
●300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
●600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
●1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
●200–End	(869–032–00097–2)	17.00	Apr. 1, 1997
28 Parts:			
●1-42	(869–032–00098–1)	36.00	July 1, 1997
●43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
●0–99	(869–032–00100–5)	27.00	July 1, 1997
●100–499	(869–032–00101–4)	12.00	July 1, 1997
●500–899	(869–032–00102–2)	41.00	July 1, 1997
●900–1899	(869–032–00103–1)	21.00	July 1, 1997
●1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
●1910 (§§ 1910.1000 to end)	(869–032–00105–7)	29.00	July 1, 1997
●1911–1925	(869–032–00106–5)	19.00	July 1, 1997
●1926	(869–032–00107–3)	31.00	July 1, 1997
●1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
●1–199	(869–032–00109–0)	33.00	July 1, 1997
●200–699	(869–032–00110–3)	28.00	July 1, 1997
●700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
●0–199	(869–032–00112–0)	20.00	July 1, 1997
●200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
●1–190	(869–032–00114–6)	42.00	July 1, 1997
●191–399	(869–032–00115–4)	51.00	July 1, 1997
●400–629	(869–032–00116–2)	33.00	July 1, 1997
●630–699	(869–032–00117–1)	22.00	July 1, 1997
●700–799	(869–032–00118–9)	28.00	July 1, 1997
●800–End	(869–032–00119–7)	27.00	July 1, 1997
33 Parts:			
●1–124	(869–032–00120–1)	27.00	July 1, 1997
●125–199	(869–032–00121–9)	36.00	July 1, 1997
●200–End	(869–032–00122–7)	31.00	July 1, 1997
34 Parts:			
●1–299	(869–032–00123–5)	28.00	July 1, 1997
●300–399	(869–032–00124–3)	27.00	July 1, 1997
●400–End	(869–032–00125–1)	44.00	July 1, 1997
●**35**	(869–032–00126–0)	15.00	July 1, 1997
36 Parts			
●1–199	(869–032–00127–8)	20.00	July 1, 1997
●200–299	(869–032–00128–6)	21.00	July 1, 1997
●300–End	(869–032–00129–4)	34.00	July 1, 1997
●**37**	(869–032–00130–8)	27.00	July 1, 1997
38 Parts:			
●0–17	(869–032–00131–6)	34.00	July 1, 1997
●18–End	(869–032–00132–4)	38.00	July 1, 1997
●**39**	(869–032–00133–2)	23.00	July 1, 1997
40 Parts:			
●1–49	(869–032–00134–1)	31.00	July 1, 1997
●50–51	(869–032–00135–9)	23.00	July 1, 1997
52 (52.01–52.1018)	(869–032–00136–7)	27.00	July 1, 1997
●52 (52.1019–End)	(869–032–00137–5)	32.00	July 1, 1997
●53–59	(869–032–00138–3)	14.00	July 1, 1997
●60	(869–032–00139–1)	52.00	July 1, 1997
●61–62	(869–032–00140–5)	19.00	July 1, 1997
●63–71	(869–032–00141–3)	57.00	July 1, 1997
●72–80	(869–032–00142–1)	35.00	July 1, 1997
●81–85	(869–032–00143–0)	32.00	July 1, 1997
86	(869–032–00144–8)	50.00	July 1, 1997
●87-135	(869–032–00145–6)	40.00	July 1, 1997
●136–149	(869–032–00146–4)	35.00	July 1, 1997
●150–189	(869–032–00147–2)	32.00	July 1, 1997
●190–259	(869–032–00148–1)	22.00	July 1, 1997
●260–265	(869–032–00149–9)	29.00	July 1, 1997
●266–299	(869–032–00150–2)	24.00	July 1, 1997
●300–399	(869–032–00151–1)	27.00	July 1, 1997
●400–424	(869–032–00152–9)	33.00	[5] July 1, 1996
●425–699	(869–032–00153–7)	40.00	July 1, 1997
●700–789	(869–032–00154–5)	38.00	July 1, 1997
●790–End	(869–032–00155–3)	19.00	July 1, 1997
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
●1–100	(869–032–00156–1)	14.00	July 1, 1997
●101	(869–032–00157–0)	36.00	July 1, 1997
●102–200	(869–032–00158–8)	17.00	July 1, 1997
●201–End	(869–032–00159–6)	15.00	July 1, 1997
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●**44**	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–032–00166–9)	30.00	Oct. 1, 1997
●200–499	(869–032–00167–7)	18.00	Oct. 1, 1997
●500–1199	(869–032–00168–5)	29.00	Oct. 1, 1997
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–032–00172–3)	11.00	Oct. 1, 1997
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–032–00177–4)	21.00	Oct. 1, 1997
●500–End	(869–032–00178–2)	17.00	Oct. 1, 1997
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–032–00180–4)	27.00	Oct. 1, 1997
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–032–00191–0)	31.00	Oct. 1, 1997
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
186–199	(869–032–00193–6)	11.00	Oct. 1, 1997
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–032–00047–6)	45.00	Jan. 1, 1997
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.