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NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

RIN 3150–AF78

Electronic Freedom of Information Act: Implementation

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to implement the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), which are designed to bring the Freedom of Information Act (FOIA) into electronic age by clarifying that FOIA applies to records maintained in hardcopy or electronic format. The rule implements statutory provisions of the law that broaden public access to government information by placing more records on-line. The rule implements statutory amendments that recognize the difficulty in responding to requests in the 10 working days formerly required and extend that time to 20 working days. It also provides procedures for agencies to discuss with (FOIA) requesters ways of tailoring requests to improve responsiveness. The rule amends NRC's FOIA regulations to comply with the requirements of the new statute. Certain other changes have been made to correct administrative errors and to update or remove obsolete information.

EFFECTIVE DATE: February 19, 1998.

FOR FURTHER INFORMATION CONTACT: Russell A. Powell, Chief, Freedom of Information/Local Public Document Room Branch, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–7169, e-mail: RAP1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background Information

On October 2, 1996, the President signed into law the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), Pub. L. 231, 110 Stat. 3048 (1996). EFOIA includes provisions authorizing or requiring agencies to promulgate regulations implementing certain of its requirements, including the tracking of Freedom of Information Act (FOIA) requests, the aggregation of FOIA requests, and the expedited processing of FOIA requests. In addition, EFOIA changes the time limit for responding to a FOIA request from ten to twenty working days, the requirements for reporting FOIA activities to Congress, and the cases in which an agency may extend the time within which it will respond to a FOIA request. EFOIA also includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, and the establishment of ''electronic reading rooms.''

This final rule revises the NRC's FOIA regulations, 10 CFR part 9, to comply with EFOIA. The NRC published a proposed rule on September 5, 1997 (62 FR 46922). In response, the NRC received two comments from the public.

The Reporters Committee for Freedom of the Press commented that the NRC regulations should allow for the waiver of the certification requirement for requests for expedited processing. The EFOIA allows agencies to require requesters seeking an expedited review to certify that the reasons provided for expedited processing are true and correct. The requested waiver would avoid delays in processing a FOIA request that would result from an exchange of correspondence with a requester to obtain this certification. Although the proposed regulations tracked the language of the EFOIA amendments, the agency agrees with the comment that it has the flexibility to waive the certification requirement. Therefore, the NRC has revised the wording of the regulation to allow the waiver of the certification as a matter of agency discretion.

Commonwealth Edison Company (ComEd) commented on what appeared to be the establishment of a new title, Freedom of Information Act and Privacy Act Officer (FOIA/PA Officer). ComEd was concerned that the NRC was creating an additional staff position and that the creation of additional staffing could directly affect the cost of administration. The NRC is not establishing a new position, but only using the title for the person designated to administer the agency's Freedom of Information Act and Privacy Act responsibilities. The FOIA/PA Officer will be designated by the Chief Information Officer and the designated person will use the FOIA/PA Officer title in actions involving the FOIA and Privacy Act. The regulation has been modified to more clearly reflect that this is only a designated title for the responsible official to use in the performance of his/her responsibilities connected with the FOIA and Privacy Act.

ComEd was also concerned that the establishment of an electronic reading room for certain records created after November 1, 1996, ''may prove to be prohibitively expensive.'' The NRC has a previously established website. Most of the documents that are required to be posted in an electronic reading room were already posted on the website or are available electronically through the NRC Public Document Room's on-line Bibliographic Retrieval System (BRS). Therefore, the additional cost to add the few remaining documents to the NRC website is minimal and does not have any significant economic impact on the NRC or the public.

The final rule also includes several non-substantive editorial corrections. The definition of the term ''Review time'' at § 9.13 has been revised to remove the phrase ''to determine if they are in fact responsive'' because that is search time, not review time. The definition of the term ''Search time'' has been revised in § 9.13 by substituting the term ''reviewing * * * agency records'' with ''looking for * * * agency records'' to avoid confusion since the term ''reviewing'' has its own definition.

In addition, paragraphs (d)(2), (3), and (4) of § 9.41 have been combined to eliminate redundancies. Section 9.41(d)(2), (3), and (4) have been combined in a single paragraph at § 9.41(d)(2). Paragraphs (d)(5) and (6) of § 9.41 have been combined in a single paragraph at § 9.41(d)(3).

New Provisions

A. New and Revised Definitions

The rule establishes a new title, Freedom of Information Act and Privacy Act Officer, to be designated by the Chief Information Officer as the designated official responsible for administering the FOIA and Privacy Act. This new title is being used in lieu of using the organizational title of the responsible individual because the organizational title may not be indicative of the specific responsibilities under these Acts. A new definition is added to 10 CFR 9.13 to reflect this new title.

The definition of record is amended to add ''any information that would be an agency record subject to the requirements of (5 U.S.C. 552) when maintained by an agency in any format, including electronic format'' and to read ''Record also includes a book, * * * drawing, diagram, * * *''.

The definition of review time is revised to remove from the definition the period spent ''excising from the records those portions which are to be withheld.''

B. Electronic Records

Section 3 of EFOIA amends 5 U.S.C. 552(f)(2) to define ''agency record'' for purposes of FOIA as including ''any information that would be an agency record subject to the requirements of (5 U.S.C. 552) when maintained by an agency in any format, including an electronic format.'' Therefore, section 552(f) clarifies that the term ''agency record'' includes information stored in any computer readable format as well as traditional paper documents. The final rule amends 10 CFR 9.13 to specifically include information in an electronic format within the definition of the term ''agency record.'' 10 CFR 9.13 specifically includes in the definition of ''search'' time spent looking for records by automated means as well as manually.

C. Electronic Reading Room

Section 4 of EFOIA amends 5 U.S.C. 552(a)(2), which previously required agencies to make available for public inspection and copying certain information, such as agency opinions and policy statements, administrative staff manuals and staff instructions that affect a member of the public. The new law expands these categories to include agency records that have been made publicly available and are likely to be the subject of repetitive public requests, as well as a general index of these frequently sought documents. The amendments further provide that section 552(a)(2) records created on or after November 1, 1996, must be made available by computer telecommunications within one year after such date, or if computer telecommunications have not been established, by other electronic means. The general index of these records is to be available by computer telecommunications by December 31, 1999. These new requirements, as well as the on-line address for NRC's homepage on the Internet, are now incorporated in 10 CFR 9.21(c)(6) and (f).

Finally, where material has been withheld in electronic records made available to the public, the extent of the deletions must now be indicated on the portion of the record made available or published and, where technically possible, must be indicated at the place in the record where the deletion occurred. This new requirement is included at 10 CFR 9.19(d).

D. Honoring Form or Format of Requests

EFOIA, 5 U.S.C. 552(a)(3), contains three significant new provisions. First, 5 U.S.C. 552(a)(3)(B) requires agencies, when making records available to the public, to do so ''in any form or format requested by the person if the record is readily reproducible by the agency'' in the requested manner. This new requirement is included in 10 CFR 9.15. Second, 5 U.S.C. 552(a)(3)(C) makes it clear that when a FOIA request is received, an agency should not only search for hard copies, but should also search for the records in their electronic form. This requirement is included in 10 CFR 9.15. Finally, a ''search'' under the amendments means to look for agency records manually ''or by automated means'' for the purpose of locating those records which are responsive to a request. This requirement is incorporated in 10 CFR 9.13 in the definition of ''search time.''

E. Time Limits for Responding to Requests

In recognition of the fact that 10 working days is not a realistic timeframe, the EFOIA amendments, 5 U.S.C. 552(a)(6)(A)(i), extend the time to respond to a request from 10 to 20 working days. 10 CFR 9.25 is amended to reflect the change in the time limits for initial disclosure determination from 10 to 20 working days effective October 2, 1997.

F. Multitrack Processing of Requests

However, Congress recognized that even with the increase in time to process requests, many agencies may not be prepared to meet a 20 working-day deadline for some requests. Therefore, to help ensure timely agency responses to requests, the new law, 5 U.S.C. 552(a)(6)(D)(i), authorizes agencies to establish separate systems within the agency for handling simple and complex requests. Under these types of systems, called ''multitrack processing,'' requests are categorized based on the amount of agency effort involved in processing the request. This replaces the current first-in, first-out approach generally employed at the NRC. Agencies must still exercise due diligence within each track. The new law, 5 U.S.C. 552(a)(6)(D)(ii), also requires agencies to give requesters the opportunity to limit the scope of their requests to qualify for processing under a faster track. This provision is intended to permit more requests to be completed more quickly by providing an incentive for requesters to frame narrower requests for fewer documents. These new provisions are incorporated in NRC's three-track system described in 10 CFR 9.25(c).

The first track is for simple requests or requests of moderate complexity that are expected to be completed within 20 working days (e.g., a request that does not involve a large volume of documents, retrieval of documents from regional offices, or extensive coordination between NRC offices).

The second track is for requests involving unusual circumstances that are expected to take between 21–30 working days to complete.

The third track is for requests that, because of their unusual volume or complexity, are expected to take more than 30 working days to complete.

Upon receipt of a request, NRC will notify the requester of the track in which the request has been placed for processing and the estimated time for completion of action on the request. Should subsequent information substantially change the estimated time to process the request, the requester will be notified telephonically or in writing. A requester may modify the request to allow it to be processed under a different track for a faster response.

G. Unusual Circumstances

Even with use of multitrack processing, Congress recognized that in some circumstances the statutory response time will not be met. The EFOIA retains the provisions for agencies to extend the initial 20 working day response time for an initial request, or the 20 working day response time for an appeal, by an additional 10 working days in ''unusual circumstances.'' Agencies must provide the requester with a written justification for the

extension that contains the date of the expected agency response. The amendments define ''unusual circumstances'' as time needed to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; the need to search for, collect, and appropriately examine a voluminous amount of material demanded in a single request; or the need for consultation with another agency having a substantial interest in the determination of the request or among two or more parts of the agency having substantial interest in the request. These consultations must be conducted ''with all practicable speed.'' 5 U.S.C. 552(a)(6)(B)(iii).

H. Exceptional Circumstances

In addition to extensions under unusual circumstances, the EFOIA amendments, 5 U.S.C. 552(a)(6)(B)(ii), authorize the agency to negotiate a response time with a requester that may exceed the statutory maximum (20 working days plus a 10 working-day extension) for those FOIA requests that the agency determines cannot be processed within the statutory time limits. The agency must offer the requester an opportunity to limit the scope of the request so that it may be processed within the prescribed 20 working days. Congress asserted that this process for negotiated time limits reflects the policy that FOIA works best when requesters and agencies work together to define and fulfill reasonable requests. This new provision is incorporated in 10 CFR 9.25(c).

I. Aggregation of Requests

The EFOIA amendments, 5 U.S.C. 552(a)(6)(B)(iv), authorize agencies to promulgate regulations that allow for the aggregation of FOIA requests by the same requester or by a group of requesters acting together. Aggregation may occur if the agency ''reasonably believes'' that these multiple requests do indeed constitute a single request. This new provision is implemented in 10 CFR 9.39(e).

J. Requests for Expedited Processing

The EFOIA amendments, 5 U.S.C. 552(a)(6)(E)(i), require agencies to promulgate regulations to provide for ''expedited processing'' in cases where the person requesting the records demonstrates a ''compelling need'' and in other cases where the agency determines expedited processing is warranted. The amendments define ''compelling need'' in two ways. One is where ''a failure to obtain requested records on an expedited basis * * * could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.'' The other is where a ''person primarily engaged in disseminating information'' to the public has ''an urgency to inform the public concerning actual or alleged Federal Government activity.'' The House Committee report explaining the legislation states that a person ''primarily engaged'' in the business of dissemination of information ''should not include individuals who are engaged only incidentally in the dissemination of information,'' but requires that ''information dissemination be the main activity of the requester, although it need not be their sole occupation.'' A requester who is ''only incidentally'' involved in information dissemination, in addition to other activities, would not satisfy this requirement.

The report further explains that the term ''urgency to inform,'' one of the qualifying elements for expedited processing, must involve a matter of ''current exigency to the American public'' such that any reasonable person could conclude that delaying a response to a FOIA request would compromise a ''significant recognized interest.'' The public's right to know, while ''significant and important,'' would not stand alone as sufficient to satisfy this standard. Agencies will have to make both ''factual and subjective judgments'' about situations cited by requesters as reasons for expedited processing and must demonstrate ''fairness and diligence'' in exercising their discretion. Requesters must provide detailed explanations to support their expedited requests.

The EFOIA amendments, 5 U.S.C. 552(a)(6)(E)(ii), require that agency regulations provide that requesters be given notice within 10 calendar days after the date of the request as to the determination whether it qualifies for expedited processing. Once expedited processing is granted, agencies must process it ''as soon as practicable'' (5 U.S.C. 552 (a)(6)(E)(iii)). Any administrative appeal to a denial of expedited processing must be handled with ''expeditious consideration'' (5 U.S.C. 552 (a)(6)(E)(ii)(II)). If an agency denies the request for expedited processing or fails to act upon the request within the prescribed 10 calendar days, petitioner may seek judicial review. The NRC has implemented the EFOIA requirements for expedited processing at 10 CFR 9.25(e) and 9.29.

K. Estimates of the Volume of Materials Denied

EFOIA, 5 U.S.C. 552(a)(6)(F), requires agencies to make a reasonable effort to estimate the volume of any requested record material that is denied in whole or in part, and to provide the estimate to the requester unless providing such estimate would harm an interest protected by a FOIA exemption. This new requirement has been implemented at 10 CFR 9.19(c).

L. Annual Report to Congress

The EFOIA, 5 U.S.C. 552(e), amended the annual requirements for reporting agency FOIA activities to Congress. On or before February 1 of each year beginning in 1999, agencies must submit to the Attorney General an annual report that covers the preceding fiscal year and includes the number of determinations made by the agency not to comply with the requests for records made to the agency and the reasons for those determinations; the number of appeals made by persons, the results of those appeals, and the reason for the action upon each appeal that results in a denial of information; a complete list of all statutes that the agency used to authorize the withholding of information under Section 552 (b)(3), which exempts information that is specifically exempted from disclosure by other statutes; a description of whether a court has upheld the decision of the agency to withhold information under each of those statutes cited, and a concise description of the scope of any information upheld; the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that these requests had been pending before the agency as of that date; the number of requests for records received by the agency and the number of requests the agency processed; the median number of days taken by the agency to process different types of requests; the total amount of fees collected by the agency for processing requests; the average amount of time that the agency estimates as necessary, based on the past experience of the agency, to comply with different types of requests; the number of full-time staff of the agency devoted to the processing of requests for records under this section; and the total amount expended by the agency for processing these requests. The NRC has implemented this amended EFOIA reporting requirement in 10 CFR 9.45.

The amendments require each agency to make these annual reports available to the public through a computer

network, or by other electronic means if computer networking is not a possibility for the agency. The NRC has posted its annual report on its website on the Internet that is accessible through the NRC homepage at: http//www.nrc.gov. The report is also available in the NRC Public Document Room.

Environmental Impact—Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

The final rule includes an information collection requirement that persons seeking expedited processing under 10 CFR 9.25(e)(2) should certify the reasons justifying their request. The estimated burden for this certification is one hour per request, with approximately 20 requests expected annually. The NRC does not consider this burden increase of 20 hours to be significant enough to trigger the requirements of the Paperwork Reduction Act when compared to the overall burden for this 10 CFR part 9 and when the amount of staff effort required to comply with requirements of the Paperwork Reduction Act and seek OMB's implementing guidance is factored in. Existing requirements were approved by the Office of Management and Budget, approval number 3150–0043.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

This rule implements the EFOIA by amending 10 CFR part 9, subpart A—Freedom of Information Act Regulations. This is an administrative regulatory action that conforms NRC's regulations to the new provisions of the EFOIA. The rule will not have any adverse economic impact on any class of licensee or the NRC; to the contrary, the rule with its new provisions allowing expedited and multitrack processing may provide some new and additional benefit to those who choose to use these regulations to obtain access to NRC records and information.

This constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The amendments to 10 CFR part 9 are procedural in nature and are required to implement the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), 5 U.S.C. 552.

Backfit Analysis

The NRC has determined that the backfit rule 10 CFR 50.109 does not apply to this rule.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 9

Criminal penalties, Freedom of information, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552, 552a, and 553; the NRC is adopting the following amendments to 10 CFR part 9, subpart A—Freedom of Information Act Regulations.

PART 9—PUBLIC RECORDS

1. The authority citation for Part 9 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A is also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99–570.

Subpart B is also issued under 5 U.S.C. 552a.

Subpart C is also issued under 5 U.S.C. 552b.

2. In § 9.8, paragraph (b) is revised to read as follows:

§ 9.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 9.23, 9.29, 9.40, 9.41, 9.53, 9.54, 9.55, 9.65, 9.66, and 9.67.

3. In Part 9, Subpart A is revised to read as follows:

Subpart A—Freedom of Information Act Regulations

9.11 Scope of subpart.
9.13 Definitions.
9.15 Availability of records.
9.17 Agency records exempt from public disclosure.
9.19 Segregation of exempt information and deletion of identifying details.
9.21 Publicly-available records.
9.23 Requests for records.
9.25 Initial disclosure determination.
9.27 Form and content of responses.
9.29 Appeal from initial determination.
9.31 Extension of time for response.
9.33 Search, review, and special service fees.
9.34 Assessment of interest and debt collection.
9.35 Duplication fees.
9.37 Fees for search and review of agency records by NRC personnel.
9.39 Search and duplication provided without charge.
9.40 Assessment of fees.
9.41 Requests for waiver or reduction of fees.
9.43 Processing requests for a waiver or reduction of fees.
9.45 Annual report to Congress.

Subpart A—Freedom of Information Act Regulations

§ 9.11 Scope of subpart.

This subpart prescribes procedures for making NRC agency records available to the public for inspection and copying pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and provides notice of procedures for obtaining NRC records otherwise publicly available. This subpart does not affect the dissemination or distribution of NRC-originated, or NRC contractor-originated, information to the public under any other NRC public, technical, or other information program or policy.

§ 9.13 Definitions.

Agency record means a record in the possession and control of the NRC that is associated with Government business. Agency record does not include records such as—

(1) Publicly-available books, periodicals, or other publications that are owned or copyrighted by non-Federal sources;

(2) Records solely in the possession and control of NRC contractors;

(3) Personal records in possession of NRC personnel that have not been circulated, were not required to be created or retained by the NRC, and can be retained or discarded at the author's sole discretion, or records of a personal nature that are not associated with any Government business; or

(4) Non-substantive information in logs or schedule books of the Chairman or Commissioners, uncirculated except for typing or recording purposes.

Commercial-use request means a request made under § 9.23(b) for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

Direct costs mean the expenditures that an agency incurs in searching for and duplicating agency records. For a commercial-use request, direct costs include the expenditures involved in reviewing records to respond to the request. Direct costs include the salary of the employee category performing the work based on that basic rate of pay plus 16 percent of that rate to cover fringe benefits and the cost of operating duplicating machinery.

Duplication means the process of making a copy of a record necessary to respond to a request made under § 9.23. Copies may take the form of paper copy, microform, audio-visual materials, disk, magnetic tape, or machine readable documentation, among others.

Educational institution means an institution that operates a program or programs of scholarly research. Educational institution refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

Freedom of Information Act and Privacy Act Officer means the NRC official designated by the Chief Information Officer to fulfill the responsibilities for implementing and administering the Freedom of Information Act and the Privacy Act as specifically designated under the regulations in this part.

Noncommercial scientific institution means an institution that is not operated on a commercial basis, as the term ''commercial'' is referred to in the definition of ''commercial-use request,'' and is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

Office, unless otherwise indicated, means all offices, boards, panels, and advisory committees of the NRC.

Record means any information that would be an agency record subject to the requirements of the Freedom of Information Act when maintained by the NRC in any format, including an electronic format. Record also includes a book, paper, map, drawing, diagram, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics. Record does not include an object or article such as a structure, furniture, a tangible exhibit or model, a vehicle, or piece of equipment.

Representative of the news media means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscriptions by the general public.

Review time means the period devoted to examining records retrieved in response to a request to determine whether they are exempt from disclosure in whole or in part. Review time also includes the period devoted to examining records to determine which Freedom of Information Act exemptions, if any, are applicable and identifying records, or portions thereof, to be disclosed.

Search time means the period devoted to looking for agency records, either manually or by automated means, for the purpose of locating those records that are responsive to a request. This includes a page-by-page or line-by-line identification of responsive information within the records.

Unusual circumstances mean—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

§ 9.15 Availability of records.

The NRC will make available for public inspection and copying any reasonably described agency record in the possession and control of the NRC under the provisions of this subpart, and upon request by any person. Records will be made available in any form or format requested by a person if the record is readily reproducible by NRC in that form or format. NRC will make reasonable efforts to maintain its records in forms or formats that are reproducible. NRC will make reasonable efforts to search for records in electronic form or format when requested, except when these efforts would significantly interfere with the operation of any of the NRC's automated information systems. Records that the NRC routinely makes publicly available are described in § 9.21. Procedures and conditions governing requests for records are set forth in § 9.23.

§ 9.17 Agency records exempt from public disclosure.

(a) The following types of agency records are exempt from public disclosure under § 9.15:

(1) Records—

(i) That are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) That are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute—

(i) Requires that the matters be withheld from the public in a manner that leaves no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that are privileged or confidential;

(5) Interagency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of these law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, or information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, if the disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) Nothing in this subpart authorizes withholding of information or limiting the availability of records to the public except as specifically provided in this part, nor is this subpart authority to withhold information from Congress.

(c) Whenever a request is made that involves access to agency records described in paragraph (a)(7) of this section, the NRC may, during only the time as that circumstance continues, treat the records as not subject to the requirements of this subpart when—

(1) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that—

(i) The subject of the investigation or proceeding is not aware of its pendency; and

(ii) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

§ 9.19 Segregation of exempt information and deletion of identifying details.

(a) For records required to be made available under 5 U.S.C. 552(a)(2), the NRC shall delete information that is exempt under one or more of the exemptions cited in § 9.17. The amount of information deleted will be indicated on the released portion of the record, unless providing this indication would harm an interest protected by the exemption(s) under which the matter has been withheld.

(b) In responding to a request for information submitted under § 9.23, in which it has been determined to withhold exempt information, the NRC shall segregate—

(1) Information that is exempt from public disclosure under § 9.17(a) from nonexempt information; and

(2) Factual information from advice, opinions, and recommendations in predecisional records unless the information is inextricably intertwined, or is contained in drafts, legal work products, and records covered by the lawyer-client privilege, or is otherwise exempt from disclosure.

(c) In denying a request for records, in whole or in part, NRC will make a reasonable effort to estimate the volume of any information requested that is denied and provide the estimate to the person making the request, unless providing the estimate would harm an interest protected by the exemption(s) under which the information has been denied.

(d) When entire records or portions thereof are denied and deletions are made from parts of the record by computer, the amount of information deleted will be indicated on the released portion of the record, unless providing this indication would harm an interest protected by the exemption(s) under which the matter has been denied.

§ 9.21 Publicly-available records.

(a) Publicly-available records of NRC activities described in paragraphs (c) and (d) of this section are available through the National Technical Information Service. Subscriptions to these records are available on 48x microfiche and may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Single copies of NRC publications in the NUREG series, NRC Regulatory Guides, and Standard Review Plans are also available from the National Technical Information Service.

(b) For the convenience of persons who may wish to inspect without charge or purchase copies of a record or a limited category of records for a fee, publicly available records of the NRC's activities described in paragraph (c) of this section are also made available at the NRC Public Document Room. The NRC Public Document Room is located at 2120 L Street, NW., Washington, DC, and is open between 7:45 a.m. and 4:15 p.m. on Monday through Friday, except Federal holidays.

(c) The following records of NRC activities are publicly available at the NRC Public Document Room for public inspection and copying:

(1) Final opinions including concurring and dissenting opinions as well as orders of the NRC issued as a result of adjudication of cases;

(2) Statements of policy and interpretations that have been adopted by the NRC and have not been published in the **Federal Register**;

(3) Nuclear Regulatory Commission rules and regulations;

(4) Nuclear Regulatory Commission Manuals and instructions to NRC personnel that affect any member of the public;

(5) Copies of records that have been released to a person under the Freedom of Information Act that, because of the nature of their subject matter, the NRC determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(6) A general index of the records released under the FOIA.

(d) Current indexes to records that are made publicly available are listed in NUREG–0540, ''Title of List of Documents Made Publicly Available,'' which is published monthly. The records required to be made available under 5 U.S.C. 552(a)(2) are included in this listing.

(e) Records made publicly available under paragraphs (c) (1) and (2) of this section are also available for purchase through the National Technical Information Service.

(f) After November 1, 1997, NRC will begin making records identified in paragraph (c) of this section that were created after November 1, 1996, available by electronic means, including computer telecommunications to the extent NRC has implemented its telecommunications capability, unless the records have been promptly published and copies offered for sale. Telecommunications access can be obtained via the Internet by accessing the NRC Home Page on the Internet at :http//www.nrc.gov/.

§ 9.23 Requests for records.

(a)(1) A person may request access to records routinely made available by the NRC under § 9.21 in person or in writing at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

(i) Each record requested must be described in sufficient detail to enable the Public Document Room to locate the record. If the description of the record is not sufficient to allow the Public Document Room staff to identify the record, the Public Document Room will advise the requester to select the record

from the indexes published under § 9.21(d).

(ii) In order to obtain copies of records expeditiously, a person may open an account at the Public Document Room with the private contracting firm that is responsible for duplicating NRC records.

(2) A person may also order records routinely made available by the NRC under § 9.21 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161.

(b) A person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The request must be in writing and clearly state on the envelope and in the letter that it is a ''Freedom of Information Act request.'' The NRC does not consider a request as received until it has been received and logged in by the office of the Freedom of Information Act and Privacy Act Officer.

(1) A Freedom of Information Act request covers only agency records that are in existence on the date the Freedom of Information Act and Privacy Act Officer receives the request. A request does not cover agency records destroyed or discarded before receipt of a request or which are created after the date of the request.

(2) All Freedom of Information Act requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested agency records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the agency records. If a requested agency record is not described in sufficient detail to permit its identification, the Freedom of Information Act and Privacy Act Officer will contact the requester within 10 working days after receipt of the request and inform the requester of the additional information or clarification needed to process the request.

(3) Upon receipt of a request made under paragraph (b) of this section, the NRC will provide written notification to the requester that indicates the request has been received, the name and telephone number of the NRC point of contact to find out the status of the request, and other pertinent matters regarding the processing of the request.

(4)(i) The NRC shall advise a requester that fees will be assessed if—

(A) A request involves anticipated costs in excess of the minimum specified in § 9.39; and

(B) Search and duplication is not provided without charge under § 9.39; or

(C) The requester does not specifically state that the cost involved is acceptable or acceptable up to a specified limit.

(ii) The NRC has discretion to discontinue processing a request made under this paragraph until—

(A) A required advance payment has been received;

(B) The requester has agreed to bear the estimated costs;

(C) A determination has been made on a request for waiver or reduction of fees; or

(D) The requester meets the requirements of § 9.39.

(c) If a requested agency record that has been reasonably described is located at a place other than the NRC Public Document Room or NRC headquarters, the NRC may, at its discretion, make the record available for inspection and copying at the other location.

(d) Except as provided in § 9.39—

(1) If the record requested under paragraph (b) of this section is a record available through the National Technical Information Service, the NRC shall refer the requester to the National Technical Information Service; and

(2) If the requested record has been placed in the NRC Public Document Room under § 9.21, the NRC may inform the requester that the record is in the Public Document Room and that the record may be obtained in accordance with the procedures set forth in paragraph (a) of this section or, if applicable, that the record is available on line electronically.

(e) The Freedom of Information Act and Privacy Act Officer will promptly forward a Freedom of Information Act request made under § 9.23(b) for an agency record to the head of the office(s) primarily concerned with the records requested, as appropriate. The responsible office will conduct a search for the agency records responsive to the request and compile those agency records to be reviewed for initial disclosure determination and/or identify those that have already been made publicly available in the Public Document Room and Local Public Document Rooms.

§ 9.25 Initial disclosure determination.

(a) *Time for initial disclosure determination.* The NRC will notify a requester within 20 working days of its determination. If the NRC cannot act upon the request within this period, the NRC will provide the requester with the reasons for the delay and provide a projected response date.

(b) *Extension of time limit in unusual circumstances.* In unusual circumstances, the NRC may extend the time limit prescribed in paragraph (a) of this section by not more than 10 working days. The extension may be made by written or telephonic notice to the person making the request to explain the reasons for the extension and indicate the date on which a determination is expected to be made. ''Unusual circumstances'' is limited to one or more of the following reasons for delay:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the NRC having substantial subject-matter interest therein.

(c) *Exceptional circumstances.* A requester may be notified in certain exceptional circumstances, when it appears that a request cannot be completed within the allowable time, and will be provided an opportunity to limit the scope of the request so that it may be processed in the time limit, or to agree to a reasonable alternative time frame for processing. For purposes of this paragraph, the term ''exceptional circumstances'' does not include delays that result from the normal predictable workload of FOIA requests or a failure by the NRC to exercise due diligence in processing the request. A requester's unwillingness to agree to reasonable modification of the request or an alternative time for processing the request may be considered as factors in determining whether exceptional circumstances exist and whether the agency exercised due diligence in responding to the request.

(d) *Multiple-Track processing.* To ensure the most equitable treatment possible of all requesters, the NRC will process requests on a first-in, first-out basis, using multiple tracking systems based upon the estimated time it will take to process the request.

(1) NRC uses a three-track system.

(i) The first track is for requests of simple to moderate complexity that are expected to be completed within 20 working days.

(ii) The second track is for requests involving ''unusual circumstances'' that are expected to take between 21–30 working days to complete (e.g. requests involving possible records from two or three offices and/or various types of files of moderate volume, of which, some are expected to be exempt)

(iii) The third track is for requests that, because of their unusual volume or other complexity, are expected to take more than 30 working days to complete (e.g. requests involving several offices, regional offices, another agency's records, classified records requiring declassification review, records from businesses that are required to be referred to the submitter for their proprietary review prior to disclosure, records in large volumes which require detailed review because of the sensitive nature of the records such as investigative records or legal opinions and recordings of internal deliberations of agency staff).

(2) Upon receipt of requests, NRC will notify requesters of the track in which the request has been placed for processing and the estimated time for completion. Should subsequent information substantially change the estimated time to process a request, the requester will be notified telephonically or in writing. A requester may modify the request to allow it to be processed faster or to reduce the cost of processing. Partial responses may be sent to requesters as documents are obtained by the FOIA office from the supplying offices.

(e) *Expedited processing.* (1) NRC may place a person's request at the front of the queue for the appropriate track for that request upon receipt of a written request that clearly demonstrates a compelling need for expedited processing. For purposes of determining whether to grant expedited processing, the term compelling need means—

(i) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

(2) A person requesting expedited processing must include a statement certifying the compelling need given to be true and correct to the best of his or her knowledge and belief. The certification requirement may be waived by the NRC as a matter of agency discretion.

(3) The Freedom of Information Act and Privacy Act Officer will make the initial determination whether to grant or deny a request for expedited processing and will notify a requester within 10 calendar days after the request has been received whether expedited processing will be granted.

(f) *Disclosure review.* The head of the responsible office shall review agency records located in a search under § 9.23(b) to determine whether the agency records are exempt from disclosure under § 9.17(a). If the head of the office determines that, although exempt, the disclosure of the agency records will not be contrary to the public interest and will not affect the rights of any person, the head of the office may authorize disclosure of the agency records. If the head of the office authorizes disclosure of the agency records, the head of the office will furnish the agency records to the Freedom of Information Act and Privacy Act Officer, who will notify the requester of the determination in the manner provided in § 9.27.

(g) *Initial disclosure determinations on requests for records located in offices under the Executive Director for Operations, the office of the Chief Financial Officer, and the office of the Chief Information Officer.* Except as provided in paragraph (h) of this section, if, as a result of the review specified in paragraph (f) of this section, the head of the responsible office finds that agency records should be denied in whole or in part, the head of the office will submit that finding to the Freedom of Information Act and Privacy Act Officer, who will, in consultation with the Office of the General Counsel, make an independent determination whether the agency records should be denied in whole or in part. If the Freedom of Information Act and Privacy Act Officer determines that the agency records sought are exempt from disclosure and disclosure of the records is contrary to the public interest and will adversely affect the rights of any person, the Freedom of Information Act and Privacy Act Officer will notify the requester of the determination in the manner provided in § 9.27.

(h) *Initial disclosure determinations on requests for records located in offices other than offices under the Executive Director for Operations.* For agency records located in the office of a Commissioner or in the Office of the Secretary of the Commission, the Assistant Secretary of the Commission will make the initial determination to deny agency records in whole or in part under § 9.17(a) instead of the Freedom of Information Act and Privacy Act Officer. For agency records located in the Office of the General Counsel, the General Counsel will make the initial determination to deny agency records in whole or in part instead of the Freedom of Information Act and Privacy Act Officer. For agency records located in the Office of the Inspector General, the Assistant Inspector General for Investigations will make the initial determination to deny agency records in whole or in part instead of the Freedom of Information Act and Privacy Act Officer. If the Assistant Secretary of the Commission, the General Counsel, or the Assistant Inspector General for Investigations determines that the agency records sought are exempt from disclosure and that their disclosure is contrary to the public interest and will adversely affect the rights of any person, the Assistant Secretary of the Commission, the General Counsel, or the Assistant Inspector General for Investigations will furnish that determination to the Freedom of Information Act and Privacy Act Officer, who will notify the requester of the determination in the manner provided in § 9.27

(i) *Records and information originated by another Federal agency.* If a requested record is located that was originated or contains information originated by another Federal Government agency, or deals with subject matter over which an agency other than the NRC has exclusive or primary responsibility, the NRC will promptly refer the record to that Federal Government agency for disposition or for guidance regarding disposition.

(j) If the NRC does not respond to a request within the 20 working-day period, or within the extended periods described in paragraph (b) of this section, the requester may treat that delay as a denial of the request and immediately appeal as provided in § 9.29(a) or sue in a Federal District Court as noted in § 9.29(c).

§ 9.27 Form and content of responses.

(a) When the NRC has located a requested agency record and has determined to disclose the agency record, the Freedom of Information Act and Privacy Act Officer will promptly furnish the agency record or notify the requester where and when the agency record will be available for inspection and copying. The NRC will also advise the requester of any applicable fees under § 9.35 and § 9.37. The NRC will routinely place copies of non-sensitive agency records disclosed in response to Freedom of Information Act requests in

the NRC Public Document Room and on microfiche in Local Public Document Rooms. Records will not be routinely placed in the NRC Public Document Room and Local Public Document Rooms that contain information personal to the requester, involve matters that are not likely to be of public interest to anyone other than the requester or contain privileged or proprietary information that should only be disclosed to the requester.

(b) When the NRC denies access to a requested agency record or denies a request for expedited processing or for a waiver or reduction of fees, the Freedom of Information Act and Privacy Act Officer will notify the requester in writing. The denial will include as appropriate—

(1) The reason for the denial;

(2) A reference to the specific exemption under the Freedom of Information Act, or other appropriate reason, and the Commission's regulations authorizing the denial;

(3) The name and title or position of each person responsible for the denial of the request, including the head of the office recommending denial of the record;

(4) A statement stating why the request does not meet the requirements of § 9.41 if the request is for a waiver or reduction of fees; and

(5) A statement that the denial may be appealed within 30 calendar days from the date of the denial to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, as appropriate.

(c) The Freedom of Information Act and Privacy Act Officer will maintain a copy of each letter granting or denying requested agency records, denying a request for expedited processing, or denying a request for a waiver or reduction of fees in accordance with the NRC Comprehensive Records Disposition Schedule.

§ 9.29 Appeal from initial determination.

(a) A requester may appeal a notice of denial of a Freedom of Information Act request for access to agency records, denial of a request for waiver or reduction of fees, or denial of a request for expedited processing under this subpart within 30 calendar days of the date of the NRC's denial. For agency records denied by an Office Director reporting to the Executive Director for Operations, the appeal must be in writing and addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For agency records denied by an Office Director reporting to the Commission, the Assistant Secretary of the Commission, or the Advisory Committee Management Officer and for a denial of a request for a waiver or reduction of fees, or denial of a request for expedited processing, the appeal must be in writing and addressed to the Secretary of the Commission. For agency records denied by the Assistant Inspector General for Investigations, the appeal must be in writing and addressed to the Inspector General. The appeal should clearly state on the envelope and in the letter that it is an ''Appeal from Initial FOIA Decision.'' The NRC does not consider an appeal that is not marked as indicated in this paragraph as received until it is actually received by the Executive Director for Operations, Secretary of the Commission, or the Inspector General.

(b) The NRC will make a determination on any appeal made under this section within 20 working days after the receipt of the appeal, except an appeal of the denial of a request for expedited processing will be determined within 10 working days after receipt of the appeal.

(c)(1) If the appeal is denied in whole or in part, the Executive Director for Operations or a Deputy Director, the Secretary of the Commission, or the Inspector General, as appropriate, will notify the requester of the denial, explaining the exemptions relied upon and how the exemptions apply to the agency records withheld.

(2) If, on appeal, the denial of a request for expedited processing or for a waiver or reduction of fees for locating and reproducing agency records is upheld in whole or in part, the Secretary of the Commission will notify the person making the request of the decision to sustain the denial, including a statement explaining why the request does not meet the requirements of § 9.25(e)(1) and (2) or § 9.41.

(3) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission, or the Inspector General will inform the requester that the denial is a final agency action and that judicial review is available in a district court of the United States in the district in which the requester resides or has a principal place of business, in which the agency records are situated, or in the District of Columbia.

(d) The Executive Director for Operations, or a Deputy Executive Director, or the Secretary of the Commission, or the Inspector General will furnish copies of all appeals and written determinations on appeals to the Freedom of Information Act and Privacy Act Officer.

§ 9.31 Extension of time for response.

(a) In unusual circumstances defined in § 9.13, the NRC may extend the time limits prescribed in § 9.25 or § 9.29 by not more than 10 working days. The extension may be made by written notice to the person making the request to explain the reasons for the extension and indicate the date on which a determination is expected to be dispatched.

(b) An extension of the time limits prescribed in §§ 9.25 and 9.29 may not exceed a combined total of 10 working days per request, unless a requester has agreed to an alternative time frame as described in § 9.25 (c).

§ 9.33 Search, review, and special service fees.

(a) The NRC charges fees for—

(1) Search, duplication, and review, when agency records are requested for commercial use;

(2) Duplication of agency records provided in excess of 100 pages when agency records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, or a representative of the news media;

(3) Search time that exceeds two hours and duplication of agency records of more than 100 pages for requests from all other categories of requesters not described in paragraphs (a)(1) and (a)(2) of this section;

(4) The direct costs of searching for agency records. The NRC will assess fees even when no agency records are located as a result of the search or when agency records that are located as a result of the search are not disclosed; and

(5) Computer searches which includes the cost of operating the Central Processing Unit for the portion of operating time that is directly attributable to searching for agency records plus the operator/programmer salary apportionable to the search.

(b) The NRC may charge requesters who request the following services for the direct costs of the service:

(1) Certifying that records are true copies;

(2) Sending records by special methods, such as express mail, package delivery service, courier, and other means other than first class mail; or

(3) Producing or converting records to formats specified by a requester other than ordinary copying processes that are readily available in NRC.

§ 9.34 Assessment of interest and debt collection.

(a) The NRC will assess interest on the fee amount billed starting on the 31st

day following the day on which the billing was sent in accordance with NRC's regulations set out in § 15.37 of this chapter. The rate of interest is prescribed in 31 U.S.C. 3717.

(b) The NRC will use its debt collection procedures under part 15 of this chapter for any overdue fees.

§ 9.35 Duplication fees.

(a)(1) Charges for the duplication of records made available under § 9.21 at the NRC Public Document Room (PDR), 2120 L Street, NW, (Lower Level), Washington, DC., by the duplicating service contractor are as follows:

(i) Paper to paper reproduction is $0.08 per page standard size (up to and including 11 x 17 inches reduced). Pages 11 x 17 inches are $0.15 each. Pages larger than 11 x 17 inches, including drawings, are $1.50 each. Pages greater than legal size, 8½ x 14 inches, and smaller than or equal to 11 x 17 inches will be reduced to legal size and reproduced for $0.08 per page, unless the order specifically requests full size reproduction.

(ii) Microfiche to paper reproduction is $0.08 per page. Aperture card blowbacks are $3.00 each (reduced size) or $5.00 (full size).

(iii) Microfiche or aperture card duplications are $0.75 each.

(iv) Rush processing is offered for standard size paper to paper reproduction and blowbacks, excluding standing order documents and pages reproduced from bound volumes. The charge is $0.15 per page.

(v) Facsimile charges are: $0.30 per page—local calls; $0.50 per page—U.S. long distance; and $1.50 per page—foreign long distance.

(2) Self-service duplicating machines are available at the Public Document Room for the use of the public. Paper to paper copy is $0.08 per page. Microfiche to paper is $0.10 per page on the reader printers.

(3) A requester may submit mail-order requests for contractor duplication of NRC records made by writing to the NRC Public Document Room. The charges for mail-order duplication of records are the same as those set out in paragraph (a)(1) of this section, plus mailing or shipping charges.

(4) A requester may open an account with the duplicating service contractor. A requester may obtain the name and address and billing policy of the contractor from the NRC Public Document Room.

(5) Any change in the costs specified in this section will become effective immediately pending completion of the final rulemaking that amends this section to reflect the new charges. The Commission will post the charges that will be in effect for the interim period in the Public Document Room. The Commission will publish a final rule in the **Federal Register** that includes the new charges within 15 working days from the beginning of the interim period.

(b) The NRC will assess the following charges for copies of records to be duplicated by the NRC at locations other than the NRC Public Document Room located in Washington, DC or at local Public Document Rooms:

(1) Sizes up to 8½ x 14 inches made on office copying machines— $0.20 per page of copy; and

(2) The charge for duplicating records other than those specified in paragraphs (a) and (b) of this section is computed on the basis of NRC's direct costs.

(c) In compliance with the Federal Advisory Committee Act, a requester may purchase copies of transcripts of testimony in NRC Advisory Committee proceedings, which are transcribed by a reporting firm under contract with the NRC directly from the reporting firm at the cost of reproduction as provided for in the contract with the reporting firm. A requester may also purchase transcripts from the NRC at the cost of reproduction as set out in paragraphs (a) and (b) of this section.

(d) Copyrighted material may not be reproduced in violation of the copyright laws. As such, requesters will be given the citation to any copyrighted documents and a copy of the material will be placed in the Public Document Room where it may be viewed by requesters.

(e) The cost for duplicating NRC records located in NRC Local Public Document Rooms are established by the institutions maintaining the NRC Local Public Document Room collections.

§ 9.37 Fees for search and review of agency records by NRC personnel.

The NRC will charge the following hourly rates for search and review of agency records by NRC personnel:

(a) Clerical search and review at a salary rate that is equivalent to a GG–7/step 7, plus 16 percent fringe benefits;

(b) Professional/managerial search and review at a salary rate that is equivalent to a GG–13/step 6, plus 16 percent fringe benefits; and

(c) Senior executive or Commissioner search and review at a salary rate that is equivalent to an ES–4, plus 16 percent fringe benefits.

§ 9.39 Search and duplication provided without charge.

(a) The NRC will search for agency records requested under § 9.23(b) without charges when agency records are not sought for commercial use and the records are requested by an educational or noncommercial scientific institution, or a representative of the news media.

(b) The NRC will search for agency records requested under § 9.23(b) without charges for the first two hours of search for any request not sought for commercial use and not covered in paragraph (a) of this section.

(c) The NRC will duplicate agency records requested under § 9.23(b) without charge for the first 100 pages of standard paper copies, or the equivalent cost of 100 pages of standard paper copies when providing the requester copies in microfiche or electronic form such as computer disks, if the requester is not a commercial use requester.

(d) The NRC may not bill any requester for fees if the cost of collecting the fee would be equal to or greater than the fee itself.

(e) The NRC may aggregate requests in determining search and duplication to be provided without charge as provided in paragraphs (a) and (b) of this section, if the NRC finds a requester or group of requesters acting in concert, has filed multiple requests that actually constitute a single request, and that the requests involve clearly-related matters.

§ 9.40 Assessment of fees.

(a) If the request is expected to require the NRC to assess fees in excess of $25 for search and/or duplication, the NRC will notify the requester that fees will be assessed unless the requester has indicated in advance his or her willingness to pay fees as high as estimated.

(b) In the notification, the NRC will include the estimated cost of search fees and the nature of the search required and estimated cost of duplicating fees.

(c) The NRC will encourage requesters to discuss with the NRC the possibility of narrowing the scope of the request with the goal of reducing the cost while retaining the requester's original objective.

(d) If the fee is determined to be in excess of $250, the NRC will require an advance payment.

(e) Unless a requester has agreed to pay the estimated fees or, as provided for in paragraph (d) of this section, the requester has paid an estimated fee in excess of $250, the NRC may not begin to process the request.

(f) If the NRC receives a new request and determines that the requester has failed to pay a fee charged within 30 calendar days of receipt of the bill on a previous request, the NRC may refuse to accept the new request for processing

until payment is made of the full amount owed on the prior request, plus any applicable interest assessed as provided in § 9.34.

(g) Within 10 working days of the receipt of NRC's notice that fees will be assessed, the requester will provide advance payment if required, notify the NRC in writing that the requester agrees to bear the estimated costs, or submit a request for a waiver or reduction of fees pursuant to § 9.41.

§ 9.41 Requests for waiver or reduction of fees.

(a)(1) The NRC will collect fees for searching for, reviewing, and duplicating agency records, except as provided in § 9.39, unless a requester submits a request in writing for a waiver or reduction of fees. To ensure that there will be no delay in the processing of Freedom of Information Act requests, the request for a waiver or reduction of fees should be included in the initial Freedom of Information Act request letter.

(2) Each request for a waiver or reduction of fees must be addressed to the Freedom of Information Act and Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) A person requesting the NRC to waive or reduce search, review, or duplication fees will—

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of public understanding of the subject before disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee; and

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The NRC will waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records made under § 9.23(b), it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal Government and is not primarily in the commercial interest of the requester.

(d) In making a determination regarding a request for a waiver or reduction of fees, the NRC will consider the following factors:

(1) How the subject of the requested agency records concerns the operations or activities of the Federal Government;

(2) How the disclosure of the information is likely to contribute significantly to public understanding of Federal Government operations or activities;

(3) The extent to which, the requester has a commercial interest that would be furthered by the disclosure of the requested agency records; and whether that commercial interest exceeds the public interest in disclosure.

(e) The Freedom of Information Act and Privacy Act Officer will make an initial determination whether a request for a waiver or reduction of fees meets the requirements of this section. The Freedom of Information Act and Privacy Act Officer will inform requesters whenever their request for a waiver or reduction of fees is denied and will inform them of their appeal rights under § 9.29.

§ 9.43 Processing requests for a waiver or reduction of fees.

(a) Within 20 working days after receipt of a request for access to agency records for which the NRC agrees to waive fees under § 9.39 (a) through (d) or § 9.41(c), the NRC will respond to the request as provided in § 9.25.

(b) In making a request for a waiver or reduction of fees, a requester shall provide the information required by § 9.41(b).

(c) After receipt of a request for the waiver or reduction of fees made in accordance with § 9.41, the NRC will either waive or reduce the fees and notify the requester of the NRC's intent to provide the agency records promptly or deny the request and provide a statement to the requester explaining why the request does not meet the requirements of § 9.41(b).

(d) As provided in § 9.29, a requester may appeal a denial of a request to waive or reduce fees to the Secretary to the Commission. The appeal must be submitted within 30 calendar days from the date of the notice.

§ 9.45 Annual report to Congress.

(a) On or before February 1 of each year, the NRC will submit a report covering the preceding fiscal year to the Attorney General of the United States which shall include—

(1) The number of determinations made by the NRC to deny requests for records made to the NRC under this part and the reasons for each determination;

(2) The number of appeals made by persons under § 9.29, the results of the appeals, and the reason for the action taken on each appeal that results in a denial of information;

(3) A complete list of all statutes that the NRC relied upon to withhold information under subsection (b)(3) of 5 U.S.C. 552, a description of whether a court has upheld the decision of the NRC to withhold information under each such statute, and a concise description of the scope of any information withheld;

(4) The number of requests for records pending before the NRC as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(5) The number of requests for records received by the NRC and the number of requests that the NRC processed;

(6) The median number of days taken to process different types of requests;

(7) The total amount of fees collected by the NRC for processing requests;

(8) The number of full-time staff of the NRC devoted to processing requests under the FOIA and the total amount expended for processing these requests.

(b) The NRC will make a copy of each report available to the public on the NRC homepage on the Internet that can be accessed at: http//www.nrc.gov. A copy will also be available for public inspection and copying in the NRC Public Document Room.

Dated at Rockville, Maryland, this 31st day of December, 1997.

For the Nuclear Regulatory Commission.

Lynn B. Scattolini,

Acting Chief Information Officer.

[FR Doc. 98–1212 Filed 1–16–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–21]

Amendment to Class D and Class E Airspace Areas; Manhattan, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action establishes a new Class E surface area for the Manhattan Municipal Airport, Manhattan, KS, and changes the times of designation for the Manhattan, KS, Class E surface area extensions from part-time to full-time. The Class E surface area and surface area extensions are necessary to accommodate Instrumental Flight Rules (IFR) operations during periods when the airport traffic control tower (ATCT) is closed. This action also makes editorial amendments to the legal description of the Manhattan, KS, Class D airspace area, but does not change the dimensions or operating requirements of the Class D airspace area. This change was made necessary by the recent conversion of the adjacent Class D airspace area at Marshall Army Airfield, Ft. Riley, KS, to a Class E surface area. This action also modifies the Class E airspace area extending upward from 700 feet above ground (AGL) at Manhattan, KS, by increasing the radius of the area from 6 nautical miles (NM) to 6.7 NM. A review of the airspace at Manhattan, KS, indicated that the 700 AGL area did not meet the requirements of FAA Order 7400.2D.

DATES: Effective date: 0901 UTC, April 23, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–21, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The Class D airspace area at Marshall Army Airfield, Ft. Riley, KS, has been removed and a new Class E surface area established, which requires an editorial amendment to the Class D airspace at Manhattan Municipal Airport, Manhattan, KS. The reference to Class D airspace for Ft. Riley in the Manhattan Class D airspace description has been changed to Class E.

There are Part 135 operations at Manhattan Municipal Airport when the control tower is closed. A revision to the Class E surface area extension changes the status from part-time to full time. A new Class E surface area has been developed. The new Class E surface area and Class E surface area extension will provide controlled airspace for Part 135 and IFR operations when the control tower is closed.

A review of the airspace for Manhattan Municipal Airport indicates it does not meet the criteria for 700 feet AGL Class E airspace as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL is based on a standard climb gradient of 200 feet per mile, plus the distance to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile increment. The Class E airspace at the above 700 feet has been enlarged to conform to the criteria in FAA Order 7400.2D.

The intended effect of this rule is to contain Part 135 and IFR operations within controlled airspace and to facilitate separation of aircraft operating under IFR conditions. The area will be depicted on appropriate aeronautical charts.

Class D airspace areas are published in paragraph 5000, Class E airspace areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004, Class E airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E areas extending upward from the 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all fight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, aeronautical, environmental, and energy-related 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–21.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace

* * * * *

ACE KS D Manhattan, KS [Revised]

Manhattan Municipal Airport, KS
(Lat. 30°08′27″N, long. 96°40′15″W)
Manhattan VOR/DME
(Lat. 39°08′44″N, long. 96°40′07″W)
McDowell Creek NDB
(Lat. 39°07′03″N, long. 96°37′46″W)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.2-mile radius of Manhattan Municipal Airport, excluding that airspace within the Fort Riley, Marshall Army Airfield, KS, Class E airspace area and excluding that airspace within Restricted Area R–3602B. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

ACE KS E2 Manhattan, KS [New]

Manhattan Municipal Airport, KS
(Lat. 39°08′27″N, long. 96°40′15″W)

Within a 4.2-mile radius of Manhattan Municipal Airport, excluding that airspace within the Fort Riley, Marshall Army Airfield, Class E airspace area and excluding that airspace within Restricted Area R–3602B.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area

* * * * *

ACE KS E4 Manhattan, KS [Revised]

Manhattan Municipal Airport, KS
(Lat. 39°08′27″N, long. 96°40′15″W)
Manhattan VOR/DME
(Lat. 39°08′44″N, long. 96°40′07″W)
McDowell Creek NDB
(Lat. 39°07′03″N, long. 96°37′46″W)

That airspace extending upward from the surface within 1.8 miles each side of the Manhattan VOR/DME 147° radial extending from the 4.2-mile radius of the Manhattan Municipal Airport to 9.5 miles SE of the VOR/DME and within 1.8 miles northeast and 2.6 miles southwest of the 127° bearing from the McDowell Creek NDB extending from the NDB to 8.7 miles southeast of the NDB.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ACE KS E5 Manhattan, KS [Revised]

Manhattan Municipal Airport, KS
(Lat. 39°08′27″N, long. 96°40′15″W)
Manhattan VOR/DME
(Lat. 39°08′44″N, long. 96°40′07″W)
McDowell Creek NDB
(Lat. 39°07′03″N, long. 96°37′46″W)
HATAN OM
(Lat. 39°03′30″N, long. 96°45′35″W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Manhattan Municipal Airport and within 3.5 miles each side of the 046° radial of the Manhattan VOR/DME extending from the 6.7 mile radius to 9.5 miles northeast of the VOR/DME and within 1.8 miles northeast and 2.6 miles southwest of the 126° bearing from McDowell Creek NDB extending from the 6.7-mile radius to 9.5 miles southeast of the NDB and within 3.5 miles each side of the 147° radial of the Manhattan VOR/DME extending from the 6.7-mile radius to 9.6 miles southeast of the VOR/DME and within 6 miles each side of the Manhattan ILS localizer course extending from the 6.7-mile radius to 8 miles southwest of the HATAN OM and within 2.6 miles each side of the Manhattan localizer course extending from the HATAN OM to 14 miles southwest of the HATAN OM; excluding that airspace within the boundaries of Restricted Areas R–3602A and R–3602B.

* * * * *

Issued in Kansas City, MO, on November 6, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–1229 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–20]

Amendment of Class E Airspace; Marshall Army Airfield, Fort Riley, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: The control tower at Marshall Army Airfield, Ft. Riley, KS, has been closed and will not be operational in the foreseeable future. With the closure of the control tower, the Class D surface area has been removed. This action removes the Class E surface area extension and establishes a new Class E surface area at Marshall Army Airfield, Ft. Riley, KS. The new Class E surface area provides controlled airspace to accommodate Instrument Flight Rules (IFR) operations. The intended effect of this action is to contain IFR operations within controlled airspace and to facilitate separation of aircraft operating under instrument flight rules.

DATES: Effective date: 0901 UTC, April 23, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–20, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The control tower at Marshall Army Airfield, Ft. Riley, KS, has been closed and will not be operational in the foreseeable future. With the closure of the control tower, the Class D surface area airspace has been removed. This action removes the Class E surface area extension and establishes a new Class E surface area at Marshall Army Airfield. The new Class E surface area provides controlled airspace to accommodate IFR operations. The intended effect of this action is to contain IFR operations within controlled airspace and thereby facilitate separation of aircraft operating under instrument flight rules. The area will be depicted on appropriate aeronautical charts. Class E surface areas designated as an extension to a Class D or Class E surface area are published in paragraph 6004, and Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all fight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, aeronautical, environmental, and energy-regulated 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–20.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in a adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002—Class E airspace areas designated as a surface area for an airport

* * * * *

ACE KS E2 Fort Riley, KS [New]

Fort Riley, Marshall Army Airfield, KS
(lat. 39°03′19″N., long. 96°45′52″W.)
Junction City, Freeman Field, KS
(lat. 39°02′36″N., long. 96°50′36″W.)
Fort Riley VOR
(lat. 38°58′13″N., long. 96°51′40″W.)
Cavalry NDB
(lat. 39°01′34″N., long. 96°47′40″W.)

Within a 3.7-mile radius of Marshall Army Airfield and within 1.8 miles each side of the Fort Riley VOR 042° radial extending from the 3.7-mile radius of Marshall Army Airfield to the VOR and within 1.8 miles each side of the 216° bearing from Cavalry NDB extending from the 3.7-mile radius of Marshall Army Airfield to 7 miles southwest of the NDB; excluding that airspace within R–3602B and excluding that airspace within a 1-mile radius of the Junction City, Freeman Field, KS. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004—Class E airspace areas designated as an extension to a Class D or Class E surface area

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ACE KS E4 Fort Riley, KS [Removed]

* * * * *

Issued in Kansas City, MO, on November 13, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 98–1231 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–32]

Amendment to Class E Airspace; Columbus, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the description of Class E airspace area at Columbus, NE. The current description indicates part-time operation for the Class E airspace area for Columbus Municipal Airport, Columbus, NE. The actual hours of operation for the Class E airspace area are continuous. The Class E airspace area description at Columbus, NE, is revised to indicate that the area is in effect continuously. The intended effect of this amendment is to indicate that the Class E airspace area is in effect continuously and to facilitate separation of aircraft operations under Instrument Flight Rules (IFR). An editorial revision to reflect a change in the Airport Reference Point (ARP) is included.

DATES: Effective date: 0901 UTC, April 20, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–32, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA is amending 14 CFR part 71 (part 71) to revise the description of the Class E airspace area at Columbus, NE, by removing the statement which indicates part-time status. The Class E airspace area description does not reflect the actual hours of operation, which are continuous. This action will correct the description for Class E airspace area at Columbus, NE. The ARP coordinates have been revised. The area is depicted on appropriate aeronautical charts. Class E airspace surface areas are published in paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, aeronautical, environmental, and energy-related 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–32.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

ACE NE E2 Columbus, NE [Revised]

Columbus Municipal Airport, NE
(Lat 41°26′52″N., long. 97°20′24″W.)
Columbus VOR/DME
(Lat 41°27′00″N., long. 97°20′27″W.)

Within a 4-mile radius of Columbus Municipal Airport and within 2.6 miles each side of the 157° radial of the Columbus VOR/DME extending from the 4-mile radius to 8.7 miles southeast of the VOR/DME and within 2.6 miles each side of the 317° radial of the Columbus VOR/DME extending from the 4-mile radius to 7.4 miles northwest of the VOR/DME and within 3.5 miles each side of the 360° bearing from the Columbus Municipal Airport extending from the 4-mile radius to 10.5 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on November 13, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division Central Region.

[FR Doc. 98–1230 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–33]

Amendment to Class E Airspace; Norfolk, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the description of Class E airspace area at Norfolk, NE. The current description indicates part-time operations for the Class E airspace area for Norfolk, Karl Stefan Memorial Airport, Norfolk, NE. The actual hours of operation for the Class E airspace area are continuous. The Class E airspace area description at Norfolk, NE, is revised to indicate that the area is in effect continuously. The intended effect of this amendment is to indicate that the Class E airspace area is in effect continuously and to facilitate separation of aircraft operations under Instrument Flight Rules (IFR).

DATES: *Effective date:* 0901 UTC, April 20, 1998. Comments for inclusion in the Rules Docket must be received on or before February 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–33, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT:

Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA is amending 14 CFR part 71 (part 71) to modify the description of the Class E airspace area at Norfolk, NE, by removing the statement which indicates part-time status. The Class E airspace area description does not reflect the actual hours of operation, which are continuous. This action will correct the description for Class E airspace area at Norfolk, NE. The area is depicted on appropriate aeronautical charts. Class E airspace surface areas are published in paragraph 6002 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, aeronautical, environmental, and energy-related 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–33.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ACE NE E2 Norfolk, NE. [Revised]

Norfolk, Karl Stefan Memorial Airport, NE
(Lat. 41°59′08″ N., long. 97°26′06″ W.)
Norfolk VOR/DME
(Lat. 41°59′17″ N., long. 97°26′04″ W.)

Within a 4.1-mile radius of the Karl Stefan Memorial Airport and within 1.8 miles each side of the Norfolk VOR/DME 020°, 148°, 195° and 314° radials extending from the 4.1-mile radius to 7 miles southeast, south, northwest and northeast of the Norfolk VOR/DME.

* * * * *

Issued in Kansas City, MO, on October 30, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–1228 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–28]

Amendment to Class E Airspace; Poplar Bluff, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Poplar Bluff Municipal Airport, Poplar Bluff, MO. The FAA has developed Global Positioning System (GPS) Runway (RWY) 18 and GPS RWY 36 Standard Instrument Approach Procedures (SIAPs) to serve the Poplar Bluff Municipal Airport. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 18 and GPS RWY 36 SIAPs in controlled airspace. A minor correction has been made to the Airport Reference Point (ARP) geographic coordinates and is reflected in this document.

DATES: *Effective date:* 0901 UTC, April 20, 1998.

Comments for inclusion in the Rules Docket must be received on or before February 19, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Federal Aviation Administration (FAA), Manager, Airspace Branch, Air Traffic Division, ACE–520, Attention: Rules Docket Number 97–ACE–28, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 18 and GPS RWY 36 SIAPs at Poplar Bluff Municipal Airport, Poplar Bluff, MO. The amendment to Class E airspace at

Poplar Bluff, MO, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace and thereby facilitate separation of aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. A minor correction has been made to ARP geographic coordinates for the Poplar Bluff Municipal Airport and is reflected in this document. The ARP geographic coordinates and the Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, aeronautical, environmental, and energy-related 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 action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–28.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Poplar Bluff, MO [Revised]

Poplar Bluff Municipal Airport, MO
(Lat. 36°46′26″ N., long. 90°19′29″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Poplar Bluff Municipal Airport and within 2.6 miles each side of the 181° bearing from the Poplar Bluff Municipal Airport extending from the 6.5-mile radius to 7 miles south of the airport.

* * * * *

Issued in Kansas City, MO, on November 21, 1997.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 98–1226 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–11]

Amendment to Class E Airspace; Gillette, WY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published on October 31, 1997, that inadvertently changed the

coordinates of the Gillette-Campbell County Airport, Gillette, WY. This action corrects the final rule by reflecting the proper coordinates.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–11, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION: On October 31, 1997, the FAA published a final rule that amended the Gillette, WY, Class E airspace designation (62 FR 58897). However, that action provided an inadvertent error to the coordinates of the Gillette-Campbell County Airport, WY. This action corrects the final rule by reflecting the proper coordinates.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the Class E airspace description at Gillette, WY, as published in the **Federal Register** on October 31, 1997 (62 FR 58897), (**Federal Register** Document No. 97–28956) is corrected as follows:

§ 71.1 [Corrected]

On page 58898, in the second column, in the airspace description, line 3, correct the geographical coordinates of the Gillette-Campbell County Airport by removing ''(Lat. 44°20′93″ N, long. 105°32′36″ W)'' and adding ''(Lat. 44°20′56″ N, long. 105°32′22″ W)'' in its place.

Issued in Seattle, Washington, on December 22, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–863 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29101; Amdt. No. 1843]

RIN 212–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on December 26, 1997.

Richard O. Gordon,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending; § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs; identified as follows:

* * * *Effective January 29, 1998*

Plymouth, MA, Plymouth Muni, NDB RWY 6, Amdt 4
Gettysburg, SD, Gettysburg Muni, GPS RWY 31, Orig
Galeton, PA, Cherry Springs, VOR–A, Amdt 6
Suffolk, VA, Suffolk Muni, LOC RWY 4, Amdt 1
Suffolk, VA, Suffolk Muni, NDB RWY 4, Amdt 1

* * * *Effective February 26, 1998*

Cortez, CO, Cortez, Muni, GPS RWY 3, Orig
Keokuk, IA, Keokuk Muni, LOC/DME RWY 26, Orig
Moose Lake, MN, Moose Lake Carlton County, NDB or GPS RWY 4, Amdt 1
Moose Lake, MN, Mose Lake Carlton County, GPS RWY 4, Orig
Ogallala, NE, Searle Field, GPS RWY 26, Orig
Butler, PA, Butler County/K W Scholter Field, ILS RWY 8, Amdt 5
Millington, TN, Millington Muni, ILS RWY 22, Orig
Dallas, TX, Dallas Love Field, RADAR–1, Amdt 26, Cancelled
Rutland, VT, Rutland State, LOC/DME 1 RWY 19, Amdt 1
South Boston, VA, William M. Tuck, VOR OR GPS–A, Amdt 7
Chetek, WI, Chetek Muni-Southworth, GPS RWY 35, Orig

[FR Doc. 98–869 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8758]

RIN 1545–AU28

Nuclear Decommissioning Funds; Revised Schedules of Ruling Amounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to requests for revised schedules of ruling amounts for nuclear decommissioning reserve funds. The regulations amend existing regulations to ease the burden on affected taxpayers by permitting electing taxpayers with qualifying interests in nuclear power plants to adjust their ruling amounts under a formula or method rather than by filing a request for a revised schedule of ruling amounts.

DATES: The final regulations are effective January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Peter Friedman, (202) 622–3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under the control number 1545–1511. Responses to this collection of information are voluntary.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated average annual burden per recordkeeper is 5 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20024, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains final regulations under section 468A of the Internal Revenue Code. Section 468A was added to the Internal Revenue Code by section 91(c) of the Tax Reform Act of 1984 (Pub. L. 98–369). Significant amendments were made to section 468A by section 1917 of the Energy Policy Act of 1992 (Pub. L. 102–486).

Section 468A(a) allows an electing taxpayer to deduct the amount of payments made by the taxpayer to a nuclear decommissioning reserve fund. Section 468A(b) limits the amount of these payments for any taxable year to the lesser of the ruling amount or the amount of decommissioning costs included in the taxpayer's cost of service for ratemaking purposes for that taxable year.

Section 468A(d) provides that no deduction shall be allowed unless the taxpayer requests, and receives, a schedule of ruling amounts from the Secretary. A ruling amount is, with respect to any taxable year, the amount determined by the Secretary as necessary to (1) fund that portion of the nuclear decommissioning costs of the taxpayer with respect to the nuclear power plant which bears the same ratio to the total nuclear decommissioning costs with respect to the nuclear power plant as the period for which the nuclear decommissioning fund is in effect bears to the estimated useful life of such nuclear power plant; and (2) prevent any excessive funding of such costs or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate. Section 468A(d)(3) provides that the

Secretary shall, at least once during the useful life of the nuclear power plant (or more frequently, upon the request of the taxpayer), review and, if necessary, revise the schedule of ruling amounts.

Section 1.468A–3 sets forth the rules relating to the determination of ruling amounts. The regulations permit the use of a formula or method for determining a schedule of ruling amounts (in lieu of a schedule of ruling amounts specifying a dollar amount for each taxable year), but only if the public utility commission establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking does not estimate the cost of decommissioning in future dollars.

The regulations contain provisions for the review and revision of schedules of ruling amounts and set forth circumstances under which a taxpayer must request a revision to its schedule of ruling amounts. In general, a schedule of ruling amounts must be reviewed at 10 year intervals. If the schedule is determined under a formula or method, however, the period between reviews may not exceed 5 years.

The regulations provide that a taxpayer may request an elective review of its schedule of ruling amounts. A taxpayer seeking to maximize its deductions under section 468A generally needs to request an elective review of its schedule of ruling amounts each time a public utility commission changes previously established amounts of decommissioning costs. A notice of proposed rulemaking (REG–209828–96) relating to these rules was published in the **Federal Register** on December 23, 1996 (61 FR 67510). The notice proposes to amend § 1.468A–3(a)(4) by eliminating the restriction on the use of a formula or method for determining a schedule of ruling amounts and to revise the mandatory review requirements.

Written comments were received in response to the notice of proposed rulemaking, and a public hearing was held on May 13, 1997. After considering the written comments and the statements made at the public hearing, the proposed rules are adopted as modified by this Treasury Decision.

Explanation of Provisions

The final regulations provide that a taxpayer may request approval of a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of the rules relating to the determination of ruling amounts.

The final regulations ease the filing burden on taxpayers by permitting them to adjust their ruling amounts under a formula or method (rather than by filing a request for a revised schedule of ruling amounts). Thus, a taxpayer may maximize its deductions under section 468A without requesting a revised schedule of ruling amounts each time a public utility commission changes the amount of decommissioning costs included in the taxpayer's cost of service if, under the taxpayer's formula or method, the commission's action results in a corresponding change in ruling amounts. The commentators all agreed with the expanded availability of ruling amounts based on formulas or methods.

In addition, the final regulations modify the mandatory review provisions applicable to schedules of ruling amounts determined under a formula or method. The proposed regulations eliminate the rule requiring review of those schedules after 5 years but make those schedules subject to the general rule requiring review at 10 year intervals. In addition, the proposed regulations require taxpayers to request a revised schedule of ruling amounts if, beginning with the second taxable year during which the most recently issued formula or method is in effect, the ruling amount for a taxable year (1) differs by more than 25 percent from the ruling amount for any preceding taxable year during which such formula or method was in effect; or (2) differs by more than 10 percent from the ruling amount for the immediately preceding taxable year. The commentators generally favored either a retention of the 5 year review period without limits on differences in ruling amounts or an increase in the percentage by which ruling amounts are permitted to differ. In response to these suggestions, the final regulations retain the 5 year review requirement, increase the overall percentage by which ruling amounts may differ, and eliminate the 10 percent limitation on changes from one year to the next.

Some commentators suggested that all elements of a formula should be permitted to be variable. Nothing in the proposed regulations was meant to suggest otherwise. In order to afford different taxpayers maximum flexibility in using a formula, the regulations do not specify which elements must be fixed and which must be variable. Instead, the formula, itself, will determine whether an element is fixed or variable. A fixed element is one that is assumed to retain the same value regardless of action by the applicable public utility commission.

Some commentators suggested that a taxpayer that recently received a schedule of ruling amounts should be permitted to vary this schedule using a formula or method that has not been approved by the Service. This suggestion is inconsistent with the Service's obligation to issue and review schedules of ruling amounts and is not adopted.

Several commentators requested that the existing user fee for obtaining a schedule of ruling amounts under section 468A is excessive and should be waived or reduced. Because this subject is not within the scope of this regulations project, it is not addressed in the final regulations.

Finally, some commentators suggested that the regulations should address the situation where a taxpayer, based on a good faith but erroneous calculation of the percentage limitations, fails to comply with the mandatory review provisions. Partly in response to this suggestion, the percentage limitation has been simplified.

Effective Date

These regulations are applicable for requests for schedules of ruling amounts made on or after January 20, 1998.

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 has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in the regulation will not have a significant impact on a substantial number of small entities. This certification is based on the fact that taxpayers with qualifying interests in a nuclear power plant are generally large entities. Thus, because the regulation applies only to these taxpayers and does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Peter Friedman, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other

personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.468A–2 is amended as follows:

1. The text of paragraph (f)(3) following the heading is designated as paragraph (f)(3)(i).

2. Paragraph (f)(3)(ii) is added.

The addition reads as follows:

§ 1.468A–2 Treatment of electing taxpayer.

* * * * *

(f) * * *

(3) * * *

(i) * * *

(ii) The requirement of this paragraph (f)(3) does not apply if the taxpayer determines its schedule of ruling amounts under a formula or method obtained under § 1.468A–3(a)(4) and the cost of service amount is a variable element of that formula or method.

* * * * *

Par. 3. Section 1.468A–3 is amended as follows:

1. Paragraph (a)(4) is revised.

2. Paragraph (e)(5) is added.

3. Paragraphs (i)(1)(ii)(A), (i)(1)(iii)(A)(*3*), and (i)(1)(iii)(B) are revised.

4. Paragraph (i)(1)(iii)(C) is added.

The revisions and additions read as follows:

§ 1.468A–3 Ruling amount.

(a) * * *

(4) The Internal Revenue Service will approve, at the request of the taxpayer, a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of this section. See paragraph (i)(1)(ii) of this section for a special rule relating to the mandatory review of ruling amounts that are determined pursuant to a formula or method.

* * * * *

(e) * * *

(5) A formula or method obtained under paragraph (a)(4) of this section may provide for changes in an estimated date described in paragraph (e)(1) or (2) of this section to reflect changes in the ratemaking assumptions used to determine rates (whether interim or final) that are established or approved by the applicable public utility commission after the filing of the request for approval of a formula or method.

* * * * *

(i) * * *

(1) * * *

(ii)(A) Any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts for any taxable year under paragraph (a)(4) of this section must file a request for a revised schedule on or before the earlier of the deemed payment deadline for the fifth taxable year that begins after its taxable year in which the most recent formula or method was approved or the deemed payment deadline for the first taxable year that begins after a taxable year in which there is a substantial variation in the ruling amount determined under the most recent formula or method. There is a substantial variation in the ruling amount determined under the formula or method in effect for a taxable year if the ruling amount for the year and the ruling amount for any earlier year since the most recent formula or method was approved differ by more than 50 percent of the smaller amount.

* * * * *

(iii) * * *

(A) * * *

(*3*) Reduces the amount of decommissioning costs to be included in cost of service for any taxable year;

(B) The taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Internal Revenue Service of such action by the public utility commission; and

(C) In the case of a taxpayer that determines its schedule of ruling amounts under a formula or method obtained under paragraph (a)(4) of this section, the item increased, adjusted, or reduced is a fixed (rather than a variable) element of that formula or method.

* * * * *

Par. 4. Section 1.468A–8 is amended by adding paragraph (b)(12) to read as follows:

§ 1.468A–8 Effective date and transitional rules.

* * * * *

(b) * * *

(12) *Use of formula or method.* Section 1.468A–2(f)(3)(ii) and § 1.468A–3(a)(4) (to the extent it permits a formula or method when the applicable public utility commission estimates the cost of decommissioning in future dollars), (e)(5), (i)(1)(ii)(A) (to the extent it requires the taxpayer to file a request for a revised schedule because of a substantial variation in ruling amounts), and (i)(1)(iii)(C) apply only to requests for a formula or method submitted on or after January 20, 1998 and to formulas and methods obtained in response to those requests.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. In § 602.101(c), the entry for 1.468A–3 in the table is revised to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified or described	Current OMB control No.
* * * * *	
1.468A–3	1545–1269 1545–1378 1545–1511
* * * * *	

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: January 9, 1998.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 98–1177 Filed 1–16–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–96–002]

RIN 2115–AE47

Drawbridge Operation Regulations: Mystic River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating rules for the S99, Alford Street Bridge, mile 1.4, over the Mystic River in Boston, Massachusetts by requiring an eight hour advance notice for openings be provided during the evenings in the winter months.

The Coast Guard has also removed the regulations governing the draws of the Boston and Maine Railroad Bridge, mile 1.8, and the General Lawrence Bridge, mile 3.6, since both bridges have been replaced with fixed bridges. Additionally, the requirement to pass public vessels as soon as possible has been removed because it is not listed under the general requirements for the operation of bridges.

These changes are expected to provide for the reasonable needs of navigation and relieve the bridge owner of the burden of unnecessarily crewing the bridge at night during the winter months as well as removing obsolete regulatory language from the regulation.

DATES: This final rule is effective February 19, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts, 02116, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations: Mystic River, MA. in the **Federal Register** (62 FR 3636; Jan. 24, 1997) to evaluate changes to the operating rules. The Coast Guard received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The S99 Alford Street Bridge owned by the City of Boston, has a vertical clearance of 16 feet at mean low water and 7 feet at mean high water. The operating regulations listed under § 117.609(a) require that the S99 Alford Street Bridge and the Boston and Maine Railroad Bridge shall open on signal; except that, from 7:45 a.m. to 9 a.m., 9:10 a.m. to 10 a.m., and 5 p.m. to 6 p.m. except Sundays and holidays, the draw need not be opened for the passage of vessels with a draft of less than 18 feet. Additionally, § 117.609(b) states that the Wellington and General Lawrence Bridges need not be opened for the passage of vessels.

The Coast Guard received a request from the City of Boston, in November 1995, to change the operating rules for the S99 Alford Street Bridge by amending § 117.609(a) to require an eight hour advance notice to the bridge owner for bridge openings between 11 p.m. and 7 a.m. November 1 to March 31, yearly. The Coast Guard believes that the operating hours for the S99 Alford Street Bridge should be changed based upon the fact that the Mystic River users that transit through the bridge are recreational users and seldom use the waterway during the winter months at the time period requested.

The exemption in the existing rules for vessels with a draft of eighteen feet is removed as part of this final rule because the commercial vessels to which this provision once applied no longer transit through the S99 Alford Street Bridge.

The requirement that public vessels be passed as soon as possible is removed from § 117.609(a) since it is now listed as a requirement under § 117.31 of the general operating regulations for bridges.

This final rule also eliminates references to the Boston and Maine Bridge and the General Lawrence Bridge which have been replaced by fixed bridges.

Discussion of Comments and Changes

No comments were received in response to the notice of proposed rulemaking; therefore, no changes to the final rule have been made.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. This regulation has not been reviewed by the Office of Management and Budget under that order. This regulation is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; Feb. 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that bridges must operate in accordance with the reasonable needs of navigation while providing for the reasonable needs of land transportation. This final rule adopts the operating hours which the Coast Guard believes to be appropriate since the recreational boaters that use this waterway seldom transit during night time in winter and, thus, a requirement for the bridge operator to be present during that time period is unwarranted. The Coast Guard believes this final rule achieves the requirement of balancing the navigational rights of recreational boaters and the needs of land based transportation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under section 2.B.2.e.(34) of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—[AMENDED]

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

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

2. Section 117.609 is revised to read as follows:

§ 117.609 Mystic River.

(a) The draw of the S99 Alford Street Bridge, mile 1.4, small open on signal; except that Monday through Saturday (excluding holidays) from 7:45 a.m. to 9 a.m., 9:10 a.m. to 10 a.m. and 5 p.m. to 6 p.m., the draw need not open for the passage of vessels. From November 1 through March 31, between 11 p.m. and 7 a.m., at least an 8 hour advance notice is required for bridge openings by calling the number posted at the bridge.

(b) The draw of the Wellington Bridge, mile 2.5, need not be opened for vessels.

Dated: January 5, 1998.

R. M. Larrbee,

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

[FR Doc. 98–1274 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–5948–1]

Hazardous Waste Management Program: Incorporation by Reference of Approved State Hazardous Waste Program for Florida

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses Part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA Sections 3008, 3013 and 7003. Thus, EPA intends to codify Florida's authorized State program in 40 CFR Part 272. The purpose of this action is to incorporate by reference EPA's approval of Florida's base hazardous waste program and its revisions to that program.

DATES: This document will be effective March 23, 1998 unless EPA publishes a prior **Federal Register** (*FR*) action withdrawing this immediate final rule. All comments on this action must be received by the close of business February 19, 1998. The incorporation by reference of certain Florida statutes and regulations was approved by the Director of the Federal Register as of March 23, 1998 in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

ADDRESSES: Written comments should be sent to Narindar Kumar, RCRA Programs Branch, Waste Division, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303. Telephone number is 404–562–8440.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, RCRA Programs Branch, Waste Division, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303. Telephone number is 404–562–8440.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of RCRA 42 U.S.C. 6926 *et seq.*, allows the EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's **Federal Register** document is to incorporate by reference EPA's approval of Florida's base hazardous waste management program and its twelve revisions to that program.

On January 29, 1985, EPA published a **Federal Register** notice announcing its decision to grant final authorization for the RCRA base program to the State of Florida (see 50 *FR* 3908). Effective January 30, 1988 (52 *FR* 45634); October 30, 1988 (53 *FR* 34759); January 3, 1989 (53 *FR* 50529); February 12, 1991 (55 *FR* 51416); April 6, 1992 (57 *FR* 4370 and 57 *FR* 4371); April 7, 1992 (57 *FR* 4738); July 20, 1992 (57 *FR* 21351); January 10, 1994 (58 *FR* 59367); September 9, 1994 (59 *FR* 35266); October 17, 1994 (59 *FR* 41979); December 27, 1994 (59 *FR* 53753); and June 2, 1997 (62 *FR* 15407), EPA granted Florida additional authorization.

On January 29, 1989, Florida transferred Parts I, II, III, IV and V of Chapter 17–30 F.A.C. to a new rule, Chapter 17–730 F.A.C. The Chapter entitled Hazardous Waste remained the same.

EPA provides both notice of its approval of State programs in 40 CFR Part 272 and incorporates by reference therein the State statutes and regulations that EPA will enforce under Sections 3008, 3013 and 7003 of RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in Florida. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Public Law 98–616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized Florida program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in Florida, the status of Federally approved requirements of the Florida program will be readily discernible.

The Agency will only enforce those provisions of the Florida hazardous waste management program for which authorization approval has been granted by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

Florida's Authorized Hazardous Waste Program

To incorporate by reference the Florida authorized hazardous waste program, EPA intends to add Subpart K to 40 CFR Part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.501(b)(1) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at 40 CFR 271.501(b)(5), (b)(6) and (b)(7), respectively.

The Agency retains the authority under Sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal

Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of enforcement such particular, authorized Florida enforcement authorities. Section 272.501(b)(2) of 40 CFR lists those authorized Florida authorities that are part of the authorized program but are not incorporated by reference.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA Subtitle C program because they are ''broader in scope'' than RCRA Subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Florida is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference;

(3) Unauthorized amendments to State provisions previously reviewed and approved by EPA.

State provisions which are ''broader in scope'' than the Federal program are not incorporated by reference for purposes of enforcement in 40 CFR 272. Section 272.501(b)(3) of 40 CFR lists for reference and clarity the Florida statutory and regulatory provisions which are ''broader in scope'' than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference. ''Broader in scope'' provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

Florida has adopted but is not authorized for the corrective action portion of the HSWA Codification Rule published on July 15, 1985 (50 *FR* 28702); the Corrective Action portions (for injection wells and for corrective action beyond the facility boundary) and the permit modification portion of the HSWA Codification Rule 2 published on December 1, 1987 (52 *FR* 45788); Burning of Hazardous Waste in Boilers and Industrial Furnaces rules published on February 12, 1991, July 1, 1991, August 27, 1991, August 25, 1992, and September 30, 1992 (56 *FR* 7134, 56 *FR* 32688, 56 *FR* 42504, *57 FR* 38558, and *57* FR 44999, respectively); the Coke Ovens Administrative Stay rule published on September 5, 1991 (56 *FR* 43874); the Recycled Coke By-Product Exclusion rule published on June 22, 1992 (57 *FR* 27880); amendments to 40 CFR Parts 260, 261, 264, 265, and 266 relative to Recycled Used Oil Management Standards rules published on September 10, 1992 and May 3, 1993 (57 FR 41566 and 58 FR 26420, respectively); and the Corrective Action Management Units and Temporary Units rule published on February 16, 1993 (58 *FR* 8658). Therefore, these Federal rules which are included in the Florida Administrative Code (F.A.C.), effective September 7, 1995, Sections 62–730.020(1), 62–730.030(1), 62–730.180(1), 62–730.180(2), 62–730.181, 62–730.183 and 62–730.220(3) are not federally enforceable.

Since EPA cannot enforce a State's requirements which have not been reviewed and approved according to the Agency's authorization standards, it is important that EPA clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State's method of adopting Federal law by reference has the effect of including unauthorized requirements, EPA will provide this clarification by: (1) incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in 272.501(b)(4) any requirements which while adopted and incorporated by reference, are not authorized by EPA, and therefore are not Federally enforceable. Thus, notwithstanding the language in the Florida hazardous waste regulations incorporated by reference at 272.501(b)(1), EPA would only enforce the State provisions that are actually authorized by EPA. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

HSWA Provisions

As noted above, the Agency is not amending 40 CFR Part 272 to include HSWA requirements and prohibitions that are immediately effective in Florida and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (See 50 *FR* 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to 40 CFR Part 271. EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the 40 CFR Part 272 every time a new HSWA provision takes effect under the authority of RCRA Section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR Part 272 incorporation by reference. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under Sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The Sections 202 and 205 requirements do not apply to today's action because it is not a ''Federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because it merely makes federally enforceable existing requirements with which regulated entities must already comply under State law. Second, the

Act also generally excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program. The requirements being codified today are the result of Florida's voluntary participation in accordance with RCRA Subtitle C.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because today's action merely codifies an existing State program that EPA previously authorized. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

The requirements of Section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, Section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, this codification incorporates into the Code of Federal Regulations Florida's requirements which have already been authorized by EPA under 40 CFR Part 271 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.

Certification Under the Regulatory Flexibility Act

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the State requirements authorized by EPA under 40 CFR Part 271. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates ''State's'' requirements which have been authorized by EPA under 40 CFR Part 271 into the Code of Federal Regulations. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

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

Compliance With Executive Order 12866

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

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: December 30, 1997.

Phyllis Harris,

Acting Regional Administrator, Region IV.

For the reasons set forth in the preamble, 40 CFR Part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for Part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart K is amended by adding § 272.501 to read as follows:

§ 272.501 Florida State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Florida has final authorization for the following elements as submitted to EPA in Florida's base program application for final authorizations which was approved by EPA effective on February 12, 1985. Subsequent program revision applications were approved and effective January 30, 1988; October 30, 1988; January 3, 1989; February 12, 1991; April 6, 1992; April 7, 1992; July 20, 1992; January 10, 1994; September 9, 1994; October 17, 1994; December 27, 1994; and June 2, 1997.

(b) *State Statutes and Regulations.* (1) The Florida statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) EPA Approved Florida's Statutory Requirements Applicable to the Hazardous Waste Management Program, dated December 1997.

(ii) EPA Approved Florida's Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated December 1997.

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) Florida Statutes, 1993, Chapter 119: 119.01; 119.011; 119.0115 through 119.031; 119.041; 119.05; 119.06; 119.07(1), (2), (3)(a)–(j), (3)(k)(1) first sentence, (3)(l)–(u), (4), (5), and (8); 119.072; 119.08(1)(a), (2) and (3); 119.085; 119.09; 119.092; 119.10; and 119.11 through 119.14.

(ii) Florida Statutes, 1993, Chapter 120: 120.53; 120.57; 120.59; 120.68; and 120.69.

(iii) Florida Statutes, 1993, Chapter 403: 403.021(1)–(9); 403.051(1) and (2); 403.061(21); 403.087(1) second and third sentences, (2)–(4), and (8); 403.0875; 403.091; 403.121; 403.131; 403.141(1) and (2); 403.151; 403.161; 403.201(1)–(3); 403.412; 403.702; 403.703(1); 403.704 (except (8), (11), (20)–(23), (25), and (31)); 403.721(1); 403.721(2)–(4) (except (4)(a)); 403.721(5); 403.721(6)(a)–(g), (j), (k); 403.721(7); 403.722(7) and (9)–(11); 403.7222(3); 403.724(3)–(6); 403.726 (except 403.726(3)); 403.73; 403.7545; 403.8055; and 403.814.

(iv) Florida Statutes, 1994 Supplement to 1993, Chapter 403: 403.061(14); 403.088; 403.707; 403.722(12); 403.7222(3); and 403.727.

(v) Florida Administrative Code, Chapter 62–4, effective July 4, 1995: 62–4.050(1)–(3); 62–4.070(4); and 62–4.070(5).

(vi) Florida Administrative Code, Chapter 62–103, effective October 20, 1996: 62–103.150; and 62–103.155.

(vii) Florida Administrative Code, Chapter 62–730, effective September 7, 1995: 62–730.020(2); 62–730.184; 62–730.200(3); 62–730.220(4); 62–730.220(9); 62–730.231(10); 62–730.240(3); and 62–730.310.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not codified herein for enforcement purposes.

(i) Florida Statutes, 1993, Chapter 403: 403.087(5); 403.201(4) (only the phrase ''may require by rule a processing fee for and''); 403.704(8); 403.721(4)(a); 403.7215(1)–(4); 403.722(8); 403.723; 403.724(7); 403.754(1)–(7); 403.767(1)–(3)(c); 403.78 through 403.7893; and 403.7895.

(ii) Florida Administrative Code, Chapter 62–4, effective July 4, 1995: 17–4.050(4)(k), (n)–(p), (r) and (s)–(x); 62–4.050(5)–(7).

(iii) Florida Administrative Code, Chapter 62–730, effective September 7, 1995: 62–730.170(2) and (3);62–730.180(10); 62–730.290 (only the phrase ''and submittal of the appropriate permit modification fee'').

(4) Unauthorized State Provisions. The State's adoption of the following Federal rules is not approved by EPA and are, therefore, not enforceable:

Federal requirement	Federal Register reference	Publication date
HSWA Codification Rule: Corrective Action (Checklist 17 L)	50 FR 28702	7/15/85
HSWA Codification Rule 2: Corrective Action Beyond Facility Boundary (Checklist 44 B); Corrective Action for Injection Wells (Checklist 44 C); and Permit Modification (Checklist 44 D).	52 FR 45788	12/1/87
Burning of Hazardous Waste in Boilers and Industrial Furnaces (Checklist 85)	56 FR 7134	2/12/91
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I (Checklist 94).	56 FR 32688	7/1/91
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II (Checklist 96).	56 FR 42504	8/27/91
Coke Ovens Administrative Stay (Checklist 98)	56 FR 43874	9/5/91
Recycled Coke By-Product Exclusion (Checklist 105)	57 FR 27880	6/22/92
Burning Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III (Checklist 111).	57 FR 38558	8/25/92
Recycled Used Oil Management Standards (Checklist 112)	57 FR 41566: Amendments to 40 CFR Parts 260, 261, and 266.	9/10/92
Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV (Checklist 114).	57 FR 44999	9/30/92
Corrective Action Management Units and Temporary Units (Checklist 121)	58 FR 8658	2/16/93
Recycled Used Oil Management Standards; Technical Amendments and Corrections I (Checklist 122).	58 FR 26420: Amendments to 40 CFR Parts 261, 264, and 265.	5/3/93

(5) Memorandum of Agreement. The Memorandum of Agreement between EPA Region IV and the Florida Department of Environmental Protection, signed by the EPA Regional Administrator on October 23, 1993, as amended on November 28, 1994, and on December 9, 1994, is referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) Statement of Legal Authority. ''Attorney General's Statement for Final Authorization'' certifications signed by the General Counsel of Florida on June 21, 1984; March 12, 1987; June 16, 1988; February 21, 1989; May 30, 1989; June 13, 1990; May 28, 1991; October 9, 1991; July 14, 1992; September 24, 1993; December 20, 1993; February 27, 1994; January 25, 1996; and May 20, 1996, is referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921.

(7) Program Description. The Program Description and any other materials submitted as part of the original application, or as supplements thereto, are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to Part 272 is amended by adding in alphabetical order, ''Florida'' and its listing to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Florida

The statutory provisions include:

Florida Statutes, 1991, Chapter 1: 1.01 (1) and (2).

Florida Statutes, 1993, Chapter 403: 403.031 introductory paragraph; 403.031 (2)–(7); 403.087(1) first sentence, and (6); 403.201(4) (except the phrase ''may require by rule a processing fee for and''); 403.703 introductory paragraph; 403.703 (2)–(6), (8)–(28), (30)–(34), (36), and (40), (42)–(44); 403.7045(1) introductory paragraph, (1) (a), (b) and (d); 403.7045(2) introductory paragraph; 403.7045(2) (a)–(c); 403.7045(3) introductory paragraph; 403.7045(3) (a)–(c); 403.72(2); 403.721(1); 403.722 (1)–(6); 403.7221; 403.724(1) (except the phrase ''or corrective action''); 403.724(2); 403.728; 403.74 (1), (3)–(5); 403.751(1) (except (d) & (e); and (2).

Florida Statutes, 1994 Supplement to 1993, Chapter 403: 403.031(1); 403.703(1); 403.7222 (1) and (2); 403.74(2).

Florida Statutes, 1993, Chapter 404: 404.031(13).

Copies of the Florida Statutes that are incorporated by reference are available from the Florida Department of State, Division of Elections, Bureau of Administrative Code, Weekly and Laws, The Elliot Building, 401 South Monroe Street, Tallahassee, Florida 32399–0250.

The regulatory provisions include:

The Florida Administrative Code, Chapter 62–4, effective July 4, 1995: 62–4.070(2); 62–4.080; and 62–4.100.

The Florida Administrative Code, Chapter 62–730, effective September 7, 1995: 62–730.001; 62–730.020 (1), (3), and (4); 62–730.021; 62–730.030; 62–730.140; 62–730.150; 62–730.160; 62–730.161; 62–730.170(1); 62–730.171;

62–730.180 (1)–(5), (7), and (8); 62–730.181; 62–730.183; 62–730.185; 62–730.200 (except (3)); 62–730.210; 62–730.220 (1), (2), (3), (5)–(8), (10), and (11); 62–730.231 (except (10)); 62–730.240 (1) and (2); 62–730.250; 62–730.260; 62–730.270(1) (except (1)(b)(4) and (1)(c)(3)), (2), and (3); 62–730.280; 62–730.290 (except the phrase ''and submittal of the appropriate permit modification fee'' at subparagraph (3)); 62–730.300; 62–730.320; 62–730.330; and 62–730.900.

Copies of the Florida Administrative Code are available from the Florida Department of State, Division of Elections, Bureau of Administrative Code, Weekly and Laws, The Elliot Building, 401 South Monroe Street, Tallahassee, Florida 32399–0250.

* * * * *

[FR Doc. 98–1250 Filed 1–16–98; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 63, No. 12
Tuesday, January 20, 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 Parts 3 and 292

[EOIR No. 112P; A.G. ORDER No. 2138–98]

RIN 1125–AA13

Executive Office for Immigration Review; Professional Conduct for Practitioners—Rules and Procedures

AGENCY: Immigration and Naturalization Service and the Executive Office for Immigration Review, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to change the rules and procedures concerning professional conduct for practitioners, which includes attorneys and representatives, who practice before the Executive Office for Immigration Review (EOIR), which includes the Board of Immigration Appeals (the Board) and the Immigration Courts, as well as the rules and procedures concerning professional conduct for practitioners who practice before the Immigration and Naturalization Service (the Service). This rule also includes a provision pursuant to section 545 of the Immigration Act of 1990, concerning sanctions against attorneys or representatives who engage in frivolous behavior in immigration proceedings. This rule outlines the authority EOIR has to investigate and impose disciplinary sanctions against practitioners who practice before its tribunals, and clarifies the authority of the Service to investigate complaints regarding practitioners who practice before the Service. The procedures by which disciplinary proceedings may be initiated before EOIR against practitioners who appear before the Service are also outlined. This proposed rule will allow EOIR and the Service to investigate, present, and complete disciplinary proceedings more effectively and efficiently while ensuring the due process rights of the practitioner. This proposed rule will allow frivolous claims to be resolved and meritorious cases to be completed quickly and without unnecessary delay, since the need for expeditious resolution of these cases is critical to and in the best interests of all parties involved.

DATES: Written comments must be received on or before March 23, 1998.

ADDRESSES: Please submit written comments to both Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia, 22041 and Janice B. Podolny, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Room 6100, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia 22041, telephone (703) 305–0470, or Janice B. Podolny, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW, Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION: This rule proposes to amend 8 CFR parts 3 and 292 by changing the present rules and procedures concerning professional conduct for practitioners, which includes attorneys and representatives, who practice before the Executive Office for Immigration Review (EOIR), which includes the Board of Immigration Appeals (the Board) and the Immigration Courts. Currently, the regulations at 8 CFR 292.3 require the Immigration and Naturalization Service (the Service) to investigate complaints filed regarding the conduct of attorneys and representatives practicing before both the Service and EOIR. If the investigation establishes, to the satisfaction of the Service, that disciplinary proceedings should be instituted, the General Counsel of the Service serves a copy of the written charges upon the attorney or representative and upon the Office of the Chief Immigration Judge. The present procedure provides for the government to be represented by a Service attorney in disciplinary proceedings before an Immigration Judge. The decision of the Immigration Judge may be appealed to the Board by either party.

This proposed rule includes several major changes to the current regulation. First, it separates and distinguishes the investigation of complaints and the disciplinary proceedings involving attorneys and representatives practicing before EOIR from the investigation of complaints and the disciplinary proceedings involving attorneys and representatives practicing before the Service. Under the proposed rule, the Office of the General Counsel of EOIR will accept complaints made against attorneys or representatives (referred to as ''practitioners'') who appear before the Board, the Immigration Courts, or both. The Office of the General Counsel of the Service will accept complaints made against practitioners who appear before the Service. The Office of the General Counsel that receives the complaint will conduct a preliminary inquiry. If the Office of the General Counsel of EOIR or the Service determines that a complaint is without merit, no further action will be taken. If the Office of the General Counsel of EOIR or the Service determines, by a preponderance of the evidence, that a practitioner has engaged in professional misconduct as set forth in the rule, it will issue a Notice of Intent to Discipline to the practitioner named in the complaint. When making a decision as to whether a Notice of Intent to Discipline should be issued, the Office of the General Counsel of EOIR or the Service will consider the contents of the complaint (including the nature and recency of the conduct or behavior of the practitioner and the harm or damages sustained by the complainant), the results of the preliminary inquiry, and other relevant information. The practitioner will have an opportunity to file an answer and request a hearing.

Second, the proposed rule establishes a new disciplinary process for the adjudication of all complaints. Upon the filing of an answer by the practitioner, the Director of EOIR will appoint an adjudicating official and, if a hearing is requested, will designate the time and place of the hearing. Failure to file an answer in a timely manner will be deemed an admission to the factual allegations set forth in the Notice of Intent to Discipline. The recommended disciplinary sanctions in the Notice of Intent to Discipline then will become final, unless a motion to set aside the final order is granted. The Office of the

General Counsel of EOIR will represent the government in the hearing, unless the proceeding is initiated by the Service, in which case the Office of the General Counsel of the Service will represent the government. The practitioner may be represented by counsel of his or her own choice at no expense to the government. The adjudicating official will hold a hearing, take testimony, examine witnesses, and will report his or her findings and recommendations to the Disciplinary Committee. The Disciplinary Committee will be a three-member panel appointed by the Deputy Attorney General, with at least one Committee member from EOIR. The Deputy Attorney General will designate one Committee member to serve as Chairperson. The Disciplinary Committee may adopt, modify, or otherwise amend the recommended disciplinary sanctions and issue a final order which may apply to practice before the Board and the Immigration Courts or the Service, or before all three authorities. There is no administrative appeal from the order of the Disciplinary Committee. A practitioner who wishes to obtain a judicial review of a decision of the Disciplinary Committee can do so in federal district court pursuant to 28 U.S.C. 1331.

Third, the proposed rule includes a reinstatement procedure, which will permit a practitioner to petition for his or her reinstatement if he or she has been expelled or, in the case of a suspension, if the period of suspension has not yet expired.

Fourth, the proposed rule revises and restates the grounds for disciplinary sanctions, which will be reduced from fifteen to twelve by combining several previous grounds, eliminating several others, and adding two new grounds. Ten of the grounds for disciplinary sanctions will apply to all practitioners appearing before the Board, the Immigration Courts, and the Service, while the two additional grounds will only apply to practitioners appearing before the Board and the Immigration Courts. Wherever possible, the grounds have been revised to include language that is similar, if not identical, to language found in the American Bar Association Model Rules of Professional Conduct (1995). EOIR has made these revisions in order to provide practitioners with a set of disciplinary standards that are widely known and accepted within the legal profession.

For example, one of the grounds for disciplinary sanctions prohibits the charging of grossly excessive fees. This ground has been expanded in the proposed rule to include a number of factors to be considered in determining whether a fee is grossly excessive, such as the time and labor required, the fee customarily charged in the locality for similar legal services, and the experience and ability of the attorney. The disciplinary ground banning the solicitation of professional employment has been revised to permit a practitioner to solicit professional employment from a prospective client known to be in need of legal services in a particular matter with certain restrictions. If the practitioner has no family or prior professional relationship with the prospective client, the practitioner must include the words ''Advertising Material'' on the outside of the envelope of any written communication and at the beginning and ending of any recorded communication. This change is made in light of the United States Supreme Court decision in *Shapero* v. *Kentucky*, 486 U.S. 466 (1988), in which the Court held that legal advertising, in the form of targeted, direct-mail solicitation, is a form of commercial speech protected by the First Amendment but subject to regulation, such as the requirement that a solicitation letter bear a label identifying it as an advertisement. *Shapero*, 486 U.S. at 477. The disciplinary ground regarding false or misleading communications about a practitioner's qualifications now includes a prohibition against a practitioner's use of the term ''certified specialist'' in immigration and/or nationality law, unless the practitioner has been granted such certification by the appropriate state regulatory authority or by an organization that has been approved by the appropriate state regulatory authority to grant such certifications. This amendment is included in order to ensure the public that a practitioner who holds himself or herself out as a certified specialist does so only after demonstrating proficiency in immigration and/or nationality law, and to prevent false, deceptive, or misleading advertising.

One of the two new grounds for disciplinary sanctions concerns conduct by a practitioner that constitutes ineffective assistance of counsel as previously determined in a finding by the Board or an Immigration Judge in an immigration proceeding. A practitioner who is the subject of an ineffective assistance of counsel claim heretofore has been able to plead *mea culpa* when an alien raises the issue on a motion to reopen with the Board or an Immigration Judge without any disciplinary consequences from his or her admissions. In addition, a practitioner who is consistently accused of providing ineffective assistance of counsel has not experienced any ramifications from such repeated claims before the Board or an Immigration Judge. By adding this ground to the disciplinary standard, practitioners now may face the consequences of claims of ineffective assistance of counsel from former clients.

A factual finding of ineffective assistance of counsel in an immigration proceeding will be necessary in order to support the issuance of a Notice of Intent to Discipline for this ground. A mere grant of a motion to reopen based on a claim of ineffective assistance of counsel, absent a specific factual finding of ineffective assistance of counsel, will not support the issuance of a Notice of Intent to Discipline.

Federal caselaw has repeatedly addressed the standards to be used in determining whether an alien has been the victim of ineffective assistance of counsel. Thus, in order for an alien to prevail on a claim of ineffective assistance of counsel, he or she must show that his or her counsel's performance was so ineffective as to have impinged upon the fundamental fairness of the hearing in violation of the fifth amendment due process clause. *Rabiu* v. *INS*, 41 F.3d 879, 882 (2d Cir. 1994). *See also Lopez* v. *INS*, 775 F.2d 1015, 1017 (9th Cir. 1985) (ineffective assistance of counsel is denial of due process only if proceeding was so fundamentally unfair that alien was prevented from reasonably presenting his case); *Paul* v. *INS*, 521 F.2d 194, 199 (5th Cir. 1975) (alien must present sufficient facts to allow court to infer that competent counsel would have acted otherwise).

Situations may arise where the Board or the Immigration Judge makes a factual finding of ineffective assistance of counsel in an immigration proceeding but the adjudicating official in the disciplinary proceeding recommends that no disciplinary action be imposed upon the practitioner. Since the practitioner in question is not a party to an alien's motion to reopen on the basis of ineffective assistance of counsel and may not have presented any evidence in his or her defense with regard to this issue, the adjudicating official in the disciplinary proceeding, upon further development of the facts, may determine, notwithstanding the finding of the Immigration Judge or the Board, that the attorney's conduct does not rise to a level for which disciplinary sanctions should be imposed. Such a ruling is subject to review by the Disciplinary Committee, which will then issue a final decision in the matter.

Fifth, the proposed rule contains a provision that allows for the immediate suspension of any practitioner who has been convicted of a serious crime, or any practitioner who has been disbarred or is currently under suspension or resignation with an admission of misconduct by the bar of any state, possession, territory, commonwealth, or the District of Columbus, or by any Federal court. Such immediate suspension may be imposed upon the practitioner while any appeal from the underlying conviction or discipline is pending and will continue until such time as a final administrative decision is made by the Disciplinary Committee. If a final administrative decision includes the imposition of a period of suspension, any time spent by the practitioner under immediate suspension will be credited toward the period suspension imposed by the final administrative decision. This provision will enable EOIR and the Service to take immediate action against such practitioners and will provide a certain degree of protection to those individuals most likely to be affected by the practitioner's misconduct.

For those practitioners who are immediately suspended, the proposed rule allows for the initiation of a summary disciplinary proceeding. Such a proceeding will be conducted in a manner similar to the standard disciplinary proceeding set forth in this rule, except that a certified copy of a judgment of conviction or judgment or order of discipline shall serve as a rebuttable presumption of the commission of the crime or the professional misconduct, and the burden of proof shall be upon the practitioner to show cause why the proposed disciplinary sanctions should not be imposed. This summary proceeding will enable EOIR and the Service to expeditiously bring disciplinary proceedings against practitioners who have engaged in criminal or unethical conduct while providing an opportunity for the practitioner to challenge the disciplinary charges and proposed sanctions.

Finally, the proposed rule contains a provision that addresses the issue of confidentiality with regard to complaints, preliminary inquiries, settlement agreements, and disciplinary proceedings. The provision provides that information concerning complaints or preliminary inquiries will be confidential unless a waiver is made, but in certain circumstances a waiver is not required before information can be disclosed. Resolutions, such as warning letters, admonitions, and agreements in lieu of discipline reached prior to the issuance of a Notice of Intent to Discipline will remain confidential. Notices of Intent to Discipline and action taken subsequent thereto, including settlement agreements, may be disclosed to the public. Disciplinary hearings will also be open to the public. This provision will adequately protect practitioners who may be the subject of a complaint or preliminary inquiry and also will maintain the integrity and credibility of the disciplinary process by keeping the sytem open to the public.

This proposed rule will allow EOIR and the Service to investigate, present, and complete disciplinary proceedings more effectively and efficiently while ensuring the due process rights of the practitioner. This proposed rule will allow frivolous claims to be resolved and meritorious cases to be completed quickly and without unnecessary delay because the need for expeditious resolution of these cases is critical to and in the best interests of all parties involved. EOIR and the Service recognize that the primary purposes of disciplinary proceedings, and any sanctions that are imposed as a result of such proceedings, include the protection of the public, the preservation of the integrity of the immigration courts and the legal profession, and the maintenance of high professional standards by practitioners.

The proposed rule regarding the authority of EOIR to investigate complaints and to conduct disciplinary proceedings has been placed in 8 CFR part 3 for several reasons: (1) To highlight the independence of EOIR from the Service; (2) to provide EOIR with the ability to police its own tribunals and the persons who come before them; and (3) to provide a more efficient and effective disciplinary system. The proposed rule and the amendments to 8 CFR part 292 clarify the authority of the Service to investigate complaints regarding attorneys and representatives who practice before the Service and outline the procedures by which disciplinary proceedings may be initiated before EOIR against practitioners who appear before the Service. Once the Service decides to issue a Notice of Intent to Discipline, the complaint will be heard and decided under the same procedures used for disciplinary actions initiated by the Office of the General Counsel of EOIR. Moreover, the rule also provides for notice of the initiation of disciplinary actions and coordination of disciplinary sanctions regarding the Service as well as the Board and the Immigration Courts.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule affects only those practitioners who practice immigration law before EOIR and the Service. Approximately 5000 immigration attorneys and 400 accredited representatives will be subject to this rule. This rule will not have a significant adverse economic impact on a substantial number of small entities because the rule is similar in substance to the existing regulatory process and will only affect those practitioners who have committed serious crimes or who have lost their license to practice law or otherwise engaged in professional misconduct. Therefore, this rule does not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United states-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This rule has no federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612.

Executive Order 12988

The rule meets the applicable standards provided in sections 3 (a) and 3 (b) (2) of Executive Order No. 12988.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Legal services, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 292

Administrative practice and procedure, Immigration, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1103; 1252 note, 1252b, 1324b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2–3. Section 3.1 is amended by revising the reference to ''§ 292.3(a)(15) of this chapter'' in the first sentence of paragraph (d)(1–a)(ii) to read ''§ 3.52(j)'', and by revising paragraph (d)(3) to read as follows:

§ 3.1 General authorities.

* * * * *

(d) * * *

(3) *Rules of practice.* The board shall have authority, with the approval of the Director, EOIR, to prescribe rules governing proceedings before it. It shall also determine whether any organization desiring representation is of a kind described in § 1.1(j) of this chapter.

* * * * *

4. Section 3.12 is amended by revising the reference to ''§ 292.3 of this chapter'' in the second sentence to read ''part 3 of this chapter''.

5. Subpart D is added to part 3 after Subpart C, to read as follows:

Subpart D—Professional Conduct for Practitioners—Rules and Procedures

Sec.

3.51 General provisions.
3.52 Grounds.
3.53 Filing of an preliminary inquiry into complaints; resolutions; referral of complaints.
3.54 Notice of Intent to Discipline.
3.55 Hearing and disposition.
3.56 Reinstatement after expulsion or suspension.
3.57 Confidentiality.
3.58 Discipline of government attorneys.

Subpart D—Professional Conduct for Practitioners—Rules and Procedures

Authority: 8 U.S.C. 1103, 1252b, 1362.

§ 3.51 General provisions.

(a) *Disciplinary Committee.* The Disciplinary Committee is a three-member panel appointed by the Deputy Attorney General, with at least one Committee member from the Executive Office for Immigration Review. The Deputy Attorney General will designate one Committee member to serve as Chairperson. A designee appointed by the Deputy Attorney General may serve as an alternate Disciplinary Committee member when, in the absence or unavailability of a Disciplinary Committee member or for other good cause, his or her participation is deemed necessary. Once designated, his or her participation in a case shall continue to its normal conclusion.

(b) *Authority to sanction.* The Disciplinary Committee may impose disciplinary sanctions against any practitioner if it finds it to be in the public interest to do so. It will be in the public interest to impose disciplinary sanctions against a practitioner who is authorized to practice before the Board of Immigration Appeals (the Board) and the Immigration Courts when such person has engaged in criminal, unethical, or unprofessional conduct, or in frivolous behavior, as set forth in § 3.52. In accordance with the disciplinary proceedings set forth in this subpart and outlined below, the Disciplinary Committee may impose any of the following disciplinary sanctions:

(1) Expulsion, which is permanent, from practice before the Board and the Immigration Courts or the Immigration and Naturalization Service (the Service), or before all three authorities;

(2) Suspension, including immediate suspension, from practice before the Board and the Immigration Courts or the Immigration and Naturalization Service (the Service), or before all three authorities;

(3) Public or private censure; or

(4) Such other disciplinary sanctions as the Disciplinary Committee deems appropriate.

(c) *Persons subject to sanctions.* Persons subject to sanctions include any practitioner. A practitioner is any attorney as defined in § 1.1(f) of this chapter who does not represent the federal government, or any representative as defined in § 1.1(j) of this chapter. Attorneys employed by the Department of Justice shall be subject to discipline pursuant to § 3.58.

(d) *Immediate suspension and summary disciplinary proceedings*—(1) *Immediate suspension.* The Office of the General Counsel of EOIR may ask the Disciplinary Committee to immediately suspend from practice before the Board and the Immigration Courts any practitioner who has been convicted of a serious crime, as defined in § 3.52(h), or who has been disbarred or is currently under suspension or resignation with an admission of misconduct by the bar of any state, possession, territory, commonwealth, or the District of Columbia, or by any Federal court. Such immediate suspension may be imposed upon the practitioner while any appeal from the underlying conviction or discipline is pending and shall continue until such time as a final administrative decision is made by the Disciplinary committee. If a final administrative decision includes the imposition of a period of suspension, any time spent by the practitioner under immediate suspension pursuant to this paragraph will be credited toward the period of suspension imposed by the final administrative decision.

(2) *Summary disciplinary proceedings.* The Office of the General Counsel of EOIR may initiate summary disciplinary proceedings against any practitioner described in paragraph (d)(1) of this section. Summary proceedings may be initiated by the issuance of a Notice of Intent to Discipline if accompanied by a certified copy of a judgment of conviction or a judgment or order of discipline. Summary proceedings shall be conducted in accordance with the provisions set forth in §§ 3.54 and 3.55, except that a certified copy of a judgment of conviction or judgment or order of discipline shall serve as a rebuttable presumption of the commission of the crime or the professional misconduct. The imposition of disciplinary sanctions shall follow, unless the practitioner can rebut the presumption by demonstrating that:

(i) The underlying criminal or disciplinary proceeding was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) There was such an infirmity of proof establishing the practitioner's guilt or professional misconduct as to give rise to the clear conviction that the adjudicating official could not, consistent with his or her duty, accept as final the conclusion on that subject; or

(iii) The imposition of discipline by the adjudicating official would result in grave injustice.

(3) *Ineligibility to rebut the presumption of professional misconduct.* An attorney shall not be eligible to rebut the presumption of the commission of professional misconduct unless he or she is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia.

(e) *Duty of practitioner to notify EOIR of conviction or discipline.* Any practitioner who has been convicted of a serious crime, as defined in § 3.52(h), or who has been disciplined for professional misconduct by the bar of any state, possession, territory, commonwealth, or the District of Columbia, or by a Federal court must notify the Office of the General Counsel or EOIR of any such conviction or disciplinary action within 30 days of the issuance of the initial order, even if an appeal of the conviction or discipline is pending. Failure to do so may result in immediate suspension as set forth in paragraph (d)(1) of this section. This duty to notify applies only to convictions for serious crimes or rulings of professional misconduct entered after the effective date of this regulation.

§ 3.52 Grounds.

It is deemed to be in the public interest for the Disciplinary Committee to impose disciplinary sanctions against any practitioner who falls within one or more of the categories enumerated in this section, but these categories do not constitute the exclusive grounds for which disciplinary sanctions may be imposed in the public interest. A practitioner who falls within one of the following categories may be subject to disciplinary sanctions in the public interest if he or she:

(a) Charges or receives, either directly or indirectly:

(1) In the case of an attorney, any fee or compensation for specific services rendered for any person that shall be deemed to be grossly excessive. The factors to be considered in determining whether a fee or compensation is grossly excessive include the following: the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney; the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; and the experience, reputation, and ability of the attorney or attorneys performing the services,

(2) In the case of an accredited representative as defined in § 292.1(a)(4) of this chapter, any fee or compensation for specific services rendered for any person, except that an accredited representative may be regularly compensated by the organization of which he or she is an accredited representative, or

(3) In the case of a law student or law graduate as defined in § 292.1(a)(2) of this chapter, any fee or compensation for specific services rendered for any person, except that a law student or law graduate may be regularly compensated by the organization or firm with which he or she is associated as long as he or she is appearing without direct or indirect remuneration from the client he or she represents;

(b) Bribes, attempts to bribe, coerces, or attempts to coerce, by any means whatsoever, any person (including a party to a case or an officer or employee of the Department of Justice) to commit any act or to refrain from performing any act in connection with any case;

(c) Knowingly makes a false statement of material fact or law to, or willfully misleads, misinforms, threatens, or deceives any person (including a party to a case or an officer or employee of the Department of Justice) concerning any material and relevant matter relating to a case, including knowingly offering evidence that the practitioner knows to be false. If a practitioner has offered material evidence and comes to know of its falsity, the practitioner shall take appropriate remedial measures;

(d) Solicits professional employment, through in-person or live telephone contact or through the use of runners, from a prospective client with whom the practitioner has no family or prior professional relationship when a significant motive for the practitioner's doing so is the practitioner's pecuniary gain. If the practitioner has no family or prior professional relationship with the prospective client known to be in need of legal services in a particular matter, the practitioner must include the words ''Advertising Material'' on the outside of the envelope of any written communication and at the beginning and ending of any recorded communication. Such advertising material or similar solicitation documents may not be distributed by any person in or around the premises of any building in which an Immigration Court is located;

(e) Is currently subject to a final order of disbarment, suspension, or resignation with an admission of misconduct

(1) In the jurisdiction of any state, possession, territory, commonwealth, or the District of Columbia, or in any Federal court in which the practitioner is admitted to practice, or

(2) Before any executive department, board, commission, or other governmental unit;

(f) Makes a false or misleading communication about his or her qualifications or services. A communication is false or misleading if it:

(1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading, or,

(2) Contains an assertion about the practitioner or his or her qualifications or services that cannot be substantiated. A practitioner shall not state or imply that he or she has been recognized or certified as a specialist in immigration and/or nationality law unless such certification is granted by the appropriate state regulatory authority or by an organization that has been approved by the appropriate state regulatory authority to grant such certification;

(g) Engages in contumelious or otherwise obnoxious conduct with regard to a case in which he or she acts in a representative capacity, which, in the opinion of the Disciplinary Committee, would constitute cause for suspension or disbarment if the case were pending before a court, or which, in such a judicial proceeding, would constitute a contempt of court;

(h) Has been convicted in any court of the United States, or of any state, possession, territory, commonwealth, or the District of Columbia, of a serious crime. A serious crime includes any felony and also includes any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involved interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, dishonesty, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime. A plea or verdict of guilty or a conviction after a plea of nolo contender is deemed to be a conviction within the meaning of this section;

(i) Falsely certifies a copy of a document as being a true and complete copy of an original;

(j) Engages in frivolous behavior in a proceeding before the Immigration Court, the Board, or any other administrative appellate body under title II of the Immigration and Nationality Act.

(1) A practioner engages in frivolous behavior when he or she knows or reasonably should have known that his or her actions lack an arguable basis in law or in fact, or are taken for an improper purpose, such as to harass or to cause unnecessary delay. Actions that, if taken improperly, may be subject to disciplinary sanctions include, but are not limited to, the making of an argument on any factual or legal question, the submission of an application for discretionary relief, the filing of a motion, or the filing of an appeal. The signature of a practioner on any filing, application, motion, appeal, brief, or other document constitutes certification by the signer that the signer has read the filing, application, motion, appeal, brief, or other document and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact and is warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, and is not interposed for any improper purpose.

(2) The imposition of disciplinary sanctions for frivolous behavior under this section in no way limits the authority of the Board to dismiss an appeal summarily pursuant to § 3.1(d)(1–a);

(k) Engages in conduct that constitutes ineffective assistance of counsel, as previously determined in a finding by the Board or the Immigration Court in an immigration proceeding, within five years preceding the filing of the complaint; or

(l) Repeatedly fails to appear for scheduled hearings in a timely manner.

§ 3.53 Filing of and preliminary inquiry into complaints; resolutions; referral of complaints.

(a) *Filing of complaints*—(1) *Practitioners authorized to practice before the Board and the Immigration Courts.* Complaints of criminal, unethical, or unprofessional conduct, or frivolous behavior by a practioner who is authorized to practice before the Board and the Immigration Courts shall be filed with the Office of the General Counsel of EOIR. Complaints must be submitted in writing and must state in detail the information that supports the basis for the complaint, including, but not limited to, the names and addresses of the complainant and the practitioner, the date(s) of the conduct or behavior, the nature of the conduct or behavior, the individuals involved, the harm or damages sustained by the complainant, and any other relevant information. Any individual may file a complaint with the Office of the General Counsel of EOIR. The Office of the General Counsel of EOIR shall notify the Office of the General Counsel of the Service of any complaint filed that pertains, in whole or in part, to a matter involving the Service.

(2) *Practitioners authorized to practice before the Service.* Complaints of criminal, unethical, or unprofessional conduct, or of frivolous behavior by a practitioner who is authorized to practice before the Service shall be filed with the Office of the General Counsel of the Service pursuant to the procedures set forth in § 292.3(c) of this chapter.

(b) *Preliminary inquiry.* Upon receipt of a complaint or on its own initiative, the Office of the General Counsel of EOIR will initiate a preliminary inquiry. If a complaint concerning a practitioner is filed by a client or former client, the complainant thereby waives the attorney-client privilege and any other applicable privilege, as between the complainant and the practitioner, to the extent necessary for the preliminary inquiry and any subsequent prosecution of the allegations. If the Office of the General Counsel of EOIR determines that a complaint is without merit, no further action will be taken. The Office of the General Counsel of EOIR may, in its discretion, close a preliminary inquiry if the complainant fails to comply with its reasonable requests for assistance, information, or documentation. The complainant and the practitioner shall be notified of such determinations in writing.

(c) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* The Office of the General Counsel of EOIR, in its discretion, may issue warning letters and admonitions, and may enter into agreements in lieu of discipline, prior to the issuance of a Notice of Intent to Discipline.

(d) *Referral of complaints of criminal conduct.* If the Office of the General Counsel of EOIR receives credible information or allegations that a practitioner has engaged in criminal conduct in connection with an immigration matter, the Office of the General Counsel of EOIR shall refer the matter to the Inspector General and, if appropriate, to the Federal Bureau of Investigation. In such cases, in making the decision to pursue disciplinary sanctions, the Office of the General Counsel of EOIR shall coordinate in advance with the appropriate investigative and prosecutive authorities of the Department to ensure that neither the disciplinary process nor criminal prosecutions are jeopardized.

§ 3.54 Notice of Intent to Discipline.

(a) *Issuance of Notice to practitioner.* If, upon completion of the preliminary inquiry, the Office of the General Counsel of EOIR determines, by a preponderance of the evidence, that a practitioner has engaged in professional misconduct as set forth in § 3.52, it will issue a Notice of Intent to Discipline to the practitioner named in the complaint. This notice will be served upon the practitioner by personal service as defined in § 103.5a of this chapter. Such notice shall contain a statement of the charge(s), a copy of the preliminary inquiry report, the proposed disciplinary sanctions to be imposed, the procedure for filing an answer or requesting a hearing, and the mailing address and telephone number for the Disciplinary Committee.

(b) *Copy of Notice to the Service; reciprocity of disciplinary sanctions.* A copy of the Notice of Intent to Discipline shall be forwarded to the Office of the General Counsel of the Service. The Office of the General Counsel of the Service may submit a written request to the adjudicating official asking that he or she recommend that any discipline imposed against a practitioner's right to practice before the Board or the Immigration Courts also apply to the practitioner's right to practice before the Service. Proof of service on the practitioner of any request to broaden the scope of the proposed discipline must be filed with the adjudicating official.

(c) *Answer.* The practitioner shall file an answer to the Notice of Intent to Discipline with the Office of the General Counsel of EOIR within 30 days of the date of service of the Notice of Intent to Discipline, unless an extension of time is granted for good cause by the Disciplinary Committee. A request for an extension of time to answer must be received by the Disciplinary Committee at least three (3) working days before the time to answer has expired. A copy of such request shall be served on the Office of the General Counsel of EOIR. The answer shall be in writing, must respond to each charge in a substantive and detailed manner, and may include any supporting documents, including affidavits or statements. The answer

shall state whether the practitioner requests a hearing on the matter.

(d) *Failure to file an answer.* Failure to file an answer in a timely manner shall be deemed an admission to the factual allegations set forth in the Notice of Intent to Discipline and no further proof shall be required to establish the truth of such facts. The Office of the General Counsel of EOIR shall submit proof of personal service of the Notice of Intent to Discipline. The practitioner shall be precluded thereafter from requesting a hearing on the matter. The recommended disciplinary sanctions in the Notice of Intent to Discipline shall then become final and the Disciplinary Committee shall issue a final order adopting the recommended disciplinary sanctions against the practitioner. A practitioner may file a motion to set aside a final order of disciplinary sanctions, issued pursuant to this paragraph, with the Disciplinary Committee if:

(1) Such a motion is filed within 15 days of service of the final order; and

(2) His or her failure to file an answer was due to exceptional circumstances (such as serious illness of the practitioner or death of an immediate relative of the practitioner, but not including less compelling circumstances) beyond the control of the practitioner.

§ 3.55 Hearing and disposition.

(a) *Hearing*—(1) *Procedure.* (i) The Director of EOIR shall, upon the filing of an answer, appoint an adjudicating official. An adjudicating official may be an Immigration Judge, an Assistant Chief Immigration Judge, a Board Member, or an Administrative Law Judge. Upon the practitioner's request for a hearing, the Director of EOIR shall designate the time and place of the initial hearing. Pre-hearing conferences may be scheduled at the discretion of the adjudicating official in order to narrow issues, to obtain stipulations between the parties, to exchange information voluntarily, and otherwise to simplify and organize the proceeding. Settlement agreements reached after the issuance of a Notice of Intent to Discipline are subject to final approval by the adjudicating official and the Disciplinary Committee.

(ii) The practitioner may be represented at the hearing by counsel at no expense to the government. At the hearing, the practitioner shall have a reasonable opportunity to examine and object to evidence presented by the government, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the government. The adjudicating official shall consider: the complaint, the preliminary inquiry report, the Notice of Intent to Discipline, the answer and any supporting documents; and any other evidence presented at the hearing (or, if the practitioner files an answer but does not request a hearing, any pleading, brief, or other materials submitted by counsel for the government). Counsel for the government shall bear the burden of proving the grounds for disciplinary sanctions enumerated in the Notice of Intent to Discipline by clear, unequivocal, and convincing evidence.

(iii) The record of the hearing, regardless of whether the hearing is held before an Immigration Judge, an Assistant Chief Immigration Judge, a Board Member, or an Administrative Law Judge, shall conform to the requirements of 8 CFR 240.9. Disciplinary hearings shall be conducted in the same manner as immigration court proceedings as is appropriate, and shall be open to the public, except that:

(A) Depending upon physical facilities, the adjudicating official may place reasonable limitations upon the number in attendance at any one time,

(B) For the purposes of protecting witnesses, parties, or the public interest, the adjudicating official may limit attendance or hold a closed hearing.

(2) *Fairlure to appear at hearing.* Failure to appear at the hearing shall be deemed an admission to the factual allegations set forth in the Notice of Intent to Discipline, even when the practitioner filed an answer, and no further proof shall be required to establish the truth of such facts. The Office of the General Counsel of EOIR or the Office of the General Counsel of the Service shall submit proof of personal service of the Notice of Intent to Discipline. The practitioner shall be precluded thereafter from participating further in the proceedings. The recommended disciplinary sanctions in the Notice of Intent to Discipline shall then become final and the Disciplinary Committee shall issue a final order adopting the recommended disciplinary sanctions against the practitioner. A practitioner may file a motion to set aside a final order of disciplinary sanctions issued pursuant to this paragraph if:

(i) Such a motion is filed within 15 days of service of the final order; and

(ii) His or her failure to appear at the hearing was due to exceptional circumstances (such as serious illness of the practitioner or death of an immediate relative of the practitioner, but not including less compelling circumstances) beyond the control of the practitioner.

(b) *Recommendation.* The adjudicating official shall consider the entire record, including any testimony and evidence presented at the hearing, and shall report his or her findings and recommendations to the Disciplinary Committee. If the adjudicating official finds that the grounds for disciplinary sanctions enumerated in the Notice of Intent to Discipline have been established by clear, unequivocal, and convincing evidence, he or she shall recommend that the disciplinary sanctions set forth in the Notice of Intent to Discipline be adopted, modified, or otherwise amended. If the adjudicating official recommends that the practitioner be suspended, the time period for such suspension shall be specified. Court costs also may be assessed against the practitioner, including the costs of a transcript, an interpreter, or any other costs necessary to conduct the hearing. If the adjudicating official finds that the grounds for disciplinary sanctions enumerated in the Notice of Intent to Discipline have not been established by clear, unequivocal, and convincing evidence, he or she shall recommend to the Disciplinary Committee that the case be dismissed.

(c) *Decision.* Upon a de novo review of the findings and recommendations of the adjudicating official, the Disciplinary Committee may adopt, modify, or otherwise amend the recommended disciplinary sanctions. The decision of the Disciplinary Committee is a final administrative order and shall be served upon the practitioner by personal service as defined in § 103.5a of this chapter. A copy of the final administrative decision of the Disciplinary Committee shall be served upon the Office of the General Counsel of EOIR and the Office of the General Counsel of the Service. If disciplinary sanctions are imposed against a practitioner (other than a private censure), the Disciplinary Committee may require that a notice of such sanctions be posted at the Immigration Courts, the Board, or the Service for the period of time during which the sanctions are in effect, or for any other period of time as determined by the Disciplinary Committee.

(d) *Referral.* In addition to or in lieu of initiating disciplinary proceedings against a practitioner, the Office of the General Counsel of EOIR may notify the appropriate state and/or local professional licensing or regulatory authority of a complaint filed against a practitioner. Any final administrative decision imposing sanctions against a practitioner (other than a private censure) shall be reported to the

appropriate state and/or local professional licensing or regulatory authority.

§ 3.56 Reinstatement after expulsion or suspension.

(a) *Expiration of suspension.* A practitioner who has been suspended will be reinstated automatically to practice before the Board and the Immigration Courts or the Service, or before all three authorities, once the period of suspension has expired, provided that he or she meets the definition of attorney or representative as set forth in § 1.1 (f) and (j), respectively, of this chapter. If a practitioner cannot meet the definition of attorney or representative, the Disciplinary Committee will decline to reinstate the practitioner.

(b) *Petition for reinstatement* A practitioner who has been expelled or who has been suspended for one year or more may file a petition for reinstatement directly with the Disciplinary Committee after one-half of the suspension period has expired or one year has passed, whichever is greater, provided that he or she meets the definition of attorney or representative as set forth in § 1.1 (f) and (j), respectively, of the chapter. A copy of such petition shall be served on the Office of the General Counsel of EOIR. In matters in which the practitioner was also ordered expelled or suspended from practice before the Service, a copy of such petition shall be served on the Office of the General Counsel of the Service. The practitioner shall have the burden of demonstrating by clear, unequivocal, and convincing evidence that he or she possesses the moral and professional qualifications required to appear before the Board and the Immigration Courts or the Service, or before all three authorities, and that his or her reinstatement will not be detrimental to the administration of justice. The Office of the General Counsel of EOIR, and in matters in which the practitioner was ordered expelled or suspended from practice before the Service, the Office of the General Counsel of the Service, may respond to the petition in the form of a written response, which may include documentation of any complaints filed against the expelled or suspended practitioner subsequent to his or her expulsion or suspension. If a practitioner cannot meet the definition of attorney or representative as set forth in § 1.1 (f) and (j), respectively, of this chapter, the Disciplinary Committee will deny the petition for reinstatement. If reinstatement is found to be inappropriate or unwarranted, the petition shall be denied and any subsequent petitions for reinstatement may not be filed before the end of one year from the date of the previous denial. If reinstatement is found to be appropriate and the practitioner is found to be qualified to practice before the Board and the Immigration Courts or the Service, or before all three authorities, the practitioner will be reinstated.

§ 3.57 Confidentiality.

(a) *Complaints and preliminary inquiries.* Except as otherwise provided by law or regulation, information concerning complaints or preliminary inquiries is confidential. A practitioner whose conduct is the subject of a complaint or preliminary inquiry, however, may waive confidentiality, except that the Office of the General Counsel of EOIR may decline to permit a waiver of confidentiality if it is determined that an ongoing preliminary inquiry may be substantially, prejudiced by a public disclosure before the filing of a Notice of Intent to Discipline.

(1) *Disclosure of information for the purpose of protecting the public.* The Office of the General Counsel of EOIR, after private notice to the practitioner, may disclose information concerning a complaint or preliminary inquiry for the protection of the public when the necessity for disclosing information outweighs the necessity for preserving confidentiality in circumstances including, but not limited to, the following:

(i) A practitioner has caused, or is likely to cause, harm to client(s), the public, or the administration of justice, such that the public or specific individuals should be advised of the nature of the allegations. If disclosure of information is made pursuant to this paragraph, the Office of the General Counsel of EOIR may define the scope of information disseminated and may limit the disclosure of information to specified individuals or entities;

(ii) A practitioner has committed criminal acts or is under investigation by law enforcement authorities;

(iii) A practitioner is under investigation by a regulatory or licensing agency, or has committed acts or made omissions that may reasonably result in investigation by a regulatory or licensing agency;

(iv) A practitioner is the subject of multiple complaints and the Office of the General Counsel of EOIR has determined not to pursue all of the complaints. The Office of the General Counsel of EOIR may inform complainants whose allegations have not been pursued of the status of the other preliminary inquiries or the manner is which the other complaint(s) against the practitioner have been resolved.

(2) *Disclosure of information for the purpose of conducting a preliminary inquiry.* The Office of the General Counsel of EOIR, in the exercise of discretion, may disclose documents and information concerning complaints and preliminary inquiries to the following individuals or entities:

(i) To witnesses or potential witnesses in conjunction with a complaint or preliminary inquiry;

(ii) To other governmental agencies responsible for the enforcement of civil or criminal laws;

(iii) To agencies and other jurisdictions responsible for professional licensing;

(iv) To the complainant or a lawful designee;

(v) To the practitioner who is the subject of the complaint or preliminary inquiry or the practitioner's counsel of record.

(b) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* Resolutions, such as warning letters, admonitions, and agreements in lieu of discipline, reached prior to the issuance of a Notice of Intent to Discipline will remain confidential. However, such resolutions may become part of the public record if the practitioner becomes the subject of a subsequent Notice of Intent to Discipline.

(c) *Notices of Intent to Discipline and action subsequent thereto.* Notices of Intent to Discipline and any action that takes place subsequent to their issuance, except for the imposition of private censures, may be disclosed to the public, except that private censures may become part of the public record if introduced as evidence of a prior record of discipline in any subsequent proceeding. Settlement agreements reached after the issuance of a Notice of Intent to Discipline may be disclosed to the public upon final approval by the adjudicating official and the Disciplinary Committee. Disciplinary hearings are open to the public, except as noted in § 3.55.

§ 3.58 Discipline of government attorneys.

Complaints regarding the conduct and behavior of government attorneys shall be directed to the Office of Professional Responsibility of the Department of Justice.

PART 292—REPRESENTATION AND APPEARANCES

6. The authority citation for part 292 continues to read as follows:

Authority: 8 U.S.C. 1103, 1252b, 1362.

7. Section 292.3 is revised to read as follows:

§ 292.3 Professional Conduct for Practitioners—Rules and Procedures.

(a) *General provisions*—(1) *Disciplinary Committee. The Disciplinary Committee established under § 3.51 of this chapter may impose disciplinary sanctions against any practitioner if it finds it to be in the public interest to do so.*

(2) *Authority to sanction.* It will be in the public interest to impose disciplinary sanctions against a practitioner who is authorized to practice before the Service when such person has engaged in criminal, unethical, or unprofessional conduct, or in frivolous behavior, as set forth in § 3.52 of this chapter. In accordance with the disciplinary proceedings set forth in part 3 of this chapter, the Disciplinary Committee may impose any of the following disciplinary sanctions:

(i) Expulsion, which is permanent, from practice before the Board of Immigration Appeals and the Immigration Courts or the Service, or before all three authorities;

(ii) Suspension, including immediate suspension, from practice before the Board and the Immigration Courts or the Service, or before all three authorities;

(iii) Public or private censure; or

(iv) Such other disciplinary sanction as the Disciplinary Committee deems appropriate.

(3) *Persons subject to sanctions.* Persons subject to sanctions include any practitioner. A practitioner is any attorney as defined in § 1.1(f) of this chapter who does not represent the federal government, or any representative as defined in § 1.1(j) of this chapter. Attorneys employed by the Department of Justice shall be subject to discipline pursuant to paragraph (h) of this section.

(4) *Immediate suspension and summary disciplinary proceedings*—(i)*Immediate suspension.* The Office of the General Counsel of the Service may ask the Disciplinary Committee to immediately suspend from practice before the Service any practitioner who has been convicted of a serious crime, as defined in § 3.52(h) of this chapter, or who has been disbarred or is currently under suspension or resignation with an admission of misconduct by the bar of any state, possession, territory, commonwealth, or the District of Columbia, or by any Federal Court. Such immediate suspension may be imposed upon the practitioner while any appeal from the underlying conviction or discipline is pending and shall continue until such time as a final administrative decision is made by the Disciplinary Committee. If a final administrative decision includes the imposition of a period of suspension, any time spent by the practitioner under immediate suspension pursuant to this paragraph will be credited toward the period of suspension imposed by the final administrative decision.

(ii) *Summary disciplinary proceedings.* The Office of the General Counsel of the Service may initiate summary disciplinary proceedings against any practitioner described in paragraph (a)(4)(i) of this section. Summary proceedings may be initiated by the issuance of a Notice of Intent to Discipline if accompanied by a certified copy of a judgment of conviction or a judgment or order of discipline. Summary proceedings shall be conducted in accordance with the provisions set forth in §§ 3.54 and 3.55 of this chapter, except that a certified copy of a judgment of conviction or judgment or order of discipline shall serve as a rebuttable presumption of the commission of the crime or the professional misconduct. The imposition of disciplinary sanction shall follow, unless the practitioner can rebut the presumption by demonstrating that:

(A) The underlying criminal or disciplinary proceeding was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(B) There was such an infirmity of proof establishing the practitioner's guilt or professional misconduct as to give rise to the clear conviction that the adjudicating official could not, consistent with his or her duty, accept as final the conclusion on that subject; or

(C) The imposition of discipline by the adjudicating official would result in grave injustice.

(iii) *Ineligibility to rebut the presumption of professional misconduct.* An attorney shall not be eligible to rebut the presumption of the commission of professional misconduct unless he or she is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia.

(5) *Duty of practitioner to notify the Service of conviction or discipline.* Any practitioner who has been convicted of a serious crime, as defined in § 3.52(h) of this chapter, or who has been disciplined for professional misconduct by the bar of any state, possession, territory, commonwealth, or the District of Columbia, or by a Federal court must notify the Office of the General Counsel of the Service of any such conviction or disciplinary action within 30 days of the issuance of the initial order, even if an appeal of the conviction or discipline is pending. Failure to do so may result in immediate suspension as set forth in paragraph (a)(3)(i) of this section. This duty to notify applies only to convictions for serious crimes or rulings of professional misconduct entered after the effective date of this regulation.

(b) *Grounds of discipline as set forth in § 3.52 of this chapter.* It is deemed to be in the public interest for the Disciplinary Committee to impose disciplinary sanctions as described in paragraph (a) of this section against any practitioner who falls within one or more of the categories enumerated in § 3.52 of this chapter, with the exception of paragraphs (k) and (l) of that section, but these categories do not constitute the exclusive grounds for which disciplinary sanctions may be imposed in the public interest.

(c) *Filing of and preliminary inquiry into complaints, resolutions; referral of complaints—(1) Practitioners authorized to practice before Service.* Complaints of criminal, unethical, or unprofessional conduct, or of frivolous behavior by a practitioner who is authorized to practice before the Service shall be filed with the Office of the General Counsel of the Service. Complaints must be submitted in writing and must state in detail the information that supports the basis for the complaint, including, but not limited to, the names and addresses of the complainant and the practitioner, the date(s) of the conduct or behavior, the nature of the conduct or behavior, the individual involved, the harm or damages sustained by the complainant, and any other relevant information. Any individual may file a complaint with the Office of the General Counsel of the Service. The Office of the General Counsel of the Service shall notify the Office of the General Counsel of the Executive Office for Immigration Review (EOIR) of any complaint filed that pertains, in whole or in part, to a matter before the Board or the Immigration Courts.

(2) *Practitioners authorized to practice before the Board and the Immigration Courts.* Complaints of criminal, unethical, or unprofessional conduct, or of frivolous behavior by a practitioner who is authorized to practice before the Board and the Immigration Courts shall be filed with the Office of the General Counsel of EOIR pursuant to the procedures set forth in § 3.53(a) of this chapter.

(3) *Preliminary inquiry.* Upon receipt of a complaint or on its own initiative, the Office of the General Counsel of the Service will initiate a preliminary inquiry. If a complaint concerning a practitioner is filed by a client or former client, the complainant thereby waives the attorney-client privilege and any other applicable privilege, as between the complainant and the practitioner, to the extent necessary for the preliminary inquiry and any subsequent prosecution of the allegations. If the Office of the General Counsel of the Service determines that a complaint is without merit, no further action will be taken. The Office of the General Counsel of the Service may, in its discretion, close a preliminary inquiry if the complainant fails to comply with its reasonable requests for assistance, information, or documentation. The complainant shall be notified of such determinations in writing.

(4) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* The Office of the General Counsel of the Service, in its discretion, may issue warning letters and admonitions, and may enter into agreements in lieu of discipline, prior to the issuance of a Notice of Intent to Discipline.

(5) *Referral of complaints of criminal conduct.* If the Office of the General Counsel of the Service receives credible information or allegations that a practitioner has engaged in criminal conduct in connection with an immigration matter, the Office of the General Counsel of the Service shall refer the matter to the Inspector General and, if appropriate, to the Federal Bureau of Investigation. In such cases, in making the decision to pursue disciplinary sanctions, the Office of the General Counsel of the Service shall coordinate in advance with the appropriate investigative and prosecutive authorities of the Department to ensure that neither the disciplinary process nor criminal prosecutions are jeopardized.

(d) *Notice of Intent to Discipline*—(1) *Issuance of Notice to practitioner.* If, upon completion of the preliminary inquiry, the Office of the General Counsel of the Service determines, by a preponderance of the evidence, that a practitioner has engaged in professional misconduct as set forth in § 3.52 of this chapter, it will issue a Notice of Intent to Discipline to the practitioner named in the complaint. This notice will be served upon the practitioner by personal service as defined in § 103.5a of this chapter. Such notice shall contain a statement of the charge(s), a copy of the preliminary inquiry report, the proposed disciplinary sanctions to be imposed, the procedure for filing an answer or requesting a hearing, and the mailing address and telephone number for the Disciplinary Committee. The Office of the General Counsel of the Service shall forward a copy of the Notice of Intent to Discipline to the Disciplinary Committee.

(2) *Copy of Notice to EOIR; reciprocity of disciplinary sanctions.* A copy of the Notice of Intent to Discipline shall be forwarded to the Office of the General Counsel of EOIR. The Office of the General Counsel of EOIR may submit a written request to the adjudicating official asking that he or she recommend that any discipline imposed against a practitioner's right to practice before the Service also apply to the practitioner's right to practice before the Board and the Immigration Courts. Proof of service on the practitioner of any request to broaden the scope of the proposed discipline must be filed with the adjudicating official.

(3) *Answer.* The practitioner shall file an answer to the Notice of Intent to Discipline with the Office of the General Counsel of the Service within 30 days of the date of service, unless an extension of time is granted for good cause by the Disciplinary Committee. A request for an extension of time to answer must be received by the Disciplinary Committee at EOIR Headquarters at least three (3) working days before the time to answer has expired. A copy of such request shall be served on the Office of the General Counsel of the Service. The answer shall be in writing, must respond to each charge in a substantive and detailed manner, and may include any supporting documents, including affidavits or statements. The answer shall state whether the practitioner requests a hearing on the matter. The Office of the General Counsel of the Service shall forward a copy of the practitioner's answer to the Disciplinary Committee or, if no answer was filed, notification of such shall be filed with the Disciplinary Committee.

(4) *Failure to file an answer.* Failure to file an answer in a timely manner shall be deemed an admission to the factual allegations set forth in the Notice of Intent to Discipline and no further proof shall be required to establish the truth of such facts. The Office of the General Counsel of the Service shall submit proof of personal service of the Notice of Intent to Discipline. The practitioner shall be precluded thereafter from requesting a hearing on the matter. The recommended disciplinary sanctions in the Notice of Intent to Discipline shall then become final and the Disciplinary Committee shall issue a final order adopting the recommended disciplinary sanctions against the practitioner. A practitioner may file a motion to set aside a final order of disciplinary sanctions, issued pursuant to this paragraph, with the Disciplinary Committee if:

(i) Such a motion is filed within 15 days of service of the final order, and

(ii) His or her failure to file an answer was due to exceptional circumstances (such as serious illness of the practitioner or death of an immediate relative of the practitioner, but not including less compelling circumstances) beyond the control of the practitioner.

(e) *Hearing and disposition.* Upon the filing of an answer, the matter shall be heard and decided according to the procedures set forth in §§ 3.55 and 3.56 of this chapter. The Office of the General Counsel of the Service shall represent the government.

(f) *Referral.* In addition to or in lieu of initiating disciplinary proceedings against a practitioner, the Office of the General Counsel of the Service may notify the appropriate state and/or local professional licensing or regulatory authority of a complaint filed against a practitioner. Any final administrative decision imposing sanctions against a practitioner (other than a private censure) shall be reported to the appropriate state and/or local professional licensing or regulatory authority.

(g) *Confidentiality*—(1) *Complaints and preliminary inquiries.* Except as otherwise provided by law or regulation, information concerning complaints or preliminary inquiries is confidential. A practitioner whose conduct is the subject of a complaint or preliminary inquiry, however, may waive confidentiality, except that the Office of the General Counsel of the Service may decline to permit a waiver of confidentiality if it is determined that an ongoing preliminary inquiry may be substantially prejudiced by a public disclosure before the filing of a Notice of Intent to Discipline.

(i) *Disclosure of information for the purpose of protecting the public.* The Office of the General Counsel of the Service, after private notice to the practitioner, may disclose information concerning a complaint or preliminary inquiry for the protection of the public when the necessity for disclosing information outweighs the necessity for preserving confidentiality in circumstances including, but not limited to, the following:

(A) A practitioner has caused, or is likely to cause, harm to client(s), the

public, or the administration of justice, such that the public or specific individuals should be advised of the nature of the allegations. If disclosure of information is made pursuant to this paragraph, the Office of the General Counsel of the Service may define the scope of information disseminated and may limit the disclosure of information to specified individuals or entities;

(B) A practitioner has committed criminal acts or is under investigation by law enforcement authorities;

(C) A practitioner is under investigation by a regulatory or licensing agency, or has committed acts or made omissions that may reasonably result in investigation by a regulatory or licensing agency;

(D) A practitioner is the subject of multiple complaints and the Office of the General Counsel of the Service has determined not to pursue all of the complaints. The Office of the General Counsel of the Service may inform complainants whose allegations have not been pursued of the status of the other preliminary inquiries or the manner in which the other complaint(s) against the practitioner have been resolved.

(ii) *Disclosure of information for the purpose of conducting a preliminary inquiry.* The Office of the General Counsel of the Service, in the exercise of discretion, may disclose documents and information concerning complaints and preliminary inquiries to the following individuals or entities:

(A) To witnesses or potential witnesses in conjunction with a complaint or preliminary inquiry;

(B) To other governmental agencies responsible for the enforcement of civil or criminal laws;

(C) To agencies and other jurisdictions responsible for professional licensing;

(D) To the complainant or a lawful designee; and

(E) To the practitioner who is the subject of the complaint or preliminary inquiry or the practitioner's counsel of record.

(2) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* Resolutions, such as warning letters, admonitions, and agreements in lieu of discipline, reached prior to the issuance of a Notice of Intent to Discipline will remain confidential.

(3) *Notices of Intent to Discipline and action subsequent thereto.* Notices of Intent to Discipline and any action that takes place subsequent to their issuance, except for the imposition of private censures, may be disclosed to the public, except that private censures may become part of the public record if introduced as evidence or a prior record of discipline in any subsequent proceeding. Settlement agreements reached after the issuance of a Notice of Intent to Discipline may be disclosed to the public upon final approval by the adjudicating official and the Disciplinary Committee. Disciplinary hearings are open to the public, except as noted in § 3.55(a)(iii) of this chapter.

(h) *Discipline of government attorneys.* Complaints regarding the conduct and behavior of government attorneys shall be directed to the Office of Professional Responsibility of the Department of Justice.

Dated: January 12, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–1192 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–30–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–130–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. Model PC–7 airplanes. The proposed AD would require inspecting the elevator and rudder attachment brackets for cracks and/or corrosion, and repairing or replacing any cracked or corrosion-damaged parts, as applicable. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent failure of the elevator and rudder attachment brackets because of cracks or corrosion damage, which could result in the elevator and/or rudder separating from the airplane with consequent loss of airplane control.

DATES: Comments must be received on or before February 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–130–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–130–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–130–AD, Room 1558,

601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified the FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA of Switzerland reports instances of corrosion and cracking in the elevator and rudder attachment brackets on the above-referenced airplanes that have been operated in areas of high humidity or salt content.

This condition, if not detected and corrected in a timely manner, could result in the elevator and/or rudder separating from the airplane with consequent loss of airplane control.

Relevant Service Information

Pilatus has issued Service Bulletin No. 55–002, dated November 7, 1997, which specifies procedures for inspecting the elevator and rudder attachment brackets for cracks and/or corrosion, and repairing or replacing any cracked or corrosion-damaged parts, as applicable.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 97–440, dated November 20, 1997, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of 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 FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Pilatus PC–7 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the elevator and rudder attachment brackets for cracks and/or corrosion, and repairing or replacing any cracked or corrosion-damaged parts, as applicable. Accomplishment of the proposed installation would be in accordance with the previously referenced service bulletin.

Cost Impact

The FAA estimates that 8 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 7 workhours per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Inspection kits cost approximately $106 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,208, or $526 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Pilatus Aircraft LTD.: Docket No. 97–CE–130–AD.

Applicability: Model PC–7 airplanes, serial numbers MSN 001 through MSN 612, 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent failure of the elevator and rudder attachment brackets because of cracks or corrosion damage, which could result in the elevator and/or rudder separating from the airplane with consequent loss of airplane control, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD, inspect the elevator and rudder attachment brackets for cracks and/or corrosion in accordance with Pilatus Service Bulletin No. 55–002, dated November 7, 1997.

(b) If cracked or corrosion-damaged parts are found during the inspection required by paragraph (a) of this AD, prior to further flight, repair or replace any cracked or corrosion-damaged parts, as specified in and in accordance with Pilatus Service Bulletin No. 55–002, dated November 7, 1997.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Questions or technical information related to Pilatus Service Bulletin No. 55–002, dated November 7, 1997, should be

directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in Swiss AD HB 97–440, dated November 20, 1997.

Issued in Kansas City, Missouri, on January 12, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1203 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–27]

Proposed Revision of Class E Airspace; Alice, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Class E airspace at Alice, TX. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to runway (RWY) 16 and 34 at Old Hoppe Place Airport, Agua Dulce, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations at Old Hoppe Place Airport, Agua Dulce, TX.

DATES: Comments must be received on or before March 23, 1998.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 97–ASW–27, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meachum Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meachum Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX, 76193–0520; telephone (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: ''Comments to Airspace Docket No. 97–AWS–27.'' The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A repot summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193–0520. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to revise the Class E airspace at Alice, TX. The development of a GPS SIAP to RWY 16 and 34 at Old Hoppe Place Airport, Agua Dulce, TX, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for IFR operations at Old Hoppe Place Airport, Agua Dulce, TX.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 19, 1997, and effective

September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW TX E5 Alice, TX (Revised)

Alice International Airport, TX
(Lat. 27°44′27″ N., long. 98°01′38″ W.)
Orange Grove NALF, TX
(Lat. 27°54′04″ N., long. 98°03′06″ W.)
Navy Orange Grove TACAN
(Lat. 27°53′43″ N., long. 98°02′33″ W.)
Kingsville, Kleberg County Airport, TX
(Lat. 27°33′03″ N., long. 98°01′51″ W.)
Agua Dulce, Old Hoppe Place Airport, TX
(Lat. 27°48′01″ N., long. 97°51′04″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Alice International Airport and within 2 miles each side of the 135° bearing from the airport extending from the 7.5-mile radius to 9.8 miles southeast of the airport and within a 7.2-mile radius of Orange Grove NALF and within 1.6 miles each side of the 129° radial of the Navy Orange Grove TACAN extending from the 7.2-mile radius to 11.7 miles southeast of the airport and within 1.5 miles each side of the 320° radial of the Navy Orange Grove TACAN extending from the 7.2-mile radius to 9.7 miles northwest of the airport and within a 6.5-mile radius of Kleberg County Airport and within a 6.3-mile radius of Old Hoppe Place Airport excluding that airspace within the Corpus Christi, TX, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on January 7, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–1225 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

RAILROAD RETIREMENT BOARD

20 CFR Part 209

RIN 3220–AB21

Railroad Employers' Reports and Responsibilities

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board proposes to amend its regulations to expand the methods by which compensation and service reports may be filed with the Board and to require that a social security account number be furnished for each employee for whom creditable railroad service and compensation is reported to the Board.

DATES: Comments must be submitted on or before March 23, 1998.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Employer reports are used to establish employee compensation and service records. These reports are based on payroll records. Due to changes in technology, employers now file their reports on magnetic tape and diskettes and transmit their reports by facsimile or computer-to-computer transmission (electronic filing). The punch card referred to in §§ 209.6, 209.7, 209.11, and 209.14 of the Board's regulations is an outdated medium of reporting. The quarterly report required by § 209.8 has been eliminated by the Employer Data Maintenance System. The Board proposes to amend part 209 of its regulations in order to reflect these changes. See proposed § 209.4.

The Board also proposes to amend § 209.2 to add a provision that requires each employer to furnish a social security number (SSN) for each employee for whom creditable railroad service and compensation is reported to the Board. The proposed amendment simply puts into regulation a current reporting requirement. Although not required, employers are encouraged to validate the social security numbers of their employees. In addition, the Board proposes to modify the present § 209.11 to provide that the Board shall mail annual certificates of service and compensation to employees performing service for covered employers. Under present regulation these certificates may be provided through the employer.

Finally, the Board has eliminated references to offices and titles that were eliminated as the result of a recent reorganization.

Proposed § 209.12 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the RRB has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information

Employee home address report. This proposed rule would require all railroad employers to furnish to the RRB home addresses of their employees, except that after the first year in which they submitted home address information for all their employees, they would be required to submit home address information only for new hires. The purpose of this requirement is to enable the RRB to annually mail to each active railroad employee a statement of service and compensation (Form BA–6). Railroad employers may submit this information either electronically (magnetic tape, tape cartridge, or PC diskette) or on a paper form prescribed by the RRB (Form BA–6a).

The RRB estimates that the average time for each railroad employer to furnish home address information is 15 minutes for electronic submissions and 30 minutes for paper submissions. The annual burden imposed as a result of this proposed rule would be 209 hours (94 responses × ¼ hour per response for electronic responses and 370 responses × ½ hour per response for paper responses.) The burden is based on approximately 15,000 new hires a year, of which approximately 80 percent would be reported electronically by 94 railroad employers and 20 percent would be reported on paper by 370 railroad employers.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to Laura Oliven, the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 226 Jackson Place, NW., Room 10235, Washington, D.C. 20503 and to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092.

The RRB considers comments by the public on this proposed collection of information in——

(a) Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the RRB, including whether the information will have a practical use;

(b) Evaluating the accuracy of the RRB's estimate of the burden on the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhancing the quality, usefulness, and clarity of the information to be collected; and

(d) Minimizing the burden of collection of information on those who are to respond, including the use of appropriate electronic, mechanical, or other automated collection techniques.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 15 days of publication. This does not affect the

deadline for the public to comment to the RRB on the proposed regulations.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a major rule under Executive Order 12866; therefore, no regulatory impact analysis is required.

List of Subjects in 20 CFR Part 209

Railroad employees, Railroad retirement, Railroads.

For the reasons set out in the preamble, Title 20, Chapter II, Part 209 of the Code of Federal Regulations is proposed to be amended as follows:

PART 209—RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

1. The authority citation for Part 209 continues to read as follows:

Authority: 45 U.S.C. 231f.

§§ 209.3 through 209.17 [Redesignated]

2. Sections 209.3 through 209.17 are redesignated as follows:

Old section	New section
209.3	209.5
209.4	209.6
	(1)
209.5	209.7
209.6	209.8
209.7	209.9
209.8	(2)
209.9	209.10
209.10	209.11
209.11	209.12
209.12	209.13
209.13	209.14
209.14	209.15
209.15	209.16
209.16	209.17
209.17	209.18

[1] New 209.4 added.
[2] Removed.

3. A new § 209.3 is proposed to be added as follows:

§ 209.3 Social security number required.

Each employer shall furnish to the Board a social security number for each employee for whom any report is submitted to the Board. Employers are encouraged to validate any social security number provided under this section.

(Approved by the Office of Management and Budget under control number 3220–0008)

4. A new § 209.4 is proposed to be added as follows:

§ 209.4 Method of filing.

Any report or information required to be furnished under this part shall be prepared in accordance with instructions of the Board and shall be filed with the Board electronically, which includes the use of magnetic tape, computer diskette, electronic data interchange, or on such form as prescribed by the Board. If not filed electronically, reports shall be transmitted by facsimile or mailed directly to the Board. Any report which includes, or should include, information for 250 or more employees must be filed electronically, as described in this section.

5. Newly designated § 209.6 is proposed to be revised to read as follows:

§ 209.6 Employers' notice of death of employees.

Each employer shall notify the Board immediately of the death of an employee who, prior to the employee's death, performed compensated service which has not been reported to the Board.

(Approved by the Office of Management and Budget under control number 3220–0005)

6. Newly designated § 209.7 is proposed to be revised to read as follows:

§ 209.7 Employers' supplemental reports of service.

Each employer shall furnish the Board a report of the current year service of each employee who ceases work for the purpose of retiring under the provisions of the Railroad Retirement Act.

(Approved by the Office of Management and Budget under control number 3220–0005)

7. Newly designated § 209.8 is proposed to be revised to read as follows:

§ 209.8 Employers' annual reports of creditable service and compensation.

Each year, on or before the last day of February, each employer is required to make an annual report of the creditable service and compensation (including a report that there is no compensation or service to report) of employees who performed compensated service in the preceding calendar year. The annual report shall include service and compensation previously furnished in supplemental reports and notices of death. The reports must be accompanied by a report specification sheet prescribed by the Board as described in § 200.2 of this chapter.

(Approved by the Office of Management and Budget under control number 3220–0008).

8. Newly designated § 209.9(c) is proposed to be revised to read as follows:

§ 209.9 Employers' adjustment reports.

* * * * *

(c) Employers submitting adjustment reports covering pay for time lost as an employee shall report this compensation as provided for in § 211.3 of this chapter. Adjustment reports may be submitted to the Board each month.

(Approved by the Office of Management and Budget under control number 3220–0008)

9. Section 209.8 is proposed to be removed.

10. Newly designated § 209.10 is amended by removing ''Director of Research and Employment Accounts'' and adding in its place ''Board'', and by removing ''§ 209.6(a)'' and adding in its place ''§ 209.8(a)''.

11. Newly designated § 209.11 is proposed to be revised to read as follows:

§ 209.11 Employee representatives' reports.

An individual claiming status as an employee representative shall describe his or her duties as an employee representative on the form prescribed by the Board. The Board shall determine whether the individual claiming to be an employee representative meets the requirements for such a status. If the individual is determined to be an employee representative, he or she is required to make an annual report of creditable compensation as provided for in § 209.8 of this part. If an employee representative's status is terminated, the last report of service and compensation shall be marked Final Compensation Report.

(Approved by the Office of Management and Budget under control number 3220–0014)

12. Newly designated § 209.12 is proposed to be revised to read as follows:

§ 209.12 Certificates of service months and compensation.

(a) Each year the Board shall provide each employee who performed compensated service in the preceding calendar year a certificate of service months and compensation. This certificate is the employee's record of the service and compensation credited to his or her account at the Board. An employee who for any reason does not receive a certificate may obtain one from the nearest Board district office or may write the Board for one.

(b) By April 1 of each year each employer shall provide the Board the current address of each employee for whom it had reported compensation. This requirement shall not apply in the case of an employee for whom the employer had previously provided an address.

13. Newly designated § 209.13(b) is proposed to be revised to read as follows:

§ 209.13 Employers' gross earnings reports.

* * * * *

(b) Employers shall submit reports annually for employees in the gross earnings sample. Such reports shall include the employee's gross annual earnings, both taxable and non-taxable compensation, for the year. Employers with 5,000 or more employees shall provide a monthly or quarterly breakdown of the year's earnings. Employers with fewer than 5,000 employees may submit an annual amount only, although a monthly or quarterly breakdown is preferable. Gross earnings are to be counted for the same time period as used in determining the employer's annual report of creditable compensation. The reports are to be prepared in accordance with prescribed instructions and filed in accordance with § 209.4 of this part.

(Approved by the Office of Management and Budget under control number 3220–0132)

14. Newly designated § 209.14 is proposed to be amended by removing paragraph (a), by removing paragraph designation ''(b)'' before the second paragraph, and by removing the terms ''Director of Research and Employment Accounts'' and ''Director'' wherever those terms appear, and by adding in their place ''Board''.

15. Newly designated § 209.15 is proposed to be revised to read as follows:

§ 209.15 Report of separation allowances subject to tier II taxation.

For any employee who is paid a separation payment, the employer must file a report of the amount of the payment. This report shall be submitted to the Board on or before the last day of the month following the end of the calendar quarter in which payment is made. The report must be accompanied by a report indication/specification sheet prescribed by the Board as described in § 200.3(a)(2)(ii) of this chapter.

(Approved by the Office of Management and Budget under control number 3220–0173)

16. Newly designated § 209.16 is amended by revising the reference ''§ 209.7'' to read ''209.9''; ''209.13'' to read ''209.14'' and ''209.14'' to read ''209.15'' wherever they appear; and by removing ''Director of Research and Employment Accounts'' wherever it appears and adding in its place ''Board''.

Dated: January 8, 1998.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 98–1245 Filed 1–16–98; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–098–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Illinois regulatory program (hereinafter the ''Illinois program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment concerned a revision to the Illinois regulations pertaining to administrative review. Illinois is withdrawing the amendment at its own initiative.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION: By letter dated November 3, 1997 (Administrative Record No. IL–5000), Illinois submitted a proposed amendment to its program pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. In its submission letter, Illinois stated the amendment was necessitated by a permit review case wherein the hearing officer found that the Department's burden of proof standard was improper. The hearing officer ruled that a preponderance of the evidence standard was the appropriate standard to apply in a permit review proceeding. On a subsequent appeal of the administrative case, the circuit court agreed that the clearly erroneous standard was invalid and that the preponderance of the evidence standard was the correct standard to apply (Citizens Organizing Project v. IDNR, 96–MR–126, Sangamon County Circuit Court). The provision of Title 62, Illinois Administrative Code (IAC) that Illinois proposed to amend is at 62 IAC 1847.3(g), permit hearings. Specifically, Illinois proposed to delete the existing language at 62 IAC 1847.3(g) and replace it with the following language:

The standard of proof in a hearing conducted under this Section shall be the preponderance of the evidence.

OSM announced receipt of the proposed amendment in the November 26, 1997, **Federal Register** (62 FR 63045) and invited public comment on its adequacy. The public comment period ended December 26, 1997.

On December 17, 1997 (Administrative Record No. IL–5005), Illinois requested that the proposed amendment be withdrawn, and stated the proposal is being revised and will be resubmitted when it is finalized. Therefore, the proposed amendment announced in the November 26, 1997, **Federal Register** is withdrawn.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–1214 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS–017–FOR]

Kansas Regulatory Program and Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule; Reopening and Extension of Public Comment Period on Proposed Amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Kansas regulatory program (hereinafter referred to as the ''Kansas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Kansas's proposed rules pertain to definitions; application for mining permit; civil penalties; permit transfers, assignments, and sales; termination of jurisdiction; exemption for coal and extraction incident to government-financed highway or other construction; exemption for coal extraction incident to the extraction of other minerals; coal exploration; bonding procedures; performance standards; eligible lands and water; liens; contractor responsibility;

exclusion of certain noncoal reclamation sites; and reports. The amendment is intended to revise the Kansas program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.s.t. February 4, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to Russell W. Frum, Mid-Continent Regional Coordinating Center at the address listed below.

Copies of the Kansas program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

Russell W. Frum, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, IL 62002, Telephone: (618) 463–6460.

Kansas Department of Health and Environment, Surface Mining Section, 4033 Parkview Drive, Frontenac, KS 66763, Telephone (316) 231–8540.

FOR FURTHER INFORMATION CONTACT: Russell W. Frum, Mid-Continent Regional Coordinating Center, Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

The Secretary of the Interior conditionally approved the Kansas regulatory program on January 21, 1981, and the Kansas abandoned mine land reclamation plan on February 1, 1982. General background information on the Kansas regulatory program and the Kansas abandoned mine land reclamation plan, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, **Federal Register** (46 FR 5892) and the February 1, 1982, **Federal Register** (47 FR 4513), respectively. Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.10, 916.12, 916.15, 916.16, 916.20, and 916.25.

II. Discussion of the Proposed Amendment

By letter dated May 7, 1997 (Administrative Record No. KS–615), Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed amendment in response to letters dated May 20, 1996, and January 6, 1997 (Administrative Record Nos. KS–608 and KS–612, respectively) that OSM sent to Kansas in accordance with 30 CFR 732.17(c) and in response to a letter dated September 26, 1994 (Administrative Record No. AML–KS–169), that OSM sent to Kansas in accordance with 30 CFR 884.25(b). Kansas also proposed changes to its regulations at its own initiative. The provisions of the Kansas Administrative Regulations (K.A.R.) that Kansas proposes to amend are: K.A.R. 47–1–1, title of rules; K.A.R. 47–1–3, communication; K.A.R. 47–1–4, sessions; K.A.R. 47–1–8, petitions to initiate rulemaking; K.A.R. 47–1–9, notice of citizen suits; K.A.R. 47–1–10, general notice requirement; K.A.R. 47–1–11, permittee—preparation and submission of reports; K.A.R. 47–2–14, definition of complete and accurate application; K.A.R. 47–2–21, definition of employee; K.A.R. 47–2–53, definition of regulatory authority; K.A.R. 47–2–53a, definition of regulatory program; K.A.R. 47–2–58, definition of significant, imminent, environmental harm to land, air or water resources; K.A.R. 47–2–64, definition of state act; K.A.R. 47–2–67, definition of surety bond; K.A.R. 47–2–74, definition of public road; K.A.R. 47–2–75, definitions—adoption by reference; K.A.R. 47–3–1, application for mining permit; K.A.R. 47–3–3a, permit application—maps; K.A.R. 47–3–42(a), application for mining permit—adoption by reference; K.A.R. 47–4–14, public hearings; K.A.R. 47–4–14a, administrative hearing procedure; K.A.R. 47–4–15, administrative hearings—discovery; K.A.R. 47–4–16, interim orders for temporary relief; K.A.R. 47–4–17, administrative hearings—award of costs and expenses; K.A.R. 47–5–5a, civil penalties; K.A.R. 47–5–16, final assessment and payment of civil penalty; K.A.R. 47–6–1, permit review; K.A.R. 47–6–2, permit revision; K.A.R. 47–6–3, permit renewals; K.A.R. 47–6–4, permit transfers, assignments, and sales; K.A.R. 47–6–6, permit conditions; K.A.R. 47–6–7, permit suspension or revocation; K.A.R. 47–6–8, termination of jurisdiction; K.A.R. 47–6–9, exemption for coal extraction incident to government-financed highway or other construction; K.A.R. 47–6–10, exemption for coal extraction incident to the extraction of other minerals; K.A.R. 47–7–2, coal exploration; K.A.R. 47–8–9, bonding procedures; K.A.R. 47–8–11, use of forfeited bond funds; K.A.R. 47–9–1, performance standards; K.A.R. 47–9–2, revegetation; K.A.R. 47–9–4, interim performance standards K.A.R. 47–10–1, underground mining; K.A.R. 47–11–8, small operator assistance program K.A.R. 47–12–4, lands unsuitable for mining; K.A.R. 47–13–4, training and certification of blasters; K.A.R. 47–13–5, responsibilities of operators and blasters-in-charge; K.A.R. 47–13–6, training; K.A.R. 47–14–7, employee financial interest; K.A.R. 47–15–1a, inspection and enforcement; K.A.R. 47–15–3, lack of information—inability to comply; K.A.R. 47–15–4, injunctive relief K.A.R. 47–15–7, state inspections; K.A.R. 47–15–8, citizen's requests for state inspections; K.A.R. 47–15–15, service of notices of violations and cessation orders; K.A.R. 47–15–17, maintenance of permit areas; K.A.R. 47–16–1, eligible lands and water; K.A.R. 47–16–2, reclamation project evaluation; K.A.R. 47–16–3, consent to entry; K.A.R. 47–16–4, entry for study or exploration; K.A.R. 47–16–5, entry and consent to reclaim; K.A.R. 47–16–6, liens; K.A.R. 47–16–7, appraisals; K.A.R. 47–16–8, satisfaction of liens; K.A.R. 47–16–9, contractor responsibility; K.A.R. 47–16–10, exclusion of certain noncoal reclamation sites; and K.A.R. 47–16–11, reports.

OSM announced receipt of the proposed amendment in the June 4, 1997, **Federal Register** (62 FR 30535) and invited public comment on its adequacy. The public comment period ended July 7, 1997.

During its review of the amendment, OSM identified concerns relating to K.A.R. 47–2–53, definition for regulatory authority; K.A.R. 47–2–75(6)(A), definition for director; K.A.R. 47–3–42 (a)(49)(B) and (a)(49)(E), procedures for challening ownership and control links shown in AVS; K.A.R. 47–3–42 (a)(50)(E), standards for challening ownership and control links and the status of violations; K.A.R. 47–5–5a(c)(4)(D), review of waiver determination; K.A.R. 47–5–5a(c)(6)(C)(i) and (c)(6)(E), summary disposition; K.A.R. 47–6–4(c), permit transfers, assignments and sales; K.A.R. 47–6–8(b), termination of jurisdiction; K.A.R. 47–6–9(b)(3), exemption for coal extraction incident to government-financed highway or other construction; K.A.R. 47–6–10(b)(4), exemption for coal extraction incident to the extraction of other minerals; K.A.R. 47–7–2 (b)(6) and (b)(8), coal exploration; K.A.R. 47–8–9 (a)(1) and (b)(8), bonding procedures; K.A.R. 47–9–1(c), performance standards; K.A.R. 47–9–1 (c)(17) and (e)(17), use of explosives: general requirements; K.A.R. 47–9–1(c)(35), backfilling and grading: time

and distance requirements; K.A.R. 47–9–1(j)(9), substitution of Kansas terms for Federal terms in 30 CFR Parts 816 and 817; K.A.R. 47–16–1, eligible lands and water; K.A.R. 47–16–6(d), liens; K.A.R. 47–16–9(a), contractor responsibility; K.A.R. 47–16–10(b)(1), exclusion of certain noncoal reclamation sites; and K.A.R. 47–16–11 (a)(2)(A) and (b)(2)(A), reports. OSM notified Kansas of the concerns by letter dated October 8, 1997 (Administrative Record No. KS–615.5). Kansas responded in a letter dated November 14, 1997 (Administrative Record No. KS–615.6), by submitting a revised amendment.

Via the facsimile machine on December 31, 1997 (Administrative Record No. KS–615.7), OSM notified Kansas of additional concerns regarding its November 14, 1997, response. These concerns involved typographical errors at K.A.R. 47–9–1(c)(35)(a), backfilling and grading: time and distance requirements, and K.A.R. 47–16–11(a), reports. Kansas responded to the concerns by correcting the typographical errors in a letter dated on December 31, 1997 (Administrative Record No. KS–615.8). The proposed revisions are discussed below.

A. Kansas Regulatory Program

1. Regulations With Editorial Changes

Kansas proposes minor wording changes, paragraph notation changes, citation corrections, and other editorial changes in the following sections of the K.A.R.: 47–2–53, definition of regulatory authority; 47–2–75(6)(A), definition of director, 47–3–42 (a)(2), violation information; 47–3–42 (a)(49)(B), (a)(49)(E), and (a)(49)(G), procedures for challenging ownership or control links shown in AVS; 47–3–42 (a)(50)(E), standards for challenging ownership or control links and the status of violations; 47–5–5a(c)(4)(D), review of waiver determination; 47–5–5a (c)(6)(C)(i) and (c)(6)(E), summary disposition; 47–6–8(b), termination of jurisdiction; 47–6–9(b)(3), exemption for coal extraction incident to government-financed highway or other construction; 47–6–10(b)(4), exemption for coal extraction incident to the extraction of other minerals; 47–7–2 (b)(6) and (b)(8), coal exploration; 47–8–9(b)(8), bonding procedures; 47–9–1(c), performance standards; 47–9–1 (c)(17) and (e)(17), use of explosives: general requirements; and 47–9–1(j)(9), substitution of Kansas terms for Federal terms in 30 CFR Parts 816 and 817.

2. K.A.R. 47–3–42 (a)(49), Procedures for Challening Ownership or Control Links Shown in AVS

Kansas proposes not to adopt by reference 30 CFR 773.24(a)(1).

3. K.A.R. 47–6–4, Permit Transfers, Assignments, and Sales

Kansas proposes to add paragraph (c)(4) to read as follows:

''Act'' shall be replaced by ''state act.''

4. K.A.R. 47–8–9(a)(1), Regulatory Authority Responsibilities

Kansas proposes to add the phrase, ''deleting subsection (d),'' at the end of this paragraph because the Kansas program does not have provisions for self-bonding.

5. K.A.R. 47–9–1(c)(35), Backfilling and Grading: Time and Distance Requirements

Kansas proposes to incorporate into its regulations language that is substantively identical to the Federal regulations at 30 CFR 816.101.

B. Kansas Abandoned Mine Land Reclamation Plan

1. Regulations With Editorial Changes

Kansas proposes minor wording changes, paragraph notation changes, citation corrections, and other editorial changes in the following sections of the K.A.R.: 47–16–1, eligible lands and water; 47–16–6(d), liens; 47–16–9(a), contractor responsibility; and 47–16–10(b)(1), exclusion of certain noncoal reclamation sites.

2. K.A.R. 47–16–11, Reports

Kansas proposes to delete sections (a)(1)(A) through (c) and to revise section (a) to read as follows:

(a) For each grant, cooperative agreement or both, the department shall semiannually or annually (whichever the case may be) submit to the office of surface mining reclamation and enforcement any reporting as required by OSM.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kansas program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Mid-Continent Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 730.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98–1216 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–033–FOR]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Maryland permanent regulatory program (hereinafter referred to as the ''Maryland program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendments consist of revisions to the Maryland regulations pertaining to excess spoil disposal, conditions of surety and collateral bonds, and procedures for release of general bonds. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.S.T., February 4, 1998.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to George Rieger, Field Branch Chief, at the address listed below.

Copies of the Maryland program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Appalachian Regional Coordinating Center.

George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153

Maryland Bureau of Mines, 160 South Water Street, Frostburg, MD 21532, Telephone: (301) 689–4136

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 18, 1982, **Federal Register** (47 FR 7214). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 920.15 and 920.16.

II. Description of the Proposed Amendment

Maryland provided an informal amendment to OSM regarding excess spoils on March 11, 1994. OSM completed its reviews of the informal amendment and requested a formal proposal from Maryland in a letter dated August 6, 1996. By letter dated January 7, 1997 (Administrative Record No. MD–576–00), Maryland submitted a proposed amendment to its program pursuant to SMCRA at OSM's request. Additionally, by letter dated January 14, 1997 (Administrative Record No. MD–552–13), Maryland submitted proposed amendments to its program pursuant to SMCRA. These amendments pertain to conditions of surety and collateral bonds, and procedures for release of general bonds and are intended to comply with required program amendments identified in 30 CFR 920.16 (k) and (m). The proposed amendments were announced in the January 30, 1997, **Federal Register** (62 FR 4502). (At the time of announcement, the proposed amendment was identified as [MD–041]. Please note that the amendment is now identified as [MD–033]). However, OSM's review determined that several items contained in the proposed amendments required clarification. As a result, a letter requesting clarification on four items was sent to Maryland dated June 13, 1997 (Administrative Record No. MD–576–05). Maryland responded in its letter dated June 27, 1997 (Administrative Record No. MD–576–06), by requesting a meeting with OSM and stating that additional information would not be available until after that meeting. A meeting was held on August 14, 1997, and a response was received from Maryland in its letter dated December 8, 1997 (Administrative Record No. MD–576–07). Therefore, OSM is reopening the public comment period regarding the following clarifications to Maryland's proposed amendments:

1. COMAR 25.20.26, Excess Spoil Disposal

a. Maryland was asked to clarify how it would fund projects in cases where the operator defaults on the contract or otherwise fails to perform the necessary reclamation. This funding source would be in addition to the ''contractor incentive provisions proposed at COMAR 25.20.26.05(D)(2). Maryland responded that the proposed amendment at COMAR 25.20.26.05(A)(1) provides that the abandoned mine land must be eligible for funding under Environment Article, Title 15, Subtitle 11, Annotated Code of Maryland. Any default by the operator on a contract or failure to perform reclamation could be funded by specially ear-marking a portion of Maryland's AML grant funds to complete the reclamation. This would be in addition to the sanctions provided in the proposed amendment.

b. Maryland was asked to clarify which requirements in the approved

program will apply to the placement of excess spoil on abandoned mine lands as referenced in proposed COMAR 25.20.26.05 (A)(3) and (B)(4). Maryland responded that since existing conditions on abandoned mine lands differ at each site, it would be extremely difficult to clarify exactly which requirements of Maryland's approved program would apply in every case for the placement of excess spoil. A field review during the application review process would verify conditions at the AML site and will determine which requirements are necessary to ensure that the excess spoil is placed in an environmentally sound manner.

c. Maryland was asked to clarify how placement of excess spoil on abandoned mine lands would achieve compliance with its AML program. Maryland responded that it considers the environmental reviews, public notice requirements and inspection requirements of its federally approved regulatory program to be comparable to those required by the AML program. Each abandoned mine lands site proposed for placement of excess spoil will be reviewed in conjunction with the application for a surface mining permit and subjected to the same requirements.

2. COMAR 25.20.14.09, Procedures for Release of Bonds

a. COMAR 25.20.14.09B(2)(e) is further modified by changing the word ''approximate'' to ''appropriate''.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. Specifically, OSM is seeking comments on the clarifications to the State's regulations that were submitted on December 8, 1997 (Administrative Record No. MD–576–07). Comments should address whether the proposed amendment with these clarifications satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate. it will become part of the Maryland program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Appalachian Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 9, 1998.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 98–1215 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Chapter IV

[HCFA–1014–NC]

RIN 0938–AI45

Medicare Program: Request for Public Comments on Implementation of the Medicare+Choice Program, and Notice of Timeframes for Submission of Applications for Contracts

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of intent to regulate; solicitation of comments.

SUMMARY: The Balanced Budget Act of 1997 (BBA) establishes a new Medicare+Choice program. Under this program, eligible individuals may elect to receive Medicare benefits through enrollment in one of an array of private health plans that contract with us.

The BBA directs the Secretary to publish by June 1, 1998, regulations establishing standards for the Medicare+Choice program. We have already received comments and inquiries from the public on a number of issues associated with the Medicare+Choice program. This document solicits further public comments on issues related to implementation of the Medicare+Choice program. We intend to consider these comments as we develop an interim

final rule to implement the Medicare+Choice program.

This document also includes preliminary information regarding application procedures for organizations that intend to contract with us to participate in the Medicare+Choice program.

This document also informs the public of a meeting to discuss the Medicare+Choice program.

DATES: We request that comments be submitted on or before February 19, 1998.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1014–NC, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Comments may also be submitted electronically to the following e-mail address: hcfa1014nc.hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1014–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Medicare+Choice Regulation Team, (410) 786–7660.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

Medicare historically has consisted of two primary parts: Hospital insurance, also known as ''Part A,'' and supplementary medical insurance, also known as ''Part B.'' Part A is generally provided automatically to persons age 65 and over who are entitled to social security or railroad retirement board benefits. Similarly, individuals who have received either of these benefits based on their disability, for a period of at least 24 months, are also entitled to Part A benefits. Health care services covered under Part A include: inpatient hospital care, skilled nursing facility care, home health agency care, and hospice care.

Part B benefits are available to almost all resident citizens age 65 and over; certain aliens age 65 or over; and disabled beneficiaries who are entitled to Part A. Part B coverage is optional and requires payment of a monthly premium. Part B covers physician services (in both hospital and nonhospital settings) and services furnished by certain nonphysician practitioners. It also covers certain other services, including: clinical laboratory tests, durable medical equipment, most supplies, diagnostic tests, ambulance services, prescription drugs that cannot be self-administered, certain self-administered anticancer drugs, some other therapy services, certain other health services, and blood not supplied by Part A.

B. The Balanced Budget Act of 1997

Subsequent to its initial enactment in 1965, the Medicare program has been subject to numerous legislative and administrative changes. However, one of the most significant changes results from the August 5, 1997 enactment of the Balanced Budget Act of 1997 (BBA), Public Law 105–33. Section 4001 of the BBA adds a new Part C to the Medicare program, by establishing sections 1851 through 1859 of the Social Security Act. The new Part C is known as ''Medicare+Choice.'' Section 4002 of the BBA establishes transitional rules for the current Medicare health maintenance organization (HMO) program; and section 4006 establishes special rules for Medicare+Choice medical savings accounts. Prior to the BBA, Medicare beneficiaries could choose between receiving their Medicare benefits on a fee-for service basis or enrolling in an HMO with a Medicare contract. In the latter case, the beneficiary selects a specific HMO or competitive medical plan (CMP) within a service area for Medicare-covered health care services. This selected plan coordinates all of the Medicare-covered health care services for the beneficiary and receives a per-person payment from Medicare that is predetermined. Under the new Medicare+Choice program, the beneficiaries' options have been expanded to include provider-sponsored organizations (PSOs), preferred provider organizations (PPOs), private fee-for-service plans, and, for those who qualify, religious fraternal benefit society plans. In addition, up to 390,000 beneficiaries nationwide (and prior to the year 2003) may elect a new Medical Savings Account (MSA) option. A Medicare+Choice MSA is a tax-exempt trust created to pay the qualified medical expenses of the account holder. A beneficiary who elects the MSA option will receive a catastrophic health care policy paid by Medicare. Any difference between the MSA plan insurance premium and the amount that Medicare would have paid if the beneficiary had elected Medicare+Choice coverage under any of the other options will be deposited into the beneficiary's MSA.

Under Medicare+Choice, plans with which we contract must have quality programs that stress outcomes, create utilization protocols, assess consumer satisfaction, and monitor high-risk and high-volume services. In addition, all plans, other than non-network MSAs and certain private fee-for-service plans, must provide for external review. Each Medicare+Choice plan must provide Medicare members all benefits (other than hospice care) that are available under Parts A and B. In the case of an MSA plan, however, these benefits are not provided until after a catastrophic deductible amount has been satisfied.

The law sets forth provisions relating to the following topics:

- Eligibility, election, and enrollment.
- Benefits and beneficiary protections.
- Organizational relationships with participating providers.
- Payments to Medicare+Choice organizations.
- Premiums.
- Organizational and financial requirements for Medicare+Choice organizations.
- Establishment of standards.
- Contract requirements.

Additional information about the Medicare+Choice program is available on our Internet site (http://www.hcfa.gov).

C. Issues and Questions To Be Resolved

As stated earlier, we are required to publish regulations implementing the Medicare+Choice program by June 1, 1998. The statute provides that these regulations may be issued as an interim final rule. We intend to use this mechanism and will formally request comments on our policies at that time.

We have already received comments and inquiries from the public on a number of issues associated with the

Medicare+Choice program. However, to ensure that we receive the full range of public opinion, we are using this notice as a vehicle to request public suggestions on specific policy issues that are detailed in the following sections. In addition, at this time, we encourage the public to comment on any other relevant Medicare+Choice program policy areas, with the exception of comments on Federal solvency standards for PSOs. (A discussion of PSO solvency standard policy decisions and implementation issues and a request for public comment were contained in a notice published on September 23, 1997 (62 FR 49649).) We will consider public comments that are received timely as we develop the interim final rule, but we will not otherwise issue a separate set of responses to those comments. We request that commenters provide a brief summary of any detailed comments. Also, commenters should, whenever possible, identify the relevant section or subsection of the BBA or of the Social Security Act. Note that in the following sections, citations to the law are to sections of the Social Security Act as established by the BBA.

1. Information for Informed Choice

One of the objectives of the Medicare+Choice program is to expand Medicare beneficiaries' options for health care. In order to ensure that beneficiaries have the appropriate information necessary to choose from the various Medicare+Choice options, section 1851(d) of the Act requires that we collect and disseminate information on the coverage options available. For example, the statute requires that, prior to each open season, we provide a notice to Medicare-eligible individuals that includes a list of the Medicare+Choice plans, a comparison of plan options that includes information on benefits and premiums, a general description of the benefits under the original Medicare fee-for-service program, and other general information. The statute also requires, at 1851(e)(3)(D), that, during November 1998, we provide for an educational and publicity campaign to inform Medicare+Choice eligible individuals about the availability of Medicare+Choice plans and the Medicare fee-for-service option. The statute further requires that we maintain a toll-free number for inquiries regarding Medicare+Choice options and an Internet site providing information on Medicare+Choice options. As we begin the information collection process, and analyze how best to provide information to beneficiaries, we ask that interested parties respond to the following questions:

- What are the most effective ways to communicate Medicare+Choice information to beneficiaries, individuals, advocates, ombudsmen, providers, and other groups that have need of and will use this information?
- How can we reduce confusion for beneficiaries who also receive health care information from other sources, for example, from employers who offer retiree coverage or Federal purchasers such as the Federal Employees Health Benefit Plan, the Department of Defense, and sellers of health care insurance products?
- How can the information programs best recognize the special needs of certain populations, such as beneficiaries with disabilities?

2. Enrollment/Disenrollment Process

Under section 1851(e) of the Act, we are charged with establishing a process, including the format and procedures, through which Medicare+Choice elections are made. According to section 1851(e), a beneficiary's enrollment in a Medicare+Choice option is initially made at the time the individual becomes entitled to Part A and enrolled in Part B. Beneficiaries may change their Medicare+Choice plan election during continuous open enrollment periods through the year 2001. After 2001, beneficiaries are locked in to their Medicare+Choice election for defined time periods, except for special election periods under certain circumstances. The process must permit a beneficiary to make enrollment and disenrollment elections by filing a form with the Medicare+Choice organization. The statute also permits, at section 1851(g), that a Medicare+Choice organization may terminate an individual's election with respect to a Medicare+Choice plan that it offers if (1) required premiums are not paid on a timely basis, (2) the individual has engaged in disruptive behavior, or (3) the plan is terminated with respect to all individuals residing in the area in which the individual resides. We request comments related to the election and enrollment procedures in general, and the Medicare+Choice organization's ability to disenroll a beneficiary. For example—

- Should our standards be specific with regard to each of the factors; for example, timeframes for timely payment of premiums or a definition for ''disruptive''? Should we require a mechanism for appealing termination of a beneficiary's enrollment ''for cause''?

3. Medicare+Choice Enrollment Demonstrations

Section 4018 of the BBA requires that we conduct a 3-year demonstration project to evaluate the use of a third-party contractor to conduct the Medicare+Choice plan enrollment and disenrollment functions. We are soliciting comments on how this demonstration could be designed. For example—

- What constitutes an enrollment or disenrollment ''function''? Is it distributing applications, collecting applications, processing applications, providing benefits counseling, ascertaining reasons for disenrollment, or other activities?
- What functions should the contractor perform?
- What exactly are the tasks involved in enrollment/disenrollment?
- What would be the most desirable/efficacious processes for enrollment/disenrollment from the perspective of the beneficiaries and plans?
- What is a demonstration ''area''?
- Should all Medicare+Choice plans in the demonstration area be involved in the demonstration? If not, which ones should be exempt?
- What requirements under Medicare Part C, if any, is the Secretary likely to have to waive in order for the demonstration to work?
- Should a single, standard form be used for enrollment?
- What standards should be used to monitor the performance of the contractor, given that enrollment in Medicare+Choice plans is voluntary and that disenrollment may be due to various causes? Should any of these standards be tied to contractor payment?
- What would constitute ''substantial compliance'' with the performance standards?
- What criteria should we use to select the third-party contractor?

4. Post-Stabilization Coverage

Section 1852(d)(2) of the Act authorizes us to develop policies to ensure coordination of care and appropriate payment between Medicare+Choice organizations and out-of-plan providers after the beneficiary's medical condition is determined to be stable. We are particularly interested in comments about the following issues:

- Should we specify which provider is responsible for developing a plan of care to appropriately maintain the beneficiary's health, or should this be negotiated between the emergency providers and the plan providers?
- Should we establish a requirement that the Medicare+Choice plan respond

to an emergency service provider's request for approval/authorization within a certain period of time? If so, what should that time period be?

- Should we require that Medicare+Choice plans make available a central contact for emergency providers to call for authorization and medical history data?
- Finally, with regard to post-stabilization benefits and coverage, our primary objective is to ensure that Medicare enrollees are held harmless in payment disputes between the Medicare+Choice plans and the non-network service provider. What are the most appropriate standards to accomplish this goal?

5. Grievances, Organization Determinations and Reconsiderations

Appropriate and meaningful appeals and grievance procedures for the resolution of individual enrollee complaints about their health care are among the most important beneficiary protections in the Medicare+Choice program. Section 1852(g) requires that all Medicare+Choice organizations have procedures for making determinations regarding whether an enrollee is entitled to receive specific health services. The organization must provide for reconsideration of adverse coverage determinations at the request of the enrollee within a time period specified by us, but not later than 60 days after the date of the receipt of the request for reconsideration. However, the Medicare+Choice organization must have in place procedures for expedited reconsiderations under certain circumstances.

We are soliciting comments with regard to these protections. For example—

- Should guidelines for a grievance process be established?
- What is an appropriate timeframe for a reconsideration of a nonexpedited determination?
- Should plans be able to subcontract organization determinations and reconsiderations to subcontractors?
- Should Medicare+Choice plans be required to continue coverage during the reconsideration process?
- Should reductions in care be subject to the reconsideration process?

6. Provider Rights in Medicare+Choice Plans

Section 1852(b)(2) provides that a Medicare+Choice organization may not discriminate with respect to participation, reimbursement, or indemnification as to any provider that is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of the license or certification. The statute provides, however, that this prohibition is not to be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

In addition, provider rights set forth in section 1852(j) include the right of health care professionals to advise Medicare beneficiaries of possible medical procedures, treatments, or care, regardless of whether benefits for the treatment or care are provided under the plan. Section 1852(j) also establishes certain provider protections, including the physician's right to written notice of a Medicare+Choice plan's decision to exclude him or her from participation in the plan and provides that a process for appealing such a decision be established. We would like to obtain general comments about the scope of the various provider protection requirements. In addition, we would like comments regarding the following:

- What procedures should Medicare+Choice plans be required to put in place to ensure that providers are notified of adverse participation decisions?
- In a case where multiple types of providers or practitioners can provide a specific service, how should we interpret the anti-discrimination provision at section 1852(b)?

7. Encounter Data Collection

The payment standards and methodology contained in the new Part C anticipate an eventual transition from a payment based on Medicare fee-for-service utilization and cost, to a payment adjusted for the individual medical conditions of the enrolled population—a process known as risk adjustment. In response to the requirement that inpatient hospital encounter data be collected from health plans for services on or after July 1, 1997, we have developed instructions concerning collection of inpatient hospital encounter data for hospitals, plans, and contractors. Many questions, however, remain about non-inpatient encounter data. For example—

- What information systems issues do organizations face when asked to submit non-inpatient hospital encounter data?
- What are appropriate transmission mechanisms for collection of non-inpatient hospital encounter data? Should they vary by type of plan, by size of plan, or by type of data collected?
- What issues do organizations face relating to the transmission of non-inpatient hospital encounter data, especially regarding the frequency and the methodology of transmission? Under what circumstances and for what purposes are such data currently being generated? How could we coordinate our data collection efforts with ongoing activities?

In addition to a January 28, 1998 general meeting (discussed in section II. of this notice), we are considering holding a public meeting specifically regarding the collection of hospital encounter data that will be used for the implementation of risk adjustment for payment of health plans. Individuals and organizations interested in attending such a meeting should write to Cynthia Tudor, HCFA Center for Health Plans and Providers, Room C3–15–06, 7500 Security Blvd., Baltimore, MD 21244, or by Internet at ''Ctudor@hcfa.gov'' (please specify ''Encounter Data Meeting'' in the Subject line).

8. Private Fee-for-Service Plans

One of the new Medicare+Choice health care options for beneficiaries is the ''private fee-for-service (PFFS)'' plan. These plans are defined at 1859(b)(2). Private fee-for-service plans must meet most of the same requirements as other Medicare+Choice plans and will be capitated on a full risk basis in exchange for providing enrollees with the full package of Medicare benefits. Unlike coordinated care Medicare+Choice plan options however, PFFS plans are expressly prohibited from placing the provider at financial risk or from varying payment based on utilization experience. PFFS plans must pay all service providers (regardless of contracting status) on a fee-for-service basis. We request public comments expressing opinions on the most effective implementation of the unique PFFS plan program requirements, including, but not limited to the following topics:

Section 1852(j) states that a provider furnishing covered services to PFFS plan enrollees must be treated as if the provider had a direct contract with the PFFS if, before furnishing the services, the provider is informed of or given a reasonable opportunity to obtain information about the terms and conditions of payment for these services. We are soliciting comments on appropriate standards to determine when a provider has an implied contract under section 1852(j). For example—

- What notification requirements, if any, must be met by the PFFS plan or

the provider in order to establish a de facto contracting arrangement?

With regard to ''fee-for-service payment'' as specified in the statute—

- Could the definition of these payments include bundled provider fees, or global fees?
- What should be the enrollee's responsibility for payment of claims?
- As with other Medicare+Choice options, should providers in PFFS plans be *prohibited* from billing beneficiaries in most cases?

PFFS plans must meet substantially different requirements than other Medicare+Choice plans with regard to utilization review requirements and enrollee premiums. We are interested in the public's perception of the most effective ways to implement statutory requirements that apply certain utilization review standards to these entities. For example—

- How should utilization protocols based on standards of medical practice be defined?
- Should PFFS plans that use utilization review to determine medical necessity be required to include limitation on liability as a mechanism to protect PFFS plan enrollees against liability for full payment when they did not know or have reason to know that the PFFS would deny the services as being not medically necessary?
- How can these entities be able to comply with the access standards in section 1852? That is, to what extent are Medicare+Choice program access requirements met by establishment of a health service delivery network?

9. Medical Savings Accounts

As part of the Medicare+Choice program implementation, we are establishing procedures for a maximum of 390,000 beneficiaries to enroll under an MSA option in accordance with section 1851. Under the MSA option, a beneficiary's Medicare capitated payment rate will be used to purchase a MSA high deductible health insurance plan meeting certain standards. An MSA plan must pay for at least all Medicare-covered items and services after the enrollee meets the annual deductible, which for 1999 cannot exceed $6,000. The difference between the individual's capitated payment rate and the insurance premium will be placed in an MSA designated by the enrollee. These funds can then be used by the individual to meet medical expenses under the insurance deductible, they can be allowed to accrue from year to year, or they can be withdrawn for nonmedical expenses subject to applicable tax and penalty rules.

We are requesting input from the public regarding the appropriate standards for MSA insurers and account managers. For example—

- What types of information should potential MSA insurers be required to submit to us as part of the application process?
- What other standards and requirements should approved MSA entities meet for monitoring and evaluation purposes?

10. Other Issues

We are also interested in receiving responses to the following questions:

- A Medicare+Choice contract may include more than one plan. We view this as permitting an entity to offer more than one Medicare+Choice product (for example, an HMO and an PPO) as well as allowing a national contract. How can these contracts be structured to facilitate the application and approval process, including the need for multiple State licenses?
- What standards for out-of-area dialysis should apply?
- How should accrediting bodies be treated for purposes of deeming that a plan meets standards for internal quality review, external quality review, and confidentiality of records?
- Under what circumstances should we waive independent external review for plans with an excellent record of quality and other performance?
- How should State agreements to monitor and enforce Medicare+Choice requirements be structured?
- What procedures or requirements for a hearing for the organization prior to termination of its contract should we establish?
- How should Medicaid-only plans be treated for Medicare+Choice purposes? For example, how should we define ''licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in [a] State'' (section 1855(a)(1))?

II. Timelines and Procedures for Participation in the Medicare+Choice Program

The following discussion applies to Medicare+Choice applications and to Medicare risk contract applications submitted in calendar year 1998 for contracts with an effective date of on or before January 1, 1999. We will discuss application requirements for subsequent contracting periods in subsequent HCFA policy notices.

It should also be noted that we will submit, as required, the three applications and related information collection requirements, that is, the adjusted community rate (ACR) proposal and the Medicare+Choice and PSO applications, referenced in this notice to the Office of Management and Budget (OMB) for emergency Paperwork Reduction Act (PRA) approval, prior to implementation. A **Federal Register** notice will be published soliciting public comment on each of the proposed information collections submitted for emergency PRA approval. Although the notices will allow the public only an abbreviated public comment period, the maximum approval period of an emergency approval is 6 months. Once, we have obtained the required OMB approval, we will resubmit the approved information collections to OMB for reapproval under the routine PRA approval process. As part of the routine process, we will publish two consecutive **Federal Register** notices, soliciting public comment for a total of 90 days, on the reapproval of the collections.

We plan to apply the following procedures to organizations that submit applications for new risk contracts under section 1876. In accordance with the BBA, we may not enter into any new risk contracts under section 1876 after publication of the interim final rule. Therefore, all applications for risk contracts under section 1876 that are not approved prior to the publication of the interim final rule (regardless of when submitted) will automatically be reviewed under the Medicare+Choice contracting standards, and organizations will need to submit a supplemental application as discussed below.

Adjusted Community Rate Proposals

Section 1854(a) requires that Medicare+Choice organizations submit ACR proposals for Medicare+Choice plans by May 1st of the calendar year prior to the benefit year in question. This statutory requirement does not apply, however, to entities that have not yet been certified as Medicare+Choice organizations under the interim final rule to be published by June 1. The June 1 regulation will establish ACR deadlines that apply when the statutory May 1 deadline does not apply. In 1999 and thereafter, organizations that apply for new contracts will be required to submit their ACR proposals by May 1st. Risk contractors that have contracts in effect prior to May 1, 1998 should submit ACRs by May 1, 1998 in order to ensure timely processing.

Applicants for risk contracts whose applications are not approved before the publication of the interim final rule will be reviewed as applicants for Medicare+Choice contracts. Because we

will publish payment rates for 1999 on March 1, 1998, these applicants must resubmit their ACR proposals to cover the proposed contract period. The contract period must cover all of calendar year 1999 and may include a period of time involving 1998. However, persons are not required to comply with the information collection requirements associated with the ACR proposal until OMB, PRA emergency approval has been obtained.

Application Process for Medicare+Choice Plans

We encourage organizations that wish to participate in the Medicare+Choice program to submit their applications as soon as possible and no later than August 1, 1998. Although our goal is to process applications in a timely manner, we cannot guarantee that complete applications submitted by August 1, 1998 will be approved for an effective date of January 1, 1999; let alone for those applications submitted after August 1. We may experience delays in processing applications, as current resources are reassigned to respond to the requirements of the Medicare+Choice program.

This section applies to State-licensed organizations. The procedures for PSOs that seek Federal waiver of the State licensure requirement are discussed in a subsequent section. Upon receipt of a State-licensed candidate's application for a Medicare+Choice contract, we will immediately review the application to determine whether the responses and documentation are complete. If we identify incomplete responses, we will allow only 60 days for the applicant to submit the necessary information. We will consider an application that, for any reason, is not complete after the 60-day period to be nonresponsive, and we will return it to the applicant. Once we determine that an application is complete, we will initiate an extensive review of the data, including a site visit for most plans. We will provide applicants a 15-day time period in which to provide any information required as a result of the site visit.

Note that an approved organization must be ready to enroll and serve beneficiaries on the first day that the contract becomes effective. To ensure that new applicants are approved in time for the contract to be implemented by January 1, 1999, we plan to establish a two-step process whereby new contractors may submit a core application at any time prior to publication of the final interim rule and then submit a supplemental application after the interim final rule is published. The core application will be similar to the current application for a risk contract. At present, we expect that it will contain the following information:

- Medicare+Choice option (HMO, State-licensed PSO, MSA, etc.).
- General information: description of plan, brief history, banking information, board of directors, management staff, geographic region, and other pertinent data for the Medicare product.
- Organization and contract information: type of legal entity, State authority to operate, organizational charts, and management contracts.
- Health services delivery network: detailed description of delivery system, Medicare subscriber agreements, evidence of coverage, membership information, and quality assurance systems.
- Financial information: certified audits, financial projections, and all information necessary to demonstrate a fiscally-sound operation.
- Marketing information: marketing plans, projections, and enrollment assumptions.
- Any additional information to support the Medicare+Choice application.

The core application package will be available on our Internet web site (http://www.hcfa.gov) on or about February 1, 1998. Additional information regarding the core application process can be obtained by writing to us at—HPPAG, Field Liaison Staff, Health Care Financing Administration, Center for Health Plans and Providers, Health Plan Purchasing and Administration Group, 7500 Security Blvd., 03–18–13 South Building, Baltimore, MD 21244–1850. Alternatively, you may call the Health Plan Purchasing and Administration Group (HPPAG) at 410–786–7623.

ACR instructions will also be available beginning February 1, 1998 on the Internet or from the above address. However, persons are not required to comply with the information collection requirements associated with the core Medicare+Choice application and ACR proposal until OMB, PRA emergency approval has been obtained.

Supplemental Medicare+Choice Application Process

Our plans are that Medicare+Choice applicants that submit a core application must complete the application process by submitting a supplemental application. The supplemental application will cover provisions that are specific to the Medicare+Choice program as specified by the interim final rule, including the fiscal solvency standards for PSOs, which are scheduled to be published on April 1, 1998. The supplemental application will also solicit plan specific information relevant to each of the different types of Medicare+Choice program options (for example, PSO, PFFS, MSA). The supplemental applications will be available beginning June 1, 1998, when the interim final rule is published. The application will be available from our Internet web site or from HPPAG at the above address. Persons are not required to comply with the information collection requirements associated with the Medicare+Choice supplemental application until OMB, PRA emergency approval has been obtained.

Federal Waiver of State Licensure Requirement for PSOs

Consistent with current policy, only applications that have obtained State licenses will be approved for Medicare+Choice contracts. The only exception to this requirement are PSOs, which are allowed to request waivers of the State licensure requirement as specified by BBA. In accordance with section 1855(a)(2), PSO applicants may request waivers of the State licensure requirement under any of the following circumstances:

- The State failed to act on a timely basis, that is, within 90 days of its receipt of a substantially complete application.
- The denial of the application was based on discriminatory treatment. The ground for approval of such a waiver on the basis of discriminatory treatment is that the State has denied a licensing application and (1) the standards or review process imposed by the State as a condition of approval of the license imposes any material requirements, procedures, or standards (other than solvency requirements) to such organizations that are not generally applicable to other entities engaged in a substantially similar business, or (2) the State requires the organization, as a condition of licensure, to offer any product or plan other than a Medicare+Choice plan.
- The denial was based on application of solvency requirements. With respect to waiver applications filed on or after the date of publication of solvency standards under section 1856(a), the ground for approval of the waiver application on this basis is that the State denied the licensing application based (in whole or in part) on the organization's failure to meet applicable solvency requirements and (1) the requirements are not the same as the solvency standards established under section 1856(a), or (2) the State has imposed a condition of approval of the license documentation or

information requirements relating to solvency or other material requirements, procedures, or standards relating to solvency that are different from the requirements, procedures, and standards applied by us under section 1856(d)(2).

Once a prospective Medicare+Choice contractor submits documentation that one or more of the above conditions has been met, we have 60 days to grant or deny the waiver application. A separate application for PSOs seeking a waiver from State licensure will be available on or about February 15, 1998, on our Internet web site or from HPPAG at the address given above. This application will include the waiver forms as well as the contract application and all definitions. In addition, solvency standards for PSOs seeking a waiver will be available on April 1, 1998. PSOs requesting a waiver that submitted an application prior to April 1 will be required to submit a supplemental application showing how they meet the solvency standards. However, persons are not required to comply with the information collection requirements associated with the PSO application until OMB, PRA emergency approval has been obtained.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Information Campaign

To assist Medicare beneficiaries' decision-making process relative to new Medicare+Choice health care options, we will incorporate information on newly-approved plans into our plan comparison database. This database will contain information on all existing and new plans, except for MSAs. Plan comparison information will be posted on the Internet and will be updated at least quarterly. Thus, newly-approved plans will be entered into the plan comparison database at the next update cycle.

February 4, 1998 Public Meeting

In addition to seeking written comments from the public, we will hold a public meeting on Wednesday, February 4, 1998 from 9 a.m. to 3 p.m. in our auditorium at 7500 Security Boulevard, Baltimore, Maryland. The purpose of this meeting will be to discuss issues and concerns from plans, providers, beneficiaries, and other interested parties on the requirements and implementation of the Medicare+Choice program. The agenda for this meeting will be posted on our Internet web site. Further information can be obtained from Rondalyn Kane at (202) 690–7874.

(Secs. 1851 through 1857, 1859, 1876, and 1877 of the Social Security Act (Secs. 4001, 4002, and 4006 of Pub.L. 105–33, 42 U.S.C. 1395*l* and 1395mm))

Dated: December 23, 1997.

Nancy-Ann Min DeParle,

Adminstrator, Health Care Financing Administration.

[FR Doc. 98–1381 Filed 1–16–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[HCFA–1864–P]

RIN 0938–AH19

Medicare Program; Additional Supplier Standards

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish additional standards for an entity to qualify as a Medicare supplier for purposes of submitting claims for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). This proposed rule would establish additional standards that must be satisfied before a DMEPOS supplier could receive payment from the Medicare program. The Social Security Act Amendments of 1994 require that a DMEPOS supplier meet standards related to compliance with State and Federal licensure requirements, maintaining a physical facility on an appropriate site, proof of appropriate liability insurance, and other standards the Secretary may specify.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on March 23, 1998.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1864–P, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201,
or
Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1864–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890). Electronically submitted comments will also be available for public inspection at the Independence Avenue address.

FOR FURTHER INFORMATION CONTACT: Larry Bonander, (410) 786–4479.

SUPPLEMENTARY INFORMATION:

I. Background

Medicare services are furnished by two types of entities, that is, providers and suppliers. The term ''provider'', as defined in our regulations at § 400.202, means a hospital, a rural primary care hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a home health agency, or a hospice that has in effect an agreement to participate in Medicare. A clinic, a rehabilitation agency, or a public health agency that has a similar agreement to furnish outpatient physical therapy or speech pathology services, or a community mental health center with a similar agreement to furnish partial hospitalization services, is also considered a provider (see sections 1861(u) and 1866(e) of the Social Security Act (the Act)).

In general, a supplier is an individual or entity that furnishes certain types of medical and other health services under Medicare Part B. There are different definitions of the term ''supplier'' and specific regulations governing different types of suppliers. A supplier that furnishes durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) is one category of supplier. Other categories of suppliers could include, for example, physicians, nurse practitioners, and physical therapists. The term ''DMEPOS'' encompasses the types of items included in the definition of medical equipment and supplies found at section 1834(j)(5) of the Act.

For purposes of DMEPOS supplier standards, the term ''supplier'' is currently defined in § 424.57(a) of our regulations as an entity or individual, including a physician or Part A provider, that sells or rents Part B covered DMEPOS items to Medicare beneficiaries, and that meets certain standards. We are retaining this

definition for purposes of identifying those entities that must meet DMEPOS supplier standards in order to obtain a supplier number. Those individuals or entities that do not furnish DMEPOS items but only furnish other types of health care services, such as physicians' services or nurse practitioner services, would not be subject to these standards. Moreover, a supplier number is not necessary before Medicare payment can be made with respect to medical equipment and supplies furnished ''incident to'' a physician's service.

Durable Medical Equipment

Durable medical equipment (DME) is included in the definition of ''medical and other health services'' as indicated by section 1861(s)(6) of the Act. The term DME is defined at section 1861(n) of the Act. This definition, in part, excludes from coverage as DME, items furnished in skilled nursing facilities and hospitals. (Equipment furnished in those facilities is paid for as part of their routine or ancillary costs.) The term is also defined in § 414.202 of our regulations as meaning ''equipment, furnished by a supplier or a home health agency that—

(1) Can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose;

(3) Generally is not useful to an individual in the absence of an illness or injury; and

(4) Is appropriate for use in the home.'' Examples of DME include such items as blood glucose monitors, hospital beds, nebulizers, oxygen delivery systems, and wheelchairs.

Prosthetic Devices

Prosthetic devices are also included in the definition of ''medical and other health services'' under section 1861(s)(8) of the Act. They are defined in this section of the Act as ''devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices, and including one pair of conventional eyeglasses or contact lenses furnished subsequent to each cataract surgery with insertion of an intraocular lens.'' Other examples of prosthetic devices include cardiac pacemakers, cochlear implants, electrical continence aids, electrical nerve stimulators, and tracheostomy speaking valves.

Orthotics and Prosthetics

Section 1861(s)(9) of the Act provides for the coverage of ''leg, arm, back, and neck braces, and artificial legs, arms, and eyes * * *'' under the term ''medical and other health services.'' As indicated by section 1834(h)(4)(C) of the Act, these items are often referred to as ''orthotics and prosthetics.''

Supplies

Section 1861(s)(5) of the Act includes ''surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;'' as one of the ''medical and other health services'' that is covered by Medicare. Other items that may be furnished by suppliers would include (among others):

(1) Prescription drugs used in immunosuppressive therapy furnished to an individual who receives an organ transplant for which payment is made under this title, and that are furnished within a certain time period after the date of the transplant procedure as noted at section 1861(s)(2)(J) of the Act.

(2) Extra-depth shoes with inserts or custom molded shoes with inserts for an individual with diabetes as listed at section 1861(s)(12) of the Act.

(3) Home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies included at section 1861(s)(2)(F) of the Act.

(4) Oral drugs prescribed for use as an anticancer therapeutic agent as noted at section 1861(s)(2)(Q) of the Act.

(5) Self-administered erythropoietin (as described in section 1861(s)(2)(O) of the Act).

II. Publication of Final Rule With Comment Period

On December 11, 1995, we published a final rule with comment period in the **Federal Register** (60 FR 63440) to reflect the changes made to section 1834 of the Act by section 131 of the Social Security Act Amendments of 1994 (SSA '94, Public Law 103–432, enacted on October 31, 1994). In the SSA '94, a new subsection (j) was added to section 1834 of the Act that established additional requirements that a DMEPOS supplier must meet in order to obtain a supplier number. The final rule set forth additional supplier standards consistent with the new subsection by revising § 424.57(c) of our regulations.

The standards in the final rule included all of the standards that were in the prior § 424.57(c) and those standards specifically required by section 1834(j)(1)(B)(ii)(I) through (III) of the Act. The standards specifically identified in section 1834(j)(1)(B)(ii) require that a DME supplier—

(1) Comply with all applicable State and Federal licensure and regulatory requirements;

(2) Maintain a physical facility on an appropriate site; and

(3) Have proof of appropriate liability insurance. Congress also has expressly delegated authority to the Secretary to specify other requirements through section 1834(j)(1)(B)(ii)(IV) of the Act.

In SSA '94, the Congress enacted numerous substantive provisions designed to protect beneficiaries from abusive practices by suppliers. These legislative changes indicate that the Congress has serious concerns about the business practices employed by certain suppliers, and that beneficiaries require additional protection from these practices. We believe it is the Congress' intent to strengthen existing standards in order to protect the public interest. We also view this proposed rule as another tool to further our efforts to prevent fraud and abuse in the Medicare program. After consulting with representatives of medical equipment and supply companies, carriers, and consumers, we are now proposing to establish additional standards to protect beneficiaries. These standards would not apply to physicians or other practitioners that are only submitting claims for coverage of items that are furnished as incident to their professional services. However, in order to submit claims for items that are not covered under the incident to benefit, physicians must obtain a supplier number and meet supplier standards.

III. Proposed Revisions

Medicare will not pay for any items furnished by a DMEPOS supplier prior to the date a supplier number is issued. In order to obtain a supplier number, a supplier must complete an application certifying that it meets the supplier standards found in § 424.57 of our proposed regulation. In addition, when renewing an application for a DMEPOS supplier billing number, a supplier must recertify that it meets all of the supplier standards.

Under current regulations, a DMEPOS supplier must renew its application for a billing number 3 years after the billing numbers are first issued, except for the first reissuance process. For the first reissuance process, one-third of suppliers must renew their applications 2 years after initial issuance of billing numbers. Another one-third of suppliers must reapply 3 years after initial issuance. The last third of suppliers must reapply 4 years after initial issuance. Thereafter, a supplier must reapply 3 years after its last number is issued.

We do not intend to require all DMEPOS suppliers to submit new applications for billing numbers on the date this regulation becomes effective, but will require DMEPOS suppliers to

submit new applications as the old numbers expire. We believe this to be the least burdensome approach for a supplier, as well as the most cost-effective approach, to obtain the required information. However, in certain circumstances (such as an investigation regarding compliance with standards) a supplier may be required to demonstrate compliance with all standards prior to the supplier's billing number expiration date. Although we do not intend to require suppliers with current numbers to certify compliance with these revised standards until they reapply, it is important to note that as of the effective date of this regulation, all DMEPOS suppliers must comply with these standards. We may revoke a supplier number if we find evidence that the standards are not satisfied.

A. Specific Requirements for Supplier Standards

Compliance With Medicare Statutory Provisions and Applicable Regulations (§ 424.57(c)(1))

In addition to the specific standards cited in this proposed rule, there are other Medicare statutory provisions that establish requirements pertaining to the activities of DMEPOS suppliers. For example, section 1848(g) of the Act establishes requirements regarding the completion and submission of Medicare claims by certain entities, including DMEPOS suppliers. To be consistent and to support and reinforce the implementation of the other provisions of the Act and regulations that pertain to DMEPOS suppliers, we are proposing adding this new standard. This standard would require a DMEPOS supplier to comply with Medicare statutory provisions, as well as all other applicable regulations.

Compliance with Applicable Federal and State Licensure and Regulatory Requirements (§ 424.57(c)(2))

We propose amending § 424.57(c)(9) of current regulations to require a DMEPOS supplier to operate its business and furnish Medicare covered items in compliance with all applicable Federal and State licensure and regulatory requirements. If a DMEPOS supplier is found to be out of compliance with any Federal or State licensure or regulatory requirement by the appropriate enforcement agency for that requirement, we may revoke that supplier's number. We will focus on whether the violation negatively affects a supplier's ability to furnish DMEPOS supplies in a manner that protects beneficiaries and the Medicare program. When a supplier is actually found out of compliance, and is cited by the appropriate enforcement agency for a violation, we would determine whether that violation should be deemed indicative of a failure to meet this standard.

Clearly, it is not in the interest of beneficiaries for us to revoke a supplier number for reasons that are unrelated to a DMEPOS supplier's ability to furnish Medicare covered items. For example, and by way of illustration only, it would not ordinarily seem necessary to consider as a violation of this standard necessitating revocation, situations where a supplier is involved in a zoning dispute or has built a fence three feet over the property line. However, when the supplier's violation of applicable Federal or State licensure or regulatory requirements affects the health and safety of Medicare beneficiaries, we would determine that this standard has not been met.

Misrepresentation of Facts (§ 424.57(c)(3))

As stated, a DMEPOS supplier's certification that the standards are met must be completed before a supplier number will be issued. A government contractor verifies the data in the supplier number application and issues numbers to approved DMEPOS suppliers. When a supplier submits an inaccurate or incomplete application, it impedes the ability of the contractor to determine, with reasonable confidence, that a supplier meets and will comply with the DMEPOS supplier standards.

We propose amending the regulations to clarify that a DMEPOS supplier is responsible for accurately completing the application for a supplier number. Any deliberate misrepresentation or concealment of material information in the application constitutes a violation of this supplier standard and may subject a supplier to liability under civil and criminal laws. Also, since the government, through its contractor, issues a supplier number based upon, and after verification of, the information contained in the application, a DMEPOS supplier must notify us within 35 days of any change in the data provided on the supplier number application.

Signature Used on a Supplier Number Application (§ 424.57(c)(4))

When a DMEPOS supplier signs the application for a supplier number, it certifies that all information provided on the application is accurate and that the supplier meets the standards set forth in § 424.57(c). These standards affect how the supplier does business. This proposed standard would require that the individual signing the application understand his or her responsibility for confirming the accuracy of all of the statements in the application and have the authority to certify that the supplier will comply with these standards. The person who signs the application must have the authority to bind the business entity. This standard would help ensure the accuracy of the information on the supplier number application and will help ensure that the DMEPOS supplier is committed to taking the necessary steps to comply with these standards.

Providing Requested Information and Documentation (§ 424.57(c)(5))

We propose adding a standard that specifically requires a DMEPOS supplier to agree to provide us with pertinent information and documentation. As a basic condition for payment, a supplier must furnish sufficient information and documentation for us to make a correct payment determination. We are responsible for ensuring that all claims are medically and reasonably necessary, that all services are rendered as billed, and that all claims are billed in accordance with local, regional and national policies.

Upon request, a supplier must also provide a copy of any contract it has with another company to furnish DMEPOS items or supplies. A DMEPOS supplier also must provide, upon request, documentation substantiating that it has advised beneficiaries about their option to rent or purchase inexpensive or routinely purchased equipment, and also about the purchase option for capped rental equipment. It is important that beneficiaries understand that the overall Medicare payments for renting inexpensive or routinely purchased DME may not exceed the Medicare fee schedule amount for that item.

A DMEPOS supplier must provide, upon request, documentation substantiating that it has explained to beneficiaries the warranty coverage for supplies and equipment. We believe that explaining to beneficiaries the warranty coverage for a particular item will prevent the Medicare program from being billed for repairs to supplies or equipment covered under warranty. A supplier must provide, upon request, documentation that it maintains and repairs directly, or through a service contract with another company, items it has rented to beneficiaries. This would ensure that beneficiaries are aware that any services needed for rented items will be provided by the supplier of the items.

A supplier also must provide, upon request, documentation demonstrating that it has delivered Medicare covered items to beneficiaries. A supplier must provide, upon request, proof of appropriate liability insurance protecting retail customers against accidents or negligence in the sale or rental of medical equipment or supplies.

Scope of Exclusions (§ 424.57(c)(6) and (d))

We propose amending § 424.57(c)(1) and (d) of the current regulations to be consistent with the Office of Inspector General (OIG) regulations on program integrity for the Medicare and State Health Care programs at § 1001.1901. The OIG program exclusion regulations were amended effective August 25, 1995, in accordance with the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355), and with the Department's Common Rule at 45 FR Part 76, to explain the scope and effect of an OIG exclusion. The OIG regulations now provide that an OIG exclusion will be recognized and given effect not only for all departmental programs but also for all Executive Branch procurement and nonprocurement activities. Therefore, consistent with the OIG regulations, these regulations would require that a DMEPOS supplier must agree not to contract with entities subject to an OIG exclusion for the purchase of items necessary to fill their orders. These proposed regulations also would provide that if a DMEPOS supplier is subject to an OIG exclusion, we will revoke its supplier number automatically, effective with the date of the exclusion.

Rental or Purchase Option (§ 424.57(c)(7))

A DMEPOS supplier must advise beneficiaries of their option to rent or purchase inexpensive or routinely purchased equipment. A DMEPOS supplier also must advise the beneficiary of the purchase option for capped rental equipment. Currently, the decision as to whether inexpensive or routinely purchased equipment should be rented or purchased is made by the beneficiary. Because of the coinsurance implications involved, it is important that beneficiaries understand that the overall Medicare payments for renting such DME may not exceed the Medicare fee schedule amount for that item. If the beneficiary needs an item after Medicare has made its last rental payment, the beneficiary becomes financially liable for any additional payment. Therefore, if a beneficiary anticipates needing an item of inexpensive or routinely purchased DME for an extended period of time, purchasing that item may result in a savings for the beneficiary. This information must be provided in an easily understood and clear manner and should include an explanation of the implications of the rental or purchase choice.

Warranties (§ 424.57(c)(8))

Our current regulations provide that a supplier must honor all expressed and implied warranties. However, in some instances, a supplier does not fully explain warranty coverage to beneficiaries and the Medicare program is billed for repairs to supplies or equipment covered under warranty. We propose to amend § 424.57(c)(3) of our current regulations to require that a DMEPOS supplier check with manufacturers to determine the extent of a warranty for an item they are supplying. A DMEPOS supplier is prohibited from billing either beneficiaries or the Medicare program for repairs, parts, or other equipment or supplies covered either by an expressed warranty or an implied warranty. Items that are furnished to the beneficiary, whether purchased or rented, must include copies of warranty information.

Delivery (§ 424.57(c)(9))

Under our current regulations at § 424.57(c)(2), a supplier is responsible for the delivery of Medicare covered items to beneficiaries. Consistent with the goal of protecting beneficiaries, we propose expanding this standard to require a DMEPOS supplier, at the time of delivery, to provide beneficiaries with necessary information and instructions on how to use Medicare covered items safely and effectively. In addition, we anticipate that beneficiaries may have questions subsequent to delivery and should have telephonic access to the supplier to receive additional instructions, as necessary. Telephonic access is addressed in proposed supplier standard § 424.57(c)(17).

Reassignment of Supplier Numbers (§ 424.57(c)(15))

This proposed standard would prohibit a DMEPOS supplier from conveying or reassigning a supplier number. We have the authority, through our authorized agents, to issue DMEPOS supplier billing numbers. These numbers are issued only after we have verified pertinent information about a supplier and have otherwise taken measures intended to protect the Medicare program, as well as beneficiaries. The supplier billing numbers are issued for the use of a specific supplier. A DMEPOS supplier does not have independent authority to transfer or convey the billing number we issue. All DMEPOS suppliers must undergo our application process in order to obtain a supplier number.

Physical Facility (§ 424.57(c)(16) and (f))

We propose amending § 424.57(c)(10) and (f) of our current regulations to require a DMEPOS supplier to have a physical facility where it can conduct its business operations. The physical facility must be a site where a supplier's delivery, maintenance, and beneficiary communication records can be properly stored and mail can be delivered. In addition, all written complaints and related correspondence taken in response to a beneficiary complaint must be kept at the physical facility.

Using these minimal requirements for a physical facility, there should be no burden on a legitimate supplier. Section 1834(j) of the Act was amended to ensure beneficiary protection. We believe protection of the beneficiary includes requiring a supplier to conduct business at a physical facility that is beneficiary accessible. In the past, a supplier was not required to conduct business at a fixed physical location. We found evidence of vans, as well as station wagons, being claimed as supplier business locations. A supplier using these types of ''establishments'' for business are not easily accessible to the beneficiary or HCFA if there is a problem with the supply or equipment, a repair is needed, or the beneficiary has a question. Requiring that a supplier operate out of a fixed physical facility will help protect beneficiaries, as well as aid in eliminating fraudulent suppliers.

Business Telephone (§ 424.57(c)(17))

In order to accept inquiries from potential customers, maintain relationships with current customers, and conduct business with contractors in today's business markets, virtually every business must allow access by telephone. Telephonic access to a DMEPOS supplier is crucial also to the Durable Medical Equipment Regional Carrier in obtaining additional information to process and pay a claim.

In this proposed rule, a DMEPOS supplier must have a business telephone located at the physical facility. This telephone number must be listed under the name of the business (i.e., name of supplier company) and listed in the business portion of the local telephone company directory. A beeper number, answering machine, answering service, pager, facsimile machine, car phone or residential listing would not adequately

provide telephonic access equivalent to a primary business telephone and, therefore, would not fulfill this requirement. Requiring a business telephone at the physical facility would help ensure that a supplier is a valid business company that is soliciting and conducting business at the physical facility. This requirement would also help filter out those companies that do not have a physical site and may be conducting business out of mobile vans, making it difficult for beneficiaries and the general public to determine the legitimacy of the business, resolve questions, obtain demonstrations of a DMEPOS item and resolve any maintenance or repair concerns.

Liability Insurance (§ 424.57(c)(18))

The December 11, 1995, final rule with comment implementing the changes made by section 1834(j) of the Act, added a standard requiring suppliers to have proof of appropriate liability insurance. One member of the DME industry commented on this standard and suggested certain insurance requirements and limitations. In addition, we consulted with an insurance industry trade group with expertise in liability insurance. Based on the comment received and our consultation, we propose requiring that a supplier have a comprehensive liability insurance policy that covers both the supplier's place of business and any and all customers and employees of the supplier.

While this proposal would only require comprehensive liability insurance, our concern for beneficiary safety is such that we feel we should specify in the final rule a dollar amount for this coverage. We believe that coverage in the amount of $500,000 would be adequate for most businesses. According to industry sources, there are no State requirements concerning either mandatory liability insurance or the recommended level of protection. However, we believe that most suppliers follow common business practices and obtain adequate insurance in order to limit their financial exposure. We invite the public to comment on the need for and the extent to which suppliers maintain liability insurance and the appropriate coverage level for that insurance.

Telemarketing (§ 424.57(c)(19))

This proposed standard reiterates restrictions found at sections 1834(a)(17)(A) and 1834(h)(3) of the Act that bar a supplier from violating existing telemarketing rules.

Prescription Drugs (§ 424.57(c)(20))

This proposed standard would protect the health and safety of our beneficiaries by ensuring that only those DMEPOS suppliers that are licensed to dispense drugs may furnish drugs used as Medicare covered supplies with durable medical equipment (DME) or prosthetic devices. Although a supplier that furnishes oxygen may not have to be a pharmacy, it must meet applicable State licensure laws. This standard would stipulate that unless a supplier meets applicable State licensing requirements, it may not bill Medicare for prescription drugs used with DME or a prosthetic device.

This standard also would help to ensure payment is not made for prescription drugs, other than oxygen, that are prepared or dispensed by companies not properly licensed and not regulated or monitored by a State's pharmacy board. In addition, this standard would support Medicare's policy of not paying for prescription drugs used with DME or a prosthetic device unless the drugs are furnished by an entity that is licensed to dispense these drug products.

B. Additional Revisions

Section 4312(a) of the Balanced Budget Act of 1997 (BBA '97), Pub. L. 105–33, which was enacted on August 5, 1997, amended section 1834(a) of the Social Security Act by adding a new paragraph (16). That new paragraph requires the Secretary, as a condition of providing for the issuance or renewal of a provider number for a DME supplier for purposes of payment under the Medicare statute, to provide the Secretary, on a continuing basis, with a surety bond. Section 1834(a)(16), as amended by section 4312(c) of the BBA '97, further provides that the Secretary may, at the Secretary's discretion, impose a surety bond on some or all providers or suppliers who furnish items or services under Medicare Part B other than physicians or other practitioners. We request comments on the advisability of exercising this authority to impose a surety bond on all suppliers of prosthetics, orthotics, and supplies to the same extent as required for suppliers of durable medical equipment.

We are adding a new paragraph (e) to stipulate that for every tax identification number for which a supplier billing number is issued, a DMEPOS supplier must obtain a surety bond. The surety bond must be in a form specified by the Secretary and in an amount not less than $50,000.

Although we are authorized to waive the surety bond requirement if a DMEPOS supplier provides a comparable surety bond under State law, we have not implemented that waiver authority in this rule. The limited amount of time available to us, between the enactment of BBA '97 and the effective date of the surety bond requirement, did not permit us sufficient time to effectively analyze the potential specifications of a waiver provision. However, we are mindful that some States may already have, or may be considering implementing, surety bond requirements that could affect DMEPOS suppliers. Moreover, section 4712 of the BBA '97 establishes a Medicaid surety bond requirement that the States will be implementing. We do not want to add unnecessary costs to DMEPOS suppliers that may be required to obtain multiple surety bonds. However, our principal concern is to safeguard the Medicare Trust Funds from the losses resulting from dramatically increasing unrecovered Medicare debts. We solicit comments on useful standards and criteria for implementing a waiver of our surety bond requirements that would, nonetheless, maintain the same or a greater level of protection of the Medicare Trust Funds than our requirements achieve.

A ''surety bond'' is a three-party written agreement under which the surety guarantees to HCFA as surety that it will be responsible for debts owed to HCFA by a DMEPOS supplier. The surety bond can only be obtained through a surety bond company that has been approved by the Department of Treasury and listed in the current edition of the Department of Treasury's Department Circular No. 570 ''Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies''.

We propose establishing a sliding scale for the penal amount of the bond that relates to the volume of business a supplier does with Medicare. The penal amount is the amount for which a surety company would be liable to HCFA. The sliding scale would be used in combination with a $50,000 minimum and a $3,000,000 ceiling. For chain organizations, these amounts would pertain to the chain as a whole. The sliding scale will be based on 15 percent of the amount paid to the supplier by the Medicare program in the previous year with a $50,000 minimum and a $3,000,000 maximum penal bond amount. Thus, the penal amount of the surety bond and the premium for the surety bond are directly tied to the

amount of Medicare payments received by the supplier. We believe that 15 percent is a reasonable percentage on which to base the penal amount of the bond since it would not be too high as to be a barrier to entry for small companies, yet high enough to provide the Medicare Trust Fund with access to funds to recover debts owed to the program. Also, in determining this percentage amount, we consulted with an insurance industry trade group.

In accordance with section 4312(a) of the BBA '97, paragraph (e) includes a $50,000 floor per supplier. Therefore, we are proposing that this $50,000 amount represent the penal amount for a supplier that has not previously participated in the Medicare program. We also propose establishing a penal amount ceiling of $3,000,000 per supplier to accommodate national companies that have several locations. The $3,000,000 ceiling would lessen the burden on national companies that have one supplier number with multiple locations.

HCFA would verify that each supplier has purchased the correct bond amount by having the National Supplier Clearinghouse access either the supplier's IRS Form No. 1099 prepared by the supplier's DMERC (DME Regional Carrier) or historic payment information from the DMERC's provider payment history file. The IRS Form No. 1099 will show the amount of Medicare revenues received by the DMEPOS supplier during the previous year. This verification would be done on an annual basis by the National Supplier Clearinghouse.

As stated, we believe that Congressional intent of section 4312 of the BBA '97 is to protect both Medicare beneficiaries and the Medicare Trust Fund. Under current law, a DMEPOS supplier only may receive payment from the Medicare program if it demonstrates that it meets the standards imposed in the Act and in regulations. Section 4312 of the BBA '97, in effect, authorizes as a supplier standard the requirement that a DMEPOS supplier provides, on a continuing basis, a surety bond of at least $50,000. We believe that Congressional intent is that a surety bond be of an adequate amount to ensure supplier performance and to prompt compliance with Medicare program rules and requirements. The amount of the surety bond must be sufficient to protect both Medicare beneficiaries and the Medicare Trust Fund by providing a mechanism for recovering debts owed to the program. (Debts to the program include overpayments, interest, and any civil money penalties and assessments.) We also believe it will decrease spurious applications for supplier numbers, and ensure that only viable companies who are financially stable obtain supplier numbers. Therefore, we believe it is necessary that the surety bond be based on a sliding scale of 15 percent of the amount paid to the supplier by the Medicare program, for claims for Medicare covered items provided in the previous year and with a floor of $50,000 and a ceiling of $3,000,000.

We also considered including within the scope of the Surety's potential liability a guarantee of payment for unpaid civil money penalties and assessments that were imposed by the Office of the Inspector General. However, because of the short time period between when the BBA '97 was enacted and the effective date of the Surety bond provision, we were unable to fully consider this option. In addition, because of our unfamiliarity with surety bonds as a component of program administration, we believed that we did not fully understand how best to implement this option. We solicit comments on the advisability of including within the scope of the Surety's potential liability unpaid Office of Inspector General-imposed civil money penalties and assessments.

Financial Rationale for the Surety Bond

We have a statutory responsibility under the Act to be a prudent purchaser of medical services. Therefore, we need to address the issue of how to reduce risk to the Medicare Trust Fund. Bonding is a method that has long been employed in the private sector to assure a satisfactory level of performance. We believe a surety bond is a cost effective method to reduce risk to the Medicare Trust Fund. This requirement would provide the Medicare program with the ability to mitigate its losses should a supplier billing number be revoked or if the company no longer conducts business with Medicare. In other words, a surety bond would provide us with the means to recover a portion of the monies due the Medicare program. A claim could be made against the surety bond should a demand letter for overpayments not be satisfied, whether due to insufficient assets by a supplier or inability to locate a supplier.

We do not have a fail-safe method of ensuring that DMEPOS items for which we have been billed actually have been supplied to a beneficiary in the quantity or the type billed. Only with the passage of time do we discover that DMEPOS items for which Medicare payments have been made were not actually supplied in the manner represented in the claim. With Medicare DMEPOS expenditures of $10.2 billion in 1995, even a small percentage of improper payments represents excessive program losses.

In calendar year 1995, as a part of our activities associated with Operation Restore Trust, we revoked the supplier billing number of approximately 1,700 Florida suppliers who were found to have billed for DMEPOS items that either were not furnished or were not furnished as billed. These supplier billings were associated with erroneous payments amounting to approximately $40 million.

Our belief is that many of these suppliers would never have sought or obtained a Medicare supplier number if, as a prerequisite, they would have been required to obtain a surety bond. Even if some of these suppliers had been able to obtain a surety bond and still received erroneous payments, the Medicare program, by making a claim against the surety bond, would have had a source to mitigate some of its losses. Based on our estimates of the scope of past fraudulent and excessive expenditures, we must take steps to prevent such practices from continuing. Surety bonds will enhance our control of Medicare Trust Fund expenditures by expanding our options for recovering payments later determined to be improper, whether due to fraud or other reasons. We are interested in any recommendations or suggestions anyone may have on this proposed standard.

In addition to the changes discussed above, we have taken this opportunity to make several clarifying and editorial changes to the existing regulations.

C. Patient Care Standards

The proposed DMEPOS supplier standards set forth business operation standards, however, they do not include standards that relate directly to patient care. By patient care, we are referring to care that goes beyond that which is directly furnished by the covered equipment, such as taking the patient's vital signs. Determinations relating to patient care would be the subject of another rulemaking.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the ''DATES'' section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirements discussed below.

The following sections of this document contain information collection requirements as described below:

Section 424.57(c)(3) (Supplier Enrollment Form HCFA-855) would require a supplier to provide complete and accurate information on its application for a billing number. However, the burden associated with the requirements set forth in 424.57(c)(3) and (c)(4) are currently captured in HCFA–855 (OMB Approval No. 0938–0685). Thus, there is no additional collection of information burden associated with § 424.57(c)(3) and (c)(4).

Section 424.57(c)(5) (Providing Requested Information and Documentation) would set forth several information collection requirements, as referenced below, which we believe are exempt under the terms of the PRA for the following reasons:

(1) Under 5 CFR 1320.4(a)(2), information collections are exempt during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities;

(2) As described in 5 CFR 1320.3(h)(9), facts or opinions obtained or solicited through nonstandardized follow-up questions designed to clarify responses to approved collections, are exempt from the PRA; and/or

(3) Nonstandardized information collections directed to less then 10 persons, does not constitute an information collection as outlined in 5 CFR 1320.3(c).

The following information collection requirements arise as a result of requiring DMEPOS suppliers to submit all supplemental information or documentation necessary to adjudicate claims. A DMEPOS supplier bears the burden of providing records and information sufficient to support the determination of appropriate Medicare payment. Since we believe that the following collection requirements are either part of the administrative, audit and/or adjudicatory process, collected in a nonstandardized manner, and/or collected from less then ten persons, they fall under these exceptions. We explicitly solicit comment on this PRA determination. The excepted sections are:

—Section 424.57(c)(5)(i)—Adjudication of Claims

—Section 424.57(c)(5)(viii)—Supplemental Documentation

Under 5 CFR 1320.3(b)(2), the burden associated with the time, effort and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of business will be excluded from an information collection. The burden in connection with such types of collection activities can be disregarded if it can be demonstrated that such collection activities are usual and customary. Each of the collection requirements referenced below are of the type that are usual and customary in the conduct of commercial business. Thus, we believe they fall under this exception and solicit comment on this determination:

—Section 424.57(c)(5)(ii)—Contracts with Third Parties

—Section 424.57(c)(5)(v)—Delivery Documentation

—Section 424.57(c)(5)(vi)—Maintenance documentation

—Section 424.57(c)(5)(vii)—Proof of Liability Insurance

—Section 424.57(c)(5)(viii)—Supplemental Documentation.

The information collection requirements and associated burden as summarized below are subject to the PRA:

—Section 424.57(c)(5)(iii) would require a supplier to develop, disclose to beneficiaries, and maintain an attestation document demonstrating that beneficiaries have been advised about their option to rent or purchase inexpensive or routinely purchased equipment and of the purchase option for capped rental equipment. We believe that during the normal course of business the vast majority of suppliers currently advise their beneficiaries of their rental and purchase options. Therefore, the burden associated with this provision is the one-time burden on the provider to create an attestation form and the recordkeeping requirement on the supplier to retain a copy of the beneficiary attestation in their files. We believe that most suppliers would create and maintain a form to suit their specific business needs that a beneficiary would sign to attest that the beneficiary was advised of the rent or purchase option described above (Refer to § 424.57(c)(7)).

—Section 424.57(c)(5)(iv) would require a supplier to maintain documentation demonstrating that beneficiaries have been adequately informed about items covered under warranty. We do not prescribe a specific format and rely on the supplier to develop some mechanism to note that it has advised a beneficiary about warranty coverage. (Refer to § 424.57(c)(8)). We anticipate that suppliers will simultaneously advise beneficiaries of their purchase/rental equipment options and warranty disclosure, and capture the required acknowledgments for both § 424.57(c)(5)(iii) and 424.57(c)(5)(iv) in one form. Thus, the burden associated with § 424.57 paragraph (c)(5)(iv) is reflected in the burden calculations for paragraph (c)(5)(iii). The chart below summarizes the estimated annual reporting and recordkeeping burden for the attestation requirements and the additional requirements referenced below.

—Section 424.57(e) would require when current suppliers apply for renewal of their supplier billing number that they submit a copy of their current surety bond and, as appropriate, copies of previous surety bonds that have been obtained annually for the appropriate amount, thus demonstrating that their surety bond has been in effect. New suppliers must submit a copy of their surety bond at the time of initial application in order to have it approved. The only burden we are imposing would be the amount of time it takes to mail a copy of the surety bond concurrent with the initial submission or renewal of a provider's application (form HCFA–855).

As a note, the provider/supplier enrollment forms HCFA–855, HCFA–855C, HCFA–855R, and HCFA–855S and related instructions, which are currently approved under OMB Approval No. 0938–0685, are in process

of being revised. In particular, an emergency clearance of these information collection requirements was requested by HCFA. A notice was published in the **Federal Register** on December 18, 1997, requesting that OMB approve the revised collection by December 31, 1997. In that notice the public was given from the date of the notice's publication, until December 29, 1997 to comment on the proposed collection. It should be noted that the emergency clearance sought by HCFA would have a maximum approval period of 6 months from the date of OMB approval.

The table below indicates the annual number of responses for each regulation section in this proposed rule containing information collection requirements, the average burden per response in minutes or hours, and the total annual burden hours.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

CFR sections	Annual Number of responses	Annual frequency	Average burden per response (minutes)	Annual burden hours
424.57(c)(5)(iii) and(iv)	68,000	50	5	283,333
424.57(e)	68,000/3=22,667	1	1	378
Total hours				283,711

We have submitted a copy of this proposed rule to OMB for its review of the information collection requirements in § 424.57 (c) and (e). These requirements are not effective until they have been approved by OMB.

If you comment on any of these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850. ATTN: John Burke HCFA–1864–P

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. Attn.: Allison Herron Eydt, HCFA Desk Officer

VI. Regulatory Impact Analysis

We have examined the impacts of this proposed rule under Executive Order 12866, the Unfunded Mandate Act of 1995, and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. In addition, a Regulatory Impact Analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). The costs associated with this rule are the following:

- Surety bond requirement (§ 424.57(e)). Approximately $57 million annually. See Table 3 in this section for computations.
- Liability insurance requirement (§ 424.57(c)(18)). We estimate that only 10 percent of DMEPOS suppliers do not already have liability insurance that meets this requirement. Ten percent of the total DMEPOS suppliers is approximately 6,800 suppliers. Multiplying 6,800 by $250 results in an approximate additional liability insurance cost of $1.7 million annually to the DMEPOS industry due to this rule.
- Primary business telephone at a physical facility requirement (§ 424.57(c)(17)). We estimate that only 1% of DMEPOS suppliers do not already meet this requirement. Therefore, 680 times the approximate $600 annual cost of telephone service results in an additional cost of $410,000 annually.

Total Cost = $57 Million + $1.7 Million + $410,000 = $59,110,000 annually.

The Unfunded Mandates Reform Act of 1995 requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. The proposed rule has no consequential effect on State, local, or tribal governments. We believe that the private sector costs of this rule fall below these thresholds but nonetheless, due to uncertainties of these estimates, have prepared this RIA providing such an assessment.

Consistent with the Regulatory Flexibility Act, we prepare a Regulatory Flexibility Analysis (RFA) unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the Act, suppliers with annual sales of $5 million or less are considered to be small entities. (Individuals and States are not included in the definition of a small entity.) The RFA is to include a justification of why action is being taken, the kinds and number of small entities which the proposed rule will affect, and an explanation of any considered meaningful options that achieve the objectives and would lessen any significant adverse economic impact on the small entities.

We believe that our proposed standards would help bar fraudulent suppliers from participating in the Medicare program, or in the event that a supplier should provide excessive supplies or defraud the Medicare program, we will be assured of recovering a portion of those funds. Therefore, we expect to have a significant impact on an unknown number of persons and entities who will effectively be prevented from repeating their aberrant billing activities. The vast majority of suppliers will not be significantly affected by this rule. The significant reduction in program overpayments that we expect to achieve as a result of this rule justifies the relatively small burden the rule would impose on all entities.

The following analysis, together with the rest of this preamble, explains the rationale for and purposes of the rule, details the costs and benefits of the rule, analyzes alternatives, and presents the measures we propose to minimize the burden on small entities.

A. Rationale and Purposes

We expect this rule to deter some entities that supply DME to Medicare beneficiaries from abusive billing practices or defrauding the Medicare program. For example, abusive practices include refusing to honor manufacturers' warranties or improperly installing equipment in Medicare beneficiaries' homes. Fraudulent practices include billing the Medicare program for supplies that were not furnished. In a surprisingly large

number of instances, when either the beneficiaries or HCFA attempted to contact suppliers alleged to have committed abuses, it was difficult to reach them because they did not have a fixed address or had closed the business and fled. Our experience has been that the market has failed to address these problems because of the motivation for unseemly profits, inadequate control by gatekeepers, and insufficient information on the part of Medicare beneficiaries to detect abuse. This market failure makes it necessary for HCFA to impose standards on DME suppliers and establish safeguards that enable the Medicare program to better recover improper payments.

B. Characteristics of Suppliers

The single most striking characteristic of Medicare DMEPOS suppliers is their diversity. DMEPOS suppliers fill a business need and do it in a variety of ways. Some set out from the beginning to establish a business furnishing DMEPOS items. Others evolve into being suppliers. For example, a firm dealing with oxygen needs of the medical community, may add a department that provides oxygen services and supplies as a medical supply as a logical extension of an existing business. Similarly, a retail rental store may add wheelchairs or hospital beds and a pharmacy may add walkers to an inventory of otherwise unrelated commodities and use existing advertisements to announce the availability of these items.

Based on the small size of the businesses, it is more characteristic that suppliers furnish a limited number of items in greater demand than to maintain a large inventory of items covering the gamut of covered DMEPOS items. Thus, the only things any two suppliers may have in common is their provision of DMEPOS items and their understanding that the activity will meet the needs of the business. Suppliers are in a position to direct their marketing activities to optimize their most profitable revenue sources, and in seeking to meet patient demand, can choose to provide only those items that meet their business objectives.

For purposes of the RFA, a small entity is one with annual revenues of less than $5 million. As indicated by Table 1, which examines reimbursements to unique billing numbers (a supplier may have multiple locations, e.g., a chain organization, but use only one unique billing number), 97 percent of all DMEPOS suppliers generate billings of less than $350,000 in Medicare revenues annually.

TABLE 1.—TOTAL NUMBER OF SUPPLIERS ARRANGED BY REIMBURSEMENTS

[Dates of Service—January to December 1995]

Dollars reimbursed	Unique billing Nos.
>$3,000,000	102
$1,000,000–2,999,999	430
$500,001–999,999	933
$350,000–499,999	740
<$350,000	66,106
Total	68,311

C. Geographic Distribution of Suppliers

Individual patients may receive their durable medical equipment, supplies, and prosthetics either from a local supplier or from a regional or national concern that functions much like a mail order catalogue distribution center. As shown in Table 2, suppliers locate in areas where there is greatest demand, leaving other areas to be served by catalogue, mail order or drop shipments. No States appear to be underserved, and competition exists in large population areas, leading us to believe that the imposition of some additional standards will not have adverse effects on competition or on the availability of an adequate number of suppliers to meet patients' needs.

TABLE 2

State	Number of suppliers per state	Number of beneficiaries using DME per state	Beneficiary per supplier
AK	206	3300	16
AL	2111	63700	30
AR	1450	59300	40
AZ	2051	59300	28
CA	13028	361000	27
CO	2055	41800	20
CT	2095	50000	23
DC	241	7800	32
DE	371	10000	26
FL	10137	259700	25
GA	3710	82600	22
HI	427	14800	32
IA	2236	47300	21
ID	829	14900	17
IL	5524	161000	29
IN	4152	81900	19
KS	1752	38100	21
KY	2427	58200	23
LA	2254	57700	25
MA	2981	92800	31
MD	2384	59700	24
ME	856	20100	23
MI	4319	134000	21
MN	2513	62800	24
MO	3076	82800	26
MS	1312	39400	30
MT	792	12900	16
NC	4134	101800	24
ND	500	10300	20

TABLE 2—Continued

State	Number of suppliers per state	Number of beneficiaries using DME per state	Beneficiary per supplier
NE	1390	24800	17
NH	669	15500	23
NJ	4447	116200	26
NM	669	20900	31
NV	664	19000	28
NY	7720	262300	33
OH	6675	165700	24
OK	2062	48400	23
OR	1828	46500	25
PA	7610	206000	27
RI	651	16700	25
SC	2041	50400	25
SD	639	11600	18
TN	2762	206200	27
TX	8219	206200	25
UT	829	18600	22
VA	3225	81100	25
VT	355	8200	23
WA	3355	68200	20
WI	2922	75700	26
WV	1134	32800	28
WY	373	6000	16
Total	140,162		

We note that the purpose of Table 2 is to illustrate the locations that provide durable medical equipment and supplies to Medicare beneficiaries. Many of these entities are members of chain organizations. While there are more than 140,000 individual suppliers, due to the affiliation of some suppliers with chains, as of December 1995, there were only 68,311 unique billing numbers. Hence, Tables 1 and 3, which describe Medicare payments to 68,311 billing numbers, and Table 2, which describes the more than 140,000 actual locations, describe the same universe of suppliers.

According to an industry source, Medicare accounts for approximately 40 percent of the average DMEPOS supplier's revenue. The approximate percentage amounts for other revenue sources are 25 percent private insurance, 15 percent Medicaid, 10 percent institutional, and 10 percent private credit and cash sales. For calendar year 1995, submitted charges for DMEPOS items were $10.2 billion. We believe that for most suppliers any additional costs imposed by our standards would be outweighed by the benefits gained by continuing to be a Medicare DMEPOS supplier.

These standards, of themselves, should not result in changes in the number of legitimate business suppliers, because, as set forth below and elsewhere in this preamble, most requirements are logical extensions of good business practices that we believe currently are being met by the vast majority of suppliers.

D. Discussion of Alternatives

We believe it was the Congress' intent to strengthen DMEPOS supplier standards to protect beneficiaries and the Medicare program from potential fraud and abuse in billing practices. Therefore, we did not choose the alternative of staying with the existing supplier standards which we believe are minimal safeguards. Instead of relying on minimal supplier standards, we have expanded the supplier standards, using as our statutory basis either the specific section of the law referenced in this discussion (for example, section 4312 of the BBA'97), or section 1834(j)(1)(B)(ii)(IV) of the Act, which states that the supplier must ''meet such other requirements as the Secretary may specify.'' This proposed rule would provide a basis to better screen applicants and to revoke the supplier numbers of those who do not meet these standards.

For purposes of this impact statement, we have divided the proposed supplier standards into the following two broad categories: statutory requirements and good business practices.

E. Statutory Requirements

Liability Insurance—The statutory authority for § 424.57(c)(18) is section 1834(j)(1)(B)(ii)(III) of the Act. The proposed rule would require a supplier to have comprehensive liability insurance protecting the supplier's place of business and any and all retail customers and employees. We have not specified a minimum amount in this proposed rule, but, as explained elsewhere, suggest a minimum of $500,000 in coverage. We estimate that approximately 10 percent of all suppliers do not currently carry liability insurance. We estimate the cost per year for a supplier to carry liability insurance in the amount of $500,000 would be approximately $250. We believe that the $250 cost per supplier does not represent a significant economic impact on the estimated 10 percent of suppliers not currently carrying liability insurance.

In order to provide the greatest safeguards to Medicare beneficiaries, we considered imposing liability insurance that included: (1) Coverage for damages resulting from the failure of a Medicare covered item to perform as expected that are not otherwise fully covered by the manufacturer's warranty; (2) coverage for liability arising in connection with the rental, sale, delivery, installation and retrieval of the Medicare covered items, including customized items; (3) coverage for damages that arise from premises operations, such as, for example, those arising out of showroom operations or equipment demonstrations; and (4) coverage for damages that arise from

personal injury and from breaches of customer privacy or confidentiality. While the above provisions would provide significant liability protection for beneficiaries, we believe that for two of the provisions, coverage for damages that are not covered by the manufacturer's warranty and coverage for damages that arise from breaches of customer privacy or confidentiality, coverage is not generally available from the insurance industry. Furthermore, we believe that the above provisions, taken as a whole, would be much more costly and rigid requirements than the alternative selected, and would impose an unnecessary burden on suppliers.

Thus, we have chosen an alternative that we believe is cost effective and will ensure that suppliers have appropriate liability insurance. Nonetheless, we request comments on whether there are alternative insurance coverage standards that would strengthen protections in a cost effective manner and information about the cost and availability of such coverage.

F. Good Business Practices

Most of our proposed supplier standards speak directly to business practices. We do not believe that these would result in a significant impact on any sizeable number of legitimate suppliers. For these additional proposed standards, the economic impact on most suppliers is negligible, although the benefits to the program and to the beneficiary may be greater. For example, the requirement at § 424.57(c)(8) that a supplier must not charge Medicare for repair or replacement of Medicare covered items or for services covered under warranty, coupled with the requirement at § 424.57(c)(5)(iv) that the supplier provide documentation, upon request, that it has advised Medicare beneficiaries about Medicare covered items covered under warranty, should result in claims for repairs, parts or replacement being made against the warranty, thus decreasing the monies paid by the program. The monies paid out by the program and the beneficiary may also decrease as a result of the requirement that the supplier inform the beneficiary of the rental or purchase option and the copay implications involved. More beneficiaries may elect to purchase their equipment, instead of renting for long periods of time.

In most instances, these proposed standards do not exceed the usual business practices necessary for any retail business to succeed. In other words, we believe that a supplier that expects to conduct a successful business would already have in place procedures to meet these standards. Because, we consider these basic requirements that a business would have to meet to provide satisfactory customer service and to manage properly its inventory we did not develop alternatives.

Under § 424.57(c)(17), a supplier would be required to maintain a separate phone that is used primarily for business purposes at its physical facility. In order to accept inquiries from potential customers, maintain relationships with current customers, and conduct business with contractors in today's business market, it is necessary that virtually every business have telephonic access. Beneficiaries also need to have access to their supplier in case they have a problem with or questions about their DMEPOS items.

We believe that this standard would be met by nearly all legitimate businesses. However, we believe approximately one percent of DMEPOS suppliers currently do not meet the fixed telephone requirement. The estimated cost per year for any supplier to establish and maintain a separate phone line to conduct business would be approximately $600 ($50 a month). Thus, the aggregate cost is negligible. We believe the benefits of full time access to the supplier would far exceed any minor economic impact on a supplier. In addition, we note that requiring the supplier to have a primary business telephone listed in the business portion of the local telephone directory and maintained at the physical location of the supplier business may even result in increased business for a supplier.

This proposed requirement would help beneficiaries to contact their suppliers in the event of equipment problems, failures, and to resolve questions. Telephonic access to a supplier is crucial so that the Durable Medical Equipment Regional Carriers may call and obtain additional information to process and pay claims. We are aware that telephone technology is rapidly changing. We had considered putting limitations on the use of mobile telephones, which have been associated with abusive practices. However, we concluded that additional limitations might penalize legitimate suppliers, or might not be responsive to technological change. We specifically solicit comments on whether there are alternative ways to establish telephone requirements that minimize potential abusive practices while not raising costs for legitimate small businesses.

G. Protection of the Trust Fund and Beneficiary

While each of these proposed supplier standards is designed to protect the Medicare trust fund and beneficiaries, one standard warrants separate discussion. In accordance with section 4312 of the BBA '97, a surety bond will be required as long as an entity remains a DMEPOS supplier. Under § 424.57(e), a supplier would be required to obtain a surety bond equal to at least 15 percent of the amount paid to the supplier by the Medicare program for the previous year as reflected in their IRS Form No. 1099, or by the historic payment information from the DMERC provider payment history file. We propose establishing a sliding scale that reflects the volume of business a supplier does with Medicare. The sliding scale would be used in combination with a $50,000 floor and a $3,000,000 ceiling. By using a sliding scale, based on 15 percent of the amount paid to the supplier by the Medicare program for the previous year, the penal amount of the surety bond and the premium for the surety bond are directly tied to the amount of Medicare payments received by the supplier. We believe that 15 percent is a reasonable percentage on which to base the penal amount of the bond since it would not be too high as to be a barrier to entry for small companies, yet high enough to provide the Medicare Trust Fund with some recourse for compensation for debts owed to the program. We are interested in comments about the reasonableness of the percent amount and the proposed floor and ceiling.

A surety company charges its underwriting fee based on the penal amount of the bond. For this type of surety bond, the industry usually has an underwriting charge of 1 to 2 percent. Based on this information Table 3 indicates the costs of a surety bond based on the supplier's annual Medicare revenue assuming that bonds cost 1.5 percent of the protected amount. This table also shows that the total costs of bonds is likely to be about $57 million and that on average the cost of bonds will be about one-half of one percent of gross sales (somewhat less for larger suppliers) for the smallest suppliers who make up the overwhelming majority of all suppliers. We request comment on the accuracy of these estimates.

TABLE 3.—COST OF PROGRAM-UNIVERSAL BONDING WITHOUT TIME LIMIT

Range of sales (1000s)	Bond cost	Number of suppliers	Total sales (1000s)	Total bond cost (1000s)	Cost/sales (percent)
<$350	$788	66,106	$9,915,900	$52,092	0.53
$350–499	956	740	314,500	707	0.22
$500–999	1,688	933	699,750	1,575	0.23
$1,000–2,999	4,388	430	860,000	1,887	0.22
>3,000	6,750	102	408,000	689	0.17
Total		68,311	12,198,150	56,950	0.47

For 97 percent of the suppliers the cost of a surety bond would be on average $788 annually. The Durable Medical Equipment Regional Carriers report that each year tens of millions of dollars cannot be recovered because the supplier has gone out of business or does not have resources to repay debts owed to Medicare. We believe that if these suppliers had possessed a surety bond, the Medicare program could decrease its potential losses.

We realize that surety bonds represent a new cost of approximately $57 million to DMEPOS suppliers, with the use of a sliding scale adding approximately $5 million to the cost when compared to what it would cost if we required only the $50,000 surety bond amount for each supplier. However, we believe that the benefits to the Medicare program and Medicare beneficiaries would outweigh these costs. For example, as part of Operation Restore Trust in 1995 in Florida we found that $40 million was billed for nonfurnished DMEPOS items. This $40 million represented 8% of the total Medicare expenditures made for DMEPOS items in the State of Florida in 1995. If we assume that this 8% figure represents a typical experience, and multiply the 8% times the total Medicare expenditures made nationally, we can project potential Medicare erroneous payments to be $492 million for the entire nation. However, Florida may not necessarily be typical of other States or the Nation as a whole.

In addition, the use of an 8% figure, which has been extrapolated from 1995 data, to make cost saving projections in 1997 does not take into account the advances that Medicare has made over the last two years to protect Medicare funds. For example, as a result of the Operation Restore Trust project, which was conducted in five States, Medicare has strengthened its efforts to identify and exclude from the program companies engaged in fraud or that fail to meet other supplier standards.

Efforts to reduce improper Medicare payments include section 201(b) of the Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191), enacted August 21, 1996, that amended section 1817 of the Act by creating a Health Care Fraud and Abuse Control Account. Funds will be appropriated to this Account each year to carry out the Medicare Integrity Program under section 1893 of the Act.

While it is not possible to estimate with accuracy the savings that will result from this provision, we believe it is important to set standards for DMEPOS suppliers that do business with the Medicare program, for program integrity purposes. We believe that surety bonds combined with other efforts will diminish the number of suppliers that currently fraudulently bill Medicare, while serving as a deterrent to others tempted to engage in fraudulent behavior.

H. Conclusion

As indicated elsewhere in this preamble, to the extent that we are imposing a burden it is a necessary one. The public interest is best served by establishing safeguards that prevent suppliers from taking advantage of the current minimal supplier standards, even though some may view the additional standards as impeding their competitiveness. It is by design that these standards would have the greatest impact on those suppliers that need to change the most. We believe that the loss of a supplier as a result of these supplier standards, for example one who operates out of a van or who does not provide a value added service, is far outweighed by what these standards would do in terms of protecting the health and safety of beneficiaries and preserving the Medicare Trust Fund.

I. Rural Hospital Impact Statement

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds. We are not preparing a rural impact statement since we have determined, and certify, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Chapter IV would be amended as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 424.57 is amended by revising paragraphs (b) through (f) and adding a new paragraph (g) to read as follows:

§ 424.57 Special payment rules for items furnished by DMEPOS suppliers and issuance of DMEPOS supplier billing numbers.

* * * * *

(b) Medicare will not pay for any Medicare covered items provided by a DMEPOS supplier prior to the date HCFA issues a DMEPOS supplier number. Medicare will not pay for any covered items provided by a DMEPOS supplier during any period when a DMEPOS supplier number is revoked or during a period of exclusion.

(c) Medicare will issue a DMEPOS billing number, or reissue a number previously issued, to a supplier that submits a completed application to furnish Medicare covered medical equipment and supplies, as defined in section 1834(j)(5) of the Act, after the

supplier meets, and certifies in its application for a billing number that it meets, the following standards:

(1) A supplier must agree to comply with the provisions of Title XVIII of the Act and any applicable regulations.

(2) A supplier must operate its business and furnish Medicare covered items in compliance with all applicable Federal and State licensure and regulatory requirements.

(3) A supplier must not make, or cause to be made, any false statement or misrepresentation of a material fact on an application for a billing number. A supplier must provide complete and accurate information in response to questions on its application for a billing number. Any changes in information supplied on the application must be reported within 35 days of the change.

(4) A supplier's application for a billing number must be signed by an individual whose signature binds a supplier.

(5) A supplier must agree to furnish to HCFA all information or documentation HCFA requires, including—

(i) Information or documentation needed to process or adjudicate Medicare claims;

(ii) Upon request, copies of contracts with third parties for furnishing Medicare covered items to Medicare beneficiaries;

(iii) Upon request, documentation that it has advised beneficiaries that they may either rent or purchase inexpensive or routinely purchased equipment and about the purchase option for capped rental equipment;

(iv) Upon request, documentation that it has advised Medicare beneficiaries about Medicare covered items covered under warranty;

(v) Upon request, documentation demonstrating that it has delivered Medicare covered items to Medicare beneficiaries;

(vi) Upon request, documentation that it maintains and repairs directly, or through a service contract with another company, Medicare covered items rented to beneficiaries;

(vii) Upon request, proof of liability insurance; and

(viii) Any other information required by this or other Medicare requirements.

(6) A supplier must fill orders from its own inventory or by contracting with other companies for the purchase of items necessary to fill the order. A supplier may also fabricate or fit items for sale from supplies it buys under contract. A supplier may not contract with any entity that currently is excluded from the Medicare program, any State health care programs, or from any other Federal Government Executive Branch procurement or nonprocurement program or activity.

(7) A supplier must advise beneficiaries that they may either rent or purchase inexpensive or routinely purchased equipment, and of the purchase option for capped rental equipment, as defined in § 414.220(a) of this subchapter.

(8) A supplier must honor all warranties expressed and implied under applicable State law. A supplier must not charge the beneficiary or the Medicare program for the repair or replacement of Medicare covered items or for services covered under warranty. This standard applies to all purchased and rented items, including capped rental items, as described in § 414.229 of this subchapter.

(9) A supplier must be responsible for the delivery of Medicare covered items to beneficiaries. A supplier must provide beneficiaries with necessary information and instructions on how to use Medicare covered items safely and effectively.

(10) A supplier must answer questions and respond to complaints a beneficiary has about the Medicare covered item that was sold or rented. A supplier must refer beneficiaries with Medicare questions to the appropriate carrier.

(11) A supplier must maintain and repair directly, or through a service contract with another company, Medicare covered items it has rented to beneficiaries.

(12) A supplier must accept returns from beneficiaries of substandard (less than full quality for the particular item) or unsuitable items (inappropriate for the beneficiary at the time it was fitted and/or sold).

(13) A supplier must disclose consumer information, which must include these supplier standards, to each beneficiary whom it supplies a Medicare covered item.

(14) A supplier must comply with the disclosure provisions in § 420.206 of this subchapter.

(15) A supplier cannot convey or reassign a supplier number.

(16) A supplier must maintain a physical facility on an appropriate site. The physical facility must contain space for storing business records including the supplier's delivery, maintenance, and beneficiary communication records. For purposes of this requirement, a post office box or commercial mailbox is not considered a physical facility.

(17) A supplier must maintain a primary business telephone at the physical facility. This telephone number must be listed under the name of the business and in the business portion of the local telephone company directory. The exclusive use of a beeper number, answering service, pager, facsimile machine, car phone, or an answering machine may not be used as the primary business telephone for purposes of this regulation.

(18) A supplier must have a comprehensive liability insurance policy that covers both the supplier's place of business and any and all customers and employees of the supplier.

(19) As required by sections 1834(a)(17)(A) and 1834(h)(3) of the Act, a supplier of a Medicare covered item must agree not to contact a beneficiary by telephone regarding the furnishing of a Medicare covered item to the individual unless one of the following applies—

(i) The individual has given written permission to the supplier to make contact by telephone regarding the furnishing of a Medicare covered item;

(ii) The supplier has furnished a Medicare covered item to the individual and the supplier is contacting the individual only regarding the furnishing of such Medicare covered item; or

(iii) If the contact is regarding the furnishing of a Medicare covered item other than a covered item already furnished to the individual, the supplier has furnished at least one covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

(20) Only a supplier that is licensed to dispense the drug may bill for a drug used as a Medicare covered supply with durable medical equipment or prosthetic devices. A supplier of drugs must bill and receive payment for the drug in its own name.

(d) If a supplier is found not to meet the standards in paragraph (c) of this section, its billing number will be revoked. The revocation will be effective 15 days after the entity is sent notice of the revocation, as specified in § 405.874(b) and (e) of this subchapter.

(e) *Surety bond.* (1) A supplier must obtain a surety bond for each tax identification number for which it has a billing number issued by Medicare. When a supplier applies for renewal of its supplier billing number the supplier must submit with the supplier application to the National Supplier Clearinghouse a copy of its current surety bond. Copies of previous surety bonds demonstrating compliance with the surety bond requirement since the last renewal or initial application must also be submitted when renewing a supplier number. New suppliers must submit a copy of their surety bond for

the appropriate amount at the time of their initial application in order to have the application approved. The company issuing a surety bond must be listed in the Treasury Department Circular 570, ''Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies.'' This list appears in the **Federal Register** on or about July 1 of each year. Copies of the Circular and interim changes may be obtained directly from the Government Printing Office (202) 512–1800, or contact the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F04, Hyattsville, Maryland 20782, telephone (202) 874–6850 or Fax (202) 874–9978.

(2) The surety bond must be for a term of 12 months and must be renewed annually. The surety bond must be in an amount equal to at least 15 percent of the amount paid to the supplier by the Medicare program for claims for Medicare covered items provided in the previous year, as reflected in a supplier's IRS Form No. 1099, or by the historic payment information from the durable medical equipment regional carrier provider payment history file. The minimum surety bond amount for a supplier billing number, regardless of its Medicare revenues, is $50,000 annually. The maximum surety bond amount for a supplier billing number, regardless of its Medicare revenues, is $3,000,000 annually.

(3) For a supplier that has not previously participated in the Medicare program, the amount of the surety bond for each billing number must be equal to the sum of $50,000 for the first year of participation in the Medicare program. Thereafter, the rules set forth in § 424.57(e)(1) and (2) apply.

(4) As the obligee of the bond, HCFA may seek recovery by resorting to the surety bond if there are outstanding debts to the Medicare program, including overpayments, interest, civil money penalties and assessments or if a supplier's number is revoked.

(f) A supplier number will expire and a supplier must renew its application for a billing number 3 years after the billing number is first issued. Each supplier must complete an application for a billing number 3 years after its last number is issued.

(g) A supplier must have a complaint resolution protocol to address beneficiary complaints that relate to supplier standards in paragraph (c) of this section and to keep written complaints and related correspondence and any notes of actions taken in response to written and oral complaints. Failure to maintain such information may be considered evidence that supplier standards have not been met. Such information must be kept at its physical facility and made available to HCFA, upon request. A supplier must maintain the following information on all written and oral beneficiary complaints, including telephone complaints, it receives:

(1) The name, address, telephone number, and health insurance claim number of the beneficiary.

(2) A summary of the complaint and the date it was made; the name of the person taking the complaint; and a summary of any actions taken to resolve the complaint.

(3) If an investigation was not conducted, the name of the person making the decision and the reason for the decision.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 24, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 14, 1997.

Donna Shalala

Secretary.

[FR Doc. 98–963 Filed 1–16–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 15

[USCG 98–3323]

RIN 2115–AF57

Federal Pilotage for Vessels in Foreign Trade

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require that foreign-trade vessels, under way on the Cape Fear River and the Northeast Cape Fear River in North Carolina, be under the direction and control of Federal pilots when not under the direction and control of State pilots. This measure is necessary to ensure that vessels are navigated by competent, qualified persons, knowledgeable in the local area and accountable to either the State or the Coast Guard. This measure would promote navigational safety by increasing the level of accountability and reducing the risk of accidents and the discharge of oil and other hazardous substances into these waters.

DATES: Comments must reach the Coast Guard on or before February 19, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility, USCG 98–3323, U.S. Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10:00 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 10:00 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329 or Mr. Stewart Walker, Licensing and Manning Division, Office of Compliance (G–MOC–1), room 1116, 202–267–0745.

SUPPLELMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking USCG 98–3323 and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations would aid this rulemaking, the Coast

Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Under subsection 8503(a) of title 46, United States Code, the Secretary of Transportation may require a Federally-licensed pilot to be aboard a self-propelled vessel engaged in foreign trade and operating on the navigable waters of the United States when State law does not require a pilot. Under this authority, on May 10, 1995 [60 FR 24793], the Coast Guard amended 46 CFR part 15 and required Federal pilots to be aboard vessels engaged in foreign trade and operating on certain navigable waters of the United States, within California, Hawaii, Massachusetts, and New York and New Jersey. At the same time, subsection 8503(b) provides that Federal authority to require Federally-licensed pilots on vessels in foreign trade terminates when the State having jurisdiction establishes a superseding requirement for a State pilot and notifies the Secretary of that fact.

Commercial vessels transit the Cape Fear River and Northeast Cape Fear River carrying various types of freight, oil, and hazardous substances and hazardous materials, as well as large quantities of bunkers. Under North Carolina law [General Statutes of North Carolina, 76A–16], every foreign vessel and every domestic vessel sailing under register must use a State-licensed pilot, except that the vessel need not use a State-licensed pilot if it is under the control of a docking master for certain movements on the Cape Fear River. These movements include berthing and unberthing, passing through bridges, and shifting within a port or terminal. North Carolina does not license, establish qualifications for, or regulate the competency of, docking masters. Although all docking masters currently operating on the Cape Fear River and Northeast Cape Fear River already hold valid Federal pilots' licenses (or pilotage endorsements on Federal licenses), holding these is voluntary and is currently neither a State nor a Federal requirement. Anyone may serve as docking master, and no one need demonstrate proficiency.

Recently, a foreign-flag bulk carrier under the control of a docking master was caught by the wind and current when leaving a pier above the Cape Fear Memorial Bridge. The vessel was set down river, perpendicular to the channel, while the docking master tried to rotate its bow downstream. Its stern struck and destroyed about 30 meters of the pier that it had just left. The docking master was not operating under the authority of either a Federal or a State pilot's license. North Carolina did not investigate this incident; and, in such a case, unless the person is operating under the authority of a Federal pilots' license (or endorsement), or the Coast Guard has some other basis for jurisdiction, the Coast Guard could not suspend or revoke his or her Federal license (or endorsement) for violations of statutes or rules intended either to promote marine safety or to protect the navigable waters, for misconduct, or for negligence [46 U.S.C. Chapter 77]. Even if the Coast Guard considered him or her professionally or medically incompetent, its ability to deny him or her the opportunity to serve as a docking master on foreign-trade vessels would be severely restricted.

The Coast Guard has determined that it is unsafe for vessels to undertake intra-port transits, undertake transits when not bound to or departing from ports, or otherwise navigate in the waters of the Cape Fear River or Northeast Cape Fear River except when under the direction and control of pilots accountable to the State or to the Coast Guard. These vessels represent an unacceptable risk to human life, property, and the environment. Therefore, the Coast Guard has determined that to require persons to serve under the authority of Federal first-class pilots' licenses (or endorsements), and so be accountable for their actions and competency, would increase maritime safety.

Currently, to obtain a Federal pilot's license (or endorsement), a person must pass a comprehensive examination, which includes, but is not limited to, performing a chart sketch of the area, demonstrating proficiency in the use of navigational aids, and maneuvering and handling ships in high winds, tides, and currents. Further, a person must complete a specific number of round trips and demonstrate specialized knowledge of the waters for which the license (or endorsement) is issued. Therefore, the Coast Guard proposes a Federal pilots' requirement for foreign-trade vessels operating in the designated waters of the Cape Fear River and Northeast Cape Fear River, unless the vessels are under the direction and control of State-licensed pilots operating under the authority of valid State pilots' licenses.

Discussion of Proposed Rule

This proposed rule would add a new section to 46 CFR part 15, subpart I, to require that every foreign-trade vessel operating on the Cape Fear River and Northeast Cape Fear River be under the direction and control of a Federally-licensed pilot except when under the direction and control of a State-licensed pilot operating under the authority of a valid State license. This rule would apply only to the Cape Fear River and Northeast Cape Fear River, since North Carolina allows docking masters to take control of foreign-trade vessels only in these waters.

Regulatory Evaluation

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

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

Foreign-trade vessels are normally under the direction and control of docking masters or State pilots when making intra-port transits or transits in congested waters. Those persons currently serving as docking masters do hold Federal pilots' licenses, although not required to do so by State or Federal regulation. Therefore, this proposed rule would not impose any immediate additional costs on the persons acting as docking masters. However, those persons entering this profession in the future would now be required to hold Federal pilots' licenses. Historically, persons filling these vacancies have already obtained Federal pilots' licenses and necessary endorsements in the normal course of advancement in this profession. Nevertheless, this rule would require an initial expense to obtain the license, in addition to a yearly physical and the five-year renewal fees. These costs should be insignificant as those persons currently acting as docking masters already have, and those likely to enter this profession would already have, the required license. This rule would promote responsibility and safety by requiring a Federal pilot, where the State requires no pilot, for foreign-trade vessels transiting or making intra-port transits within the waters of the Cape Fear River or Northeast Cape Fear River. The Coast Guard believes that the benefits of requiring licensed, qualified persons aboard these vessels significantly outweigh the small costs associated with implementing this rule.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], the Coast Guard considers whether this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. These include independently owned and operated small businesses, that are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard expects that this proposed rule would have minimal economic impact on small entities. The Coast Guard doubts whether vessels affected by this rule are owned or operated by small entities. However, State pilots' associations may qualify as small entities. The Coast Guard understands that persons now providing pilotage to foreign-trade vessels calling at ports on the Cape Fear River and Northeast Cape Fear River already hold Federal first-class pilots' licenses (or endorsements) for those waters. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule would have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule would economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule would affect your small business or organization, and if you have questions concerning its provisions or options for compliance, please contact Mr. Stewart Walker, Licensing and Manning Division, Office of Compliance (G–MOC–1), Room 1116, 202–267–0745.

Collection of Information

This proposed rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

Federalism

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

Congress specifically, under 46 U.S.C. 8503(a), authorized the Federal Government to require a Federally licensed pilot where State law requires no pilot. North Carolina permits a docking master, not licensed by the State, to serve as pilot on certain waters of the State. Therefore, the Federal Government may require Federally-licensed pilots on those waters. The Federal authority to require that pilots hold Federal licenses is effective only until the State establishes a superseding requirement that pilots hold State licenses and notifies the Coast Guard of that fact according to 46 U.S.C. 8503(b).

Since this proposed rule aims primarily at requiring Federal pilots to supplement State pilots, the Coast Guard does not believe that the preparation of a Federalism Assessment is warranted. This rule would not impinge upon existing State laws. If North Carolina adopted superseding legislation requiring foreign vessels, and domestic vessels sailing on registry, to be under the direction and control of State-licensed pilots, the Coast Guard would withdraw its requirement, Thus, the Federal statute itself lets North Carolina preempt Federal authority. Still, the Coast Guard specifically seeks public comment on the implications of this rule for Federalism.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under paragraph 2.B.2.e.(34)(a) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. The Coast Guard has determined that most people now providing pilotage to foreign-trade vessels within the Cape Fear River and Northeast Cape Fear River would continue to provide it since most pilots already hold Federal first-class pilots' licenses for these waters. Therefore, this rule would let affected vessels continue to operate according to current industry practices. The Coast Guard also recognizes that this rule may minimize the risk of environmental harm that may result from collisions and groundings of vessels. Nevertheless, this impact should not be significant enough to warrant further documentation. The ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 15

Crewmembers, Marine safety, Navigation (water), Seamen, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 15 as follows:

PART 15—MANNING REQUIREMENTS

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

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

2. Add § 15.1050 to read as follows:

§ 15.1050 North Carolina.

(a) The following navigable waters of the United States within the State of North Carolina when the vessel is maneuvering while berthing or unberthing, is approaching or passing through a bridge, or is making any intra-port transit, which transit may include but is not limited to movement from a dock to a dock, from a dock to an anchorage, from an anchorage to a dock, or from an anchorage to an anchorage, within either of the following areas:

(1) The waters of the Cape Fear River from the boundary line established by 46 CFR 7.60 to Latitude 34°–15.7′ N.

(2) The waters of the Northeast Cape Fear River from its confluence with the Cape Fear River at Point Peter to Latitude 34°–17′ N.

(b) This subpart does not apply to the waters specified in paragraph (a) of this section if a vessel is under the direction and control of a State-licensed pilot operating under the authority of a valid State pilot's license.

Dated: January 7, 1998.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–1271 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register

Vol. 63, No. 12

Tuesday, January 20, 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 AGRICULTURE

Office of the Secretary

Privacy Act: Renewal of a Computer Matching Program

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of renewal of a computer matching program.

SUMMARY: The U.S. Department of Agriculture (USDA) is giving notice of a renewal of a computer program between the Food and Nutrition Service (FNS) and the U.S. Postal Service (USPS) for the purpose of debt collection.

DATES: This renewal will become effective on March 2, 1998, unless modified by a subsequent notice to incorporate comments received from the public. To be assured of consideration, comments must be received by the contact person listed below on or before February 19, 1998.

ADDRESSES: Comments should be addressed to James I. Porter, Assistant Branch Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, 3101 Park Center Drive, Room 905, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Joseph M. Scordato, Food and Nutrition Service Privacy Act Officer, 3101 Park Center Drive, Room 308, Alexandria, Virginia 22302. Telephone (703) 305–2244.

SUPPLEMENTARY INFORMATION: This computer matching program is conducted to (1) identify postal employees who owe delinquent debts to the Federal government under the Food Stamp Program (FSP) administered by USDA's FNS and (2) collect those debts under the salary offset provisions of the Debt Collection Act of 1982 when voluntary repayment is not forthcoming. As part of their responsibility for administering the FSP, State agencies are responsible for establishing claims for these overissued benefits and for taking certain steps to try to collect those claims.

The Debt Collection Improvement Act of 1996 expanded the statutory authority for administrative offset by creating the Treasury Offset Program (TOP). Under TOP, agencies are required to transfer delinquent non-tax debt to Treasury for the purpose of offsetting Federal payments for debt collection. When fully implemented TOP will operate in accordance with statutory and regulatory authorities, including those contained in 31 U.S.C. 3716 and 4 CFR part 102. Because TOP has not yet been fully implemented, FNS will collect the debts through the Federal Salary Offset Program (FSOP).

FNS has been referring delinquent food stamp debts that were the result of an intentional Program violation or an inadvertent household error. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 broadened the scope of referable debts to include State agency error claims.

This computer match will provide otherwise unavailable information which State agencies can use to try to collect delinquent food stamp claims owed by USPS employees. The public was given notice of the current matching program in a General Notice at 59 FR 42205, dated August 17, 1994. This Notice is being published as required by Subsection (e)(12) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(12)), as amended by the Computer Matching and Privacy Act of 1988 (Pub. L. 100–503).

The following information is provided as required by paragraph (b)(3) of Appendix I to Office of Management and Budget Circular A–130, dated February 20, 1996.

1. *Participating agencies*: The recipient agency is USPS. The source agency is USDA.

2. *Beginning and ending dates*: The matching program will begin with the effective date of this notice and continue in effect no longer than December 31, 1998. If within 3 months of the termination date, the Data Integrity Boards of both USDA and the USPS find that the matching program can be conducted without change, and both USDA and the USPS certify that the matching program has been conducted in compliance with the matching agreement, the matching program may be extended for 1 additional year.

3. *Purpose of the match*: In addition to providing information to assist in collecting delinquent food stamp recipient claims, the names of USPS employees identified through this matching program will be removed from lists of delinquent debts being referred to the Internal Revenue Service (IRS) for collection from Federal income tax refunds. This action is required to conform to an IRS requirement for the Federal Income Tax Refund Offset Program (FTROP). (A description of FTROP is contained in a final rulemaking at 60 FR 45990, dated September 1, 1995.)

4. *Description of the match*: The subject matching program will involve several steps. USDA will provide USPS a magnetic computer tape of claims submitted by State agencies participating in FTROP. By computer, USPS will compare that information with its payroll file, identifying matched individuals on the basis of Social Security Numbers (SSNs). For each matched individual, the USPS will provide to USDA the individual's name, SSN, home address, date of birth, work location, and employee type (permanent or temporary).

USDA will prepare lists of matched individuals according to the State agencies which established the claim for the overissued benefits and will distribute the State agency lists accordingly. The respective State agencies will review those lists and their casefiles. In this review State agencies will verify identity and debtor status of the matched individuals by comparing those lists of matched individuals to their records on the debts and by conducting independent inquiries when necessary to resolve questionable identities. State agencies will also review the records of payments to determine if the debt is still delinquent and the correct amount of the debt.

In addition to verifying debtor identity and the status of the debt, prior to USDA taking any steps to refer debts for offset, State agencies will provide debtors with a 30-day written notice stating the amount of the debt and that the debtor may repay the debt voluntarily by entering into a written agreement with the State agency. Debts not repaid voluntarily would be referred to USDA for involuntary offset. Prior to such action, USDA will notify debtors of

the intended collection action and offer them an opportunity for a hearing on the debt, including the right to copy documentation relating to the debt.

5. *Legal authorities*: This matching program will be conducted under the following authorities:

(a) The Debt Collection Act of 1982 (5 U.S.C. 5514), which gives authority to Federal agencies to offset the salaries of Federal and USPS employees who are delinquent on debts owed to the Federal government.

(b) The Debt Collection Improvement Act of 1996 (5 U.S.C. 5514(a)) which provides for salary offset and (31 U.S.C. 3716(c)) which mandates centralized administrative offset through the Treasury Offset Program.

(c) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (7 U.S.C. 2022(b)(1)) which added a new category of claims, State agency error claims, to those eligible for offset.

(d) Office of Personnel Management (OPM) regulations, 5 CFR part 550, subpart K (Collection by Offset from Indebted Government Employees), §§ 550.1101–1108, which set the standards for Federal agency rules implementing the Debt Collection Act.

(e) USDA regulations at 7 CFR part 3, subpart C, which implement 5 U.S.C. 5514 and OPM regulations, and which authorize USDA agencies to issue regulations governing debt collection by salary offset (7 CFR 3.68).

(f) USDA regulations at 7 CFR 273.18 (g)(6) which set the procedures for the operation of the Federal salary offset program for the FSP.

(g) Section 13941 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), which amended Sections 11(e)(8) and 13 of the Food Stamp Act of 1977, 7 U.S.C. 2020(e)(8), 2022, to authorize the Federal salary offset program for the FSP.

6. *Categories of individuals involved:* Two groups of individuals will be involved with this matching program. One group is USPS employees. The other group is individuals who have participated in the Food Stamp Program but are no longer participating, and who owe delinquent debts for overissued food stamp benefits for which they are not making repayments.

7. *Record systems used:* (a) USPS will use records from its Privacy Act system of records ''Finance Records—Payroll System, USPS 050.020,'' containing payroll records for approximately 700,000 current employees. Disclosure will be made pursuant to routine use Number 24 of USPS 050.020, (57 FR 57515, dated December 4, 1992).

(b) USDA will use records from its Privacy Act system of records ''Claims Against Food Stamp Recipients—USDA/FNS—3,'' containing approximately 350,000 records. Disclosure will be made pursuant to routine use Number 4 of record system USDA/FNS—3, (58 FR 48633, dated September 17, 1993).

8. *Agency contact*: Inquiries about this matching program should be directed to James I. Porter, Assistant Branch Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, FNS, USDA, 3101 Park Center Drive, Room 905, Alexandria, Virginia 22302, telephone (703) 305–2385.

Dated: January 6, 1998.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 98–1184 Filed 1–16–98; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Notice of Request for Reinstatement and Revision of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Farm Service Agency's (FSA) intention to request a reinstatement and revision of a currently approved information collection in support of the Dairy Indemnity Payment Program (DIPP) contingent upon the appropriation of funds.

DATES: Comments on this notice must be received on or before March 23, 1998 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Raellen Erickson, Agricultural Program Specialist, Price Support Division, USDA, FSA, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–7320; e-mail rerickso@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION: This notice announces FSA's intention to request a reinstatement and revision of the currently approved information collection in support of the DIPP. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998 (Pub. L. 105–86, 111 Stat. 2079) appropriated funds and authorized DIPP to be carried out until all available funds are expended.

Title: 7 CFR Part 760, Dairy Indemnity Payment Program.

OMB Control Number: 0560–0116.

Expiration Date: June 30, 1997.

Type of Request: Reinstatement and revision of a currently approved information collection.

Abstract: This information is needed to administer the DIPP. The information will be gathered from milk producers and milk handlers to determine the amount of indemnity payment a dairy producer or manufacturer is eligible to receive. Producers are required to meet certain eligibility requirements to ensure the integrity of the program so that only eligible producers receive indemnity payments. The number of times producers or manufacturers have been removed from the market has declined in recent years. Accordingly, fewer requests for assistance have been received. Therefore, the currently approved information collection is revised to reduce the number of responses per request and the annual burden per respondent to half of the currently approved estimate. The emergency clearance of the Information Collection Package for Indemnity Payment Programs was approved by the Office of Management and Budget on November 20, 1997, and extended the expiration date to April 30, 1998.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 17 minutes per response.

Respondents: Dairy farms and small businesses.

Estimated Number of Respondents: 80.

Estimated Number of Responses per Respondent: 6.

Estimated Total Annual Burden on Respondents: 140 hours.

Proposed topics for comments include: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Raellen Erickson, Agricultural Program Specialist, USDA-Farm Service Agency-

Price Support Division, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20250–0512; telephone (202) 720–7320; e-mail rerickso@wdc.fsa.usda.gov. Copies of the information collection may be obtained from Raellen Erickson at the above address.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on January 8, 1998.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 98–1185 Filed 1–16–98; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice Appealable Decisions for Pacific Southwest Region, California

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Southwest Region to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after January 1, 1998. The list of newspapers will remain in effect until January 1999 when another notice will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Sue Danner, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 705–2553.

SUPPLEMENTARY INFORMATION: On November 4, 1993, 36 CFR parts 215 and 217 were published requiring publication of legal notice of decisions subject to appeal. Sections 215.5 and 217.5 require notice published in the **Federal Register** advising the public of the principal newspapers to be utilized for publishing legal notices. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Southwest Regional Office

Pacific Southwest Regional Forester decisions:
Sacramento Bee, Sacramento, California

Angeles National Forest

Angeles Forest Supervisor decisions:
Los Angeles Times, Los Angeles, California
Los Angeles River District Ranger decisions:
Daily News, Los Angeles, California
Newspaper providing additional notice of Los Angeles River District decisions:
Pasadena Star News, Pasadena, California
Foothill Leader, Glendale, California
San Gabriel River District Ranger decisions:
Inland Valley Bulletin, Los Angeles, California
Newspaper providing additional notice of San Gabriel River District decisions:
San Gabriel Valley Tribune, eastern San Gabriel Valley, California
Santa Clara & Mojave Rivers District Ranger decisions:
Daily News, Los Angeles, California
Newspaper providing additional notice of Santa Clara & Mojave Rivers District decisions:
Antelope Valley Press, Palmdale, California
Mountaineer Progress, Wrightwood, California

Cleveland National Forest

Cleveland Forest Supervisor decisions:
San Diego Union-Tribune, San Diego, California
Descanso District Ranger decisions:
San Diego Union-Tribune, San Diego, California
Palomar District Ranger decisions:
San Diego Union-Tribune, San Diego, California
Newspaper providing additional notice of Palomar decisions:
Riverside Press-Enterprise, Riverside, California
Trabuco District Ranger decisions:
Orange County Register, Santa Ana, California
Newspaper providing additional notice of Trabuco decisions:
Riverside Press-Enterprise, Riverside, California

Eldorado National Forest

Eldorado Forest Supervisor decisions:
Mountain Democrat, Placerville, California
Amador District Ranger decisions:
Mountain Democrat, Placerville, California
Georgetown District Ranger decisions:
Mountain Democrat, Placerville, California
Pacific District Ranger decisions:
Mountain Democrat, Placerville, California
Placerville District Ranger decisions:
Mountain Democrat, Placerville, California

Inyo National Forest

Inyo Forest Supervisor decisions:
Inyo Register, Bishop, California
Mammoth District Ranger decisions:
Inyo Register, Bishop, California
Mono Lake District Ranger decisions:
Inyo Register, Bishop, California
Mount Whitney District Ranger decisions:
Inyo Register, Bishop, California
White Mountain District Ranger decisions:
Inyo Register, Bishop, California

Klamath National Forest

Klamath Forest Supervisor decisions:
Siskiyou Daily News, Yreka, California
Happy Camp District Ranger decisions:
Siskiyou Daily News, Yreka, California
Goosenest District Ranger decisions:
Siskiyou Daily News, Yreka, California
Oak Knoll District Ranger decisions:

Siskiyou Daily News, Yreka, California
Salmon River District Ranger decisions:
Siskiyou Daily News, Yreka, California
Scott River District Ranger decisions:
Siskiyou Daily News, Yreka, California
Ukonom District Ranger decisions:
Siskiyou Daily News, Yreka, California

Lake Tahoe Basin

Lake Tahoe Basin Forest Supervisor decisions:
Tahoe Daily Tribune, So. Lake Tahoe, El Dorado County, California

Lassen National Forest

Lassen Forest Supervisor decisions:
Lassen County Times, Susanville, Lassen County, California
Almanor District Ranger decisions:
Chester Progressive, Plumas County, California
Eagle Lake District Ranger decisions:
Lassen County Times, Susanville, Lassen County, California
Hat Creek District Ranger decisions:
Intermountain News, Burney, Shasta County, California
Newspaper providing additional notice of Hat Creek decisions:
Mountain Echo, Fall River Mills, Shasta County, California

Los Padres National Forest

Los Padres Forest Supervisor decisions:
Santa Barbara News Press, Santa Barbara, California
Ojai District Ranger decisions:
Star Free Press, Ventura, California
Monterey District Ranger decisions:
Monterey Herald, Monterey, California
Mount Pinos District Ranger decisions:
The Bakersfield Californian, Kern, California
Santa Barbara District Ranger decisions:
Santa Barbara News Press, Santa Barbara, California
Santa Lucia District Ranger decisions:
Telegram Tribune, San Luis Obispo, California

Mendocino National Forest

Mendocino Forest Supervisor decisions:
Chico Enterprise-Record, Chico, California
Corning District Ranger decisions:
Chico Enterprise-Record, Chico, California
Covelo District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Stonyford District Ranger decisions:
Chico Enterprise-Record, Chico, California
Upper Lake District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Chico Tree Improvement Center Director decisions:
Chico Enterprise-Record, Chico, California

Modoc National Forest

Modoc Forest Supervisor decisions:
Modoc County Record, Alturas, Modoc County, California
Big Valley District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Devil's Garden District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Doublehead District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Newspaper providing additional notice of Doublehead decisions:
Herald News, Klamath Falls, Oregon
Warner Mountain District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California

Plumas National Forest

Plumas Forest Supervisor decisions:
Feather River Bulletin, Quincy, California
Beckwourth District Ranger decisions:
Portola Reporter, Portola, California
Feather River District Ranger decisions:
Oroville Mercury Register, Oroville, California
Mt. Hough District Ranger decisions:
Feather River Bulletin, Quincy, California

San Bernardino National Forest

San Bernardino Forest Supervisor decisions:
San Bernardino Sun, San Bernardino, California
Arrowhead District Ranger decisions:
Mountain News, Blue Jay, California
Big Bear District Ranger decisions:
Big Bear Life and Grizzly, Big Bear, California
Cajon District Ranger decisions:
San Bernardino Sun, San Bernardino, California
San Gorgonio District Ranger decisions:
Yucaipa News Mirror, Yucaipa, California
San Jacinto District Ranger decisions:
Idyllwild Town Crier, Idyllwild, California

Sequoia National Forest

Sequoia Forest Supervisor decisions:
Porterville Recorder, Porterville, California
Cannell Meadow District Ranger decisions:
Porterville Recorder, Porterville, California
Greenhorn District Ranger decisions:
Porterville Recorder, Porterville, California
Hot Springs District Ranger decisions:
Porterville Recorder, Porterville, California
Hume Lake District Ranger decisions:
Porterville Recorder, Porterville, California
Tule River Ranger District decisions:
Porterville Recorder, Porterville, California

Shasta-Trinity National Forest

Shasta-Trinity National Forest decisions:
Record Searchlight, Redding, Shasta County, California
Big Bar District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Hayfork District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
McCloud District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Mount Shasta District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Shasta Lake District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Weaverville District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Yolla Bolla District Ranger decisions:
Record Searchlight, Redding, Shasta County, California

Sierra National Forest

Sierra Forest Supervisor decisions:
Fresno Bee, Fresno, California
Kings River District Ranger decisions:
Fresno Bee, Fresno, California
Pineridge District Ranger decisions:
Fresno Bee, Fresno, California
Mariposa District Ranger decisions:
Fresno Bee, Fresno, California
Minarets District Ranger decisions:
Fresno Bee, Fresno, California

Six Rivers National Forest

Six Rivers Forest Supervisor decisions:
Times Standard, Eureka, California
Gasquet District Ranger decisions:
Del Norte Triplicate, Crescent City, California
Lower Trinity District Ranger decisions:
The Kourier, Willow Creek, California
Mad River District Ranger decisions:
Times Standard, Eureka, California
Orleans District Ranger decisions:
The Kourier, Willow Creek, California

Stanislaus National Forest

Stanislaus Forest Supervisor decisions:
The Union Democrat, Sonora, California
Calaveras District Ranger decisions:

The Union Democrat, Sonora, California
Groveland District Ranger decisions:
The Union Democrat, Sonora, California
Mi-Wok District Ranger decisions:
The Union Democrat, Sonora, California
Summit District Ranger decisions:
The Union Democrat, Sonora, California

Tahoe National Forest

Tahoe Forest Supervisor decisions:
The Union, Grass Valley-Nevada City, California
Downieville District Ranger decisions:
Mountain Messenger, Downieville, California
Foresthill District Ranger decisions:
Auburn Journal, Auburn, California
Nevada City District Ranger decisions:
The Union, Grass Valley-Nevada City, California
Sierraville District Ranger decisions:
Mountain Messenger, Downieville, California
Newspapers providing additional notice of Sierraville decisions:
Sierra Booster, Loyalton, California
Portola Recorder, Portola, California
Truckee District Ranger decisions:
Sierra Sun, Truckee, Nevada County, California
Newspaper providing additional notice of Truckee decisions:
Tahoe World, Tahoe City, Placer County, California

Dated: January 9, 1998.

G. Lynn Sprague,

Regional Forester.

[FR Doc. 98–1280 Filed 1–16–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Christy Basin Timber Sales, Willamette National Forest, Lane County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) on a Proposal Action to harvest and regenerate timber, thin young stands created by past regeneration harvest. The proposal also calls for the construction, reconstruction, and decommissioning of roads, restoration of degraded stream channels, and improvement of big game forage within the Christy Creek drainage of the North Fork of the Middle Fork of the Willamette River watershed. The planning area is bounded by the North Fork of the Middle Fork of the Willamette River on the south, Hiyu Ridge (the watershed boundary between the North Fork and the McKenzie River) on the east, Sinker Mountain and Sardine Butte on the northwest and north (the watershed boundary between the North Fork and Fall Creek) and Alpine Ridge on the west. The area is approximately 40 air miles east of the City of Eugene and 16 air miles northeast of the City of Oakridge. The Forest Service proposal will be in compliance with the 1990 Willamette National Forest Land and Resource Management Plan as amended by the 1994 Northwest Forest Plan, which provides the overall guidance for management of this area. These proposals are tentatively planned for implementation in fiscal years 1999–2003.

The Willamette National Forest invites written comments and suggestions on the scope of the analysis in addition to those comments already received as a result of local public participation activities. The agency will also give notice of the full environmental analysis and decision-making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of the analysis should be received in writing by February 28, 1998.

ADDRESSES: Send written comments and suggestions concerning the management of this area to Rick Scott, District Ranger, Rigdon Ranger District, Willamette National Forest, P.O. Box 1410, Oakridge, Oregon 97463.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and the scope of analysis to Kristy Miller, Planning Resource Management Assistant or Tim Bailey, Project Coordinator, Oakridge Ranger District, phone 541–782–2283.

SUPPLEMENTARY INFORMATION: The Christy Basin Planning area is entirely within the North Fork of the Middle Fork of the Willamette River watershed, which is designed as a Tier 2 Key watershed by the Northwest Forest Plan (ROD, C–7). Tier 2 Key watersheds contain important sources of high quality water. A Watershed Analysis was completed for the North Fork of the Middle Fork of the Willamette River in September, 1995.

The purpose of this project is to harvest timber in a manner that implements the management objectives, and to implement various resource restoration activities to meet Key Watershed objectives.

The proposal includes harvesting timber by thinning in nine separate timber sales over the next five years, and regeneration harvest methods in four separate timber sales over the next four years. Both thinning and regeneration timber sale proposals would involve road construction, reconstruction, and decommissioning. This analysis will evaluate a range of alternatives addressing the Forest Service proposals to harvest approximately 70.0 million board feet; approximately 43.4 million board feet would be generated from thinning some 3900 acres of young stands created by past clearout harvest, and approximately 26.4 million board feet would be generated by regeneration harvest on approximately 550 acres. All the above proposed harvest would require a total of 8 miles of temporary road construction and 21 miles of road reconstruction.

The Christy Basin planning area comprises about 34,000 acres, all of which is federal land. Of the 34,000 acres about 18,500 acres (54%) have been previously harvested and regenerated. Of the remaining acres, approximately 5300 (15%) acres is in a mature stand condition, ranging in ages from 90 to 170 years, and 10,000 acres is in an old-growth stand condition, stand ages exceeding 200 years. The planning area contains about 600 acres (1.7%) of non-forested vegetation types and rock outcrops. Management areas that provide for programmed timber harvest are Scenic (11c) and General Forest (14a). Other land allocations in this planning area are Late-Successional Reserves, Riparian Reserves, Wild and Scenic River Corridor, and Dispersed Recreation—Semi-primitive Nonmotorized Use.

The project area includes a small portion (about 700 acres) of the Chucksney Mountain inventoried roadless area, which was considered but not selected for wilderness designation. Most of this inventoried roadless area is included within the above Dispersed Recreation—Semi-Primitive Nonmotorized Recreation Management Area.

Issues identified for this analysis are water and stream quality, habitat fragmentation, economic benefit, old-growth habitat reduction, big game habitat quality, biodiversity effects, road management, and soil compaction.

Initial scoping for this analysis began in 1990 but the project was put on hold due to a Federal Court injunction. Scoping was initiated again in March of 1996. Alternatives were developed and

preliminary analysis was completed during the summer and fall of 1997. The developed alternative consisted of: (A) low management intensity; retention of more than the prescribed amount of standing green trees and down logs (20–30% retention), (B) conventional management intensity; retention of prescribed amounts of standing green trees and down logs (15% retention), (C) No old-growth harvest, and (D) No Action. All action alternatives were developed to avoid forest fragmentation and system road construction. Results of the above analysis indicated a potential for significant effects to the human environment, hence the need for documentation with the Environmental Impact Statement.

The Forest Service will be seeking additional information, comment and assistance from Federal, State, local agencies, tribes, and other individuals or organizations who may be interested or affected by the proposed project. Additional input will be used to help verify the existing analysis and determine if additional issues and alternatives should be developed. This input will be used in preparation of the draft EIS.

The scoping process will include the following:

- Identification of potential additional issues;
- Identification of issues to be analyzed in depth;
- Elimination of insignificant issues or those which have been covered by a relevant previous environmental process;
- Exploration of potential additional alternatives based on the issues identified during the scoping process; and
- Verification of and potential addition to environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February 28, 1998. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed in June, 1998. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Rick Scott, District Ranger, is the responsible official and as responsible official, he will document the Christy Basin Timber Sales and restoration project decision and rationale in a Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: January 5, 1998.

Rick Scott,

District Ranger.

[FR Doc. 98–1198 Filed 1–16–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Capital Construction Fund Agreement and Certificate.

Agency Form Number: NOAA 88–14.

OMB Approval Number: 0648–0090.

Type of Request: Extension of a currently approved collection.

Burden: 2,250 hours.

Number of Respondents: 1,000.

Avg. Hours Per Response: 2.25 hours.

Needs and Uses: The Merchant Marine Act provides for the administration of the Capital Construction Fund (CCF) by NOAA. This program enables fishermen to construct, reconstruct, or (under limited circumstances) acquire fishing vessels with before-tax, rather than after-tax, dollars. NOAA collects information from fishermen to determine their eligibility to participate in the program and to certify completion of the agreement objectives.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503.

Dated: January 2, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1264 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census 2000 Special Place Facility Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before March 23, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Charles Moore, Bureau of the Census, SFC2, MS–5700, Room 1304, 4301 Suitland Road, Suitland, Maryland 20746, phone number (301) 457–2050.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau must provide everyone in the United States and Outlying Areas the opportunity to be counted in the Census 2000, including persons living in group quarters (GQs), (ex. student dormitories and shelters) and housing units (HUs) at and/or associated with SPs.

To that end, the Census Bureau is currently developing final plans for implementing the Census 2000 Special Place Facility Questionnaire Operation. This operation replaces the Special Place Prelist field operation conducted in previous censuses. During that operation, census enumerators visited each special place (SP) and conducted personal interviews to identify and classify the types of GQs and HUs for each SP. One of the major requirements for enumeration of persons at SP facilities is to identify the GQs and any associated HUs at each SP.

We obtain an updated SP/GQ master file from the Census 2000 Dress Rehearsal which contains the names, addresses and phone numbers of each special place. Phone numbers for these SPs were obtained through the use of telephone books, directory assistance and contractors.

We will then mail advance letters to each SP informing them about the upcoming Census 2000 and letting them know that a Census Bureau representative will be phoning in the next few weeks to update the list of places where people stay and to collect other administrative information.

By phoning each SP and conducting interviews, we will identify and collect updated information about the GQs and HUs at each SP using Form D–351, Special Place Facility Questionnaire. The types of information collected during the interviews consists of collecting administrative information, updating existing information, identifying GQs/HUs at each SP, determining facility type and expected population count.

Throughout the Facility Questionnaire Operation, the SP/GQ master file is continually updated. Once the Facility Questionnaire Operation is completed, files will be created based on the requirements for each of the upcoming SP operations, i.e., Local Knowledge Update, Transient Night, Group Quarters Enumeration and Service-Based Enumeration.

II. Method of Collection

Computer Assisted Telephone Interviewing (CATI) will be used for the majority of cases using a computerized questionnaire. Nonrespondents (including SPs that request personal visit follow-up) and adds from other field operations will require a personal visit or telephone interview (non-CATI) by regional office or local census office staff using a paper D–351 questionnaire.

To collect the GQ information for military installations, a census representative will visit each of the military installations to interview military personnel on Form D–351(MIL), Military Installation Group Quarters Address List. Information to be collected consists of the installation name, state, county, military contact, group quarters location, type of GQ and expected population count.

Once completed, the D–351s and the D–351(MIL)s will be sent to the Data Capture Center (DCC) in Jeffersonville, Indiana for processing.

III. Data

OMB Number: Not available.
Form Number: D–351, D–351(MIL).
Type of review: Regular Submission.
Affected Public: Individuals, businesses or other for-profit organizations, non-profit institutions and small businesses or organizations.
Estimated number of Respondents: 450,000 Special Places in Census 2000.
Estimated Time Per Response: Each interview should take about 15 minutes (0.25 hours).
Estimated Total Annual Burden Hours: 112,500 hours.
Estimated Total Annual Cost: There is no cost to respondents for providing information on this operation, except for a few minutes of their time.
Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c), ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1209 Filed 1–16–98 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Master Address File (MAF) and Topologically Integrated Geographic Encoding and Referencing (TIGER) Update Activities

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 23, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection instruments and instructions should be directed to Lynn Minneman, Bureau of the Census, SFC–2, Room 1308–A, Washington, DC 20233. Phone number 301–457–2036.

SUPPLEMENTARY INFORMATION:

I. Abstract

Note: The present clearance expires June 30, 1998. This request covers field activities to be conducted from July 1, 1998 through September 30, 2000. Operations occurring during the period from October 1, 1997 through June 30, 1998 are listed here only to explain the total respondent burden for FY98 shown in part III.

The Census Bureau presently operates a generic clearance covering activities involving respondent burden associated with updating our Master Address File (MAF) and Topologically Integrated Geographic Encoding and Referencing (TIGER). We now propose to extend that generic clearance to cover update activities we will undertake during the next three fiscal years.

Under the terms of the generic clearance, we plan to submit a request for OMB clearance that will describe all planned activities for the entire period; we will not submit a separate clearance package for each updating activity. We will send a letter to OMB at least five days before the planned start of each activity that gives more exact details, examples of forms, and final estimates of respondent burden. We also will file a year-end summary with OMB after the close of each fiscal year giving results of each activity conducted. This generic clearance enables OMB to review our overall strategy for MAF and TIGER updating in advance, instead of reviewing each activity in isolation shortly before the planned start.

The MAF is a national address list that is being created and continually updated with information from the U.S. Postal Service Delivery Sequence File. The Census Bureau plans to use the MAF for mailing or delivering questionnaires to households for Census 2000 and as a sampling frame for our demographic current surveys. In the past, the Census Bureau has built a new address list for each decennial census. The MAF we are building during Census 2000 is meant to be kept current thereafter, eliminating the need to build a completely new address list for future censuses and surveys. The TIGER is a geographic system that maps the entire country in Census blocks with applicable address range or living quarter location information. Linking MAF and TIGER allows us to assign each address to the appropriate Census Block, produce maps as needed and publish results at the appropriate level of geographic detail. The following are descriptions of each activity we plan to conduct under the clearance for the next three fiscal years.

1. Address Listing (AL)

Census 2000 Address Listing will be conducted in 2.93 million blocks that have a preponderance of noncity-style addresses; for example, ''RR 1, Box 89,'' ''PO Box 678,'' or ''General Delivery.'' AL also will be conducted in all of Puerto Rico. Temporary Census Bureau employees called ''listers'' will canvass (walk or drive) each of these blocks, identifying each structure where people live or could live, including housing units and group quarters. They will record the block number and each physical location address or description on Form D–101B, Address Listing Page. For each living quarters, the lister will attempt to conduct an interview to collect the mailing address, an E–911 address for living quarters with no posted city-style mailing address, occupant name or group quarters contact person name, and telephone number. If no one is at home, the lister will attempt to interview a neighbor to obtain this information. If unable to obtain the information, the lister will attempt up to two telephone callbacks to obtain the information. There will be no personal callbacks to conduct an interview during Address Listing. The lister will also spot the location of the living quarters on a Block Map and update the Block Maps by adding missing roads, road names, or other map features as necessary, and deleting roads that no longer exist.

The information collected will be used to create our Master Address File (MAF) for Census 2000 and survey use. The map additions and deletions will be used to update our TIGER maps. The processed address information and map spots will be directly used to deliver a Census 2000 Questionnaire to each housing unit in these blocks.

The operation will be conducted from August through December, 1998. There will be approximately 22.4 million respondents with an estimated response time of 1.5 minutes per living quarters. Approximately 4.7 million respondents will be interviewed in FY98 with a respondent burden of 117,500 hours. Approximately 17.7 million respondents will be interviewed in FY99 with a respondent burden of 442,500 hours.

In addition to the blocks mentioned above, AL will be conducted in the rural portion of 39 counties that are in the 1999 American Community Survey. Since a MAF is needed earlier in these counties than in the rest of the country, the Address Listing will be conducted between February and May, 1998, using slightly different forms and callback rules. Housing units will be listed on Form DX–101B, Housing Unit Address Listing Page. Special places will be listed on Form DX–101C, Special Place Listing Page. The information collected will be almost identical to that listed above, however, more callbacks are authorized to obtain the mailing address. The lister will make up to three personal and two telephone callbacks to obtain the information for households where no one is home on the initial visit. There will be approximately 320,000 respondents with an estimated response time of two minutes per household. The total respondent burden is estimated at 10,666 hours.

2. Block Canvass (BC)

The Census 2000 Block Canvass is scheduled to take place from January 18, 1999 through June 4, 1999 in all areas where there is predominately city-style addressing and mail delivery and where the Census Bureau will conduct a mailout/mailback census. BC is a dependent field canvassing activity where listers will canvass assigned blocks looking for every place where people live or could live using Form D–451A, Address Listing Page, which lists every living quarters currently in the MAF for these blocks. Listers will attempt to interview at predesignated living quarters (every third housing unit and all multi-unit structures) to verify that living quarters' address and unit designation, as necessary, and the addresses of the living quarters on either side. They will also obtain mailing addresses when these are different from the house number and street name address. They will visit the next housing unit to obtain the information if no one is home at the predesignated unit. Listers also will contact the resident manager, superintendent, or other knowledgeable person at all multi-unit structures to verify addresses and unit designations for each unit. For special places, the lister will visually check those on the list and add any that are missing. Listers will visit living quarters not on their list to obtain the house number and street name address and a mailing address (if different) for each living quarters. This information will be listed on Form D–451B, Block Canvass Add Page, or Form D–451B, Block Canvass Special Place Add Page. For special places, the lister will also obtain a contact person name and telephone number.

BC will improve coverage by verifying addresses on our MAF, making

corrections to those addresses as necessary, deleting nonexistent, uninhabitable, or nonresidential living quarters, capturing non-city style mailing addresses when the posted city-style address is not used for mail, and adding addresses for living quarters missing from the MAF. The processed MAF after BC will be used to label and deliver Census 2000 Questionnaires and for other Census Bureau surveys.

The estimated number of respondents for BC is 27,500,000. The estimated time per response is 2 minutes. The total estimated respondent burden is 916,667 hours.

3. Field Verification for Local Update of Census Addresses (LUCA FV)

This operation will verify the existence of predominately noncity-style addresses that the local government officials add during their review of the MAF. This operation will take place around May of 1999. LUCA FV will increase the integrity of the MAF by validating addresses that are added by local government officials prior to these updates being included in the Census Mailout/Delivery.

Listers will receive Form D–137, LUCA Field Verification Address Listing Page, that will include all addresses within a block that contains at least one add from a LUCA participant. Addresses that need to be verified will be identified on the listing pages by a blank action code field. Listers will conduct a brief interview to verify the existence and address of the specified unit and enter an action code on the listing page indicating that the unit exists or does not exist.

We will verify approximately 5 million addresses across the United States. The estimated time per response is 1.5 minutes. The total estimated respondent burden is 125,000 hours.

In addition to the above, LUCA FV will be conducted in the Census 2000 Dress Rehearsal sites of Columbia, SC, Sacramento, CA, and Menominee, WI. This operation will verify the existence of 100% of the addresses, both city-style and noncity-style, that the local governments have added to the address list during LUCA. The operation will be the same as described above for Census 2000, using Form DX–137, LUCA Field Verification Address Listing Page. The operation will take place in December, 1997.

We will verify approximately 22,423 addresses in the Dress Rehearsal sites. The estimated time per response is 1.5 minutes. The total estimated respondent burden is 561 hours.

4. Update Leave (U/L)

Update/leave will occur in the same counties as specified above for operation 1, Address Listing, and throughout Puerto Rico. Each U/L enumerator will receive an Address Register, which includes a listing and Block Maps, and a pre-addressed Census 2000 Questionnaire for each address included in the listing. The Form D–105A, Address Listing Page, will include a record for each living quarters processed during Address Listing. The Block Maps will show a map spot for each listed structure that contained living quarters. The enumerator will completely canvass each assigned block in March of 2000. U/L will update the inventory of housing units by adding any new residential construction to the Form D–105B, U/L Add Page, and the Block Maps, and will deliver a Census 2000 Questionnaire to each housing unit.

The enumerator will attempt to complete a short interview at each address to verify the address information collected during Address Listing or to obtain the address information for new units. They will also give the respondent the Questionnaire to complete and mail back. (The Questionnaire is covered by a different OMB clearance and is not described in this notice.) When no one is home, the enumerator will place the Questionnaire in a bag and hang it on the doorknob. There will be no callbacks for U/L.

The estimated number of households for U/L is 22.4 million, however, we estimate that the total number of respondents will be 7.5 million. The estimated time per response is 1.5 minutes. The total estimated respondent burden is 187,500 hours.

In addition to the above, U/L will be conducted in the rural portions of the Columbia, SC and Menominee, WI Census 2000 Dress Rehearsal sites. This operation will occur in March and April of 1998. It will update the address lists and Block Maps and deliver the Dress Rehearsal Questionnaire in these counties using Form DX–105A, Address Listing Page, and DX–105B, U/L Add Page. The procedures will be the same as described above for Census 2000. The estimated number of households is 75,000, however, we estimate that the total number of respondents will be 25,000. The estimated time per response is 2 minutes. The total estimated respondent burden is 834 hours.

5. Urban Update Leave (UU/L)

The Urban Update/Leave operation for Census 2000 will be conducted in March 2000, in areas where there is predominately city-style addressing but in which the U.S. Postal Service does not deliver mail to housing units at their posted city-style address. UU/L may also be done in areas where the U.S. Postal Service delivers mail to a central drop point with no identifiable mail receptacles for each individual housing unit. The procedures for this operation are the same as described for operation 4, Update/Leave. The enumerators will use Form D–XXXX, Address Listing Page, and Form D–XXXY, UU/L Add Page, for this operation. The total estimated number of households is 1 million, however, we estimate that the total number of respondents is 334,000. The estimated time per response is 2 minutes. The total estimated respondent burden is 11,134 hours.

6. List/Enumerate (L/E)

List/Enumerate is a method of taking Census 2000 in some very rural parts of the country where we will not have a MAF with mailing addresses prior to the Census. During the period from March 31 through May 1, 2000, enumerators will canvass each assigned block to list each living quarters and spot its location on a Block Map. The enumerator will ask a short series of questions using Form D–104A to determine the household name, mailing address and/or physical location/description of the housing unit. The enumerator will then pick up the completed Census 2000 Questionnaire or enumerate the household using the Questionnaire. (The Questionnaire is covered by a different OMB clearance and is not included in this notice.)

The estimated number of respondents for the listing portion of L/E is 420,000. The estimated time per response is 1.5 minutes. The estimated total respondent burden for the listing portion is 10,500 hours.

7. Master Address File Quality Improvement Program (MAF QIP)

The MAF is a national address list that is being created and continually updated with information from the U.S. Postal Service Delivery Sequence File. The Census Bureau plans to use this file for mailing questionnaires to households for Census 2000 and as a sampling frame for our demographic current surveys. The goal of the MAF QIP is to assess the completeness and accuracy of the housing units on the MAF by providing coverage and geocoding error estimates. The operation consists of creating an independent listing of housing units which will be computer matched to the

MAF with a field reconciliation follow up of nonmatched units.

Field Representatives will contact each housing unit in the MAF QIP sample areas to obtain and list address information on Form S–676, Master Address File Quality Improvement Program 1998 Independent Listing Book. Listers will also inquire at each special place and commercial structure to identify housing units. Addresses and geocoding information obtained during the independent listing will be computer matched to the MAF. During the reconciliation phase, field staff will resolve nonmatched housing units by verifying address information using Form S–XXX, Housing Unit Followup Form. The independent listing phase will be conducted in March through July of 1998. The reconciliation phase will be conducted in May through September of 1998.

The total estimated number of respondents for the listing phase is 250,000. The total estimated number of respondents for the reconciliation phase is 20,700. The estimated time per response is 3 minutes for the listing phase and 1 minute for the reconciliation phase. The total estimated respondent burden is 10,000 hours for the listing phase and 345 hours for the reconciliation phase.

A 1999 MAF QIP will also be conducted. The procedures will be similar to the 1998 MAF QIP, however, form numbers, exact workloads, and exact timing have not yet been determined. We estimate the maximum possible number of respondents for the listing phase at 500,000 with approximately 250,000 interviews done in late FY99 and 250,000 interviews done in early FY2000. The reconciliation phase will be conducted in FY2000 with approximately 41,400 respondents. The estimated time per response is 3 minutes for the listing phase and 1 minute for the reconciliation phase. The total estimated respondent burden is 10,000 hours in FY99 and 10,000 hours in FY2000 for the listing phase and 690 hours in FY2000 for the reconciliation phase. (The total number of respondents for the 1999 MAF QIP could be as small as 200,000 which would decrease respondent burden proportionately.)

In addition to the above, an FY97 pilot study to test MAF QIP methodology was conducted in six counties. The procedures for this study were the same as outlined above for the 1998 MAF QIP. The reconciliation phase was still in progress at the end of FY97 and was halted due to the continuing resolution on budget. Field Representatives will resolve the remaining 3,770 nonmatched housing units in November and December of 1997 using Form S–663, Housing Unit Followup Form. The estimated number of respondents is 3,770. The estimated time per response is 1 minute. The estimated total respondent burden is 313 hours.

8. Master Address File Update for Otero County, New Mexico

We will update the current MAF for Otero County, NM by identifying new housing units in the area outside Alamogordo City and field list these housing units to obtain a complete mailing and physical location address. This listing will occur sometime between February and June of 1998. The new units are defined as those coming into existence after September, 1996. The new units will be identified using local administrative records (probably building permits); we do not plan to conduct any large scale block recanvass operation. The new units will be address listed using the forms and procedures described above for American Community Survey counties in operation 1, Address Listing. The estimated number of respondents is 200. The estimated time per response is 2 minutes. The estimated total respondent burden is 7 hours.

II. Method of Collection

The primary method of data collection for all operations will be personal interview by Census Listers or Enumerators using the operation's listing form. In some cases, the interview could be by telephone callback if no one was home on the initial visit. See part I for details for each operation.

III. Data

OMB Number: 0607–0809.

Form Number: The form numbers for some activities have not yet been assigned. See the descriptions of the activities in part I for form numbers where applicable.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: Varies by operation, see chart below.

Estimated Time Per Response: Varies by operation, see chart below.

Estimated Total Annual Burden Hours: FY98 140,226; FY99 1,494,167; FY2000 219,824.

Estimated Total Annual Cost: The only cost to respondents is that of their time to respond.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

Activity	FY 1998 respondent ($)	FY 1999 respondent ($)	FY 2000 respondent ($)	Average hours per response	Responses per respondent	FY 1998 burden hours	FY 1999 burden hours	FY 2000 burden hours
AL	4,700,000	17,700,000	0	.025	1	117,500	442,500	0
AL–ACS	320,000	0	0	.033	1	10,666	0	0
BC	0	27,500,000	0	.033	1	0	916,667	0
LUCA FV	22,423	5,000,000	0	.025	1	561	125,000	0
U/L	0	0	7,500,000	.025	1	0	0	187,500
U/L–DR	25,000	0	0	.033	1	834	0	0
UU/L	0	0	334,000	.033	1	0	0	11,134
L/E	0	0	420,000	.025	1	0	0	10,500
MAFQIP	250,000	250,000	250,000	.050	1	10,000	10,000	10,000
MAFQIP–R	24,470	0	41,400	.016	1	658	0	690
MAF/U	200	0	0	.033	1	7	0	0
Totals	5,342,093	50,450,000	8,545,400			140,226	1,494,167	219,824

IV. Request For Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1210 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[A–405–802]

Certain Cut-to-Length Carbon Steel Plate From Finland; 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 15, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Finland (62 F.R. 37866). The review covers one manufacturer/exporter, Rautaruukki Oy (Rautaruukki), for the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Heather Osborne or Linda Ludwig, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–3019 or (202) 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 1997, the Department of Commerce (the Department) published in the **Federal Register** (62 FR 37866) the preliminary results of its administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Finland (58 FR 44165, August 19, 1993). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

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 practical to complete the review within the statutory time limit of 365 days. On November 3, 1997, the Department extended the time limits for the final results in this case. See Extension of Time Limit for Antidumping Duty Administrative Review, 62 FR 60683 (November 12, 1997).

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulation are to 19 CFR part 353 (April 7, 1997).

Scope of the Review

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, 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 hot-rolled carbon steel flat-rolled products in straight lengths, 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 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (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, and 7212.50.0000. Included 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 beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispostive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received briefs and rebuttal comments from Bethlehem Steel Corporation, U.S. Steel Group, a Unit of USX Corporation, Inland Steel Industries, Inc., LTV Steel Company, Inc., National Steel Corporation, AK Steel Corporation, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and WCI Steel Inc., petitioners, and from Rautaruukki Oy (Rautaruukki), a producer/exporter of the subject merchandise. At the request of petitioners and respondent, we held a hearing on October 31, 1997.

Comment 1: Petitioners argue that Rautaruukki's interest revenues should be accounted for and that the Department should adjust Rautaruukki's home market sales prices to account for unreported late payment charges. Petitioners contend that Rautaruukki's stated policy of charging interest to all of its customers for late payments conflicts with Rautaruukki's assertion that in practice, its customers rarely pay interest. Petitioners note that Rautaruukki enters all interest revenues into one general account and argue that charges for late payments constitute interests revenue.

Petitioners assert that the Department confirmed at verification that Rautaruukki's financial records account for total interest revenue received in 1996, but that no information was provided for 1995. Petitioners argue that neither of the transactions cited by respondent support Rautaruukki's claim that it did not accrue and receive interest revenue. Petitioners state that the Department should employ facts available in calculating Rautaruukki's interest revenue due to respondent's failure to provide information on interest revenue earned in 1995 and its failure to identify the sales for which late payment charges were assessed. Petitioners state that, as facts available, the Department should calculate an interest revenue adjustment for all sales for which, pursuant to their terms of payment, payment was recorded as late.

Respondent claims that it has reported interest revenue, and no further adjustment is required. Respondent states the Department verified that interest revenue was properly reported. Respondent contends that it has provided information on the total interest revenue which it received during calender year 1995 and 1996.

Department Position: We partially agree with both petitioners and respondent. At verification, the Department specifically identified one sale solely for verification of interest revenue. As noted in the verification report, the Department verified that for this sale, no interest revenue was received. See Sales Verification Report at 24. We also examined other sales for which the customer had initially been billed for late charges (interest revenue) that were ultimately not paid by the customer. These sales were also properly reported. Rautaruukki reported a negative amount for interest revenue in 1995, and a positive amount for 1996. See Respondent's Rebuttal Brief of September 15, 1997, at 11. Rautaruukki did not, however, allocate interest revenue to 1996 sales in its sales database.

Section 776(a)(2) of the Act provides that if an interested party or any other persons—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) 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 Rautaruukki did not report any interest revenue in its sales database, although the interest revenue was received, the Department must, pursuant to section 776, use facts otherwise available in these final results. We are allocating as facts available the amount of interest revenue reported for 1996 to all 1996 sales on a per-ton basis.

Comment 2: Petitioners argue that Rautaruukki's submitted gross unit prices should be adjusted, because the Department found a very large discrepancy with respect to the reported gross unit price of a pre-selected home market sale. Petitioners claim Rautaruukki deducted the full amount of the credit from the selected sale rather than applying this credit to all sales listed on the invoice. Petitioners contend that since the error was uncovered pursuant to a small sampling, this suggests that similar errors may well exist elsewhere in the dataset. Petitioners argue that based upon variation in prices within a given product control number, the understatement discovered by the Department at verification could also exist in other product control numbers and, in fact, pervade the dataset. Petitioners contend that the Department should make an adjustment to the entire dataset to account for the errors uncovered with the sample sales. Specifically, petitioners suggest that gross unit prices be increased by the percentage that the samples sales were under-reported.

Respondent argues that it has submitted correct home market gross unit price data and that no adjustment is warranted. Respondent claims that the discrepancy in question was the result of offsetting a credit to a customer against a single line item or transaction which was one of several transactions on a single invoice. Respondent argues that this allocation error works both ways. Although the gross unit price of the sale in question was artificially depressed, the gross unit prices of the remaining transactions on the invoice were artificially increased. Overall, according to Rautaruukki, the errors offset each other. Respondent also contends that, as noted during the sales verification, this was a special project credit involving an end-user (shipyard) in Finland, and that such special or one-time projects are rare. Moreover, respondent notes that the Department's verification of other home market sales did not disclose a similar problem.

Department Position: We agree with respondent. At verification, we found that, for one sale a credit to a customer was offset against a single line item, rather than crediting this amount to all the items to which it applied. We agree with respondent that the consequences of this allocation error serve to artificially depress the gross unit price of the sale in question, while artificially increasing the gross unit prices of the remaining transactions on the invoice. We noted that the one sale in question was found to be below cost, and is therefore already being excluded from our calculation of normal value. We found no evidence at verification of any other discrepancies in the reporting of gross unit prices. No further adjustment of reported gross unit prices is warranted for these final results.

Comment 3: Petitioners state that Rautaruukki should be denied any home market credit expense adjustment because the Department determined at verification that the Finnish short-term interest rate that Rautaruukki used to calculate the reported home market credit expense could not be verified. Petitioners argue that the Department must use facts available in establishing the interest rate applicable to the calculation of the home market credit expense, and deny Rautaruukki any home market credit expense adjustment for the final results.

Respondent argues that it submitted information on its home market interest rate and the Department verified Rautaruukki's total interest expenses. Respondent claims that due to time constraints during the sales verification, the Department chose to postpone the verification of Rautaruukki's home market interest rate until the cost verification. Rautaruukki states that during the cost verification the Department reviewed Rautaruukki's interest expense worksheet and verified Rautaruukki's total interest cost. Additionally, Rautaruukki claims that it provided the Department with detailed information regarding borrowings during the POR. Hence, in respondent's view, Rautaruukki's home market interest rate was reported to the Department and is readily verifiable.

Department Position: We agree with petitioners that we were unable to verify Rautaruukki's home market interest rate. The verification report states that, [w]e were unable to verify Rautaruukki's U.S. or HM interest rates during sales verification. See Sales Verification Report at 23. Respondent's claim that the Department chose to postpone the verification of Rautaruukki's home market interest rate until the cost verification is false. We were prepared to conduct this portion of the verification during the sales verification; however, as noted in the verification report, respondent simply referred us to prior submissions listing short-term borrowings. No original loan agreements or proof of payment relative to these loans were provided to the sales verification team. While the cost verification team examined information relating to respondent's overall interest expense, it was unable to verify the interest rate claimed by Rautaruukki in its home market credit calculation. As a result of the failure on the part of respondent to support a claimed adjustment, and thus our inability to verify that claim, we must use partial facts available pursuant to Section 776(a) of the Act. Thus, as facts available we are denying an adjustment for home market credit expenses for these final results.

Comment 4: Petitioners claim that the Department should use facts available to calculate Rautaruukki's U.S. credit expense because Rautaruukki used Finnish interest rates rather than interest rates related to U.S. borrowing in its calculation of credit, and that the Finnish rate submitted by Rautaruukki could not be verified. Petitioners contend that the Department should use an interest rate of nine percent, the short-term interest rate in effect during the POR which the U.S. Customs Service charged on underpayment of antidumping duties.

Respondent claims that it had no U.S. borrowings during the POR. Rautaruukki states that in view of the Department's verification of Rautaruukki's total interest expense and in light of the fact that Rautaruukki had no U.S. borrowings, the Department should use the Finnish short-term borrowing rate submitted by Rautaruukki for the calculation of its U.S. credit expenses.

Department Position: We partially agree with petitioners. It is Department practice to use a U.S. interest rate in the calculation of U.S. credit expenses. If a respondent does not have such borrowing, the questionnaire instructs the party to use a U.S. published commercial bank prime short-term lending rate. Rautaruukki did not do so. Moreover, as noted in Comment 3 above, the Department was unable to verify respondent's home market interest rate. Therefore, pursuant to Section 776 of the Act, the Department must use facts available to calculate Rautaruukki's U.S. credit expense.

In Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review, 61 FR 15772, 15780 (April 9, 1996) and Certain Corrosion-Resistant Carbon Steel Flat Products from Australia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 14049, 14054 (March 29, 1996) the Department selected the average short-term lending rates calculated by the Federal Reserve as surrogate U.S. interest rates. These rates represent a reasonable surrogate for respondents' U.S. dollar borrowing rates because they are calculated based on a variety of actual dollar loans to actual U.S. customers. We have employed this methodology as facts available in calculating Rautaruukki's U.S. credit expense using the average short-term dollar lending rate effective during the POR. See Analysis Memorandum, dated December 15, 1997.

Comment 5: Petitioners argue that the Department should adjust Rautaruukki's movement expenses related to international freight charges. Petitioners note that Rautaruukki's movement expenses are based on affiliated party transactions with JIT-Trans. In this situation, petitioners note that the Department tests whether movement expenses based on affiliated party transactions reflect arm's-length transactions by comparing those expenses to movement expenses pertaining to non-affiliated party transactions. Petitioners reject Rautaruukki's claim that JIT-Trans's transfer prices reflect an arm's-length price merely because JIT-Trans is profitable overall. In petitioners' view, this claim is contradicted by a direct comparison of JIT-Trans' charge to Rautaruukki with its charge to an unaffiliated party. Petitioners claim that for the final results, the Department should revise this expense upwards by the percentage that the price to the unaffiliated party exceeded that charged to respondent.

Respondent alleges no additional adjustment is required by the Department to its reported movement expenses other than the adjustment already made for affiliated party mark-up charges. Respondent claims that at verification, Rautaruukki provided the Department with documentation to compare movement expenses from arm's length transactions between Rautaruukki and JIT-Trans and movement expenses from transactions between JIT-Trans and non-affiliated party Outokumpu Oy, a Finnish producer of stainless steel products. Rautaruukki cites the explanation for the higher prices charged Outokumpu in the sales verification report: ''[t]he rate charged the unaffiliated party is somewhat higher * * * because in the winter it is more expensive to go farther north (due to the ice) and also because it is more expensive to make an additional stop.'' Respondent contends that the Department concluded that transactions between Rautaruukki and JIT-Trans are at arm's length and argues that no additional adjustment by the Department is required for movement expenses.

Department Position: We partially agree with petitioners. Respondent did not demonstrate that transactions between Rautaruukki and JIT-Trans are at arm's length. In fact the prices charged to an unaffiliated party are greater than those charged to respondent.

Respondent asserted at verification that ''[t]he rate charged the unaffiliated party is somewhat higher * * * because in the winter it is more expensive to go farther north (due to the ice) and also because it is more expensive to make an additional stop.'' Given the geographic location of Rautaruukki and Outokumpu Oy, we find respondent's explanation that some price differential is attributable to the additional expense of going farther north in the winter to be reasonable. However the charges to the affiliated party are higher in summer as well as in winter. (See Sales Verification Exhibit 26). For these final results, therefore, we are increasing Rautaruukki's reported U.S. movement expenses for all shipments by the absolute value of the amount of the difference in price charged the unaffiliated party and Rautaruukki for the summer. See Analysis Memorandum dated December 15, 1997.

Comment 6: Respondent claims that the Department erred in its selection of a weight conversion factor. Respondent states that the Department chose to apply as facts available the lowest conversion factor submitted by Rautaruukki, or 0.9059, because the Department was unable to verify respondent's reported weight conversion factors. Rautaruukki alleges that this conversion factor is aberrational and the Department's use of this factor distorts the verified information submitted by Rautaruukki. Rautaruuki claims that only one product control number in its database had a conversion factor of 0.9059, and that this product control number contains only one observation, a sale of painted plate. Respondent argues that this sale is not an identical or similar match to its U.S. sales under the Department's mode match criteria. Respondent notes that under the Department's model match hierarchy, painted versus not painted is the first factor to be considered. The respondent explained that none of its U.S. sales are of painted plate and argues that in selecting a conversion factor of 0.9059, based solely on painted plate, the Department selected an aberrant non-representative factor. Respondent argues that its submitted data are the most accurate weight conversion factors. Respondent contends that its calculation of theoretical weight was explained in its submissions and at verification. In the event the Department continues to apply a facts available conversion factor, Rautaruukki urges the Department to apply an average of its reported factors, or 0.9870. Respondent argues that unlike the factor used in the preliminary results, at least this factor would be representative of Rautaruukki's submitted data.

Petitioners claim that the facts available weight conversion factor selected by the Department is appropriate. Petitioners disagree that the

conversion factor used by the Department is aberrational. Further, petitioners argue that because Rautaruukki failed to provide sufficient support for any of its conversion factors at verification, the Department may make an adverse inference to ensure that the respondent does not benefit from its failure to provide the necessary information. See Certain Internal Combustion Industrial Forklift Trucks from Japan, 62 FR 5592, 5594–95 (Feb. 6, 1997). Petitioners note that the Department may use as facts available data that are reported by the respondent or any other data it deems appropriate. See Uruguay Round Agreements Act, Statement of Administrative Action, A.R. Doc. No. 103–316, 103d cong., 2d sess. at 869–870. Petitioners claim there is no requirement that the facts available selected by the Department reflect the actual data or be the most recent information. See *e.g., Rhone Poulenc, Inc.*, v. *United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990); *Mitsubishi Belting Limited and MBL (USA) Corp.* v. *United States*, Slip Op. No. 97–28, (CIT March 12, 1997) at 5. As the Department could not verify the conversion factors used by Rautaruukki, in petitioners' view, there is no reason to believe that an average of these unverified factors would be more accurate than the factor used by the Department. Petitioners add that using an average factor would essentially reward Rautaruukki for its failure to provide verifiable conversion factors. Petitioners conclude that the use of an average factor would not satisfy the Department's need to make an adverse inference in this instance and urge the Department to continue to use the factor employed in the preliminary results for the final results.

Department's Position: We agree with petitioners. By not providing verifiable weight conversion factors, when respondent could have done so, we have determined that respondent failed to cooperate by not acting to the best of its ability to comply with a request for information. See Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731 (November 19, 1997). The Department first learned that Rautaruukki had not reported sale-specific weight conversion factors at sales verification. Rather, we were told, weight conversion factors were calculated for each product control number. The verification outline clearly states: Provide worksheets showing any conversions from actual to theoretical weight. Rautaruukki did not prepare any such worksheets in advance of verification. When asked at verification to support the weight conversion calculation for a specific product control number, Rautaruukki was unable to do so in the time available at the verification. Consequently, pursuant to section 776(b) of the Act, an adverse inference is warranted in selecting facts available. Thus as facts available, we are continuing to use the weight conversion factor employed in the preliminary results of review. See Certain Cut-to-Length Carbon Steel Plate from Finland, 62 FR at 37,876.

Comment 7: Respondent alleges that the Department erred by failing to consider subject merchandise which is manufactured to shipbuilding specification ''A'' as identical merchandise. Respondent claims that its customers sometimes demand that identical merchandise, such as shipbuilding plate grade ''A,'' be certified by the national classification society of the country in which the product will be used. Respondent states that the Department has treated all of the grade ''A'' shipbuilding plate, other than the grade used in the United States, as most similar to this grade, and that the Department assigned a unique weight to the U.S. specification and a different but uniform weight to all other grade ''A'' shipbuilding plate. Respondent claims that the Department is treating identical merchandise differently based on the identity of the classification society. Respondent contends that it demonstrated repeatedly during this administrative review that all grade ''A'' shipbuilding plate subject merchandise manufactured to the ''A'' specification of shipbuilding plate is the same product, regardless of the classification society which provides the certification. Respondent claims that irrespective of national classification society, all grade ''A'' shipbuilding steel has identical chemistry, delivery condition, elongation, yield strength and tensile strength. Respondent claims that it provided mill certificates, which show not only that the chemical and physical properties are the same for all shipbuilding grade ''A'' steel, but also demonstrate that steel from the same cast or heat was used to meet orders for grade ''A'' shipbuilding plate sold to different classification society certifications. Respondent states that it described the procedures that it underwent in order to qualify as a supplier of shipbuilding steels, and notes that in order to be qualified, the various national certification societies used common test pieces and test results. Respondent argues that this interchangeability of test pieces supports its claim that this material is identical and that the various societies apply the same standard for this material.

Petitioners did not comment on this issue.

Department Position: We disagree with respondent. Respondent's argument is based on an examination of the plate that was produced. As we have explained to respondent in this proceeding, the plate specification variable refers to the physical characteristics of the specification. See Analysis Memorandum for the preliminary results of the third administrative review of Certain Cut-to-Length Carbon Steel Plate From Finland (July 7, 1997). Thus, while it is possible to produce plate so that the same plate meets multiple national standards, this in no way demonstrates that the standards themselves are identical. As noted in the final results of the second review, prices can vary based on the specifications to which the product is sold, even though the product is physically identical. See Certain Cut-to-Length Carbon Steel Plate from Finland; Final Results of Antidumping Duty Administrative Review. 62 FR 18468 (April 15, 1997). See also analysis memo. We continue to find that there are certain differences between the various national specifications for grade A shipbuilding plate and are not changing the weights assigned to these products for these final results. We do note, however, that as there was no plate sold in the home market that was made to the same specification as the shipbuilding steel sold in the United States, maintaining the weights assigned to various products will not affect the home market models that are matched to U.S. sales.

Comment 8: Respondent argues that the Department erred by comparing normal cut-to-length carbon steel plate sold to the U.S. market with beveled plate sold in the home market. Respondent claims that beveled plate is a structural steel product which requires separate and additional manufacturing and handling on a different product line. Respondent notes that it has created a special field to identify beveled plate as well as other prefabricated plate products, which may have the same physical characteristics as basic cut-to-length plate, but are manufactured by different processes and have different end uses. Respondent also notes that it has provided information about the different and additional costs associated with the production of beveled plate. Respondent contends that the Department has verified that beveled plate requires additional processing and the different nature of the product is reflected in

Rautaruukki's price list which established an (extra) for beveled plate.

Petitioners allege respondent has failed to demonstrate that beveled plate is not comparable to the plate sold in the U.S. market. Petitioners contend that the Department expressly rejected the arguments raised by respondent in both the first and second administrative reviews. See Certain Cut-to-Length Carbon Steel Plate from Finland, 61 FR 2792, 2795 (January 29, 1996) and Certain Cut-to-Length Carbon Steel Plate from Finland 62 FR 18468, 18471 (April 15, 1997). Petitioners argue that the Department correctly determined in those prior reviews that Rautaruukki failed to establish beveling as a product-matching criterion, and that the Department found that beveled plate does not possess physical characteristics which make it unique from non-beveled plate with regard to applications and uses. Petitioners claim that the Department noted that Rautaruukki had the opportunity to suggest beveling as a characteristic for use in product matching, but failed to do so. See Certain Cut-to-Length Carbon Steel Plate from Finland, 61 FR at 2795. Petitioners argue that nothing has changed with respect to this issue in this review. In petitioners' view, respondent has not established on the record that beveling is a product matching criterion considered by the Department. Petitioners claim that respondent is simply seeking to create its own matching hierarchy. Petitioners state that the support cited by Rautaruukki is the same information that Rautaruukki submitted in the second administrative review information which failed to convince the Department that beveled plate should not be compared to the products sold in the U.S. market.

Petitioners claim that the Department has correctly determined, and as Rautaruukki has conceded, beveled plate products do not possess any physical characteristics that set them apart from non-beveled plate products. Accordingly, petitioners argue that Rautaruukki's contentions regarding the treatment of beveled plate are without merit and should be rejected by the Department.

Department Position: We agree with the petitioners. The Department correctly determined in those prior reviews that Rautaruukki failed to establish beveling as a product-matching criterion, and that the Department found that beveled plate does not possess physical characteristics which make it unique from non-beveled plate with regard to applications and uses. See Certain Cut-to-Length Carbon Steel Plate from Finland, 61 FR 2792, 2795 and Certain Cut-to-Length Carbon Steel Plate from Finland, 62 FR 18468, 18471. The documentation submitted by Rautaruukki in the course of this review does not establish the relevance of beveling as a product matching criterion. We have not changed our treatment of beveled products for these final results.

Comment 9: Respondent contends that the Department failed to convert harbor expenses from Finnish markka to U.S. dollars in its calculation of margin expenses. The respondent suggests that we make an adjustment similar to the adjustment made for international freight charges for affiliated party charges.

Additionally, respondent claims that the Department did not convert direct selling expenses and credit expenses for U.S. sales from Finnish markka to U.S. dollars in the margin calculation program. Rautaruukki reported direct selling and credit expenses in Finnish markka, but the margin calculation program applies these figures in U.S. dollars, resulting in a skewed total for direct expenses for U.S. sales.

Petitioners did not comment on this issue.

Department's Position: We have converted harbor expenses, U.S. direct selling expenses, and U.S. credit expenses from Finnish markka to U.S. dollars. We note that the affiliated party charges were in U.S. dollars so no currency conversion was required for these expenses.

Comment 10: Rautaruukki claims that the Department erred in applying the theoretical weight conversion factor to its verified COP and CV amounts. Rautaruukki argues that the Department should have applied the weight conversion factor only to the sales quantities to insure that all sales were reported on the same (*i.e.,* theoretical weight) basis and not to reported costs which reflect actual costs incurred for delivered or shipped quantities of subject merchandise. Rautaruukki notes that its U.S. sales were all reported on a theoretical weight basis, while some of its home market sales were reported on a theoretical weight basis and some were reported on an actual weight basis. Consequently, for the sales made on a theoretical weight basis, Rautaruukki contends that the costs associated with these sales were reported on a theoretical weight basis, not on an actual weight basis. Therefore, Rautaruukki argues that if the Department decides to apply the conversion factor to costs, it should be applied only to those products sold on an actual weight basis. Rautarrukki suggests that the Department would need to recalculate costs for only two of the three products which were matched in the model match program because one product's costs was reported only on a theoretical weight basis. To recalculate the costs for the other two matched products, Rautaruukki recommends that the Department calculate the relative distribution or allocation of costs associated with each weight basis using the percentage of sales made on each basis. Then, the Department could adjust the costs associated with sales made on an actual weight basis by applying the conversion factor and add this figure to the costs reported on a theoretical weight to arrive at a figure for the cost for all sales on a theoretical weight basis.

Petitioners state that Rautaruukki's claim that cost data are calculated on both theoretical and actual weight basis constitutes new information that the Department has not verified. Petitioners cite the Department's cost verification report which states that to calculate the weighted-average cost for all extras, Rautaruukki used shipped quantities to determine the per ton cost amounts. Because Rautaruukki's case brief dated September 8, 1997, indicates that Rautaruukki calculated the average cost per ton using a combination of costs based on both theoretical weights and actual weights, petitioners argue that Rautaruukki's cost reporting methodology is flawed and the reported amounts are inaccurate and unreliable. Therefore, petitioners cite Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden, 62 FR 18396, 18398–99 (April 15, 1997), and recommend that the Department reject Rautaruukki's reported per ton costs and apply total facts available.

Department Position: We agree with petitioners that Rautaruukki's cost calculation methodology is flawed in that it relied on production quantities based on both theoretical and actual weights. We disagree with petitioners, however, that Rautaruukki's cost reporting methodology warrants use of total facts available. Under its submission methodology, Rautaruukki first computed a weighted-average cost of manufacturing for the subject merchandise based on two broad product categories, plate and cut-to-length coil. At verification, we confirmed that each of these weighted-average cost categories was calculated by dividing actual costs by total production quantity on an actual weight basis (See Production Reports per February 27, 1997, Submission at Exhibit 3, calculation 3). Rautaruukki then computed an average cost for

extras by multiplying product-specific extra amounts by product-specific sales quantities (some of which were on an actual weight basis, others on a theoretical weight basis) and dividing by the same sales quantities. Because, in the normal course of business, Rautaruukki maintains product-specific sales reports but not product-specific production reports, it used shipped quantities of each product to compute the average cost for extras. Rautaruukki deducted this average cost for extras from the weighted-average cost of manufacturing for each broad product category in order to compute the average base cost for the category. To compute product-specific manufacturing costs, Rautaruukki added to the average base cost the same product-specific extra amounts used to derive the base cost.

By using actual production weights to compute the average costs for each of the broad product categories, and by relying on a mix of theoretical and actual production weights in determining the average cost of extras, Rautaruukki's submitted costs represent a mix of weight bases that do not accurately reflect the per-unit costs incurred to produce the subject merchandise. To correct this flaw, we increased Rautaruukki's reported COP and CV amounts by the theoretical-to-actual weight conversion factor. See Comment 6.

Comment 11: Petitioners argue that the Department should reject Rautaruukki's COP and CV data and use facts available because they contend that Rautaruukki's product-specific cost data are not based on actual costs incurred during the POR, are not supported by source documentation, cannot be reconciled to Rautaruukki's audited financial statements, and are not supported by tests performed by the Department. Petitioners cite Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Finland, 62 FR 18468, 18472–18473 (April 15, 1997), in which the Department rejected Rautaruukki's cost data in the second administrative review, to support its argument. Petitioners state that the problems identified in the second administrative review persist and that there is insufficient record evidence for the third administrative review to support the Department's reversal of its previous decision.

Petitioners argue that the submitted costs be rejected because the Department verified that product-specific costs are not based on the POR. Petitioners note that all documentation provided by Rautaruukki to substantiate its reported product-specific costs was from outside the POR. Therefore, petitioners maintain that the Department has no reliable basis or record evidence to determine whether the submitted data reflect actual costs for the POR. Petitioners further contend that the Department cannot rely on documentation provided during this review which relates to previous review periods to support Rautaruukki's historical production costs since the Department previously rejected this information.

Rautaruukki argues that the Department's decision regarding costs submitted in this third administrative review must be based on the facts of the current proceeding and not on alleged deficiencies or factual errors in previous administrative proceedings. Rautaruukki asserts that record evidence in the current review clearly states that the Department verified Rautaruukki's submitted product-specific information, reviewed its internal system which tracks quality and dimensional costs by product grade, and reconciled these costs with Rautaruukki's profit-and-loss accounts. Rautaruukki contends that the costs recorded in the quality cost tables dated July 31, 1995, were the costs in effect throughout the POR, and therefore, are a proper basis for calculating product-specific costs. Rautaruukki also states that the Department verified its dimensional extras costs and reconciled these figures with Rautaruukki's financial reports. Lastly, Rautaruukki argues that the Department tested and verified costs for specific products and reconciled these costs with Rautaruukki's financial statements. Therefore, Rautaruukki maintains that its product-specific cost data was verified by the Department to be accurate and reliable.

Department Position: We disagree with petitioners' contention that we must reject totally Rautaruukki's submitted COP and CV data for this review. First, as discussed in Comment 10 above, Rautaruukki relied on actual costs incurred and actual tonnages produced during the POR to calculate weighted-average costs for its broad categories of plates and cut-to-length products. In order to derive the total base cost for each category, Rautaruukki deducted from the weighted-average cost, an amount for the average cost of extras. The company then added back costs for product-specific extras. Contrary to petitioners' assertions, there is nothing inherently unreliable or theoretically unsound about Rautaruukki's underlying cost allocation methodology. Rather, much like other manufacturers that rely on standard costs as a means to distribute actual costs among specific products, Rautaruukki relies on a system of base and standard extra costs to allocate its actual production costs among the company's plate and cut-to-length products. We found this methodology reasonable.

Second, Rautaruukki's product-specific costs are supported by source documentation. In its February 27, 1997, Section D supplemental response, Rautaruukki provided documentation of the detailed calculations used to derive its quality and dimensional extras costs. Rautaruukki notes that these calculations are based on engineering standards and the company's production experience. Petitioners chose not to challenge the validity or accuracy of Rautaruukki's calculations. Instead, the petitioners argue that because Rautaruukki did not update these standards during the POR, the cost of extras as reported by the company are unreliable. For this review, however, we have no reason to believe that Rautaruukki's extra cost calculations, which were based on data used by the company during the POR, do not reasonably represent the cost differences incurred to produce individual products. It is unnecessary for Rautaruukki to update its standard extra costs every year so long as these amounts continue to accurately reflect costs incurred by the company during the year.

Third, the reported costs can be reconciled to Rautaruukki's audited financial statements. During the cost verification, we reconciled Rautaruukki's reported product-specific costs to its audited financial statements noting only a slight difference. See Comment 14 below for further discussion.

Fourth, Rautaruukki's product-specific costs are supported by tests performed by the Department during verification. We tested Rautaruukki's calculations of weighted-average costs, base costs, and extra costs (see cost verification report at pages 7 through 14). During our verification, we determined that the standard costs for extras used by Rautaruukki in the normal course of business during the POR were based on actual production and cost data, engineering standards, and company experience. As discussed above in this comment, we do not believe that it is necessary for Rautaruukki to update every year the tables containing these standard extra costs, where such standard costs continue to reflect the company's production cost experience with reasonable accuracy. In addition, in contrast to petitioners' argument, we

found it reasonable that Rautaruukki reported identical cost of manufacturing amounts for a small number of CONNUMs even though these products had slightly different physical characteristics. We verified the fact that these products had the same cost for various reasons. For example, in some instances, differences in the costs of specific extras offset one another, making the costs of the two products the same in total. In other instances, products with differing plate specifications underwent the same processing and, as a result, incurred the same costs under Rautaruukki's accounting system. Thus, it was not unreasonable for certain of Rautaruukki's products to have identical costs.

Last, to support their argument that the cost data submitted in this review should be rejected, the petitioners cite Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Finland, 62 FR 18468, 18472–18473 (April 15, 1997), in which the Department rejected Rautaruukki's cost data in the second administrative review. We note that any decision in a specific review must be made on the facts of the record for that review. In this review, as explained above, we were able to verify Rautaruukki's cost extras and found their reporting methodology to be reasonable. As the Department has stated, we review each period independently and may determine that a change in analysis is appropriate. * * * Thus, the Department is not bound in a current administrative review to strictly adhere to the methodology or practice used in a previous review. See Certain Dried Heavy Salted Codfish from Canada, 54 FR 13211, 13213 (March 31, 1989).

Comment 12: Petitioners state that Rautaruukki's variable cost of manufacturing data reported for its home market and U.S. sales differs substantially from the amounts derived from the COP and CV datasets. Petitioners argue that the Department's calculation of variable costs as used for the preliminary determination, which were computed by subtracting the fixed overhead amount reported in the COP dataset from the total cost of manufacturing amount reported in the COP dataset, fails to accurately calculate product-specific costs. Petitioners reason that this methdology is unacceptable because Rautaruukki reported the same fixed overhead amount for every product produced, thereby disregarding fixed-cost differences between products.

As the Department cannot derive accurate product-specific variable costs from Rautaruukki's COP dataset, petitioners recommend that the Department use an adverse facts available percentage of 24.95 percent, the margin from the last administrative review, for calculating the difference in merchandise (difmer) adjustment. As alternative adverse facts available, petitioners suggest that the Department use Rautaruukki's lowest reported home market variable cost and its highest reported U.S. variable cost to calculate the difmer adjustment for all non-identical comparisons. Petitioners assert that use of adverse facts available is appropriate since Rautaruukki failed to submit revised data in response to several requests made by the Department that Rautaruukki ensure that its home market and U.S. sales files reflect the same variable cost of manufacturing amounts as reported in its COP and CV datasets. petitioners cite Final Results of Antidumping Duty Administrative Review: Porcelain-on-Steel Cookware from Mexico, 61 FR 54616, 54618 (October 21, 1996); Preliminary Determination of Sales at Less than Fair Value: Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan, 59 FR 10784, 10785 (March 8, 1994); and Final Determination of Sales at Less than Fair Value: Class 150 Stainless Steel Threaded Pipe Fittings from Taiwan, 59 FR 28432 (July 28, 1994) to support the use of adverse facts available.

Petitioners further contend that if the Department does not use adverse facts available, the Department should at least apply neutral facts available for the difmer adjustment. As neutral facts available, petitioners suggest that the Department apply an amount equal to the twenty percent cap as the difmer adjustment. Petitioners cite Notice of Final Results and Partial Termination of Antidumping Duty Administrative Reviews: Tapered Rolled Bearings, Four Inches or Less in Diameter, and Components Thereof, from Japan, 59 FR 56035, 56048, which was upheld in *NTN Bearing Corp. of America* v. *United States*, 924 F. Supp. 200 (Ct. Int'l Trade 1996), to show that the Department's practice has been to apply an amount equal to the twenty percent cap in those instances where a respondent fails to provide variable cost data in the requisite form for the difmer test.

Rautaruukki disagrees with the petitioners' claim that the Department erred in calculating Rautaruukki's variable costs by subtracting fixed overhead costs from the total cost of manufacture reported in the COP and CV datasets. Rautaruukki maintains that the Department's calculation is acceptable because the Department verified that the cost data are in accordance with its practice and generally accepted accounting principles.

Department Position: We agree with petitioners that Rautaruukki incorrectly reported its fixed manufacturing costs by reporting only amounts related to producing base products (*i.e.*, all products were assigned the same amount of fixed manufacturing costs). As a result, the methodology used by the Department for the preliminary determination (determining product-specific variable cost of manufacturing by subtracting the reported product-specific fixed cost of manufacturing from the product-specific total cost of manufacturing) failed to account for fixed-cost differences arising from processing route differences. This flaw in methodology, however, has no impact on the similar product matches for Rautaruukki in this review. The only difference between home market sales and the U.S. sales to which they are matched is the specification of the steel. All other model match criteria, including width and thickness, and identical. With respect to specification, all U.S. sales and the home market sales that are matched to those U.S. sales are shipbuilding grade A material. As respondent has argued throughout this proceeding (See Comment 7), all shipbuilding grade A material is manufactured the same regardless of the national classification standard to which it is ultimately certified. Petitioners have not disputed these claims. Thus, with respect to these sales, there are essentially no differences in the total cost of manufacturing for the matched products, and no differences in the processing routes or machines used in production. Accordingly, we consider the methodology used by the Department for the preliminary results reasonable and non-distortive for purposes of this review. We are continuing to use this methodology for these final results.

Comment 13: Petitioners claim that Rautaruukki improperly reduced its costs associated with the production of subject merchandise by including revenue from sales of slab in the amount it reported for scrap and sales of by-products. Petitioners note that slabs are semi-finished, non-subject merchandise and that the income from sales of slab should not be deducted from costs. Petitioners recommend that the Department exclude Rautaruukki's reported scrap amount from the calculation of total costs because the

Department has no way of knowing what percentage of Rautaruukki's scrap amount is from sales of slab.

Rautaruukki responds that it did not report slab as a by-product and offset its COP and CV data by revenues from the sale of slabs. Rautaruukki notes that the Department verified that by-products reported include burnt lime, coke, coal tar, sulfur, benzene, nut coke, and utilities. Rautaruukki maintains that slab is not included as a by-product offset in its submitted costs.

Department Position: We agree with Rautaruukki. Although Rautaruukki officials stated that in their management accounting monthly reports, they included sales of slabs with by-product turnovers (See Sales Verification Report at 5), we found no evidence to show that Rautaruukki had improperly offset reported production costs with revenue from the sale of slab. As discussed in our cost verification report at page 7, by-product revenues offset to the cost of subject merchandise included burnt lime, coke, coal tar, sulfur, benzene, nut coke, and utilities. Because we have no evidence that Rautaruukki included sales of slab in the by-product offset, we made no adjustment.

Comment 14: Petitioners argue that if the Department accepts Rautaruukki's product-specific cost data, the Department should make an adjustment to account for the difference between Rautaruukki's May 5, 1997 COP dataset, which was submitted after verification, and its audited financial statements. Petitioners note that the reconciliation reviewed by the Department was based on data submitted prior to verification and that the May 5, 1997 dataset no longer reconciles to Rautaruukki's financial statements. As Rautaruukki did not explain whether the discrepancy between its revised COP dataset and its financial statements relates to subject or non-subject merchandise, petitioners recommend that the Department adjust the submitted data by the amount of the discrepancy.

Rautaruukki replies that the slight discrepancy between its costs submitted on May 5, 1997, and its audited financial statements represents omitted costs of products sold to third countries that were outside the scope of this administrative review. Rautaruukki further contends that the Department verified the accuracy and validity of its cost reconciliation and its production costs for plate. Therefore, Rautaruukki concludes that an adjustment to its reported costs is unwarranted.

Department Position: We agree with practitioners. The reconciliation reviewed by the Department did not include the correction of errors identified at the beginning of verification (See Cost Verification Report at 3, 6, and 7). Based on our revised reconciliation, it appears that the COP and CV data submitted by Rautaruukki in its May 5, 1997, response did not capture all costs as recorded under the company's financial accounting system. As we have no evidence to support Rautaruukki's contention that the difference relates to third country sales that were outside the scope of this administrative review, we adjusted Rautaruukki's submitted costs for this small difference. See Analysis Memorandum dated December 15, 1997.

Final Results of Review

As a result of our review, we have determined that no margin exists for Rautaruukki Oy for the period of August 1, 1995 through July 31, 1996. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of plate from Finland entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed company will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise, and (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 40.36 percent. This is the all others rate from the amended final determination in the LTFV investigation. See Amended Final Determination Pursuant To CIT Decision: Certain Cut-To-Length Carbon Steel Plate from Finland, 62 FR 55782 (October 28, 1997). These deposit requirements when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under Section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. 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 order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with Sections 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and this notice are in accordance with section 751 (a)(1) of the Act (19 U.S.C. 1675(a)(1)) and Sec. 351.213 and 351.221 of the Department's regulations.

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1277 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–805]

Certain Cut-to-Length Carbon Steel Plate From Belgium; 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 September 15, 1997, the Department of Commerce (the Department) published the preliminary results of its 1995–96 administrative review of the antidumping duty order on cut-to-length carbon steel plate from Belgium (62 FR 48213). This review covers one manufacturer/exporter of the subject merchandise, Fabrique de Fer de Charleroi, S.A. (FAFER), and its subsidiary, Charleroi (USA) for the period August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington,

DC 20230; telephone (202) 482–0193 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1997, the Department published in the **Federal Register** (62 FR 48213), the preliminary results of the 1995–96 review of the antidumping duty order on certain cut-to-length carbon steel plate from Belgium (58 FR 44164). At the request of petitioners, we held a public hearing, which included a closed session for the discussion of proprietary information, on November 18, 1997. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353 (April 1, 1997).

Scope of the Order

The products covered by this administrative review constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, 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 hot-rolled carbon steel flat-rolled products in straight lengths, 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 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (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, and 7212.50.0000. Included 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 beveled or rounded at the edges. Excluded is grade X–70 plate. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. The Department received briefs and rebuttal briefs from the petitioners, Bethlehem Steel Corporation, U.S. Steel Company, Inc., (a Unit of USX Corporation), Inland Steel Industries, Inc., Geneva Steel, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and Lukens Steel Company, and the sole respondent in this case, Fabrique de Fer de Charleroi. Based on our analysis of the issues discussed in these briefs, we have changed these final results of review from those published in our preliminary results.

General Comments

Comment 1: The petitioners argue that the Department must deduct actual antidumping and countervailing duties paid by respondents' affiliated importers from the price used to establish export price (EP) or constructed export price (CEP).

Department's Position: We disagree with petitioners. We continue to adhere to the statutory interpretation articulated in the final results of Certain Cold Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews (62 FR 18404), under which we do not make the deduction. The Department's decision in that case not to make the deduction was recently affirmed by the Court of International Trade (CIT), *See Ak Steel Corp. et al.* v. *United States*, Slip Op. 97–160 (CIT, December 1, 1997).

Comment 2: The petitioners contend that the Department's duty absorption determination in the preliminary results is generally flawed for two major reasons.

First, petitioners assert that by inviting the parties to submit new factual information after verification in order to rebut its presumption that ''duties will be absorbed for those sales which were dumped,'' the Department undermines the statutory and regulatory requirement that it rely only on verified information in the *Final Results.* In petitioners' view, allowing respondents to place information on the record which cannot be verified places petitioners at a distinct disadvantage, and is inconsistent with a recent ruling by the Court of Appeals for the Federal Circuit. *See Creswell Trading Co.* v. *United States*, 15 F.3d 10543, 1060 (Fed. Cir. 1994). They urge the Department to abandon this poorly conceived method and to collect all relevant duty absorption evidence at the same time as it collects information necessary to complete its dumping analysis.

Second, petitioners believe the Department's methodology has the potential to understate the extent to which antidumping duties were absorbed. The Department's methodology, they affirm, can give the casual reader the mistaken impression that the total amount of duties absorbed was limited to the dumped sales included in the final antidumping duty calculated. As the overall dumping margin is weight averaged, petitioners contend, the true level of dumping, and thus of duty absorption, is significantly greater than the overall margin. To resolve this problem, petitioners argue that the Department should state its duty absorption finding as the percentage of sales dumped along with the average level of dumping *for those sales* (emphasis in the original). For example, if five percent of a respondent's sales were dumped, and the overall weighted-average dumping margin were forty percent, the Department should state that the respondent absorbed duties on five percent of sales at a margin of forty percent.

Department's Position: After careful consideration of petitioners' views, we have left our duty absorption methodology unchanged from the preliminary results.

Contrary to petitioners' contention that we violated the statute by inviting submission of new factual information after verification, our regulations allow us to invite submission of factual information from parties at any time during a proceeding. If a party submits information as a result of such an invitation, we afford all other interested parties an opportunity to comment in writing on such information (see, § 353.31(a)). *See* Comment 6 for the Department's position on the duty absorption issue as it relates specifically to FAFER. Moreover, the statute and regulations do not require that all information submitted to the Department be examined at verification.

See, Monsanto v. *United States,* 698 F. Supp. 275,281 (CIT 1988).

We believe the approach suggested by petitioners is inappropriate and unreasonable for the following reasons: (1) A transaction-specific determination on duty absorption is impractical because dumping margins on individual transactions are ''business proprietary;'' (2) Petitioners' approach would result in an artificially inflated duty absorption percentage which would cause unnecessary confusion. In a hypothetical case where, if only one sale were dumped out of one hundred U.S. sale transactions, but at a margin of twenty percent, petitioners apparently would have the Department determine that duty absorption had occurred at a rate of twenty percent on one percent of the sales. We find this approach inappropriate and not mandated by either statute or regulation. Our analysis focuses on the entire POR. We find that our methodology better represents absorption during the POR.

Accordingly, for purposes of these final results, we have left our duty absorption methodology unchanged.

Company-Specific Comments

Comment 1: The petitioners claim that total facts available is warranted in this case because the ultimate ownership of FAFER and the full extent of the company's affiliations remain largely unknown despite the Department's repeated requests for such information. The petitioners contend that party affiliation can affect every aspect of the Department's analysis, including the arm's-length test, model matching, and the sales-below-cost test. Therefore, the petitioners request that the Department employ total facts available for the final results.

The petitioners note that in the preliminary results the Department found that FAFER is affiliated to a steel service center to which it sold subject merchandise during the POR. According to petitioners, FAFER's refusal to report downstream sales of this reseller violated the Department's explicit instructions in its questionnaire *not* to report sales to affiliated resellers in the home market, but instead to report ''downstream sales,'' *i.e.,* ''the resales by the affiliates to unaffiliated customers.'' In addition, the petitioners claim that FAFER failed to contact the Department immediately, as instructed, if it would be unable to report downstream sales as requested.

The petitioners point out that in its response to the Department's supplemental questionnaire, FAFER once again failed to report the requested downstream sales data, but claimed that the service center ''must * * * be considered as an unaffiliated customer'' because FAFER is only a minor shareholder of {the service center} and as a result has no control on it.'' *See* FAFER's January 13, 1997 Letter to the Department of Commerce at 12–13. The petitioners argue that FAFER's persistent attempts to obscure the true nature of its corporate structure compelled the Department to make an adverse inference with regard to the level of the Boël family's equity holdings in FAFER and consequently, FAFER's sales to this customer were subjected to and failed the arm's-length test. Furthermore, the petitioners claim that the egregious nature of FAFER's refusal to provide the requested information is compounded by the fact that some of the information in question ultimately has proven to be publicly available from other sources.

The petitioners state that the Department has, in the past, determined that the application of facts available is warranted in certain instances in which a respondent fails to report downstream sales. For example, in Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 59 FR 37062, 37077 (July 9, 1993), the petitioners state that ''when the respondents could not, or would not, report downstream sales, we applied margins based on BIA to any U.S. sale matched only to a sale to a related reseller in the home market that failed the arm's-length test.'' The petitioners believe that such an approach should be used in this case.

The petitioners acknowledge that the Department may exempt respondents from reporting downstream sales if they are ''unable'' to obtain this information, but contend that FAFER has not met this burden. In fact, according to the petitioners, FAFER should have been able to provide the requested data because FAFER and the service center are affiliated not only through equity holdings, but also through extensive overlapping membership of their boards of directors and through family groupings.

Consequently, the petitioners recommend that the Department make an adverse inference and employ total facts available, using a dumping margin of 42.64 percent, the highest margin alleged in the original petition; or, in the alternative, the margin of 13.31 percent from the less-than-fair-value (LTFV) investigation.

The respondent counters that there is no statutory provision requiring the Department to use the downstream sales of an affiliated reseller, and petitioner fails to cite any legal support for any requirement on the Department to do so, particularly where the finding of affiliation is one based on facts available in the first instance. Moreover, the respondent contends that the Department has already resorted to facts available in determining that the steel service center is an affiliated reseller in the home market, and has therefore already acted in a manner adverse to respondent's interests (since this allowed the Department to conduct the arm's-length test, which led to the elimination of all identical matching home market sales to that service center). In FAFER's opinion, the Department should dismiss the petitioners' request that we resort to total facts available because FAFER did, in fact, cooperate with the Department to the fullest extent possible, reporting downstream sales to at least one affiliated reseller. Finally, FAFER maintains that it did not have the authority to obtain downstream sales data from the service center in question.

Department's Position: We have determined that FAFER and the steel service center to which FAFER sold subject merchandise during the POR are affiliated by means of Boël family control, pursuant to section 771(33) (*see,* Certain Cut-to-Length Carbon Steel Plate from Belgium; Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213)).

Section 776(b) of the Act requires that if an interested party fails to cooperate by not acting to the best of its ability to comply with the Department's request for information, the Department may use an adverse inference in selecting from the facts otherwise available. Thus, we may resort to adverse facts available in response to FAFER's failure to report downstream sales unless FAFER establishes that it could not compel its affiliate to report those downstream sales (*cf.*, Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review; Roller Chain, Other Than Bicycle, From Japan (62 FR 60472, 60476) (November 10, 1997)). Although FAFER claims that it could not compel its affiliated customer to provide downstream sales information, we cannot accept this claim based solely on the information FAFER has provided. Respondent has the burden of proof to show that it cannot compel the reporting of downstream sales. However, recognizing that the Department did not inform FAFER of certain deficiencies in its attempt to establish such a claim, we have elected not to use adverse facts available.

As the result of our conclusion that FAFER and the steel service center were indeed affiliated, we applied our arm's-length test and found that sales to the

affiliated customer, the steel service center, were not made at arm's-length prices, *i.e.*, at prices comparable to prices at which the respondent sold identical merchandise to unaffiliated customers. In addition, based on the Department's previous determination to disregard sales made at below the cost of production (COP) in the original LTFV investigation, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(i) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by FAFER in the home market. The results of the sales-below-cost test revealed that the remaining home market sales to unaffiliated parties which provided contemporaneous matches with the U.S. sales, failed the sales-below-cost test and could not be used for the calculation of normal value (*see*, Certain Cut-to-Length Carbon Steel Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213)). Therefore, in accordance with section 773(a)(4) of the Act, we have continued to disregard all home market sales and have used constructed value as the basis for normal value for these final results.

Comment 2: Although the petitioners do not dispute that the commission that FAFER paid to its agent in connection with U.S. sales represents a reasonable proxy for FAFER's unreported U.S. indirect selling expenses, they do object to the commission amount applied by the Department in its margin calculation.

The petitioners state that since FAFER did not provide any documents regarding its commission payments to Charleroi USA, the Department attempted to calculate the commission. However, the petitioners maintain that the commission amount calculated by the Department is plainly inconsistent with information on the record in this review.

In addition, the petitioners assert that the disparity between the U.S. commission amount and the home market commission amount underscores their assertion that the figure used by the Department is not an accurate measure of FAFER's U.S. commission expense.

The petitioners contend that the record provides sufficient information to calculate properly the commission amount to deduct from CEP. They note that in its response to the Department's questionnaire, FAFER states that it pays its affiliate, Charleroi USA, a commission calculated as a specific rate of ''the minimum prices mentioned in FAFER's (sic) price guide.'' (*see*, Section A Response). They suggest that this evidence on the record provides sufficient information for the Department to calculate properly the commission amount to deduct from constructed export price. The petitioners urge the Department to use this commission rate applied to the price in the price guide as facts available for FAFER's U.S. commission expense.

In its brief, FAFER rejects the petitioners' claim that the Department used the incorrect amount when deducting from CEP the commission paid to its affiliate, Charleroi U.S.A. Moreover, FAFER maintains the petitioners' contention that the Department should use the rate mentioned in its Section A response reveals a misinterpretation of FAFER's commission policy on the part of petitioners. FAFER contends that its Section A statement was a general policy statement and, as indicated by the context of item 3.1 of the Section A response, is subject to the circumstances under which sales are actually negotiated, as well as to the resulting price. For the particular sale at issue, FAFER states that the general policy on commissions was superseded by the facts and circumstances of the sale, and the Department, based upon the records of the sale reviewed at verification, determined the commission actually paid per metric ton. In FAFER's opinion, in light of the availability of specific sales data, there is no need for application of a general policy which did not take effect in the case of the sale in question.

Furthermore, in its rebuttal brief, FAFER states that upon further investigation of the U.S. sales documentation, it has determined that it did not pay any commissions to its U.S. affiliate during the POR and no basis exists for imputing an amount to its one U.S. sale. FAFER cites to U.S. Sales Verification Report, Exhibit 10 as proof that no U.S. commission was paid. FAFER asserts that this evidence backs up its submissions to the Department in which it unambiguously stated that its affiliate, Charleroi U.S.A., received no commission on the subject sale.

FAFER also asserts that the amount the Department used as the U.S. commission expense in its preliminary results was probably, to the best recollection of FAFER's counsel who was present at verification, a service charge by transmitting banks. FAFER urges the Department not to increase the U.S. commission amount, as petitioners request, but reduce FAFER's commission amount to zero.

In rebuttal, the petitioners assert that FAFER is attempting to downplay its stated policy regarding its commission payments to affiliates and seeking to recast its commission policy to accommodate the amount used in the preliminary results. The petitioners maintain that, contrary to FAFER's contention, its section A response states that commissions may be paid either by permitting the affiliated agent to withhold a portion of the sales proceeds, or by issuance of a credit note after the transaction is completed (*see* Letter from Barnes Richardson & Colburn to the U.S. Department of Commerce, at 4 (October 21, 1996)). The petitioners maintain that this statement is evidence that although the method of payment may vary from sale to sale, there is no indication that the commission amount itself may vary. Therefore, the petitioners reiterate their contention that the Department should deduct the appropriate commission amount from CEP and not the inaccurate amount used in the preliminary results.

Moreover, the petitioners note that FAFER's failure to report indirect selling expenses incurred in the U.S. resulted in the Department's use of the commission amount that FAFER paid its agent as the facts otherwise available to fill this void in FAFER's data. While the petitioners fully support the Department's determination to make this adjustment to CEP as facts available for unreported U.S. indirect selling expenses, they assert that the Department should use the commissions that FAFER paid in connection with U.S. sales only if those commissions represent a reasonable proxy for FAFER's unreported U.S. indirect selling expenses. The petitioners point out that in order to give effect to the purpose of the facts available provision of the statute, the information selected as facts available must have probative value, and must be sufficient to induce respondents to respond fully to the Department's information requests in the future (*see, Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185, 1190–91 (Fed. Cir. 1990)). Should the Department erroneously determine that the understated commission amount used in the preliminary results is accurate, the petitioners suggest a more accurate amount for indirect selling expenses derived from Charleroi USA's financial statements.

Department's Response: We agree with the respondent's contention that further examination of the U.S. sales documentation obtained at verification

reveals that FAFER did not pay any commission on the U.S. sale in question. We also agree with petitioners that the U.S. commission amount calculated by the Department and used in the preliminary results as a proxy for FAFER's U.S. indirect selling expenses is inappropriate and does not reflect an adverse inference. Such an inference is justified by FAFER's refusal to comply with the Department's requests for information on its U.S. indirect selling expenses.

The commission amount used by the Department in the preliminary results was an unrealistically low commission rate and inconsistent with the commission rate reported by FAFER in its Section A response at 4 (*see* the Department's October 8, 1997, Internal Memorandum from Helen Kramer to the File). Moreover, FAFER acknowledges that the U.S. commission amount used in the preliminary results probably represented a service fee charged by transmitting banks (*see*, Respondent's Rebuttal Brief, October 22, 1997 at 4, Footnote 8), not a commission amount. Therefore, for these final results, while we have continued to use FAFER's U.S. commission expense as facts available for FAFER's failure to report U.S. indirect selling expenses (*see*, Analysis Memorandum from Analyst to the File, January 12, 1998), we are using a different estimate of this expense. We find that the commission rate FAFER typically pays its U.S. affiliate is the most reasonable estimate of U.S. indirect selling expenses (*see*, FAFER's Section A Response at 4).

Comment 3: The petitioners note that in its preliminary results, the Department subtracted home market commissions from CV as a circumstance-of-sale adjustment, but did *not* include the value of home market commissions in the calculation of the CV itself. The petitioners state that pursuant to statutory mandate, the Department's margin calculation program should include all direct selling expenses in the calculation of CV, including commissions. *See* 19 U.S.C. § 1677(e)(2)(A).

FAFER maintains that the filed designated general and administrative (G&A) expenses already includes amounts reported in its Section D response as home market commissions. According to the respondent, the Department verified FAFER's reported G&A amounts which included commissions, and to include them again in the calculation of CV would result in double-counting. FAFER cites generally to Cost Verification Report, March 24, 1997, at p. 26 and Cost Verification, Exhibit 7a in support of its position.

Department's Position: We agree with petitioners. In its original Section D submission of November 18, 1996, FARER noted that commissions were included in the variable field G&A. In its submission of January 21, 1997, FAFER, on instructions from the Department, reported home market commissions in a separate field in sections B and C. At the sales verification, we determined that the commission field was zero and the indirect selling expense field included only commissions paid to its affiliate. At the cost verification, the Department reviewed FAFER's G&A calculation and found it contained only general and administrative items. At verification FAFER did not indicate that any of the G&A expense categories included selling expenses. A review of the Cost Verification Report and Exhibit 7a of that report, cited by the respondent, supports the Department's conclusion that home market commission expenses were not included in G&A expenses.

The absence of any verified account which can be tied to home market commissions leaves us no choice but to conclude that home market commissions are not included in FAFER's reported G&A expenses. Therefore, we agree with petitioners that the Department erroneously understated CV in its preliminary results by not including home market commissions, pursuant to 19 U.S.C. § 1677b(e)(2)(a), in its calculation of CV. For these final results, we have added home market commissions in calculating CV (see, Analysis Memorandum from Analyst to the File, January 12, 1998).

Comment 4: The petitioners contend that in its calculation of CV profit in the preliminary results, the Department did not determine the total cost and the profit rate on the same basis. They maintain that home market commissions were included in the denominator of the ratio to determine that profit rate, but they were not included in the total costs multiplied by the profit rate to determine the per unit amount of CV profit. Therefore, they conclude that the Department should revise its margin calculation program to ensure that commissions are treated consistently throughout the Department's CV calculations.

FAFER counters that for the same reason it articulated in regard to commissions (*see* Comment 3), the Department should disregard the petitioner's request to recalculate CV profit.

Department's Position: We agree with petitioners. In order to calculate CV correctly, we must include commissions in the total costs multiplied by the profit rate in our calculation of CV profit. Accordingly, we have changed the computer program for these final results (*see* Comment 4 above).

Comment 5: The petitioners assert that certain of FAFER's claimed home market indirect selling expenses were, in fact, commissions, as indicated in the Department's Sales Verification Report at 11. In the petitioner's opinion, it seems incredible that a company would not incur any home market indirect selling expenses and, therefore, the Department should rely on the facts available and increase FAFER's reported SG&A expense, using the sales and cost of goods sold figures from FARER's unconsolidated statements.

FAFER maintains that no basis exists for increasing its calculated SG&A expense rate by the petitioner's randomly chosen percent because (1) the petitioners provide no mathematical explanation for this figure, and (2) any amounts that the Department would ordinarily deem indirect selling expenses were included in FAFER's SG&A rate, which reconciled with its financial statement at verification.

Department's Position: We agree with petitioners. As we stated in our response to Comment 3 above, home market indirect selling expenses are not included in the G&A filed or the indirect selling expense field. In addition, despite the Department's request in its original questionnaire and in its supplemental questionnaire of December 23, 1996, FARER failed to report any home market indirect selling expenses or the absence of any indirect selling expenses.

Therefore, pursuant to section 776(A)(2)(A) of the Act, we have employed the facts available for FAFER's home market indirect selling expenses. As a proxy for the unreported home market indirect selling expenses, we have added a percentage amount derived by deducting the G&A amounts reported by FAFER from the SG&A value stated on FAFER's unconsolidated financial statement, and then dividing the resulting difference by the cost of goods sold (*see*, Analysis Memorandum, January 12, 1998).

Comment 6: FAFER notes that the Department in its preliminary results found that the antidumping duties have been absorbed by FAFER because the record did not permit a conclusion that the unaffiliated purchaser in the United States will pay the ultimate assessed duty. The Department invited interested parties to submit evidence to the contrary within 15 days of the date of publication. FAFER states that Charleroi U.S.A. received a letter from the unaffiliated purchaser certifying that

company's irrevocable commitment to pay the antidumping duty at issue. This letter was submitted (and served) in a timely manner, and should put the issue to rest in FAFER's view. FAFER also requests that the Department decrease the preliminary margin of 0.22% accordingly.

In rebuttal, the petitioners assert that the Department's invitation to FAFER to submit new factual information after verification is contrary to the Tariff Act of 1930, as amended, and the Department's regulations requiring that the Department rely only on verified information in its final results for this review. *See* 19 U.S.C. § 1677m(i).

The petitioners believe that FAFER's submission purporting to demonstrate that it did not absorb antidumping duties should be rejected for the following reasons: (1) The document from the customer to FAFER was dated September 29, 1997, only one day before it was filed with the Department and, therefore, not part of the original terms of sale; (2) the document is simply a one page letter, not notarized, containing no indication that it is a contractual obligation; and (3) the document cannot be relied upon because it has not been verified by the Department.

In conclusion, the petitioners assert that the Department should reject FAFER's submission for the reasons noted above, and reaffirm its determination that FAFER and its affiliated importer absorbed antidumping duties.

Department's Position: We agree with petitioners as to the results of this duty absorption inquiry, but not as to the rationale. In our preliminary results of review, at the request of petitioners, the Department undertook a duty absorption inquiry. The Act provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In this case, the reviewed firm sold through an ''affiliated'' importer within the meaning of section 751(a)(4) of the Act. We preliminarily determined that FAFER had absorbed the antidumping duties on one hundred percent of its U.S. sales because we could not conclude from the record that the unaffiliated purchasers in the United States had agreements to pay the ultimately assessed duty.

We invited interested parties to submit evidence that the unaffiliated purchasers in the United States have agreements to pay any ultimately assessed duties charged to the affiliated importer, Charleroi, USA. In a timely manner, FAFER submitted a statement from the customer that he ''[would] irrevocably commit to make payments on any antidumping duty with respect to [the] purchase of the [subject merchandise], if such duty is assessed upon final determination by the U.S. Department of Commerce in this 1995–1996 administrative review.'' See Attachment, dated September 29, 1997, to the Letter from FAFER to the Secretary of Commerce, September 30, 1997.

Concerning the petitioners' objections to this response, as stated above, we note that the submission from the respondent was timely filed within the fifteen days following the publication of the preliminary. Our regulations at 19 C.F.R. § 351.31(b)(1) permit the Department to ask for (and receive) information pertaining to an administrative review at any time during a proceeding. Indeed, in an effort to obtain more detailed information and a clarification of the respondent's September 30, 1997 submission on duty absorption, we sent a supplemental questionnaire to FAFER on November 26, 1997. The petitioners had the opportunity to comment on the respondent's supplementary response (*see*, Letter from petitioners to the U.S. Department of Commerce, December 15, 1997).

After careful consideration of the evidence on the record, we have determined that the submission from the respondent does not establish that the unaffiliated customer will pay any ultimately assessed duty (*see*, Certain Cut-to-Length Carbon Steel Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review (62 FR 48213, 48217)) rendering the petitioners concerns about verification of the submission moot. In addition, the petitioners concerns about the timing of the alleged agreement between Charleroi U.S.A. and its customer do not enter into our refusal to rely on the submission. Petitioners have not stated any reasons why the timing of the alleged agreement has a bearing on its enforceability. As for the petitioners' objection to the fact that the ''letter'' was only one page and not notarized, the Department does not consider length a criterion for substance, and we note that the submission was properly certified pursuant to § 353.31(i) of the Department's regulations.

In the Preamble to 19 CFR part 351 *et al.*, Antidumping Duties; Countervailing Duties; Final Rule, we state that the Department did not adopt in its final rules suggestions that it establish substantive criteria regarding duty absorption because the Department ''will need experience with absorption duty inquiries before it is able to promulgate such criteria.'' *Id.* at p. 27318. In this spirit, we have carefully considered the alleged agreement presented by Charleroi U.S.A.'s customer that purportedly indicates that he will be financially responsible for any duty assessed by the Department in this administrative review. We have concluded, in this case, that the evidence of record does not demonstrate the existence of an enforceable agreement to pay the full amount of the assessed duties. The fact that the customer has agreed ''to make payments on'' antidumping duties does not provide for an enforceable agreement to pay all antidumping duties. The alleged agreement does not state the exact number or amount of the ''payments'' the customer will make to the affiliated importer, nor that the amounts paid by the unaffiliated purchaser will be for the entire amount that is assessed by the Department. Finally, the agreement contains no provision as to when the customer will make such payments. Given these uncertainties, we cannot conclude that there is an enforceable agreement for the unaffiliated purchaser to pay the duties. Therefore, for these final results, we have continued to find that antidumping duties have been absorbed by FAFER on one hundred percent of its U.S. sales.

Results of Review

We determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Fab. de Fer de Charleroi	08/01/95–07/31/96	13.75

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The

Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of certain cut-to-length carbon steel plate from Belgium within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate of 13.31 percent, the ''all others'' rate, established in the LTFV investigation, shall remain in effect until publication of the final results of the next administrative review.

We will calculate importer-specific duty assessment rates on an *ad valorem* basis against the entered value of each entry of subject merchandise during the POR.

Notification of Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This administrative review and notice are in accordance with Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR § 353.22.

Dated: January 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1278 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–823]

Professional Electric Cutting Tools From Japan: Extension of Time Limit for Final Results of Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of final results of antidumping duty review.

SUMMARY: The Department of Commerce (''the Department'') is extending the final results for the antidumping duty review of professional electric cutting tools from Japan. This review covers the period July 1, 1995 through June 30, 1996.

EFFECTIVE DATE: January 20, 1998.

FOR FURTHER INFORMATION CONTACT: N. Gerard Zapiain or Steve Jacques at 202–482–1395 or 202–482–1391; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On December 16, 1997, the Department published in the **Federal Register** its decision that it would extend the deadline for the final results of review by 32 days until January 7, 1998 (see 62 FR 65796). The Department has now determined that it is not practicable to issue its final results within that time limit (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration). The Department is extending the time limit for completion of the final results for the full 60 days available until February 4, 1998 in accordance with section 751(a)(3)(A) of the Act.

Dated: January 13, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–1276 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 980114015–8015–01]

RIN 0625–ZA07

CFDA No.: 11.115; Cooperative Agreement Program for American Business Centers® in Russia

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The International Trade Administration (ITA) is soliciting competitive applications to establish and operate American Business Centers® (ABCs®) in Volgograd and Chelyabinsk, Russia for a two (2) year multi-year award period. ABCs® will encourage the export of U.S. goods and services and stimulate trade and investment in Russia's regions. Funds to support new ABC® Awards are not currently available. All awards resulting from this announcement are contingent upon the availability of appropriated funds.

ABCs® will provide, on a user fee basis, a broad range of business development and facilitation services to United States companies in Russia's regions. Services provided by the ABCs® will be designed to encourage more U.S. firms to explore opportunities for trade and investment in Russia's regions and to help them conduct business there more effectively. The core services to be provided by the ABCs® include: international telephone, fax, and data transmission; temporary office space; space for meetings, small seminars, and small product exhibitions or demonstrations; secretarial support (e.g. word processing, typing, message taking); translator/interpreters; photocopying; market research; counseling on local business conditions; and arranging appointments with Russian business contacts. The Centers also will work closely with Russian businesses to help them become more attractive trading partners; identify and report obstacles to trade and investment; and serve as a link between financial institutions, U.S. companies, and Russian enterprises.

In addition to these core services, ABCs® will support U.S. Government activities under the Regional Investment Initiative (RII). This will include providing, at cost, support for the activities of the RII coordinators. Such support may include office space, computers, telecommunications equipment and secretarial and translation services.

DATES: ITA will accept only those applications which are received at the U.S. Department of Commerce, Room 1235, HCHB, no later than 3:00 pm E.S.T. February 19, 1998. Late applications will not be accepted and will not be considered. On January 20, 1998 competitive application kits are available from the Department of Commerce.

ADDRESSES: To obtain a copy of the application kit, please send a written request with a self-addressed mail label to: Russia-NIS Program Office, U.S. & Foreign Commercial Service, Room 1235, HCHB, U.S. Department of Commerce, Washington, D.C. 20230. Requests for application kits also may be faxed to 202–482–2456. Only one application kit will be provided to each organization requesting it, but the kit may be reproduced by the requester. All forms necessary to submit an application will be included in the application kit.

Completed applications should be returned to the same address. Applicants must submit a signed original and two copies of the application and supporting materials. It is anticipated that it will take ten weeks after the deadline for receipt of applications to process applications and make awards.

FOR FURTHER INFORMATION CONTACT: Applicants wishing further information should contact Ms. E. Vivian Spathopoulos, Deputy Director, Russia-NIS Program Office, U.S. & Foreign Commercial Service, U.S. Department of Commerce, room 1235, HCHB, Washington, D.C. 20230, telephone: (202) 482–2902, or Fax: (202) 482–2456.

SUPPLEMENTARY INFORMATION:

Program Authority

The American Business Center® program is authorized by Title III of the ''Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992'' or the ''FREEDOM Support Act'', Pub. L. 102–511. Funding for the program is provided by the Agency for International Development under Section 632(a) of the Foreign Assistance Act of 1961, as amended.

Eligible Applicants

United States for-profit firms, non-profit organizations, non-Federal government agencies, industry and trade associations, and educational institutions are eligible to apply. An enterprise which includes or intends to include participation of host country citizens or entities will be considered an eligible applicant only so long as the applicant is and will remain, throughout the award period, controlled and managed by citizens and entities of the United States.

Funding Guidelines

Since it is anticipated that ITA will be involved in the implementation of each project for which an award is made, the funding instrument for the program will be a cooperative agreement. Examples of ITA involvement include but are not limited to the following: supplemental marketing to promote the ABCs®, guidance on eligibility of ABC® clients, and coordination with other U.S. government assistance programs.

ITA anticipates $400,000 will be available for the first year of funding for up to two (2) multi-year cooperative agreement awards during FY 1998. Applicants will be requested to submit a work-plan and budget which cover a one (1) year period for a total amount of not more than $200,000 in Federal funds. Applicants must supply at least fifty-percent (50%) of total project costs, with the Federal portion of total project costs to be no more than fifty-percent (50%). A minimum of one half (½) of the support supplied by the applicant must be in the form of cash. The remaining portion of the applicant's support may consist of cash or in-kind contributions (goods and services contributed by a third-party). Applicants will be requested to submit a work-plan and budget for a second year of operation based on the level of funding for the first year with the understanding that funding levels may or may not be the same as the first year.

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award, or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Applicant receipt of future funding is contingent upon the availability of appropriated funds, and satisfactory performance, and will be at the sole discretion of ITA. Publication of this notice does not constitute an obligation by the Department of Commerce to enter into a cooperative agreement with any responding applicant.

Eligible entities may propose the establishment of one or more ABCs®. Applicants must submit a separate application for each proposed ABC®. Each ABC® will be funded through a separate cooperative agreement. More than one cooperative agreement may be awarded to a single entity. No more than one ABC® will be funded in any given Russian city.

Evaluation Criteria

Consideration for financial assistance under the program will be based on the following evaluation criteria:

(1) *Quality of Work Plan:* core commercial activities, marketing strategy, management/staffing, cooperation with ITA and outreach programs to Russian firms;

(2) *Qualifications of Applicant:* financial history, personnel's experience in region and in delivering commercial products/services;

(3) *Market Knowledge of Locations:* applicant's demonstrated familiarity with the market conditions in the proposed city and/or region;

(4) *Project Timetable:* ability of applicant to complete major stages in the scope of work quickly, particularly bringing an ABC® into the fully-operational stage;

(5) *U.S. Small Business Utility:* accessibility of services to small firms and reasonableness of fees;

(6) *Cost-Effectiveness:* reasonableness, allowability and allocability of costs.

For purpose of evaluation of the applications, the above criteria will be weighted as follows: criterion (1) will be worth a maximum of 30 (thirty) percent; criterion (2) will be worth a maximum of 30 (thirty) percent; criterion (3) will be worth a maximum of 20 (twenty) percent; criterion (4) will be worth a maximum of 10 (ten) percent; criterions (5) and (6) will be worth a maximum of 5 (five) percent each.

Selection Procedure

Each application will be evaluated by a panel of at least three independent ITA reviewers qualified to evaluate applications submitted under the program. Applications will be evaluated on a competitive basis in accordance with the evaluation criteria set forth above. Awards will be based on highest total accumulated score and geographic location.

Notifications

All applicants are advised of the following:

(1) Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(2) If applicants incur any cost prior to an award being made, they do so solely at their own risk of not being reimbursed by the Federal Government. Notwithstanding any verbal assurance that they may receive, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

(3) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(4) No award of Federal funds shall be made to an applicant who has an outstanding debt until either:

a. The delinquent account is paid in full;

b. A negotiated repayment schedule is established and at least one payment is received; or

c. Other arrangements satisfactory to the Department of Commerce are made.

(5) All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''. Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F ''Government wide Requirement for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions;'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000 and loans and loan guarantees for more than $150,000 or the single family maximum mortgage limit for affected programs, whichever is greater''. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28. Appendix B.

(6) Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be submitted to the Department. Form LLL submitted by any tier recipient or sub-recipient should be submitted to the Department in accordance with instructions contained in the award document.

(7) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(8) All recipients and sub-recipients are subject to all applicable Federal laws and Federal Department of Commerce policies, regulations, and procedures applicable to Federal assistance awards. For-profit organizations shall be subject to OMB Circular A–110 and 48 CFR part 31.

(9) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

(10) Recipients are subject to the Fly America Act (49 U.S.C. sec. 1517 as implemented by 41 CFR sec. 301–3.6).

(11) Executive Order 12372 ''Intergovernmental Review of Federal Programs'' does not apply to this program.

(12) Paperwork Reduction Act does apply to this program. This document involves collections of information subject to the Paperwork Reduction Act, which have been approved by the Office of Management and Budget under OMB Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. 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 unless that collection of information displays a current valid OMB control number.

Dated: January 14, 1998.

E. Vivian Spathopoulos,

Deputy Director, US&FCS/Russia-NIS Program Office.

[FR Doc. 98–1390 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Archival Tag Recovery; Proposed Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 23, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Christopher Rogers, F/SF1, Station 14709, 1315 East-West Highway, Silver Spring, MD 20910–3282 (301–713–2347).

SUPPLEMENTARY INFORMATION:

I. Abstract

To investigate the migratory patterns of Atlantic bluefin tuna, a program has been undertaken to implant archival tags in selected tuna. In the event a fish with an archival tag is captured, applicable regulations could require its immediate release under certain conditions. In order to provide for maximum likelihood of data recovery, a regulation is being issued to exempt the harvest of fish with archival tags from other applicable requirements. Persons that harvest a tuna containing a tag must provide certain information about the tuna (size, weight, location, etc.). This collection was initially approved under emergency clearance procedures; this notice invites comments on plans to submit a regular clearance request to extend that approval for three years.

In addition to those approved requirements, NOAA also proposes a requirement that persons conducting research with archival tags register and report on their activities.

II. Method of Collection

Fishermen catching tagged bluefin tuna call a toll-free telephone number. They are then directed to remove the tag and to mail it to a specified address. A

reward is given for tag recoveries. Archival tag researchers would submit registration and reporting information in accordance with regulatory requirements.

III. Data

OMB Number: 0648–0338.
Form Number: None.
Type of Review: Regular Submission.
Affected Public: Individuals, businesses or other for-profit organizations, not-for-profit institutions.
Estimated Number of Respondents: 23.
Estimated Time Per Response: 30 minutes.
Estimated Total Annual Burden Hours: 13.
Estimated Total Annual Cost to Public: None.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 2, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1263 Filed 1–16–98; 8:45 a.m.]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011298B]

South 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 South Atlantic Fishery Management Council (Council) will convene a meeting of its Snapper Grouper Assessment Group.

DATES: The meeting will convene on February 4, 1998, at 1:30 p.m. and adjourn at 5:30 p.m.; reconvene on February 5, 1998, from 8:30 a.m. to 5:30 p.m. and, on February 6, 1998, reconvene at 8:30 a.m. and adjourn at 12:00 noon.

ADDRESSES: The meeting will be held at the Town and Country Inn, 2001 Savannah Highway, Charleston, SC 29407; telephone: 803-571-1000.

Council address: South Atlantic Fishery Management Council, 1 Southpark Circle, Southpark Building, Suite 306, Charleston, South Carolina 29407–4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520.

SUPPLEMENTARY INFORMATION: The meetings will be held to:

1. Review wreckfish landings and make recommendations to the Council for setting the 1998/99 wreckfish framework actions, including total allowable catch;

2. Review Special Management Zone requests received by the Council;

3. Refine appropriate criteria for developing marine fishery reserves based on the Plan Development Team report;

4. Review the revised Oculina research plan;

5. Determine the current status of the snapper grouper species, as well as project the change in this status that will result from regulations in Snapper Grouper Amendment 9; and,

6. Develop recommendations on information prepared by Council staff concerning new definitions for overfishing, optimum yield (OY) and maximum sustainable yield (MSY) levels or spawning potential ratio proxies for MSY and OY.

Although other issues not contained in this agenda may come before this Group 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 this meeting. Group 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 the Council office (see **ADDRESSES**) by January 28, 1998.

Dated: January 13, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–1243 Filed 1–16–98 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011298A]

Caribbean 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 Caribbean Fishery Management Council (Council) and its Administrative Committee will hold public meetings.

DATES: The meetings will be held on February 9, 1998 through February 12, 1998. The Council will meet on Wednesday, February 11, 1998, from 9:00 a.m. to 5:00 p.m., and reconvene on Thursday, February 12, 1998, at 9:00 a.m., and adjourn at approximately noon. The Administrative Committee will meet on Monday, February 9, 1998, from 2:00 p.m. to 5:00 p.m.

ADDRESSES: The meetings will be held at the Marriott's Frenchman's Reef Beach Resort, St. Thomas, U.S. Virgin Islands; telephone: 809–776–8500.

Council address: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926; fax: (787) 766–6239.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolon, Council Executive Director, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 93rd regular public meeting to discuss the draft Amendment 1 to the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the United States Virgin Islands that would establish a Marine Conservation District (MCD). The Council will consider establishment of a proposed ''no-take'' MCD in the EEZ due south of St. John, U.S. Virgin Islands. The Administrative Committee will discuss the results of the CY 96 audit; the CY 98 budget; Scientific and Statistical Committee/ Advisory Panel membership, and other administrative matters. Following adjournment of the Administrative Committee's public meeting, the Committee will convene a closed session to discuss personnel matters.

Although other issues not contained in this agenda may come before this Council and Administrative Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council/Committee action during this meeting. Council/Committee action will be restricted to those issues specifically identified in the agenda listed in this notice.

The meetings will be conducted in English. All interested persons are invited to attend and participate with oral and written statements regarding agenda issues.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or requests for sign language interpretation and other auxiliary aids, please contact the Council office (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 13, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–1244 Filed 1–16–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 62 F.R. 67847.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., Wednesday, January 28, 1998.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has cancelled the meeting to discuss enforcement objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–1411 Filed 1–15–98; 3:04 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Wednesday, January 28, 1998.

PLACE: 1155 21st., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–1412 Filed 1–15–98; 3:04 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 62 F.R. 67847.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., Thursday, January 29, 1998.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has canceled the meeting to discuss enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–1413 Filed 1–15–98; 3:04 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group of Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0830, Tuesday and 0800, Wednesday February 3–4, 1998.

ADDRESSES: The meeting will be held at Air Force Phillips Laboratory, Science Center, Building 201 and Sandia National Laboratories, Microelectronics Development Laboratory (MDL), Building 858, Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Timothy Doyle, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology; to the Director; Defense Research and Engineering (DDR&E); and through the DDR&E, to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended (5 U.S.C. App. § 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: January 13, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1175 Filed 1–16–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Going to Space Panel Meeting in support of the HQ USAF Scientific Advisory Board will meet at the Beckman Center, Irvine, CA on February 5–6, 1998, from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefings for the 1998 USAF Scientific Advisory Board Summer Study on Going to Space.

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–1236 Filed 1–16–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The Air and Space Command & Control Agency (ASC2A) Advisory Group Panel Meeting in support of the HQ USAF Scientific Advisory Board will meet at Langley Air Force Base, VA on March 4–5, 1998, from 8 a.m. to 5 p.m.

The purpose of the meeting is to gather information and receive briefings.

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–1237 Filed 1–16–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 23, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 13, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Technology Literacy Challenge Fund Performance Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden: Responses: 57 Burden Hours: 2,280.

Abstract: Information is necessary to manage the Technology Literacy Challenge Fund program, to consider the need for future authorizations, and to provide one set of data for evaluation and analysis.

[FR Doc. 98–1193 Filed 1–16–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 19, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection,

grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 13, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.
Title: Application for Grants Under the Javits Gifted and Talented Students Education Program.
Frequency: Annually.
Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.
Reporting Burden and Recordkeeping: Responses: 300. Burden Hours: 12,000.
Abstract: Applications are required to receive grants under the the Javits Gifted and Talented Students Education Program. Program participants include SEAs, LEAs, Institutions of Higher Education, other public and private agencies and organizations, including Indian tribes and organizations—as defined by the Indian Self-Determination and Education Assistance Act—and Native Hawaiian organizations.

[FR Doc. 98–1194 Filed 1–16–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.116R]

Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: Controlling the Cost of Postsecondary Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of Program: To provide grants or enter into cooperative agreements to improve postsecondary education opportunities by focusing on problem areas or improvement approaches in postsecondary education.
Eligible Applicants: Institutions of higher education, other public and private nonprofit educational institutions and agencies, or combinations of those institutions or agencies.
Deadline for Transmittal of Applications: March 20, 1998.
Deadline for Intergovernmental Review: May 19, 1998.
Applications Available: January 20, 1998.
Available Funds: $1,300,000.
Estimated Range of Awards: $70,000–$200,000.
Estimated Average Size of Awards: $100,000.
Estimated Number of Awards: 5–15.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 82, 85 and 86.

Priority

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority

Projects that are designed to deliver postsecondary education at less cost than in previous years, while maintaining high quality.

Methods for Applying Selection Criteria

The Secretary gives equal weight to the listed criteria. Within each of the criterion, the Secretary gives equal weight to each of the factors.

Selection Criteria

In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 75.210:

(a) The significance of the proposed project, as determined by—

(1) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies; and

(2) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) The quality of the design of the proposed project, as determined by the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(c) The quality of the evaluation to be conducted of the proposed project, as determined by the extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(d) The quality of the personnel who will carry out the proposed project, as determined by—

(1) The qualifications, including relevant training and experience, of key project personnel; and

(2) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(e) The adequacy of resources for the proposed project, as determined by—

(1) The extent to which the budget is adequate to support the proposed project;

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project;

(3) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project;

(4) The adequacy of support, including facilities, equipment, supplies, and other resources from the applicant organization or the lead applicant organization; and

(5) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

For Applications or Information Contact: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 600 Independence Avenue, S.W., Room 3100, ROB–3, Washington, D.C. 20202–5175. You may request applications by calling 202–358–3041 (voice mail) or 732–544–2872 (fax-on-demand) or by submitting the name of the competition and your name and postal address to FIPSE@ED.GOV (e-mail). Applications are also listed on the FIPSE Web Site <http://www.ed.gov/offices/OPE/FIPSE>. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. For additional program information call David Johnson at the FIPSE office (202–708–5750) between the hours of 9 a.m. and 5 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on

request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1135–1135a–3.

Dated: January 13, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–1208 Filed 1–16–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Directory Database Available for License

AGENCY: Office of General Counsel, Department of Energy.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy announces that the following Directory Database is available for license: ''Commercial Environmental Cleanup, Products and Services Directory.''

FOR FURTHER INFORMATION: Michael P. Hoffman, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC. 20585; Telephone (202) 586–2802.

SUPPLEMENTARY INFORMATION: The above-captioned Directory, which is in the nature of a database of companies working in the area of environmental cleanup, was prepared under Government contract. The Department of Energy (DOE) is currently paying for the continued maintenance and dissemination of the above-captioned Directory database, both to Government agencies and to the general public. DOE is attempting to secure a private entity which, in return for a possible exclusive royalty-free license in the Directory database, will maintain the Directory database as well as print and market it, both to the Government and the general public as a stand-alone entity or incorporated with other services on a for-profit basis, thereby relieving the Government of the labor and expense of doing so.

Issued in Washington, DC., on January 9, 1998.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. 98–1224 Filed 1–16–98; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–171–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

January 13, 1998.

Take notice that on January 7, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, TX 77251–1478, filed in Docket No. CP98–171–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a leased compressor unit, under Koch Gateway's blanket certificate issued in Docket No. CP82–430, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon, by returning to the lessor, a 1200 horsepower skid-mounted compressor unit located on its Index 201 low pressure pipeline system at its existing Hecker Compressor Station yard in Calcasieu Parish, Louisiana. Koch Gateway states that it installed this unit as part of its low pressure lateral system for the purpose of lifting additional gas supplies from its low pressure system to its higher pressure system and ultimate delivery to the Lake Charles market area. Koch Gateway states that it will no longer need the compressor unit once its transportation contract with Union Pacific Resource Company (UPRC) expires in May of 1998. Koch Gateway also states that the proposed abandonment will have no impact on any of its existing customers, since this compressor unit was placed in service for UPRC.

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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1218 Filed 1–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–11–000]

Long Island Lighting Company; Notice of Filing

January 13, 1998.

Take notice that on December 22, 1997, Long Island Lighting Company tendered for filing a Settlement Agreement Request for Establishment of Technical Conference.

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 20, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1219 Filed 1–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1119–000]

Southern Company Services, Inc.; Notice of Filing

January 13, 1998.

Take notice that on December 10, 1997, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Operating Companies), tendered for Commission review information concerning the accrual of post-retirement benefits other than pensions as set forth in Statement of Financial Accounting Standard No. 106, by the Financial Accounting Standards Board in agreements and tariffs of the Operating Companies (jointly and individually).

Any person desiring to be heard or to protest such 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 385.214). All such motions and protests should be filed on or before January 26, 1998. Protests will be considered by the Commission to determine 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1220 Filed 1–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1082–000, et al.]

Louisville Gas and Electric Company, et al.; Electric Rate and Corporate Regulation Filings

January 12, 1998.

Take notice that the following filings have been made with the Commission:

1. Louisville Gas and Electric Company

[Docket No. ER98–1082–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and Morgan Stanley Capital Group, Inc., under LG&E's Open Access Transmission Tariff.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Louisville Gas and Electric Company

[Docket No. ER98–1083–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and Entergy Services, Inc., under LG&E's Open Access Transmission Tariff.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company

[Docket No. ER98–1084–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and CNG Power Services Corp., under LG&E's Open Access Transmission Tariff.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Louisville Gas and Electric Company

[Docket No. ER98–1085–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and Citizens Power Sales under LG&E's Open Access Transmission Tariff.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER98–1086–000]

Take notice that on December 15, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Engage Energy under Rate GSS.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER98–1087–000]

Take notice that on December 16, 1997, Arizona Public Service Company (APS), tendered for filing Notice of Cancellation of the Service Agreements with Delhi Energy Services, Inc. (Delhi), for umbrella firm and non-firm point-to-point transmission service under the Tariff.

APS requests that this cancellation become effective November 20, 1997.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER98–1088–000]

Take notice that on December 16, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement under APS' FERC Electric Tariff, Original Volume No. 3, with the Arizona Districts.

A copy of this filing has been served on the Arizona Corporation Commission and the parties to this Service Agreement.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER98–1089–000]

Take notice that on December 16, 1997, New York State Electric & Gas Corporation (NYSEG), filed Service Agreements between NYSEG and AIG Trading Corporation (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of November 24, 1997, for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation

[Docket No. ER98–1092–000]

Take notice that on December 12, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with PacifiCorp Power Marketing, Inc., under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on December 12, 1997.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corporation

[Docket No. ER98–1093–000]

Take notice that on December 12, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Engage Energy US, L.P., under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on December 12, 1997.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Central Hudson Gas & Electric Corporation

[Docket No. ER98–1094–000]

Take notice that on December 12, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and U.S. Generating Power Services, L.P. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff), filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER98–1095–000]

Take notice that on December 12, 1997, Southern California Edison Company (Edison), tendered for filing Amendment No. 4 (Amendment No. 4), to the Power Contract dated October 11, 1979, with the Department of Water Resources of the State of California (CDWR), FERC Rate Schedule No. 112. Amendment No. 4 deletes Sections 5.10, 5.22, 5.23, 8, and 9 of the Power Contract in their entirety, and replaces Sections 7.2.3 and 13.7.1 in their entirety with new sections. The revisions to these sections reflect the intent of Edison and CDWR to no longer enter into voluntary transactions pursuant to the Power Contract.

The Amendment No. 4, shall become effective on the date when the Commission accepts the amendment for filing.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Kansas City Power & Light Company

[Docket No. ER98–1097–000]

Take notice that on December 12, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated December 10, 1997, between KCPL and Williams Energy Services Company. KCPL proposes an effective date of December 10, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for Non-Firm Power Sales Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are pursuant to KCPL's compliance filing in Docket No. ER94–1045.

Comment date: Janaury 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. PP&L, Inc.

[Docket No. ER98–1098–000]

Take notice that on December 16, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 2, 1997, with West Penn Power Company (WPPC) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds WPPC as an eligible customer under the Tariff.

PP&L requests an effective date of February 14, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to WPPC and to the Pennsylvania Public Utility Commission.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. PP&L, Inc.

[Docket No. ER98–1099–000]

Take notice that on December 16, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 2, 1997, with Southern Energy Retail Trading and Marketing, Inc. (SERTM), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds SERTM as an eligible customer under the Tariff.

PP&L requests an effective date of February 14, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to SERTM and to the Pennsylvania Public Utility Commission.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. MidAmerican Energy Company

[Docket No. ER98–1100–000]

Take notice that on December 16, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Non-Firm Transmission Service Agreement with Avista Energy, Inc. (Avista), dated December 9, 1997, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of December 9, 1997, for the Agreement with Avista and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Avista, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Corporation

[Docket No. ER98–1311–000]

Take notice that on December 30, 1997, the California Independent

System Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement executed by the ISO and Pacific Gas and Electric Company for approval by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in the above referenced dockets, including the California Public Service Commission.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. California Independent System Corporation

[Docket No. ER98–1313–000]

On December 30, 1997, the California Independent System Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement executed by the ISO and NorAm Energy Services, Inc., for approval by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in the above referenced dockets, including the California Public Service Commission.

Comment date: January 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1221 Filed 1–16–98; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5951–3]

Science Advisory Board; Notification of Public Meeting February 5–6, 1998

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notification is hereby given that the Science Advisory Board's (SAB) Environmental Engineering Committee, will meet Thursday and Friday, February 5–6, 1998, in Room 2103 of the Mall at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The meeting will begin at 8:30 am on February 5 and adjourn no later than 3:30 pm on February 6. All times noted are Eastern Time. This meeting is open to the public, however, due to limited space, seating will be on a first-come basis. For further information concerning this meeting, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office.

At this meeting, the EEC will be briefed on the results of the Science Advisory Board's (SAB) Strategic Retreat, the SAB's Integrated Risk Project, and on relevant Agency activities. The EEC will discuss potential FY98 activities such as a Retrospective Analysis, preparation of discussion papers for Self-Initiated Studies, quality management, and brownfields. After selecting the activities, the EEC will attend to the practicalities of scheduling and completing the work.

Any member of the public wishing further information concerning the meeting or wishing to submit comments should contact Kathleen White Conway, Designated Federal Official for the Environmental Engineering Committee, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; (202) 260–2558; FAX (202) 260–7118; or INTERNET at conway.kathleen@epamail.epa.gov. Copies of the agenda are available from Mrs. Dorothy Clark who can be reached at (202) 260–6555, FAX (202) 260–7118, or Internet at clark.dorothy@epamail.epa.gov.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: January 12, 1998.

Donald G. Barnes, PhD,

Staff Director, Science Advisory Board.

[FR Doc. 98–1248 Filed 1–16–98; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

DATE AND TIME: Thursday, January 29, 1998, at 2:00 P.M. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, N.W., Washington, D.C. 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

OPEN SESSION

1. Announcement of Notation Votes,
2. Presentation to former Chairman Casellas, and
3. Task Force Report on ''Best'' Equal Employment Opportunity Policies, Programs and Practices in the Private Sector.

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: January 14, 1998.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 98–1341 Filed 1–15–98; 11:05 am]

BILLING CODE 6750–06–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–48; Report No. AUC–97–18–A (Auction No. 18)]

Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues for the Phase II 220 MHz Service

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment.

SUMMARY: The Commission is seeking comment on a proposed formula for calculating minimum opening bids as well as other procedural issues in the auction of licenses for the Phase II 220 MHz Service, Auction No. 18.

DATES: Comments are due on or before January 29, 1998. Reply comments are due on or before February 5, 1998.

ADDRESSES: To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street N.W., Washington, D.C. 20554. In addition, parties must submit one copy to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Hartigan, Bob Reagle or Frank Stilwell, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This public notice was released on January 13, 1998 and is available in its entirety, including attachments; for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, fax (202) 857–3805, 1231 20th Street, N.W., Washington, D.C. 20036.

SYNOPSIS OF THE PUBLIC NOTICE

Background

I. Reserve Price or Minimum Opening Bid

The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum bid is not in the public interest. Section 3002(a), Balanced Budget Act of 1997, Public Law 105–33, 111 Stat. 251 (1997) (''Budget Act''); 47 U.S.C. 309(j)(4)(F). The Commission's authority to establish a reserve price or minimum opening bid is set forth in 47 CFR 1.2104(c) and (d). Consistent with this mandate, the Commission has directed the Wireless Telecommunications Bureau (''Bureau'') to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. See In the Matter of Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660–4685 MHz, WT Docket No. 97–82, ET Docket No. 94–32, FCC 97–413, *Third Report and Order and Second Further Notice of Proposed Rule Making* (rel. December 31, 1997) at ¶ 141 (''Part 1 Third Report and Order''). The Bureau was directed to seek comment on the methodology to be employed in establishing each of these mechanisms. Among other factors the Bureau should consider is the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could reasonably have an impact on valuation of the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions. *Id*.

Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction.

The Bureau recently announced the auction of 908 licenses for the Phase II 220 MHz Service which is scheduled to begin May 19, 1998. See Public Notice, ''FCC Announces Spectrum Auction Schedule for 1998,'' DA 97–2497 (rel. November 25, 1997), 62 FR 64833, 64833–64834 (December 9, 1997). These licenses encompass the United States, the Northern Mariana Islands, Guam, American Samoa, the United States Virgin Islands and Puerto Rico. Specifically, the licenses include: (1) Five licenses in each of 175 geographic areas known as Economic Areas (EAs); (2) five licenses in each of six Regional Economic Area Groupings (REAGs), which we will refer to as ''Economic Area Groupings'' (EAGs); and (3) three nationwide licenses which encompass the same territory as all of the EAGs, combined. We note that the geographic area encompassed within a 220 MHz REAG differs from the geographic area encompassed within REAGs in prior auctions. In order to avoid confusion, therefore, we will use EAGs in the 220 MHz auction. See 47 CFR 90.717(a) (nationwide channel assignments); 47 CFR 90.721(b) and 90.761 (Phase II EA and REAG channel assignments).

In anticipation of this auction and in light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for the 220 MHz auction, and retain discretion to lower the minimum opening bids.

The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool, and we propose to use this approach in the 220 MHz Service auction. See In the Matter of Auction of 800 MHz SMR Upper 10 MHz Band, Minimum Opening Bids or Reserve Prices, DA 97–2147, *Order* (rel. October 6, 1997), 62 FR 55251 (October 23, 1997); In the Matter of Revision of Rules and Policies for the Direct Broadcast Satellite Service, IB Docket No. 95–168, PP Docket No. 93–253, *Report and Order*, 11 FCC Rcd 9712, 9787–9788, ¶ 186 (1995), 60 FR 65587, 65591 (December 20, 1995). A minimum opening bid will help to regulate the pace of the auction and provides flexibility.

Specifically, the Commission proposes the following formula for calculating minimum opening bids in Auction No. 18:

1. Nationwide Licenses: $0.02 MHz/POP
2. EAG Licenses: $0.015 MHz/POP
3. EA Licenses: $0.0175 MHz/POP

with a minimum of no less than $2500.00 per license.

Comment is sought on this proposal. We note that we have received a proposal from SEA, Inc. to establish a minimum opening bid for the 220 MHz auction. This document has been made a part of the record in this proceeding. If commenters believe that the formula proposed above for minimum opening bids will result in substantial numbers of unsold licenses, or is not a reasonable amount, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach.

Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the formula for minimum opening bids, we particularly seek comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the Phase II 220 MHz spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

II. Other Auction Procedural Issues

The Balanced Budget Act of 1997 requires the Commission to ''ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed * * * before issuance of bidding rules, to permit notice and comment on proposed auction procedures * * *.'' Budget Act, § 3002(a)(E)(i). Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific issues prior to the start of each auction. Part 1 Third Report and Order at ¶ 124. The Commission directed the Bureau to seek comment on specific mechanisms related to day-to-day auction conduct including, for example, the structure of bidding rounds and stages, establishment of minimum opening bids or reserve prices, minimum accepted bids, initial maximum eligibility for each bidder, activity requirements for each stage of the auction, activity rule waivers, criteria for determining reductions in eligibility, information regarding bid withdrawal and bid removal, stopping rules, and information relating to auction delay, suspension or cancellation. *Id.* at 125. We therefore seek comment on the following issues.

a. License Groupings

In the 220 MHz Third Report and Order the Commission concluded that it would auction the 908 Phase II 220 MHz licenses in a single, simultaneous multiple-round auction. However, the Commission reserved the discretion, which it ultimately delegated to the Bureau, to auction each of the license types (*i.e.*, nationwide, EAG, EA) separately or in different combinations (*e.g.*, nationwide and EAG together). See In the Matter of Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PR Docket No. 89–552, RM 8506, GN Docket No. 93–252, PP Docket No. 93–253, *Third Report and Order and Fifth Notice of Proposed Rulemaking*, 12 FCC Rcd 10943, 11046, ¶ 221 (1997) (''220 MHz Third Report and Order''), 62 FR 15978, 15979 (April 3, 1997). For reasons of administrative efficiency, we propose to award the 908 licenses in the Phase II 220 MHz Service in a single, simultaneous multiple-round auction. We seek comment on this proposal.

b. Structure of Bidding Rounds, Activity Requirements, and Criteria for Determining Reductions in Eligibility

We propose to divide the auction into three stages: Stage One, Stage Two and Stage Three. The auction will start in Stage One. We propose that the auction will advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when in each of three consecutive rounds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). However, we further propose that the Bureau retain the discretion to accelerate the auction by announcement. This determination will be based on a variety of measures of bidder activity including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

For the Phase II 220 MHz Service auction, we propose that, in each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4). In each round of the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on at least 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths (10/9). In each round of the third stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty-fortyninths (50/49). We seek comment on these proposals.

c. Minimum Accepted Bids

Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For the Phase II 220 MHz Service auction, we propose, as described immediately below, to use an exponential smoothing methodology to calculate minimum bid increments. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate. The exponential smoothing methodology has been used in previous auctions, including the WCS auction and the 800 MHz SMR auction. We seek comment on this proposal.

Exponential Smoothing

The exponential smoothing formula calculates the bid increment based on a weighted average of the activity received on each license in the current and all previous rounds. This methodology will tailor the bid increment for each license based on activity, rather than setting a global increment for all licenses. For every license that receives a bid, the bid increment for the next round for that license will be established as the greater of $0.25 per bidding unit for each license or a percentage increment that is determined using the exponential smoothing formula.

Using exponential smoothing, the calculation of the percentage bid increment for each license will be based

on an activity index, which is calculated as the weighted average of the current activity and the activity index from the previous round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the current bidding period plus one minus the weighting factor times the activity index from the previous round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.05, and the maximum percentage increment at 0.15.

Equations

$A_i = (C * B_i) + ((1–C) * A_{i-1})$
I_i = smaller of ((1 + A_i) * N) and M
Where,
A_i = activity index for the current round (round i)
C = activity weight factor
B_i = number of bids in the current round (round i)
A_{i-1}=activity index from previous round (round i-1), A_0 is 0
I_i=percentage bid increment for the current round (round i)
N=minimum percentage increment
M=maximum percentage increment

Under the exponential smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the new high bid plus the greater of either the dollar amount associated with the percentage increment (variable I_i from above times the high bid) or the absolute increment (a fixed dollar amount per bidding unit for each license, *e.g.*, $0.25 per bidding unit).

Example

License 1 (800,000 bidding units)
C=0.5, N=0.05, M=0.15, Absolute bid increment=$0.25 per bidding unit
Round 1 (2 new bids, high bid=$1,000,000)

1. Calculation of percentage increment using exponential smoothing:
$A_1=(0.5 * 2)+(0.5 * 0)=1$
$I_1=(1+1) * 0.05=0.1$

2. Dollar increment using the percentage increment (I_1 from above)
0.1 * $1,000,000=$100,000

3. Dollar increment using the absolute increment
$0.25 * 800,000 bidding units=$200,000

4. Minimum bid increment: greater of percentage and absolute=$200,000
Round 2 (3 new bids, high bid=2,000,000)

1. Calculation of percentage increment using exponential smoothing:
$A_2=(0.5 * 3)+(0.5 * 1)=2$
$I_2=(1+2) * 0.05=0.15$

2. Dollar increment using the percentage increment (I_2 from above)
0.15 * $2,000,000=$300,000

3. Dollar increment using the absolute increment
$0.25×800,000 bidding units=$200,000

4. Minimum bid increment: greater of percentage and absolute=$300,000
Round 3 (1 new bid, high bid = 2,300,000)

1. Calculation of percentage increment using exponential smoothing:
$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$
$I_3 = (1 + 1.5) * 0.05 = 0.125$

2. Dollar increment using the percentage increment (I_3 from above)
0.125 * $2,300,000 = $287,500

3. Dollar increment using the absolute increment
$0.25 • 800,000 bidding units = $200,000

4. Minimum bid increment: greater of percentage and absolute = $287,500

d. Initial Maximum Eligibility for Each Bidder

In the *220 MHz Third Report and Order*, the Commission delegated to the Bureau the authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. The Commission noted that the Bureau should establish an upfront payment amount that would roughly equate with a five percent value for the license. *220 MHz Third Report and Order*, 12 FCC Rcd at 11055–11056, ¶255, 62 FR at 15981.

With these guidelines in mind, we propose, for the Phase II 220 MHz Service auction, an upfront payment of one cent per MHz-pop with no amount less than $2,500. Our proposal will utilize the data in Attachment A to this Public Notice. We seek comment on this proposal.

For the Phase II 220 MHz Service auction, we further propose that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility. The total upfront payment defines the maximum amount of bidding units on which the applicant will initially be permitted to bid. We seek comment on this proposal.

e. Activity Rule Waivers and Reducing Eligibility

Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) There are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility thereby meeting the minimum requirements.

A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

We propose that each bidder in the Phase II 220 MHz Service auction will be provided five activity rule waivers that may be used in any round during the course of the auction. We seek comment on this proposal.

f. Information Regarding Bid Withdrawal and Bid Removal

For the Phase II 220 MHz Service auction, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. See 47 CFR 90.1007; 1.2104(g); 1.2109. We seek comment on these bid removal and bid withdrawal procedures.

In the *220 MHz Third Report and Order*, the Commission adopted the bid withdrawal provisions found in Part 1 of the Commission's Rules for the Phase II 220 MHz auction. *220 MHz Third Report and Order*, 12 FCC Rcd at 11057, ¶ 263, 62 FR at 15981. In the *Part 1 Third Report and Order*, the Commission recently explained that allowing bid withdrawals facilitates efficient aggregation of licenses and pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that in some instances bidders may seek to withdraw bids for improper reasons, including to delay the close of the auction for strategic purposes. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures. *Part 1 Third Report and Order* at ¶ 150. We note that the *Part 1 Third Report and Order* for the most part expressly does not apply to the auction of licenses for the 220 MHz Service. *Id.* at ¶ 7. However, as we previously stated, the *220 MHz Third Report and Order* invokes the Part 1 provisions in establishing its withdrawal rules. We therefore follow the reasoning of the Commission in the *Part 1 Third Report and Order* with respect to withdrawals in our analysis of this issue.

Applying this reasoning, we propose to limit each bidder in the Phase II 220 MHz Service auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's Rules. There is no limit on the number of bids that may be removed in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's Rules. We seek comment on this proposal.

g. Stopping Rules

In the *220 MHz Third Report and Order*, the Commission adopted a simultaneous stopping rule for the Phase II 220 MHz Service auction. The Commission noted that experience in prior auctions demonstrated that the simultaneous stopping rule balanced the interests of administrative efficiency and maximum bidder participation. The Commission concluded that the substitutability between and among licenses in different geographic areas and the importance of preserving bidders' ability to pursue backup strategies support the use of a simultaneous stopping rule. See *220 MHz Third Report and Order*, 12 FCC Rcd at 11048, ¶ 228, 62 FR at 15980. The Bureau has discretion to ''establish stopping rules before or during an auction in order to terminate the auction within a reasonable time.'' See 47 CFR 90.1005(d). We therefore have the discretion to adopt an alternative stopping rule to the simultaneous stopping rule if we deem appropriate. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license. The auction would close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid.

We propose that the Bureau retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

Finally, we propose that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

h. Information Relating to Auction Delay, Suspension or Cancellation

For the Phase II 220 MHz Service auction, we propose that, by public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

III. Conclusion

Comments are due on or before January 29, 1998, and reply comments are due on or before February 5, 1998.

To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, Room 222, 1919 M Street NW., Washington, DC 20554. In addition, parties must submit one copy to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street NW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room 239, 1919 M Street NW., Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1282 Filed 1–16–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Notice; Announcing an Open Meeting of the Board

TIME AND DATE: 10:00 a.m. Wednesday, January 21, 1998.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Policy Statement on Financial and Other Disclosures in the Combined Financial Report of the Federal Home Loan Bank System.
- Notice of Proposed Rulemaking on Financial Disclosures by Federal Home Loan Banks.
- Book-Entry Procedures for Federal Home Loan Bank Securities—Final Rule.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–1314 Filed 1–14–98; 4:55 pm]

BILLING CODE 6725–01–P

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 February 3, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Bruce L. Trimble, Leroy, Kansas, Individually and as Trustee of the Ival L. Trimble December 9, 1997 Irrevocable Trust; to acquire voting shares of Flint Hills Bancshares, Inc., Gridley, Kansas, and thereby indirectly acquire voting shares of Citizens State Bank, Gridley, Kansas.

Board of Governors of the Federal Reserve System, January 13, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1172 Filed 1–16–98; 8:45 am]

BILLING CODE 6210–01–F

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 February 3, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Richard Owen Wikert, Fremont, Nebraska, and Clarence Wilson Persinger, as Trustee of the C. Wilson Persinger Trust, Sioux City, Iowa; to acquire voting shares of American Banc Corporation, Fremont, Nebraska, and thereby indirectly acquire voting shares of American National Bank of Fremont, Fremont, Nebraska.

Board of Governors of the Federal Reserve System, January 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1269 Filed 1–16–98; 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 13, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Peoples Heritage Financial Group, Inc., Portland, Maine; to acquire and thereby merge with CFX Corporation, Keene, New Hampshire, and thereby indirectly acquire Safety Fund National Bank, Fitchburg, Massachusetts; Orange Savings Bank, Orange, Massachusetts; and CFX Bank, Keene, New Hampshire.

B. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. FirstMerit Corporation, Akron, Ohio; to merge with CoBancorp, Inc., Elyria, Ohio, and thereby indirectly acquire PremierBank & Trust, Elyria, Ohio.

In connection with this application, Applicant also has applied to acquire Jefferson Savings Bank, West Jefferson, Ohio, and thereby engage in permissible savings association activities, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. MainStreet BankGroup Incorporated, Martinsville, Virginia; to acquire 100 percent of the voting shares of Regency Financial Shares, Inc., Richmond, Virginia, and thereby indirectly acquire Regency Bank, Richmond, Virginia.

D. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Lincoln Interim Corporation, Lincolnton, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Lincoln Bancshares, Inc., Lincoln, Georgia.

2. The Peoples BancTrust Company, Inc., Selma, Alabama; to merge with Merchants & Planters Bancshares, Inc., Montevallo, Alabama, and thereby indirectly acquire Merchants & Planters Bank, Montevallo, Alabama.

E. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. F&M Bancorporation, Inc., Kaukauna, Wisconsin; to acquire 100 percent of the voting shares of Bancsecurity Corporation, Marshalltown, Iowa, and thereby indirectly acquire Security Bank, Marshalltown, Iowa; Security Bank Jasper-Poweshiek, Kellogg, Iowa; and Story County Bank & Trust, Story City, Iowa.

In connection with this application, Bancsecurity Acquisition Corp., Kaukauna, Wisconsin, has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, January 13, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1174 Filed 1–16–98; 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 13, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Community Banks, Inc., Millersburg, Pennsylvania; to acquire 100 percent of the voting shares of The Peoples State Bank, East Berlin, Pennsylvania.

B. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. National City Corporation, Cleveland, Ohio; to merge with Fort Wayne National Corporation, Fort Wayne, Indiana, and thereby indirectly acquire The Auburn State Bank, Auburn, Indiana; Churubusco State Bank, Churubusco, Indiana; First National Bank of Huntington, Huntington, Indiana; First National Bank of Warsaw, Warsaw, Indiana; Fort Wayne National Bank, Fort Wayne, Indiana; Old First National Bank in Bluffton, Bluffton, Indiana; and Valley American Bank and Trust Company, South Bend, Indiana.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Centura Banks, Inc., Rocky Mount, North Carolina; to merge with Pee Dee Bankshares, Inc., Timmonsville, South Carolina, and thereby indirectly acquire Pee Dee State Bank, Timmonsville, South Carolina.

Board of Governors of the Federal Reserve System, January 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1267 Filed 1–16–98; 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 February 13, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Greater Community Bancorp, Totowa, New Jersey; to acquire 1st Bergen Bancorp, Wood-Ridge, New Jersey, and thereby indirectly acquire South Bergen Savings Bank, Wood-Ridge, New Jersey, and engage in operating a savings bank, pursuant to

§ 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 13, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1173 Filed 1–16–98; 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 February 3, 1998.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. F.N.B. Corporation, Hermitage, Pennsylvania, and F.N.B. Corporation to acquire shares of Pennsylvania Sun Life Insurance Company, Phoenix, Arizona, and thereby engage in providing credit life and disability insurance exclusively to customers of Sun Bank, Sun Bancorp, Inc.'s bank subsidiary, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First Commercial Corporation (''FCC''), Little Rock, Arkansas; to acquire First Commercial Investments, Inc. (''Company''), Little Rock, Arkansas, and thereby engage in underwriting and dealing in, to a limited extent, securities (See *Citicorp*, 73 Fed. Res. Bull. 473 (1987)); providing investment and financial advisory services, pursuant to § 225.28(b)(6) of the Board's Regulation Y; providing advice and acting as arranger in connection with merger, acquisitions, divestiture and financial transactions, including public and private financings, loan syndications, interest rate and currency swaps, interest rate caps and similar transactions and/or furnishing evaluation and fairness opinions in connection with merger, acquisition, and similar transactions, pursuant to §§ 225.28(b)(6) and (b)(7) of the Board's Regulation Y; providing securities brokerage services on either a stand-alone or full-service basis, pursuant to § 225.28(b)(7)(i) of the Board's Regulation Y; buying and selling all types of securities on the order of investors as riskless principal, pursuant to § 225.28(b)(7)(ii) of the Board's Regulation Y; acting as agent for issuers and holders in the private placement of securities, pursuant to § 225.28(b)(7)(iii) of the Board's Regulation Y; underwriting and dealing in bank eligible securities, pursuant to § 225.28(b)(8) of the Board's Regulation Y; and providing management consulting and counseling services, pursuant to § 225.28(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 14, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1268 Filed 1–16–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–08]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC/ATSDR Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC/ATSDR Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Model Performance Evaluation Program for Retroviral and AIDS-Related Testing—(0920–0274)—Extension—Public Health Practice Program Office (PHPPO). The CDC Model Performance Evaluation Program (MPEP) currently assesses the performance of laboratories that test for human immunodeficiency virus type 1 (HIV–1) antibody, human T-lymphotropic virus types I and II (HTLV–I/II) antibody, perform CD4 T-cell testing or T-lymphocyte immunophenotyping (TLI) by flow cytometry or alternate methods, perform HIV–1 ribonucleic acid (RNA) determinations (viral load), and test for HIV–1 p24 antigen through the use of mailed sample panels. The CDC MPEP is proposing to use annual data collection documents to gain updated information on the characteristics of testing laboratories and their testing practices. Two data collection instruments, or survey questionnaires, will be used. The first data collection instrument will be concerned with laboratories that perform HIV–1 antibody (Ab) testing, HTLV–I/II Ab testing, HIV–1 viral RNA determinations, and HIV–1 p24 antigen (Ag) testing. Laboratories enrolled in the MPEP will be mailed a survey questionnaire and be asked to complete the sections pertinent to their laboratory's testing. The survey instrument will collect demographic information related to laboratory type, primary purpose for testing, types of specimens tested, minimum education requirements of testing personnel, laboratory director, and laboratory

supervisor, and training required of testing personnel. The demographic section will be followed by more specific sections related directly to HIV–1 Ab testing, HTLV–I/II Ab testing, HIV–1 RNA, and HIV–1 p24 Ag testing. Included in the latter sections will be questions related to the types of tests performed, the algorithm of testing, how test results are interpreted, how results are reported, how specimens may be rejected for testing, if some testing is referred to other laboratories, and what quality control and quality assurance procedures are conducted by the laboratory. Similarly, the TLI survey questionnaire will also collect demographic information about each laboratory, as well as, the type(s) of flow cytometer used, educational and training requirements of testing personnel, the types of monoclonal antibodies used in testing, how specimens are received, prepared, and stored, how test results are recorded and reported to the test requestor, and what quality control and quality assurance procedures are practiced. Information collected through the use of these instruments will enable CDC to determine if laboratories are conforming to published recommendations and guidelines, whether education and training requirements of testing personnel are conforming to current legislative requirements, and whether problems in testing can be identified through the collection of information. Information collected through the survey instruments will then be compared statistically with the performance evaluation results reported by the enrolled laboratories to determine if characteristics of laboratories that perform well can be distinguished from laboratories not performing as well. Upon enrolling in the MPEP, participants are assigned an MPEP number used to report testing results and survey questionnaire responses allowing the individual responses of each laboratory participant to be treated in confidence. When participants respond to the surveys by sending CDC completed questionnaires, the collected information is developed into aggregate reports. A copy of the completed report is provided to each participating laboratory. Other than their time, there will be no cost to the respondents.

Respondents	Number of respondents	No. of respondents/response	Average burden/response (in hrs)	Total burden (in hrs)
MPEP Enrollment Form	100	1	0.1	10
Retroviral Survey	1,000	1	0.5	500
TLI Survey	350	1	0.5	175
Total				685

2. Prostate and Colorectal Cancer Screening in the Managed Care Environment—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP). Prostate and colorectal cancer are among the leading causes of cancer deaths in the U.S. Prostate cancer screening has increased rapidly during the past few years; however, little is known about actual rates of screening, or the proportion of men screened who present with symptoms or who are at high risk for prostate cancer. Evidence suggests that colorectal cancer screening can save lives and efforts are under way to increase participation in screening. However, little information is available to monitor screening rates. It is also unknown how well self-reported prostate and colorectal cancer screening rates, which are often used in population surveys, compare to actual screening rates. Therefore, the Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Division of Cancer Prevention and Control, intends to conduct a survey of prostate and colorectal cancer screening test utilization. As an increasing number of people are served by managed care organizations where they may receive cancer screening tests, the proposed study population are members of managed care organizations.

A sample of members (men aged 40 years and older and women 50 years and older) of 3 managed care organizations will be interviewed over the telephone, and the medical charts of the participants will be abstracted. The information collected will include demographic information, prostate and colorectal cancer screening tests received within the past 5 years, and the reasons and outcomes of the tests. The total cost estimate is: $400,000.

Respondents	No. of respondents	No. of responses/respondent	Average burden of response (in hrs)	Total burden (in hrs)
Members of Prepaid Health Plans	2200	1	0.25	550

3. Substance Specific Applied Research Program (AMHPS) [King/Drew Lead Study in-Person Interview, Lead and Hypertension Screening Questionnaire/Risk Factor Questionnaire]—(0923–0015)—EXTENSION—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. Disadvantaged minorities in large urban areas have higher than national blood lead levels. Some of these groups also suffer from disproportionately high rates of hypertension. Previous data shows a relationship between higher blood lead levels and higher blood pressure, even at the lowest lead exposure. To facilitate this effort, this study examines the relationship between lead exposure history in inner city minorities and blood pressure, using a group at special risk for elevated blood pressure, pregnant women. Elevated blood lead

and elevated blood pressure are two problems that disproportionately affect minority groups. Establishing a link between blood pressure and lead exposure, especially utilizing two new biomarkers of lead exposure, bone lead and serum lead, can provide a new tool for dealing with elevated blood pressure nationwide.

This request is for a 3-year extension. Two previously approved questionnaires will continue to be used to collect socioeconomic data, and data pertaining to risk factors for elevated blood pressure and lead exposure. A new questionnaire assessing social stress (Scale of Chronic Social Role Stressors) and a 16 item, four response choice scale will be added to better control for social stress factors affecting blood pressure. There is no cost to respondents.

Type of respondent	No. of respondents per year	No. of responses/respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Screening Questionnaire	880	1	.5	440
Social Role Stressors	880	1	.08	70
Risk Questionnaire	330	2	.75	495
Total				1005

Dated: January 13, 1998.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1206 Filed 1–16–98; 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: Community-Based Family Resource and Support Grants.

OMB No.: 0970–0155.

Description: Application information is required when a State wishes to receive a Community-Based Family Resource and Support (CBFRS) grant award. This Program Instruction contains information collection requirements found in Pub. L. 104–235 at Sections 202(1)(A); 202(b)(1)(B); 205; and 207. The information being collected is required by statute to be submitted pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, provide training and technical assistance to the grantee, and evaluate State efforts in the prevention of child abuse and neglect.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	57	1	40	2,280
Annual Report	57	1	40	1,368

Estimated Total Annual Burden Hours: 3,648.

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, SW., Washington, DC 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 13, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–1183 Filed 1–16–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Emergency TANF Data Report (ACF–198).

OMB No.: 0970–0164.

Description: This information is being collected to meet the statutory requirements of section 411 of the Social Security Act and section 116 of

the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. It consists of disaggregated and aggregated demographic and program information that will be used to determine participation rates and other statutorily required indicators for the Temporary Assistance for Needy Families (TANF) program. OMB previously approved this data collection under emergency procedures through January 31, 1998. We are now requesting an extension through September 30, 1998, in order to maintain the continuity of data collection pending OMB approval of the data collection instruments published in the NPRM dated November 20, 1997.

Respondents: States and Territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Emergency TANF Data Report	54	4	451	97,416

Estimated Total Annual Burden Hours: 97,416.

Additional Information

Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Laura Oliven.

Dated: January 7, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–1251 Filed 1–16–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0497]

Request for Proposed Standards for Unrelated Allogeneic Peripheral and Placental/Umbilical Cord Blood Hematopoietic Stem/Progenitor Cell Products; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is requesting submission of comments proposing product standards intended to ensure the safety and effectiveness of minimally manipulated hematopoietic stem/progenitor cells derived from peripheral and cord blood for unrelated allogeneic use.[1] The comments should include supporting clinical and nonclinical laboratory data and other relevant information. This information will aid FDA in developing product standards for hematopoietic stem/progenitor cell products intended for allogeneic use in recipients unrelated to the donor (hereinafter referred to as unrelated allogeneic), including manufacturing controls and product specifications. FDA is also announcing its intention to phase-in implementation of investigational new drug application (IND) and license application requirements for minimally manipulated[2] unrelated allogeneic hematopoietic stem/progenitor cell products 3 years after the date of issuance of this notice to permit the development of licensing standards for those products where possible. This action is taken in response to the agency's ''Proposed Approach to Regulation of Cellular and Tissue-based Products,'' which fullfills the objectives of the administration's ''Reinventing the Regulation of Human Tissue'' initiated to streamline regulatory requirements to ease the burden on regulated industry, while providing adequate protection to the public health.

[1] The term *unrelated allogeneic use* means the implantation, infusion, or transfer of a human cellular or tissue-based product from one person to another who is not a parent, sibling, or a child of the donor.

[2] The term *minimally manipulated* means processing of cells and nonstructural tissues that does not alter the biological characteristics and thus, potentially, the function or integrity of the cells or tissues.

DATES: Submit requested standards and supporting clinical and nonclinical laboratory data by January 20, 2000.

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

FOR FURTHER INFORMATION CONTACT: Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

A. Use of Peripheral and Cord Blood Stem/Progenitor Cells for Hematopoietic Reconstitution

The field of hematologic transplantation has changed substantially during the last two decades. Improved understanding of the diverse aspects of human hematologic precursors has facilitated their experimental manipulation. Our knowledge of their localization in humans during both fetal and postnatal development, growth regulation, differentiation, homing, and of phenotypic and functional characteristics has facilitated the development of new methods of transplantation. Traditional bone marrow transplantation, involving the extraction of bone marrow by aspiration from bone cavities with further processing by density centrifugation, is increasingly being supplanted by novel approaches that include use of hematopoietic stem/progenitor cells and biotechnologic procedures to purify and expand hematopoietic stem/progenitor cells. Human cord blood, which is enriched with pluripotent hematopoietic stem/progenitor cells, and peripheral blood, which can be enriched in hematopoietic stem/progenitor cells by a variety of

interventions, have emerged as sources of hematopoietic cells alternative to bone marrow aspirates for bone marrow reconstitution.

B. Stem/Progenitor Cell Workshops

FDA held a public workshop to discuss procedures for preparation and storage of cord blood stem/progenitor cells on December 13, 1995 (60 FR 58088, November 24, 1995). The workshop was jointly sponsored by FDA and the National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health. The purpose of the workshop was to identify and discuss steps for collection, processing, and storage of cord blood stem/progenitor cells for transplantation and to identify what additional post transplantation scientific data are needed in this area. A draft document, discussing an appropriate regulatory approach for placental/umbilical cord blood stem/progenitor cell products for transplantation, was made available at the workshop, and a notice of availability for comment was published in the **Federal Register** of February 26, 1996 (61 FR 7087). In response to requests to extend the comment period, a notice extending the comment period by 90 days was published in the **Federal Register** of May 28, 1996 (61 FR 26473).

In the **Federal Register** of February 8, 1996 (61 FR 4786), FDA announced a public workshop, jointly sponsored by FDA and NHLBI to be held on February 22 and 23, 1996, to discuss procedures for the preparation, processing, and characterization of human peripheral blood stem/progenitor cells. The purpose of the workshop was to identify and discuss the methods for the collection, processing, and storage of peripheral blood stem/progenitor cells for transplantation and to identify areas in need of further research. A draft document was made available at the workshop describing FDA's proposed regulatory approach for human peripheral blood stem/progenitor cell products for transplantation.

Based, in part, on information presented at these meetings, FDA recognized a need to reconsider whether the concepts and procedures used to regulate traditional biological products were appropriate for regulation of peripheral and cord blood hematopoietic stem/progenitor cells and other cellular and tissue-based products which are a result of new technologies. After consultation with representatives of the involved public, FDA proposed a new regulatory framework for cellular and tissue-based products, including hematopoietic stem/progenitor cells, in February 1997, entitled ''Reinventing the Regulation of Human Tissue,'' and ''Proposed Approach to Regulation of Cellular and Tissue-based Products.'' On March 4, 1997, the agency announced a public meeting, to be held on March 17, 1997, to solicit information and views from the interested public on the agency's proposed regulatory approach for such products, and the agency requested that written comments be submitted to the docket (62 FR 9721).

C. New Regulatory Approach for Human Cellular and Tissue-Based Products

The proposed framework provides a tiered approach to human cellular and tissue-based product[3] regulation. The regulation focuses on three general areas: (1) Preventing use of contaminated tissues with the potential for transmitting infectious diseases; (2) preventing improper handling or processing that might contaminate or damage tissues, or produce cellular or tissue-based products of inadequate quality; and (3) ensuring that clinical safety and effectiveness are demonstrated for most tissues that are highly processed, are used for other than their homologous use,[4] are combined with nontissue components, or have a systemic effect.

Under the tiered approach, FDA intends to impose Federal requirements only to the extent necessary to protect the public health, with minimal regulation for some products and with increasing degrees of oversight as the potential risk increases. For example, tissues transplanted from one person to another for their normal structural or reproductive functions and without undergoing extensive processing will be subject to requirements for infectious disease screening and testing, and to requirements for good processing and handling procedures, but will not need FDA marketing approval before distribution and use. Thus, FDA expects that most processors of reproductive tissue, tissue products currently regulated under 21 CFR part 1270, and other minimally manipulated products will not be required to seek FDA premarket approval of their products nor to submit detailed clinical information about their products to FDA. The agency intends to regulate as biological drugs or devices those tissues that are processed extensively, combined with nontissue components, promoted or labeled for use other than homologous use, or (with limited exceptions) that have systemic effect on the body. Minimally manipulated hematopoietic stem/progenitor cells derived from peripheral and cord blood, for unrelated allogeneic use, would therefore be regulated as biological drugs under the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act. FDA does not intend to request clinical data to demonstrate safety and effectiveness for cellular and tissue-based products with systemic effect that are for autologous use[5] or family-related allogeneic use[6] or for reproductive tissues for reproductive use providing such products are minimally manipulated, for homologous use, and not combined with a nontissue component. FDA intends to require that establishments manufacturing such minimally manipulated hematopoietic stem/progenitor cell products for hematopoietic reconstitution register and list their products with FDA, comply with good tissue practice regulations, and ensure that all labeling and promotional materials are clear, accurate, balanced, and nonmisleading.

D. Application of the Proposed Regulatory Approach to Hematopoietic Stem/Progenitor Cell Products

For unrelated allogeneic hematopoietic stem/progenitor cells intended for hematopoietic reconstitution, provided they are not more than minimally manipulated (i.e., processing does not alter the biological characteristics of the cells), the agency believes that it may be possible to develop product standards and establishment and processing controls based on existing clinical trial data or data developed in the near future demonstrating the safety and efficacy of the cells. If adequate information can be developed, the agency intends to issue guidance for establishment controls, processing controls, and product standards in accordance with the agency's ''Good Guidance Practices,'' issued in the **Federal Register** of February 27, 1997 (62 FR 8961). FDA intends to propose that, in lieu of individual applications containing clinical data, licensure may be granted

[3] The term *human cellular and tissue-based product* means a product containing human cells or tissues or any cell or tissue-based component of such a product.

[4] The term *homologous use* means the use of a cellular or tissue-based product for a normal function that is analogous to that of the cells or tissues being replaced or supplemented.

[5] The term *autologous use* means the implantation, transplantation, infusion, or transfer of a human cellular or tissue-based product back into the individual from whom the cells or tissue comprising such product were removed.

[6] The term *family-related allogeneic use* means the implantation, transplantation, infusion, or transfer of a human cellular or tissue-based product into a first-degree blood relative of the individual from whom cells or tissue comprising such product were removed.

for products certified as meeting issued standards. To allow sufficient time for data and standards to be developed, the agency will phase-in IND and license application requirements for minimally manipulated unrelated allogeneic hematopoietic stem/progenitor cell products for hematopoietic reconstitution 3 years following the date of issuance of this **Federal Register** notice. FDA is inviting product providers, professional groups, and other interested persons to submit to the agency proposed standards and supporting data designed to ensure the safety and effectiveness of minimally manipulated hematopoietic stem/progenitor cell products for hematopoietic reconstitution. Proposed standards should be supported by adequate data and other relevant information. In order to permit development of useful standards within the phase-in period for enforcement of premarket application requirements, FDA suggests that interested parties work together to achieve consensus on uniform standards before submission to FDA. FDA will evaluate the information submitted. If the agency determines that the submissions support the development of standards, FDA intends to issue such standards through the agency's guidance documents procedures. If FDA determines that adequate establishment and processing controls and product standards are not available, the agency intends to enforce IND and license application requirements at the close of the 3 year period. FDA reminds affected parties that cells that have been more than minimally manipulated (e.g., expanded, activated, genetically modified or otherwise have their biological characteristics altered) or combined with nontissue components continue to require IND's and licensing approval, and are not subject to a phase-in period for enforcement of these requirements.

II. Request for Product Standards with Supporting Clinical and Nonclinical Data

A. Purpose

FDA is inviting product providers, professional groups, and other interested persons to submit to the agency proposed product standards with supporting clinical and nonclinical laboratory data, and other relevant information, designed to ensure the safety and effectiveness of minimally manipulated hematopoietic stem/progenitor cells derived from peripheral and placental/umbilical cord blood for unrelated allogeneic hematopoietic reconstitution. Submitted data may be specific for a patient subset, e.g., pediatric patients, and should identify the patient subset, if applicable.

FDA is requesting that proposed establishment controls include standards for personnel, facilities, quality management, standard operating procedures, staff training and competence, and process validation. Establishment controls should also include standards for recordkeeping regarding donors, processing, quarantine, storage, labeling, distribution, tracking, handling of errors and accidents, deviations from standard operating procedures, suspected adverse reactions, and quality control processes.

FDA is requesting that proposed processing controls include standards for donor selection, informed consent, donor testing and screening, histocompatibility testing, collection procedures, product testing, volume reduction methods, cryopreservation, storage conditions in liquid and frozen state, storage monitoring, transportation within and between facilities, temperature limits, packaging, and thawing procedures. The processing controls should include standards for testing for product contamination, product viability, composition, and functionality, and include when and how such testing is to be performed.

FDA is requesting that proposed product standards include the criteria for acceptance of a unit of hematopoietic stem/progenitor cells derived from peripheral or placental/umbilical cord blood. Criteria should include volume of the product, viable cell number (specified as nucleated or mononuclear cells), storage temperature limits, microbial or other contamination limits, and any other appropriate characteristics of the product, e.g., CD34 positive cell enumeration. For peripheral blood hematopoietic stem/progenitor cell products, information regarding the treatment regimens of the donors with mobilizing agents should also be provided including the type of mobilizing agent, duration of mobilization, and the number of apheresis collections.

The agency is suggesting that evidence of hematopoietic stem/progenitor cell engraftment for these products be consistently expressed as the time, expressed as number of days from the day of hematopoietic stem/progenitor cell infusion to the day that a neutrophil count of equal to or greater than 500 cells/μL is obtained, and the time, expressed as number of days from the day of hematopoietic stem/progenitor cell infusion to the first of 3 consecutive days in which the transfusion-independent platelet count of equal to or greater than 20,000 platelets/μL is demonstrated in the recipient. Information relevant to sustained platelet engraftment, such as the number of days from the day of hematopoietic stem/progenitor cell infusion to the day in which a transfusion-independent platelet count of equal to or greater than 50,000 platelets/μL is observed, should also be provided. Data provided should include the extent of HLA (human leukocyte antigen) disparity, the nucleated cell dose/kg body weight of the recipient, the weight, age, and underlying disease of the recipient, the extent and severity of Graft-Versus-Host Disease, the criteria utilized for evidence for allogeneic cell engraftment, and any other important information regarding the safety and efficacy of the infused product, e.g., incidence of infection. In addition, a description of the methods used for data evaluation, including statistical techniques, should be included.

B. Review and Consolidation of Submitted Information by FDA

FDA will review and assess the information submitted, and evaluate it as to its application in issuing hematopoietic stem/progenitor cell product standards. FDA may find it necessary to present any or all of the aspects of the standards and/or data for public discussion. Any public meeting held by FDA will be announced to the public prior to the date of the meeting. Subsequent to receiving sufficient standards with supporting data, FDA intends to adopt appropriate standards as guidance and announce their availability in the **Federal Register**.

III. Submissions

Interested persons may, on or before January 20, 2000 submit to the Dockets Management Branch (address above) written proposed standards and supporting clinical and nonclinical laboratory data. Two copies of standards and data should be submitted, except that individuals may submit one copy. Standards and data should be identified with the docket number found in brackets in the heading of this document. All information submitted will be placed on public display and will be subject to public disclosure. Any information that is not intended to be made public must be deleted before submission to the Dockets Management Branch. Trade secrets and confidential commercial information, as well as information that could be used to identify individual patients or others whose privacy should be maintained, should be deleted before being submitted. All comments proposing

standards with supporting data will be available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p..m., Monday through Friday.

Dated: January 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1171 Filed 1–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on February 12 and 13, 1998, 8 a.m. to 5 p.m.

Location: Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

Contact Person: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396, or the world wide web at http://www.fda.gov. Please call the Information Line for up-to-date information on this meeting.

Agenda: On February 12, 1998, the committee will discuss specific questions related to the development of contact lens extended wear clinical testing guidance for 7-day extended wear, prolonged extended wear beyond 7 days, and overnight use of contact lenses for orthokeratology. On February 13, 1998, the committee will discuss, make recommendations, and vote on a premarket approval application (PMA) for a broad beam excimer laser for the correction of myopia with astigmatism using laser in-situ keratomileusis. The committee will also discuss, make recommendations, and vote on a PMA for a scanning excimer laser for the correction of myopia with astigmatism using photorefractive keratectomy.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by February 6, 1998. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9:30 a.m. on February 12 and 13, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before February 2, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 12, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–1170 Filed 1–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0195]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Procedures for the Safe Processing and Importing of Fish and Fishery Products'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 31, 1997 (62 FR 58973), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0354. The approval expires on December 31, 2000.

Dated: January 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1167 Filed 1–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0040]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey of Food Safety Practices of Food Processing Firms'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 7, 1997 (62 FR 42559), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0355. The approval expires on November 30, 2000.

Dated: January 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1168 Filed 1–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

The Ryan White Comprehensive AIDS Resources Emergency Act of 1990 as Amended by Pub. L. 104–146; Notice of Pre-Application Technical Assistance Workshops

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Pre-Application Technical Assistance Workshops.

SUMMARY: The Health Resources and Services Administration will hold three pre-application technical assistance workshops for organizations that will compete for funds under Title IV, Grants for Coordinated HIV Services and Access to Research for Children, Youth, Women and Families, of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Public Law 101–381, as amended by Public Law 104–146.

Grants may be awarded to public or nonprofit private entities that provide primary health care directly or through contracts. Eligible entities may include, but are not limited to, State or local health departments, university medical centers, public or nonprofit private hospitals, community health centers receiving support under section 330 of the Public Health Service Act, hemophilia treatment centers, drug abuse treatment agencies, tribal health programs, school based clinics and institutions of higher education.

PURPOSE: The purpose of the technical assistance workshops is to provide information about the Ryan White Title IV program and application procedures. Eligible entities will have an opportunity to review the program guidance and to receive technical assistance pertaining to all aspects of writing the grant application.

To receive an application kit prior to the meeting, please contact the HRSA Grants Application Center at 1–888–300–4772.

FOR FURTHER INFORMATION CONTACT: Anyone interested in attending the meetings should contact Mr. Bradley Rymph, Professional and Scientific Associates, Inc., 8180 Greensboro Drive, Suite 1050, McLean, VA 22102. His telephone number is 703–442–9824. Room reservations should be made directly with the hotels. Costs of attending the workshop are the sole responsibility of the attendee. For information about the Ryan White Title IV program, contact LaTasha Covington at 301–443–9051.

DATES, TIMES, LOCATIONS:

Friday, February 6, 1998, 12:30PM to 5:15PM, to Saturday, February 7, 1998, 9AM to 4PM. Las Vegas, Nevada.

Wednesday, February 18, 1998, 12:30PM to 5:15PM, to Thursday, February 19, 1998, 9AM to 4PM. Baton Rouge, Louisiana.

Thursday, February 26, 1998, 12:30PM to 5:15PM, to Friday, February 27, 1998, 9AM to 4PM. Washington, DC.

The OMB Catalog of Federal Domestic Assistance number for this program is 93.153.

Dated: January 14, 1998.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 98–1279 Filed 1–16–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: December 1997

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of December 1997, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
Program-Related Convictions	
ABDALA, JUAN MIAMI, FL	01/20/1998
ABDULLAH, TARIQ H LAUREL HILL, FL	01/20/1998
ALSTON, CAROLYN E DECATUR, GA	01/20/1998
BASKETT, ROBERT S BRISTOL, TN	01/20/1998
BERLANGA, JOE EDDIE TACOMA, WA	01/20/1998
BRYANT, ANGELA MAE COLORADO SPNGS, CO	01/20/1998
CASA CARE SERVICES, LTD HAUPPAUGE, NY	01/20/1998
COLLINS, KEVIN SCOTT MT PLEASANT, TX	01/20/1998
DAVIDSON, MICHAEL E JESUP, GA	01/20/1998
DOUD-LACHER, ROBIN T TAMPA, FL	01/20/1998
EDGERTON, JAMES LAKE PARK, FL	01/20/1998
FANTONY, ALEJANDRINA M MIAMI, FL	01/20/1998
FITTON, PHYLLIS STATEN ISLAND, NY	01/20/1998
HOEYE, RICHARD RAPID CITY, SD	01/20/1998
HORVATH, ATTILA CHEVY CHASE, MD	01/20/1998
JAIME, JORGE G MIAMI, FL	01/20/1998
JOHN R MROZEK, MD, PC COLORADO SPNGS, CO	01/20/1998
JOHNSON, JERRY DOVER, DE	01/20/1998
JONES, DANIEL WAYNE OGLETHORPE, GA	01/20/1998
KNOX, JOHN W PALM BEACH, FL	01/20/1998
LAWRENCE, JULES BOCA RATON, FL	01/20/1998
LIMA, OFELIA CORAL GABLES, FL	01/20/1998
LLORENTE, JOSUE A MIRAMAR, FL	01/20/1998
LLORENTE, JUAN A MIAMI, FL	01/20/1998
LLORENTE, FIDELINA MIAMI, FL	01/20/1998
LORO, JORGE MIAMI, FL	01/20/1998
MARTINEZ, RAUL HIALEAH, FL	01/20/1998
MELE, HANSY W PALM BEACH, FL	01/20/1998
METRO AMBULANCE, INC DOVER, DE	01/20/1998
MILLIRON, JEFFREY SCOTT ORLANDO, FL	01/20/1998
MONZON, MARIA EMILIA HIALEAH, FL	01/20/1998
MURADO, NICHOLAS M MIAMI, FL	01/20/1998
NEWBERRY, LAWRENCE SIOUX CITY, MS	01/20/1998
OLIVIERI, JOSEPH RICHARD FEDERAL WAY, WA	01/20/1998
OMAR, MUGAHID O RICHMOND, VA	01/20/1998
PASCUAL, JULIO A	01/20/1998

Subject, city, state	Effective date
MIAMI, FL	
PAZ, EDUARDO J ..... MIAMI, FL	01/20/1998
PFLUMM, JANE ..... DANBURY, CT	01/20/1998
RODRIGUEZ, CELIDA M ..... MIAMI, FL	01/20/1998
ROGERS, WANDA D ..... PANAMA CITY, FL	01/20/1998
ROWELL, MILDRED ..... DIAMOND BAR, CA	01/20/1998
SHANKMAN, ANDREW S ..... COLEMAN, FL	01/20/1998
SIEGEL, ANDREW R ..... LARGO, FL	01/20/1998
SIMRING, JAMES J ..... NEW YORK, NY	01/20/1998
SOLDATOS, CONSTANTINOS TARPON SPRINGS, FL	01/20/1998
STARKS, ANGELA F ..... BRANDON, FL	01/20/1998
STEPHENS, PAULETTE ..... MARIANNA, FL	01/20/1998
UNIVERSAL REHABILITATION SERV ..... PHILADELPHIA, PA	01/20/1998
WHITE, WENDELL ..... W PALM BEACH, FL	01/20/1998
WHITE, ALMA ..... MARIANNA, FL	01/20/1998
YOUNG, DAVID W ..... PENDLETON, OR	01/20/1998
Exclusion Based on Settlement Agreement	
EL-YOUSEF, MOHAMMED ..... BELLEAIR, FL	01/20/1988
Felony Control Substance Conviction	
HANCOCK, MARLENIA G ..... KENNETT, MO	01/20/1998
Patient Abuse/Neglect Convictions	
BALDWIN, GREGORY L ..... MILWAUKEE, WI	01/20/1998
BLACK, ERIC ..... BROOKHAVEN, MS	01/20/1998
BROWN, JACQUELINE DENISE ..... LAMBERT, MS	01/20/1998
CANTAVE, ELDA ..... MIAMI, FL	01/20/1998
CHADWICK, DARLENE ..... CLUTE, TX	01/20/1998
COLLINS, NELL ..... CALHOUN CITY, MS	01/20/1998
EDWARDS, SHERRY LYNN .... TULSA, OK	01/20/1998
HANDY, NEWTON ALFRED .... JACKSON, MS	01/20/1998
HARRY, EVELYN DENISE ..... AUSTIN, TX	01/20/1998
HEMPHILL, SAMUEL R ..... BUFFALO, NY	01/20/1998
HENDERSON, PERRY ROY ... MIDWEST CITY, OK	01/20/1998
HOAG, LINDA ..... PETAL, MS	01/20/1998
IVY, PAMELA ..... CLARKSDALE, MS	01/20/1998
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JOHNSON, DAVID GERALD ... PORTLAND, OR	01/20/1998
JOYNER, MARY AGNES ..... PAULS VALLEY, OK	01/20/1998
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MOBERLY, TRACY LYNN ..... CHICKASHA, OK	01/20/1998
MORSE, ANGELA E ..... ENID, OK	01/20/1998
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NABU, HIRAM ..... ENID, OK	01/20/1998
O'LEARY, ARTHUR F ..... LEXINGTON, OK	01/20/1998
PETERSON, MELODY A ..... MARRERO, LA	01/20/1998
PLEMMONS, PAUL E ..... GREENEVILLE, TN	01/20/1998
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SMITH, SHANNON Y ..... BUFFALO, NY	01/20/1998
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BLANCHARD, DEBRA M ..... NORTHGLENN, CO	01/20/1998
BRIDGES, BERNARD JACKSON ..... ATLANTA, GA	01/20/1998
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CUPP, LORI L ..... WHEAT RIDGE, CO	01/20/1998
CURRY, EDWARD B ..... BIRMINGHAM, AL	01/20/1998
DIAZ, CLARA ..... HIALEAH, FL	01/20/1998
DIXON, SHIRLEY L ..... NEW YORK, NY	01/20/1998
DOVE, JAMES L ..... EVERGREEN, CO	01/20/1998
DRIVER, THOMAS W ..... BUCKINGHAM, PA	01/20/1998
DURAN, RENATO FERNANDO SCHENECTADY, NY	01/20/1998
ESAREY, ROBERT A ..... SEVEN HILLS, OH	01/20/1998
GODBY, PAUL J ..... ALTA LOMA, CA	01/20/1998
GRESHAM, PHYLLIS ..... RIDGELAND, SC	01/20/1998
GUPTA, SUSHILA ..... BLAUVELT, NY	01/20/1998
HADLEY, NANCY E ..... EDGEWATER, CO	01/20/1998
JANDAGHI, MEHDI ..... AGURA HILLS, CA	01/20/1998
JONES, DAVID D ..... COON RAPIDS, MN	01/20/1998
KOROMA, NYAMAKORO ..... BLADENSBURG, MD	01/20/1998
KRAMER, ROSE ANN ..... FARIBAULT, MN	01/20/1998
LANSING, KURT ..... LEVITTOWN, PA	01/20/1998
MILLER, KIMBERLY F ..... AURORA, CO	01/20/1998
MONSHAW, ROBERT ALLEN SCARSDALE, NY	01/20/1998
PROCACCINO, ANTHONY ..... PELHAM MANOR, NY	01/20/1998
PURVIS, GENE HERBERT ..... POWAY, CA	01/20/1998
ROBLES, BARBARA ..... COLORADO SPNGS, CO	01/20/1998
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SHULTZ, DARLENE ELIZABETH ..... COVINA, CA	01/20/1998
SINGH, PRITPAUL ..... VOORHEES, NJ	01/20/1998
SMITH, SOLOMON ..... COLUMBIA, SC	01/20/1998
SMITH, CAMERON R C ..... GLENDALE, AZ	01/20/1998
SPLITTER, SAMUEL R ..... CAPE MAY, NJ	01/20/1998
ZEHNER, LUTHER ROLAND ..	01/20/1998

Subject, city, state	Effective date
MEADVILLE, PA	
Federal/State Exclusion/Suspension	
AT HOME HEALTH CARE SUPPLIES ..... WESTBURY, NY	01/20/1998
DEFEO, DELORES A ..... BARGAINTOWN, NJ	01/20/1998
LEONARD, PATRICIA ..... PHOENIX, AZ	01/20/1998
PARATRANSIT ASSOCIATES, INC ..... BETHPAGE, NY	01/20/1998
QUALITY ORTHOPEDICS ..... NEW YORK, NY	01/20/1998
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Owned/Controlled by Convicted Excluded	
ABC DIAGNOSTIC ..... MIAMI, FL	01/20/1998
ADVANCED NEUROLOGICAL CARE ..... MIAMI, FL	01/20/1998
AMERICAN HEALTH CENTER HIALEAH, FL	01/20/1998
ART DECO MEDICAL GROUP, INC ..... MIAMI BEACH, FL	01/20/1998
AT HOME MEDICAL CARE, INC ..... MIAMI, FL	01/20/1998
BAKEN PARK HEARING AID CENTER ..... RAPID CITY, SD	01/20/1998
BELLEGLADES CLINIC & DIAG CTR ..... MIAMI, FL	01/20/1998
BIO-MECHANICS CLINIC ..... ABERDEEN, ID	01/20/1998
C & C FAMILY HEALTH GROUP, INC ..... MIAMI, FL	01/20/1998
COMP-TECH, INC ..... CORAL GABLES, FL	01/20/1998
DADE CARE HEALTH CENTER, INC ..... MIAMI, FL	01/20/1998
DCH MEDICAL ..... LOUISVILLE, KY	01/20/1998
DIRECT DATA MARKETING, INC ..... CORAL GABLES, FL	01/20/1998
ESTEFAN MEDICAL CENTERS, INC ..... MIAMI, FL	01/20/1998
FIFTEENTH STREET MEDICAL OFCS ..... MIAMI BEACH, FL	01/20/1998
FLAGLER DME, INC ..... MIAMI, FL	01/20/1998
FOMENTOS MEDICAL CARE CENTER ..... MIAMI, FL	01/20/1998
GEORGIA MEDICAL AMB & CONV SVC ..... LAWRENCEVILLE, GA	01/20/1998
HERNIA INSTITUTE OF LYON NEW YORK, NY	01/20/1998
HI-LIFE MEDICAL CENTER .... CORAL GABLES, FL	01/20/1998
K & S MEDICAL SUPPLIES .... MT PLEASANT, TX	01/20/1998
LEJEUNE HEALTH PROFESSIONALS ..... MIAMI, FL	01/20/1998
MAX CLINIC SERVICES, INC MIAMI, FL	01/20/1998
MEDCLINIC, INC ..... MIAMI, FL	01/20/1998
MEDICAL RESEARCH CENTER, INC ..... MIAMI, FL	01/20/1998
MOBILE DENTAL HEALTH ..... PEMBROKE PINES, FL	01/20/1998
NAZARET MEDICAL CENTER, INC ..... MIAMI, FL	01/20/1998
NEUROMUSCULAR REHABILITATION ..... MIAMI, FL	01/20/1998
NORTHWEST REGION SERVICE, INC ..... HIALEAH, FL	01/20/1998
PEDIATRIC & FAMILY HEALTH ..... MIAMI, FL	01/20/1998
PHYSICAL THERAPY & REHAB ..... MIAMI, FL	01/20/1998
PREFERRED DIAGNOSTICS, INC ..... WINTER PARK, FL	01/20/1998
PREFERRED TRANSPORTATION ..... MARIANNA, FL	01/20/1998
SHANKMAN DAVIDSON PSYCH MGMT ..... ST SIMON, GA	01/20/1998
TAMIAMI MEDICAL RENTAL CORP ..... MIAMI, FL	01/20/1998
TECHNO/HEALTH SERVICES, INC ..... MIAMI, FL	01/20/1998
TECHNOKURE, INC ..... MIAMI, FL	01/20/1998
THIRD AVE MEDICAL INSTITUTE ..... MIAMI, FL	01/20/1998
WEST KENDALL MEDICAL ASSOC ..... MIAMI, FL	01/20/1998
Default on Heal Loan	
BARRON, ATHON ..... ATLANTA, GA	01/20/1998
BURTON, GERI LYN ..... MURRAY, UT	01/20/1998
CARTER, JAMES E IV ..... DULUTH, GA	01/20/1998
EDMONDSON, DANIEL J ..... FORT COLLINS, CO	01/20/1998
ELOI, EMMANUEL ..... MIAMI BEACH, FL	01/20/1998
FICCO, DAVID S ..... LAWRENCEVILLE, GA	01/20/1998
HAVERLY, DAVID E ..... ROCKWOOD, TN	01/20/1998
LITTLE (TANNER), DIEDRE FELICI ..... ATLANTA, GA	01/20/1998
SAUNDERS, CRYSTAL R ..... NASHVILLE, TN	01/20/1998
SIERADZKI, REX A ..... BARNSVILLE, GA	01/20/1998
SPATZ, ERIC D ..... BOYNTON BEACH, FL	01/20/1998
WATHEN, GEORGE A ..... ENGLEWOOD, CO	01/20/1998
WOODARD, DEBORAH AVON (WILLIAM) ..... MCKENZIE, TN	01/20/1998
Peer Review Organization Cases	
BROOKS, JESSE M ..... ATLANTA, TX	12/10/1997

Dated: January 12, 1998.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 98–1246 Filed 1–16–98; 8:45 am]

BILLING CODE: 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide the opportunity for public comment on proposed information collection activities, the Substance Abuse and Mental Health Services Administration publishes periodic summaries of proposed activities. To request more information on the proposed activities or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. FY 1999–2001 Substance Abuse Prevention and Treatment Block Grant Application Format—Revision—The Public Health Service Act (42 U.S.C. 300x 21–35 & 51–64) authorizes

block grants to States for the purpose of providing substance abuse prevention and treatment services. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. For the FY 1999 Substance Abuse Prevention and Treatment (SAPT) Block Grant cycle, SAMHSA plans to provide States with slightly modified application forms and instructions. These changes affect the portion of the application that asks for information related to section 1926 (sales of tobacco to minors). The application will no longer require a description of sampling methodologies and procedures for identifying and selecting tobacco outlets to be sampled throughout a State, unless a change to such methodologies or procedures has occurred in the previous year. The application will provide for more detailed information on the results and validity of the random unannounced inspections, and it will request greater detail on the number and results of actual enforcement activities that a State has undertaken. At the request of the Department, SAMHSA plans to include an additional tobacco-related question to Attachment 6 of the application. This question will require States to briefly describe collaboration between each State's Tobacco and Health Office (ASTHO representative) and Single State Authority for Substance Abuse (NASADAD representative). Because Federal funds for tobacco prevention and control efforts are, in most cases, awarded to different State-level agencies, it is necessary for the Department and SAMHSA to verify and understand interactions at the State level on youth tobacco prevention and enforcement. SAMHSA also plans to modify Attachment 2 to include an additional question regarding tobacco use among minors. Finally, SAMHSA will modify the race/ethnicity categories in Form 9 to comply with recent revisions to OMB Directive No. 15. These modifications are not expected to increase respondent burden. The annual burden estimate for the SAPT Block Grant Application Format is shown below:

Number of respondents	Responses per respondent	Hours per response	Total hours
1[1]	1	530	530
59	1	563	33,217
Total			33,747

[1] Red Lake Indian Tribe (exempt from Tobacco Regulation requirements).

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 12, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–1202 Filed 1–16–98; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1998 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of Funding Availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services announces the availability of FY 1998 funds for grants and cooperative agreements for the following activities. These activities are discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activities; potential applicants must obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available (millions)	Estimated No. of awards	Project period
Circles of Care	04/03/98	$2.4	6–8	3 yrs.
Consumer-Operated Service Program	04/09/98	5.0	9	4 yrs.

Note: SAMHSA also published a notice of available funding opportunities in FY 1998 in the **Federal Register** (Vol. 63, No. 3) on Tuesday, January 6, 1998.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1998 funds for activities discussed in this announcement were appropriated by the Congress under Public Law No. 105–78. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for each activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of each of the activities (i.e., the GFA) described in Section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

Application Submission: Unless otherwise stated in the GFA,

applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710.*

(* Applicants who wish to use express mail or courier service should change the zip code to 20817.)

Application Deadlines: The deadlines for receipt of applications are listed in the table above. Please note that the deadlines may differ for the individual activities.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for each activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for each activity covered by this notice (see Section 4).

SUPPLEMENTARY INFORMATION: To facilitate the use of this Notice of Funding Availability, information has been organized as outlined in the Table of Contents below. For each activity, the following information is provided:

- Application Deadline
- Purpose
- Priorities
- Eligible Applicants
- Grants/Cooperative Agreements/Amounts
- Catalog of Federal Domestic Assistance Number
- Contacts
- Application Kits

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      4.2.1 Cooperative Agreements to Evaluate Consumer-Operated Human Service Programs for Persons with Serious Mental Illness (Consumer-Operated Service Program)
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1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1998 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a ''menu'' of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1998 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activities in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;

- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1998 Mental Health Activities

4.1 Grants

4.1.1 Circles of Care: Planning, Designing, and Assessing Mental Health Service System Models for Native American Indian and Alaska Native Children and Their Families

- Application Deadline: April 3, 1998
- Purpose: Six to eight grants will be awarded to plan, design, and assess the feasibility of implementing a culturally appropriate mental health service model for American Indian/Alaska Native children with serious emotional disturbances and their families. The purpose of this program is to support the development of mental health service delivery models that are designed by American Indian/Alaska Native communities to achieve outcomes for their children that they choose for themselves. Formulation and evaluation of programs based directly on the needs, values, and principles of the grantee organizations will provide an information base for other programs interested in structuring culturally relevant children's mental health service systems.

Grantees will engage in a strategic planning process, design a service model, and conduct a feasibility assessment of the model, including a cost and funding analysis. Actual services will not be funded but the intent of the program is to position tribal and urban Indian organizations advantageously for future service system implementation and development when opportunities for funding services are available.

- Priorities: None
- Eligible Applicants: Applications may be submitted by federally acknowledged tribes and tribal organizations. Urban Indian organizations are eligible to apply if they are a nonprofit corporate body situated in an urban center, governed by a board of directors of whom at least 51% are American Indian/Alaska Natives, and provide for the participation of all interested Indian groups and individuals. The applicant must be capable of legally cooperating with other public and private entities for the purposes of performing the activities of this program.

The primary intent of the ''Circles of Care'' program is to support the development of mental health service delivery models that are designed by American Indian/Alaska Native communities to achieve outcomes for their children that they chose for themselves. Models designed for American Indian/Alaska Native communities by people other than American Indian/Alaska Natives are already available. This program will enable community members to develop models to juxtapose with those not designed by Indians to find which are best for meeting their service needs. To be effective and have the cooperation and confidence of the community, the applicant must be representative of the community, in addition to demonstrating the ability to fulfill the technical requirements of the GFA.

- Grants/Amounts: It is estimated that approximately $2.4 million will be available to support approximately 6–8 awards in FY 1998. Actual funding levels for subsequent years will depend on availability of appropriated funds.
- Catalog of Federal Domestic Assistance Number: 93.230
- Program Contact: For programmatic or technical assistance contact: Gary De Carolis, M.ED., Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 18–49, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1333.
- Grants Management Contact: For business management assistance, contact: Stephen J. Hudak, Grants Management Specialist, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 15C–05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4456.
- Application Kits: Application kits are available from: National Mental Health Services, Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, D.C. 20015, Voice: (800) 789–2647, TTY: (301) 443–9006.
- CMHS intends to sponsor two technical assistance workshops for potential applicants to provide guidance on completing the grant application. One workshop will be held in the eastern part of the country; the other will be held in the western part of the country. Letters from CMHS will be mailed to all 550 federally recognized tribes and urban Indian organizations to inform them of the meeting(s). For more information, potential applicants may contact: Kathy McGregor, Project Coordinator, National Indian Child Welfare Association, 3611 SW Hood Street, Suite 201, Portland, OR 97201, (503–222–4044).

4.2 Cooperative Agreements

A major activity for a SAMHSA cooperative agreement program is discussed below. Substantive Federal programmatic involvement is required in cooperative agreement programs. Federal involvement will include planning, guidance, coordination, and participating in programmatic activities (e.g., participation in publication of findings and on steering committees). Periodic meetings, conferences and/or communications with the award recipients may be held to review mutually agreed-upon goals and objectives and to assess progress. Additional details on the degree of Federal programmatic involvement will be included in the application guidance materials.

4.2.1 Cooperative Agreements to Evaluate Consumer-Operated Human Service Programs for Persons With Serious Mental Illness (Consumer-Operated Service Program)

- Application Deadline: April 9, 1998.
- Purpose: This Guidance for Applicants (GFA) solicits applications for two types of cooperative agreements—Study Sites and a Coordinating Center. The purpose of this Program is to assess the extent to which consumer-operated services are effective in improving rehabilitation and recovery of individuals with serious mental illness. It also seeks to determine to what extent participation in such services affect costs.

Specific questions to be addressed are:

1. To what extent does participation in a consumer-operated service program affect selected consumer outcomes for consumers who use traditional service programs?

The selected outcomes are empowerment, housing, employment

(such as transition from unemployment to employment), social inclusion, and satisfaction with services. This core question is to be addressed in both the individual Study Site evaluation and the multi-site evaluation to be coordinated by the Coordinating Center.

2. To what extent does participation in a consumer-operated service program affect costs for the following: inpatient hospitalization, crisis intervention, and emergency room utilization as well as offsetting costs in housing, criminal justice, vocational rehabilitation, physical health care, and income support?

Examination of patterns of service use of retrospective or prospective ''claims'' data on service utilization will be coordinated by the Coordinating Center.

While individual Study Sites will provide the necessary information for the cost-study, the Coordinating Center will be responsible for developing a design and method for collecting and analyzing all information for the cost-study.

A goal of the Program is to create strong and productive partnerships among consumers, service providers and services researchers that demonstrate to the field that these groups are capable of complementing each other's strengths and that their joint efforts will yield the most effective service delivery models possible.

Another goal is to disseminate the knowledge gained about the effectiveness of these projects and the specific components that contributed to their success.

- Priorities: None.
- Eligible Applicants: Applications to be a Study Site or a Coordinating Center may be submitted by public organizations, such as units of State or local governments and by domestic private nonprofit and for-profit organizations such as community-based organizations, universities, colleges, and hospitals, and family and/or consumer operated organizations. Since CMHS seeks to study established consumer-operated and traditional programs, both program entities must have been operational for a minimum of 2 years at the time of the submission of the study site application. Applicants may apply to be a Study Site or a Coordinating Center, but not both.
- Cooperative Agreements/Amounts: It is estimated that approximately $5 million will be available to support approximately eight (8) Study Site awards and one (1) Coordinating Center under this GFA in FY 1998. The average award to support each Study Site is expected to range from $400,000 to $600,000 in total costs (direct+indirect) per year. The award to support the Coordinating Center is expected to be in the range of $700,000 to $900,000 in total costs (direct+indirect) per year. Actual funding levels will depend upon the availability of appropriated funds.
- Catalog of Federal Domestic Assistance Number: 93.230.
- Program Contact: For programmatic or technical assistance contact: William R. McKinnon, Ph.D., Community Support Programs Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–22, Rockville, MD 20857, (301) 443–3655, or Paolo del Vecchio, Office of External Liaison, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 13C–103, Rockville, MD 20857, (301) 443–2619.
- Grants Management Contact: For business management assistance, contact: Stephen J. Hudak, Grants Management Specialist, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, Maryland 20857, (301) 443–4456.
- Application Kits: Application kits are available from: National Mental Health Services, Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015, Voice: (800) 789–2647, TTY: (301) 443–9006, FAX: (301) 984–8796.

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 1998 activity described above is/is not subject to the Public Health System Reporting Requirements.

6. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

7. Executive Order 12372

Applications submitted in response to all FY 1998 activities listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Extramural Activities Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: January 11, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–1217 Filed 1–16–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Notice of Intent to Prepare Comprehensive Conservation Plans

AGENCY: Fish and Wildlife Service.

ACTION: Notice of Intent to Prepare Comprehensive Conservation Plans.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare Comprehensive Conservation Plans (CCP) and associated environmental documents for the Tewaukon National Wildlife Refuge Complex in southeastern North Dakota and the Waubay National Wildlife Refuge Complex in northeastern South Dakota. The Service is furnishing this notice in compliance with Service CCP policy to advise other agencies and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by February 19, 1998.

ADDRESSES: Comments and requests for more information to Allison Banks, Planning Team Leader, Division of Realty, P.O. Box 25486, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Allison Banks, Planning Team Leader, Division of Realty, P.O. Box 25486, Denver, CO 80225.

SUPPLEMENTARY INFORMATION: The Service has initiated Comprehensive Conservation Planning for the Tewaukon National Wildlife Refuge Complex and the Waubay National Wildlife Refuge Complex.

The Tewaukon Complex includes the Tewaukon National Wildlife Refuge and the Tewaukon Wetland Management District (WMD). The Waubay Complex includes the Waubay National Wildlife Refuge and the Waubay Wetland Management District. Each National Wildlife Refuge has specific purposes for which it was established and for which legislation was enacted. Those purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission, and to guide which public uses occur on the refuge. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each national wildlife refuge's establishing purposes and the mission of the National Wildlife Refuge System.

The Tewaukon National Wildlife Refuge (approximately 8,500 acres) was established as ''* * * a refuge and breeding ground for migratory birds and other wildlife * * *'' and ''* * * for use as an inviolate sanctuary or for any other management purpose, for migratory birds'' (Migratory Bird Conservation Act), by Executive Order 6910, on November 26, 1934. The Tewaukon WMD consists of fee Waterfowl Production Areas (WPA's) (approximately 14,000 acres), and wetland easements (approximately 33,000 acres). The Complex is located in Richland, Ransom, and Sargent counties of North Dakota. The Tewaukon Complex also administers three easement refuges: Lake Elsie, Storm Lake, and Wild Rice. The WPA's are all open to hunting, fishing, and trapping in accordance with the Code of Federal Regulations.

The Tewaukon National Wildlife Refuge Complex lies within the prairie pothole and tallgrass/mixed grass prairie ecosystem in southeastern North Dakota. High densities of a variety of shallow, productive wetlands surrounded by grasslands produce high quality migration and nesting habitat for migratory birds. Tewaukon is a mixing point for migrating birds of both the Central and Mississippi Flyways. The name ''Tewaukon'' is derived from an ancient tribal name Te Wauk Kon, roughly translated as Son of Heaven. The main water source for Tewaukon, the Wild Rice River, is a tributary of the Red River which flows through Fargo, North Dakota. A portion of the refuge fee title land, several WPA's, and wetland easements are located within the Sisseton-Wahpeton Indian Reservation boundary.

Waubay National Wildlife Refuge, located northeastern South Dakota, was established as ''* * * a refuge and breeding ground for migratory birds and other wildlife: * * *.'' by Executive Order 7245, dated December 10, 1935. The word ''Waubary'' is of Sioux Indian original meaning ''a nesting place for birds.'' The refuge covers 4,740 acres of grasslands, wetlands, native forests, and croplands. Present public use includes wildlife viewing, environmental education, deer hunting, ice fishing, hiking, and picnicking.

The Waubay WMD manages 40,000 acres of fee WPA's, 100,000 acres of waterfowl management rights easements and 125,000 waterfowl habitat protection easements in Clark, Codington, Day, Grant, Roberts, and Marshall counties of northeastern South Dakota.

Three distinct physiographic regions dominate the Waubay WMD, each with unique habitat properties. The *Coteau des Prairies*, a series of north to south parallel terminal moraines rising 800 feet or more in elevation above adjacent lowlands, covers nearly 80 percent of the WMD. Numerous glacial lakes and smaller wetland basins dot the Coteau. To the east and west of the Coteau lies the Minnesota River and James River Lowlands, respectively. These lowland areas contain flat, fertile, agricultural land that is more intensively cropped that the hilly Coteau grassland region. All WPA's are open to hunting, fishing, and trapping in accordance with the Code of Federal Regulations.

The Service will conduct a comprehensive conservation planning process that will provide opportunity for Tribal, State and local governments, agencies, organizations, and the public to participate in issue scoping and public comment. The Service is requesting input for issues, concerns, ideas, and suggestions for the future management of the Tewaukon and Waubay Complexes. Anyone interested in providing input is invited to respond to the following three questions.

(1) What makes the Tewaukon/Waubay Complexes (or any specific unit) special or unique for you?

(2) What problems or issues do you want to see addressed in the Comprehensive Conservation Plans?

(3) What improvements would you recommend for the Tewaukon/Waubay Complexes (or any specific unit)?

The Service has provided the above questions for your optional use. There is no requirement to provide information to the Service. The Planning Team developed these questions to facilitate finding out more information about individual issues and ideas concerning the Tewaukon/Waubay Complexes. Comments received by the Planning Team will be used as part of the planning process, individual comments will not be referenced in our reports or directly respond to.

There will also be an opportunity to provide input at open houses to be scheduled for February and/or March 1998 to scope issues and concerns (schedule can be obtained from the Planning Team Leader at the above address). All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (e.g., names, addresses,

letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, the National Wildlife Refuge System Improvement Act of 1997, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available for review in March 1999.

Dated: January 9, 1998.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 98–1204 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Technical/ Agency Draft Recovery Plan for the Spruce-Fir Moss Spider for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the technical/agency draft recovery plan for the spruce-fir moss spider (*Microhexura montivaga*). Historically, at least five different mountain peaks in the Southern Appalachian Mountains of western North Carolina and eastern Tennessee are known to have supported populations of the spruce-fir moss spider. Today, however, only two small relict populations of the spider are known to survive—one on Grandfather Mountain in North Carolina and one on Mount LeConte in Tennessee. The typical habitat of the spruce-fir moss spider is found in well-drained moss mats growing on rocks and boulders in well-shaded situations in mature high-elevation conifer forests dominated by Fraser fir (*Abier fraseri*) and scattered red spruce (*Picea rubens*). These factors are deteriorating rapidly, primarily due to infestation and the resulting mortality of the fir by the balsam woolly adelgid (an exotic insect pest) and possibly air population and other factors now yet fully understood. The spider requires situations of high and constant humidity, and the loss of forest canopy, leading to increased light and decreased moisture on the forest floor (resulting in desiccation of the moss mats), appears to be the major threat to its continued existence. Unless new populations are found or reestablished and existing population are maintained, this species will remain in jeopardy of extinction for the foreseeable future. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on this technical/ agency draft recovery plan must be received on or before March 23, 1998 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the technical/agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801 (Telephone 704/258–3939). Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. John Fridell, Fish and Wildlife Biologist, at the address and telephone number shown in the **ADDRESSES** section (Ext. 225).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the spruce-fir moss spider (*Microhexura montivaga*). The area of emphasis for recovery actions includes the Southern Appalachian Mountains of western North Carolina and eastern Tennessee. Habitat protection, reintroduction, and the preservation of genetic material are the major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the final plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 6, 1998.

Brian P. Cole,

State Supervisor.

[FR Doc. 98–1232 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Closure to Collection of Petrified Wood Order Established; Folsom Field Office, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of petrified wood collecting closure order within public lands managed by the Folsom Field Office, California.

SUMMARY: Certain described public lands administered by the Folsom Field Office in the vicinity of the communities of Dutch Flat and Gold Run are hereby closed to the collection of petrified wood. This closure will be in effect on all the below described public lands:

Mount Diablo Meridian, California

T. 15 N., R. 10 E.,
Section 3: Lots 4,5;
Section 4: Lot 19;
Section 9: SWSE; Lots 3,4,5,7,8,9; MS1483;
Section 16: N/2NE, SWNE.

Totalling 320.29 acres, more or less.

The following persons are exempted from the closure: Any person who is in possession of a valid Paleontological Collecting Permit issued by BLM for the subject area, or who is acting as an authorized agent of an institution holding such a permit.

DATES: This order is in effect and will remain in effect until amended or canceled.

FOR FURTHER INFORMATION CONTACT: Deane Swickard, Manager, Folsom Field Office, Bureau of Land Management, 63 Natoma Street, Folsom, CA 95630; (916) 985–4474.

SUPPLEMENTARY INFORMATION: This order is necessary for protection of uncommon plant macrofossils having significant scientific value, a local resource that has been seriously depleted by unregulated collecting.

Authority for Closure orders is provided under 43 CFR 8364.1. Any person who fails to comply with this closure or restriction order shall be subject to the penalties provided in 43 CFR 8360.0–7. Violations of this closure or restriction order are punishable by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months. Any petrified wood collected in violation of this order, shall be subject to seizure, forfeiture and disposal.

Dated: January 8, 1998.

D. K. Swickard,

Field Manager.

[FR Doc. 98–1188 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–08–1610–00]

Notice of Intent to Initiate Plan Amendments and Associated Environmental Assessment for the Grand Resource Management Plan (RMP) and the San Juan RMP

SUMMARY: Since the completion of the Grand and San Juan RMPs in southeastern Utah, changes in the scope of land uses, public expectations, and new data has resulted in the need to re-examine certain current decisions in the RMP that may no longer provide for appropriate resource use or protection in the Lockhart Basin area.

ADDRESSES: Moab Field Office, 82 East Dogwood, Moab, Utah 84532.

SUPPLEMENTARY INFORMATION: Since the completion of the Grand RMP in 1985 and the San Juan RMP in 1991, extensive changes have occurred in the Lockhart Basin. Increased public awareness, sensitivity and expectations regarding resource use and protection has been evolving. The scope of activities and interest in certain types of resource use, such as recreation uses, and oil and gas industry interest including exploration and possible production has exceeded considerations and projections that were made in the associated Environmental Impact Statements of the above mentioned RMPs. Therefore, in accordance with 43 CFR 1610.5–5-Amendments, the field offices would like to request public involvement in the possible amendment of the subject RMPs. Currently, three preliminary issues have been identified that are proposed to be addressed during the plan(s) amendment process.

Issue One is the need to review current oil and gas categories to determine if changes are necessary to protect sensitive resources. Issue Two includes the need to determine if current management decisions can continue to provide necessary protection to important wildlife populations also located in the Lockhart Basin. Issue Three includes the need to review current management decisions regarding the protection of sensitive visual resources in light of the increased potential land uses also in the Lockhart Basin Area.

No additional planning criteria beyond those previously stated in the Draft Environmental Impact Statement for the above RMPs are planned at this time.

A complete inter-disciplinary team will be utilized for the completion of the proposed amendments and associated environmental assessment.

The Field Offices would like to take this opportunity to invite the public to comment on the above preliminary issues or any others that may need to be addressed for the Lockhart Basin Area. Public comments should be submitted by February 19, 1998 in order that they may be appropriately considered in the plan amendment process. All comments or concerns should be sent to Daryl Trotter, Environmental Protection Specialist at the address listed below.

Additional opportunities to facilitate public input will be offered by holding open public meetings at the following locations:

Moab Field Office; Moab, Utah on February 4,1998 from 6:00 pm to 8:00 pm and;

Monticello Field Office, Monticello, Utah on February 5, 1998 to 6:00 pm to 8:00 pm.

FOR FURTHER INFORMATION CONTACT: Daryl Trotter, Environmental Protection Specialist for the Moab Field Office, 82 East Dogwood, Moab, Utah 84532 at the following telephone number: (435) 259–61111 or fax (435) 259–2100.

Dated: January 13, 1998.

G. William Lamb,

Utah State Director.

[FR Doc. 98–1200 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–08–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Northeast California Resource Advisory Council, Susanville, California.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Friday, Feb. 20, beginning at 8 a.m. at the Bureau of Land Management's Eagle Lake Field Office, 2950 Riverside Dr., Susanville, CA.

SUPPLEMENTARY INFORMATION: Beginning at 8:30 a.m., members will participate in an interactive teleconference with officials from the Department of the Interior and the BLM. Members will then discuss projects upcoming for the BLM's Eagle Lake, Alturas and Surprise field offices and determine advisory council involvement. Public comments will be taken at 1 p.m.

FOR ADDITIONAL INFORMATION: Contact Jeff Fontana, public affairs officer, at (530) 257–5381.

John Bosworth,

Acting Field Manager.

[FR Doc. 98–1201 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1220–00]

Notice of Meeting

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Interior.

ACTION: Notice of meeting.

SUMMARY: The Miles City District Resource Advisory Council will have a meeting Wednesday, February 11, 1998

at 9:00 a.m. in the Western Heritage Center located at 2822 Montana Avenue in Billings, Montana. The meeting is called primarily to discuss access to public lands. Updates to several other on-going BLM projects will be given. The meeting is expected to last until 4:00 p.m.

The meeting is open to the public and the public comment period is set for 1:00 p.m. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marilyn Krause, Public Affairs Specialist, Miles City District, 111 Garryowen Road, Miles City, Montana 59301, telephone (406) 233–2831.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management. The 15 member Council includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the Council.

Dated: January 6, 1998

Timothy M. Murphy,

District Manager.

[FR Doc. 98–1234 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–1990–00]

Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte District Office, Bureau of Land Management, DOI.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 8:30 a.m., Friday, February 20, 1998. The meeting will be held in conjunction with an interactive video teleconference concerning RAC operations and which will be led by Secretary Babbitt and Director Shea. All Resource Advisory Councils will be included in the teleconference.

The teleconference and meeting will be held at the Butte District Office, 106 N. Parkmont, Butte, Montana. The teleconference will begin at 9:00 a.m. and last until 12:00 noon MST. The RAC meeting will begin at 1:00 p.m.

The only issue that will be discussed at the meeting is the Whitetail/ Pipestone Off Road Vehicle alternatives.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 3 p.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (P.O. Box 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Jim Owings at the above address or telephone number.

Dated: January 9, 1998.

James R. Owings,

District Manager.

[FR Doc. 98–1235 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–018–1430–00; CACA 38224]

Notice of Realty Action, Direct Sale of Public Land, El Dorado County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public land (surface and mineral) is being considered for direct sale pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1713 and 1719):

Mount Diablo Meridian

T. 8 N., R. 9 E.,
Sec. 24, lot 12;
Sec. 25, lot 13.

The area described contains .65 acres in El Dorado County.

The above described parcel of land would be sold to Mr. Gene Harm, an adjacent landowner, by direct sale, at fair market value. The disposal of this land will resolve an inadvertent trespass.

The parcel would be transferred subject to a reservation to the United States for a right-of-way for ditches and canals. The conveyance would also be made subject to section 24 of the Federal Power Act of June 20, 1920, as amended (16 U.S.C. 791a). All necessary clearances including clearances for archeology and for rare plants and animals would be completed prior to any conveyance of title by the United States.

The land described is hereby segregated from settlement under the public land laws including location and entry under the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

ADDRESS: Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Folsom Field Office, 63 Natoma Street, Folsom, CA 95630.

DATES: On or before March 6, 1998, interested persons may submit comments to the Field Manager, Folsom Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: John Beck, Realty Specialist, at the above address or by phone at (916) 985–4474.

Dated: January 8, 1998.

D.K. Swickard,

Field Manager.

[FR Doc. 98–1189 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1110–00]

Prohibition Against Target Shooting; El Centro Resource Area, CDD, CA

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Prohibition against target shooting to conserve raptor habitat inside of the Table Mountain Area of Environmental Concern.

SUMMARY: This notice affects public lands under administration of El Centro Resource Area, CDD. The area includes public lands in the San Bernardino Meridian.

San Bernardino Meridian, San Diego County, California

T. 17S., R. 8E., sec. 26, W½, sec. 27, E½

The above listed lands located within the Table Mountain Area of Environmental Concern (ACEC) are hereby closed to shooting, except for legitimate hunting. These shooting regulations do not prohibit legitimate hunting activities and therefore do not

conflict with State Fish and Game Regulations.

This prohibition is designed to protect raptor habitat. The Table Mountain ACEC specifically noted the habitat of raptor species and they were noteworthy in the designating of the ACEC. The ACEC Plan's goals are to maintain suitability of raptor habitat throughout the ACEC. Additionally, the Eastern San Diego County Management Framework Plan provides for protecting habitat for sensitive wildlife species with emphasis on raptors.

Signs will be posted in the area restricted and a map showing the exact location of the restricted area will be available at the El Centro Resource Area office in El Centro, CA 92243.

Any person who knowingly and willfully violates these prohibitions may be subject to a $1,000.00 fine or imprisonment for not longer than 12 months, or both, under authority of 43 CFR 8365.1–6 Supplementary Rules.

FOR FURTHER INFORMATION CONTACT: Area Manager, Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243 760–337–4400.

Dated: January 8, 1998.

Terry A. Reed,

Area Manager.

[FR Doc. 98–1187 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[7–00160–ILM]

Interlakes Special Recreation Management Area

AGENCY: U.S.D.I. Bureau of Land Management (BLM), Redding Field Office; National Park Service (NPS), Whiskeytown National Recreation Area; Bureau of Reclamation (BOR), Shasta Area Office, California.

ACTION: Record of decision.

SUMMARY: BLM, NPS and BOR have approved a management plan detailing land management strategies for the Interlakes Special Recreation Management Area. Preparation of the management plan was a joint effort between the BLM, NPS, BOR and the U.S.D.A. Forest Service. The Forest Service has determined that the management plan is entirely consistent with the Record of Decision for the Shasta-Trinity National Forest Land and Resource Management Plan (1995).

SUPPLEMENTARY INFORMATION: The Draft Interlakes Plan and Environmental Impact Statement was released on March 6, 1997. The Final Interlakes Plan and Environmental Impact Statement was released on October 31, 1997.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Field Office Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA., 96002.

Dated: January 12, 1998.

Francis Berg,

Acting Field Office Manager.

[FR Doc. 98–1199 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. January 8, 1998.

The plat representing the department resurvey of portions of the west boundary and of the subdivisional lines, the subdivision of section 18, and a metes-and-bounds survey in section 18, T. 6S., R. 5E, Boise Meridian, Idaho, Group 994, was accepted January 8, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: January 8, 1998.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 98–1233 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30390]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona; Correction

AGENCY: Bureau of Land Management.

ACTION: Correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** of October 9, 1997, concerning a proposed U.S. Forest Service withdrawal. This notice corrects several legal descriptions which did not reflect current survey information.

FOR FURTHER INFORMATION CONTACT: Beverly Everson or Doug Franch, Prescott National Forest, (520) 445–7253.

In the **Federal Register** issue of October 9, 1997, Vol. 62, No. 196, page 52770, third column, correct the legal description for T. 12½ N., R. 2 W., secs. 26, 27, and 35 to read:

Sec. 26, lot 4, lots 8 to 17 inclusive, and MS 4051;
Sec. 27, lots 1 to 6 inclusive, W½NW¼, and MS 4051;
Sec. 35, lots 2, 3, and 9, and MS 2648.

Following the legal description in column 3, line 37, change the area described from 1,620 acres to 1,677.25 acres.

Dated: January 9, 1998.

Michael A. Ferguson,

Deputy State Director Resources Division.

[FR Doc. 98–1191 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Yosemite Valley Implementation Plan Supplemental Environmental Impact Statement; Yosemite National Park, California; Extension of Public Comment Period

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Supplemental Environmental Impact Statement assessing alternatives for, and potential impacts of, a proposed Yosemite Valley Implementation Plan for Yosemite National Park, California. In deference to public interest expressed to date from local governmental agencies, organizations, and other interested parties, the original 75 day public comment period has been extended an additional 31 calendar days to February 23, 1998.

SUPPLEMENTARY INFORMATION: Written comments on the draft document must now be received or post-marked *not later than February 23, 1998*, and should be directed to the Superintendent, Attn: VIP Planning, Yosemite National Park, P.O. Box 577, Yosemite, CA 95389, (209) 372–0202. Comments may also be submitted through the National Park Service planning page: Yosemite Valley Implementation Plan/Supplemental Environmental Impact Statement. Also, open houses and public workshops have previously been conducted in several California cities; during the extended

comment period, additional workshops are to be held in Yosemite gateway communities. Complete details may be obtained as noted above.

Dated: January 9, 1998.

John J. Reynolds,

Regional Director, Pacific West.

[FR Doc. 98–1196 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Lake Clark National Park and the Chairperson of the Subsistence Resource Commission for Lake Clark National Park announce a forthcoming meeting of the Lake Clark National Park Subsistence Resource Commission. The public is welcome to attend the meeting.

The following agenda items will be discussed:

(1) Chairman's welcome.
(1) Introduction of Commission members and guests.
(2) Review agenda.
(4) Approval of minutes of last meeting.
(5) Old business:
  a. Roster regulation.

  New Business:

  a. Customary and traditional use of sheep by the villages of Iggiguk and Kokhanok.
  b. Review proposal to change Federal Subsistence Management regulations.
  c. Resource update.
  d. Hunting plan format.
  e. Subsistence Resource Commission appointments.
(7) Agency comments and public comments.
(8) Determine time and date of next meeting.
(9) Adjournment.

DATES: The meeting will be held Monday, February 9, 1998 and Tuesday, February 10, 1998. The meeting will begin on February 9, 1998 at 1:30 p.m. with an evening session at 7:00 p.m. The meeting will reconvene on February 10, 1998 at 9:00 a.m.

LOCATION: The meeting will be held at the Newhalen City Hall, Newhalen, Alaska.

FOR FURTHER INFORMATION CONTACT: Bill Pierce, Superintendent, Lake Clark National Park and Preserve, 4230 University Drive #311, Anchorage, Alaska 99508. Phone (907) 271–3751.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Regional Director, Alaska Region.

[FR Doc. 98–1197 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 10, 1998. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by February 4, 1998.

Carol D. Shull,

Keeper of the National Register.

Arizona

Maricopa County

Idylwilde Park Historic District, Roughly bounded by 11th and 12th Sts., Weldon, and Fairmont Aves., Phoenix, 98000054
Rittenhouse Elementary School, Ellsworth Rd., 1 mi. N of Rittenhouse Rd., Queen Creek, 98000053

Pima County

Greenway, John and Isabella, House, 1 Greenway House Dr., Ajo, 98000052

Florida

Hendry County

Executive House, 125 W. Del Monte Ave., Clewiston, 98000059
Hendry, Capt. Francis A., House, 512 Fraser St., LaBelle, 98000061

Manatee County

Austin House (Whitfield Estates Subdivision MPS), 227 Delmar Ave., Sarasota vicinity, 98000062

Sarasota County

House at 507 Jackson Drive, 507 Jackson Drive, Sarasota, 98000060

Volusia County

Dunlawton Avenue Historic District (Port Orange MPS), Roughly along Dunlawton Ave. to Lafayette Ave., and Orange Ave. and Wellman St., Port Orange, 98000055
Grace Episcopal Church and Guild Hall (Port Orange MPS), 4100 Ridgewood Ave., Port Orange, 98000058
Halifax Drive Historic District (Port Orange MPS), Roughly along Halifax Dr. from Dunlawton to Herbert St., Port Orange, 98000056
Port Orange Florida East Coast Railway Freight Depot (Port Orange MPS), 415C Herbert St., Port Orange, 98000057

Illinois

Cook County

Belmonte Flats, 4257–4259 S. Dr. Martin Luther King Jr. Dr., and 400–412 E. 43rd St., Chicago, 98000063
Church of the Epiphany, 201 S. Ashland Ave., Chicago, 98000067

Jersey County

Brainerd, Charles, House (Grafton MPS), 420 E. Main St., Grafton, 98000065

Lake County

Chicago, Milwaukee and St. Paul Railway Passenger Depot, 860 Deerfield Rd., Deerfield, 98000066
Proctor Building, 520–30 N. Milwaukee Ave., Libertyville, 98000064

Iowa

Johnson County

State Quarry, Old, 0.1 mi S of S end of Rice Ridge Ln. NE, Coralville Lake, North Liberty vicinity, 97001676

Missouri

DeKalb County

DeKalb County Courthouse, 109 W. Main St., Maysville, 98000068

Howard County

Fayette Courthouse Square Historic District, Roughly along S. Main and N. Main, W. Morrison, E. Morrison, N. Church, and W. Davis Sts., Fayette, 98000069

Nebraska

Douglas County

Franklin School, 4302 S. 39th Ave., Omaha, 98000070

New York

Suffolk County

USS San Diego (Shipwreck), Address Restricted, Fire Island vicinity, 98000071

Ohio

Cuyahoga County

Forest Hill Park, Roughly along Lee Blvd., Superior, Terrace, and Mayfield Rds., East Cleveland, 98000072

Oklahoma

Kay County

Tipton, J.P., Farmstead, 3.1 mi. E of Newkirk, Newkirk vicinity, 98000073

South Dakota

Hughes County

Pierre Hill Residential Historic District, Roughly bounded by Huron Ave., Elizabeth St., Euclid Ave. and Broadway, Pierre, 98000075

Lincoln County

Canton Asylum for American Indians Cemetery, N of jct. of US 18 and Chicago Milwaukee St. Paul and Pacific RR Tracks, Canton, 98000074

Wisconsin

Waukesha County

Ten Chimneys, S42 W31610 Depot Rd., Genesee, 98000076

[FR Doc. 98–1195 Filed 1–16–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities; Existing Collection; Comments Request

ACTION: Notice of information collection under review; Extension of a currently approved collection: Regional Community Policing Institute Quarterly projection report.

Office of Management and Budget approval is being sought for the information collection listed below. This collection was previously published in the **Federal Register** on October 28, 1997, allowing for a 60 day public comment period. No comments were received by the Office of Community Oriented Policing Services.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 19, 1998. This process is conducted in accordance with 5 CFR 3120.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs: Attention: Ms. Victoria Wassmer, 202–395–5871, Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile on 202–395–7285.

Written comments and suggestions from the public and affected agencies concerning this collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments may also be submitted to the Department of Justice, Justice Management Division, Information Management and Security Staff, Attention Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile on 202–514–1590.

Overview of this collection

(1) *Type of Information Collection:* Extension of Currently Approved Collection.

(2) *Title of the Form/Collection:* Regional Community Policing Institute Quarterly Projection Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: COPS 22/02. Office of Community Oriented Policing Services, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Regional Community Policing Institutes funded through a one-year cooperative agreement from the COPS Office are required to respond.

The Regional Community Policing Institute Quarterly Projection Report will be completed by each Regional Community Policing Institute. The information collection provides a quarterly projection of plans for performing the training and technical assistance functions of this program, as well as information concerning any changes or modifications requested in the project or cooperative agreement budgets.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Estimated number of respondents: 35. Estimated time for average respondent to respond: 2 hours quarterly (including record-keeping).

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 280 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 7, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–1179 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9601 et seq.

Notice is hereby given that a proposed consent decree in *United States* v. *Armco Inc.*, Civil Action No. C2–95–698, was lodged on December 22, 1997, with the United States District Court for the Southern District of Ohio.

The proposed consent decree provides for the payment by defendant Armco Inc. for past costs incurred by the United States in connection with the Fultz Landfill Superfund Site (the ''Site''), located near Cambridge, Ohio. Under the consent decree, the United States will provide Armco Inc. with a covenant not to sue or take administrative action pursuant to Sections 106 and 107 of CERCLA, in connection with the Site, subject to certain restrictions and limitations. The consent decree also restricts actions that Armco Inc. may take regarding litigation or settlement with others not party to the consent decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Armco Inc.*, DOJ Ref. #90–11–3–856A.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of Ohio, 280 N. High Street, 4th Floor, Columbus, Ohio, 43215; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.25 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–1240 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive, Environmental Response, Compensation and Liability Act (''CERCLA'')

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Beaunit Corporation, et al.,* (W.D.N.C.), Civil Action No. 5:97CV198–MCK, was lodged on December 18, 1997, with the United States District Court for the Western District of North Carolina.

In this action the United States sought injunctive relief and recovery of response costs under Sections 106(a) and 107 of CERCLA, 42 U.S.C. 9606(a) and 9607, with respect to the FCX-Statesville Superfund Site, located in Iredell County, North Carolina (''the Site'') the location of a textile plant owned and operated from 1927 to the present by a succession of several entities including El Paso Natural Gas Company, Beaunit Corporation and Burlington Industries, Inc., the current owner.

Under a proposed Consent Decree, El Paso Natural Gas Company has agreed to perform EPA's selected Site remedy for Operable Unit No. 3 which includes any contingency measures that EPA may determine to be necessary. If EPA determines that contingency measures are necessary, Burlington Industries Inc. will also be responsible for performing such response actions. Beaunit will be responsible for paying all of EPA's future response costs. El Paso Natural Gas Company and Burlington Industries, Inc., have previously reimbursed EPA of all of its past response costs pursuant to a June 1993 Administrative Order On Consent.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Beaunit Corporation, et al.,* DOJ Ref. #90–11–3–1698.

The proposed consent decree may be examined at the office of the United States Attorney, 324 West Market Street 4th Floor, Greensboro, North Carolina, 27402; the Region 4 Office of the Environmental Protection Agency, 61 Forsythe Street, Atlanta, Georgia 30303, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $54.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. In requesting a copy exclusive of exhibits, please enclose a check for $26.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–1241 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation and Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Stipulation and Settlement Agreement in *In re HBSA Industries, Inc., et al.,* Case Nos. 91–12864/12866/12868/12869/12871/12872, was lodged on December 29, 1997 in the United States Bankruptcy Court for the Western District of New York.

The Stipulation and Settlement Agreement resolves the United States' claim, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, for response costs incurred by EPA at the Chase Interiors, Inc., Superfund Site (''the Site'') in Falconer, New York. Under the Stipulation and Settlement Agreement, the United States will receive $126,500 in reimbursement of response costs incurred by EPA at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Stipulation and Settlement Agreement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *In re HBSA Industries, Inc., et al.,* DOJ Ref. #90–11–3–1432.

The proposed Stipulation and Settlement Agreement may be examined at the office of the United States Attorney, Federal Center, 138 Delaware Avenue, Buffalo, New York; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy please refer to the referenced case and enclose a check made payable to the Consent Decree Library in the amount of $3.00 (25 cents per page reproduction costs).

Bruce S. Gelber,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–1239 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Storage Industry Consortium—Multiple Optical Recording Enhancements (''MORE'') Project

Notice is hereby given that, on November 12, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Storage Industry Consortium (''NSIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the project are NSIC, San Diego, CA; Calimetrics, Inc., Emeryville, CA; Energy Conversion Devices, Inc., Troy, MI; and Polaroid Corporation, Cambridge, MA.

The area of planned activity for the MORE Project is research in the area of

write-once and rewritable optical disc storage media and devices.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–1238 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

DNA Advisory Board Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the DNA Advisory Board (DAB) will meet on February 19, 1998, from 10:00 am until 5:00 pm at The Washington Dulles Airport Hilton Hotel, 13869 Park Center Road, Herndon, Virginia 20171. All attendees will be admitted only after displaying personal identification which bears a photograph of the attendee.

The DAB's scope of authority is: To develop, and if appropriate, periodically revise, recommended standards for quality assurance to the Director of the FBI, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analysis of DNA; To recommend standards to the Director of the FBI which specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analysis used by forensic laboratories, including statistical and population genetics issues affecting the evaluation of the frequency of occurrence of DNA profiles calculated from pertinent population database(s); To recommend standards for acceptance of DNA profiles in the FBI's Combined DNA Index System (CODIS) which take account of relevant privacy, law enforcement and technical issues; and, To make recommendations for a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

The topics to be discussed at this meeting include: a review of minutes from the September 23, 1997, meeting; discussion of comments on the Quality Assurance Standards for DNA Testing Laboratories, as approved at the February 22, 1997 meeting; and a discussion of topics for the next DNA Advisory Board meeting.

The meeting is open to the public on a first-come, first seated basis. Anyone wishing to address the DAB must notify the Designated Federal Employee (DFE) in writing at least twenty-four hours before the DAB meets. The notification must include the requestor's name, organizational affiliation, a short statement describing the topic to be addressed, and the amount of time requested. Oral statements to the DAB will be limited to five minutes and limited to subject matter directly related to the DAB's agenda, unless otherwise permitted by the Chairman.

Any member of the public may file a written statement for the record concerning the DAB and its work before or after the meeting. Written statements for the record will be furnished to each DAB member for their consideration and will be included in the official minutes of a DAB meeting. Written statements must be type-written on 8½″ X 11″ xerographic weight paper, one side only, and bound only by a paper clip (not stapled). All pages must be numbered. Statements should include the Name, Organizational Affiliation, Address, and Telephone number of the author(s). Written statements for the record will be included in minutes of the meeting immediately following the receipt of the written statement, unless the statement is received within three weeks of the meeting. Under this circumstance, the written statement will be included with the minutes of the following meeting. Written statements for the record should be submitted to the DFE.

Inquiries may be addressed to the DFE, Dr. Dwight E. Adams, Chief, Scientific Analysis Section, Laboratory Division—Room 3266, Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Washington, DC 20535–0001, (202) 324–4416, FAX (202) 324–1462

Dated: January 12, 1998.

Dwight E. Adams,

Chief, Scientific Analysis Section, Federal Bureau of Investigation.

[FR Doc. 98–1205 Filed 1–16–98; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–004)]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Thursday, February 12, 1998, 1:00 p.m. to 2:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Norman B. Starkey, Code Q–1, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–4453.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will present its annual report to the NASA Administrator and Deputy Administrator. This is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The major subjects covered will be the National Space Transportation System, Space Station, and Aeronautical Operations. The Aerospace Safety Advisory Panel is currently chaired by Richard D. Blomberg, Deputy Chairman, and is composed of 8 members and 6 consultants. The meeting will be open to the public up to the capacity of the room (approximately 60 persons including members of the Panel).

Frederick D. Gregory,

Associate Administrator for Safety and Mission Assurance.

[FR Doc. 98–1272 Filed 1–16–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–005)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATES: Wednesday, February 18, 1998, 8:30 a.m. to 5:30 p.m.; Thursday, February 19, 1998, 8:15 a.m. to 5:30 p.m.; Friday, February 20, 1998, 8 a.m. to 12 Noon.

ADDRESSES: Ballroom, Moffett Training and Conference Center, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Rosendhal, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–2470 .

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—NASA/OSS UPDATE/FY 1999 Budget Request/Response to Prior SScAC Recommendations
—Technology Planning, Funding, Selection, Support of Strategic Plan
—Research Program Update
—Grants Process Study
—AMES Research Center Overview

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: January 12, 1998.

Alan Ladwig,

Associate Administrator for Policy and Plans.

[FR Doc. 98–1273 Filed 1–16–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing (#1185).

Date and Time: February 2, 1998, 8:30 a.m. to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 11250, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: Panel review of the New Technologies Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Manager Officer.

[FR Doc. 98–1256 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: February 5 & 6, 1998, 8:00 am–5:00 pm each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 370 & 390, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Elizabeth Lyons, Dr. Meredith Blackwell, Dr. Gus Shaver, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1481.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Doctoral Dissertation Improvement Grants research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1253 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Date and Time: February 4–6, 1998.

Place: National Science Foundations, 4201 Wilson Boulevard, Rooms 310 & 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Elizabeth Lyons & Dr. Charles O'Kelly, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1481.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Doctoral Dissertation Research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1261 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer-Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer-Communications Research (1192).

Date: February 9, 11, and 13, 1998.

Time: 8:00 a.m.–5:00 p.m.

Place: Rooms 1150 and 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Peter Scheuermann, Program Director/Computer Systems Software, C–CR, room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/306–1912.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Computer Systems Software proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 16, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1254 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer-Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer-Communications Research (1192).

Date: February 5–6, 1998 and February 17–18, 1998.

Time: 8:00 a.m.–5:00 p.m.

Place: Rooms 365, 330, and 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Time of Meeting: Closed.

Contact Person: Dr. John H. Cozzens, Program Director/Signal Processing Systems, C–CR, room 1155, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Signal Processing Systems proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1259 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer—Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting. Special Emphasis Panel in Computer—Communications Research.

Name: Special Emphasis Panel in Computer—Communications Research (1192).

Date: February 3–5, 1998.

Time: 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, February 3–5, Room 1150, February 3–5, Room 1120.

Type of Meeting: Closed.

Contact Person(s): Frank D. Anger, Program Director, Software Engineering and Languages Program, CISE/C–CR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Telephone: (703) 306–1911.

Purpose of Meeting: To provide advice and recommendations for the Software Engineering and Languages Program (SEL) by providing review of a group of approximately 100 proposals with special attention to changing emphases for that program.

Agenda: Review and evaluate proposals SEL proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1262 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Division of Graduate Education, Notice of Meeting

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period February 7 through 19, 1998, the Special Emphasis Panel will be meeting to review and evaluate fellowship applications. The dates, contact person, and types of applications are as follows:

Special Emphasis Panel in Division of Graduate Education (57)

Date: February 7–14, 1998.

Contact: Susan Duby, Program Director, Division of Graduate Education, Room 907, 703–306–1694.

Type of Proposal: Graduate Fellowship applications.

Date: February 17–19, 1998.

Contact: Susan Duby, Program Director, Division of Graduate Education, Room 907, 703–306–1694.

Type of Proposal: Minority Graduate Fellowship applications.

Times: 8:00 a.m. to 5:00 p.m. each day.

Place: Washington Marriott Hotel, 1221 22nd Street, NW, Washington, DC.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF for financial support.

Agenda: To review and evaluate applications submitted to the Directorate as part of the selection process for awards.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information and personal information concerning individuals associated with the applications. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1260 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: February 10–12, 1998, 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Acting Deputy Division Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Information Data Management Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: December 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1252 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information and Intelligent Systems (1200).

Date and Time: February 2–3, 1998, 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gary Strong, Acting Deputy Division Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Human Augmentation Program, ''Robotics Panel'' proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matter are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: December 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1258 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Communication.

Date and Time: February 9–10, 1998, 8:00 am to 5:00 pm; February 12–13, 1998; 8:00 am to 5:00 pm.

Place: Rooms 365, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Nora Sabelli, Senior Program Director, 4201 Wilson Blvd., Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Research on Education, Policy and Practice (REPP) Program.

Reason for Closing: Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: January 16, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1255 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral, and Economic Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Social, Behavioral, and Economic Sciences will be holding panel meetings for the purpose of reviewing proposals submitted to the Division of International Programs for the Summer Programs in Japan and Korea. In order to review the large volume of proposals, panel meetings will be held on February 2–3, 1998. All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Blvd., Arlington, Va. from 8:30 to 5:00 each day.

Contact Person: Randall Soderquist, Program Manager, or Thomasina Edwards, Program Assistant, Division of International Programs, NSF, Room 935, 4201 Wilson Blvd., Arlington, VA 22230 (703) 306–1701.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 12, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–1257 Filed 1–16–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Information Conference; Notice of Meeting

SUMMARY: The objectives of the conference are to give the licensees and the public insights into our approach to safety regulations and to provide a forum for feedback from those in attendance on their concerns about our overall approach, as well as, feedback on differences that may exist on technical issues. NRC staff will provide information regarding on-going programs and potential new initiatives as a basis for discussion.

Discussions will proceed from general (*i.e.*, the plenary sessions) to specific issues (*i.e.*, the breakout sessions), with emphasis on plant operations and the NRC view of these operations based on experience in carrying out its regulatory mission. Three plenary sessions are planned, two of which will be followed by breakout sessions that will include presentations by the NRC staff and industry representatives.

DATES: Conference will be held April 14 and 15, 1998.

ADDRESSES: The conference will be held at The Capital Hilton Hotel, 16th and K Street, N.W., Washington, DC 20036 TELEPHONE: (202) 393–1000 FAX (202) 639–5742 (Refer to NRC Meeting for special conference rate.)

FOR REGISTRATION INFORMATION CONTACT: ES, Inc., by facsimile on (202) 835–0118 or by phone on (202) 835–1585, *after January 20, 1998.*

Participation

This conference is open to the general public; however, advance registration is required by *March 23, 1998.* The following is the preliminary program for the conference:

Tuesday, April 14, 1998

Opening: 8:30 a.m.—8:45 a.m.
Welcome—Samuel J. Collins, Director, Office of Nuclear Reactor Regulation, NRC
Morning Speaker: Chairman Shirley Ann Jackson
8:45 a.m.–9:15 a.m.
Morning Plenary Session: 9:15 a.m.–10:00 a.m.
Regulatory Trends—Samuel J. Collins
Mid-Morning Speaker: Commissioner Nils J. Diaz
10:15 a.m.–11:00 a.m.
Mid-Morning Plenary Session: 11:00 a.m.–12:30 p.m.
Regional Administrators' Panel: Each Regional Administrator will make a presentation on a topic of current interest.
Post Luncheon Speaker: Commissioner Greta J. Dicus
1:15 p.m.–1:45 p.m.
Breakout Sessions 2:30 p.m.–3:30 p.m.
1. Restructuring and Deregulation
2. Architect/Engineer Inspections
3. Maintenance Rule
4. Public Communications Initiatives
Breakout Sessions 3:45 p.m.–5:00 p.m.
1. Allegations/Enforcement Issues
2. Probabilistic Risk Assessment Issues
3. The Role of Industry
4. Role of Potassium Iodide in

Emergency Response
Afternoon Speaker: New Commissioner, if appointed
5:00 p.m.–5:30 p.m.

Wednesday, April 15, 1998

Morning Speaker: Commissioner Edward McGaffigan, Jr.
8:30 a.m.–9:00 a.m.
Breakout Sessions 9:05 a.m.–10:15 a.m.
1. Region I/Licensee Interface & Communications
2. Region II/Licensee Interface & Communications
3. Region III/Licensee Interface & Communications
4. Region IV/Licensee Interface & Communications
Breakout Sessions 10:30 a.m.–12:00 noon
1. 10 CFR 50.59
2. Strategic Planning/Operating Plan/ Budget
3. Generic Letter 96–06, ''Assurance of Equipment Operability and Containment Integrity During Design Basis Accident Conditions''
4. Licensing Actions/ Technical Specification Conversions
Post-Luncheon Speaker: TBD
1:30 p.m.–2:00 p.m.
Breakout Sessions 2:45 p.m.–4:00 p.m.
1. Improvements to NRC's Performance Assessment Process
2. License Renewal
3. Spent Fuel Storage/Dry Cask Issues
4. Core Performance/Fuels Issues
Closing Plenary Session: 4:15 p.m.–4:45 p.m.
Summary/Closing—Samuel J. Collins

Note: There will be a question and answer period after each session each day.

Next year's conference is scheduled for April 6 and 7, 1999, at The Capital Hilton Hotel, Washington, DC.

Dated in Rockville, Maryland this 12th day of January 1998.

For The Nuclear Regulatory Commission.

Kathryn O. Greene,

Chief, Administration Branch, Division of Inspection and Support Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1211 Filed 1–16–98; 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–3013 (which should be mentioned in all correspondence concerning this draft guide), is titled ''Nuclear Criticality Safety Standards for Fuels and Material Facilities.'' The guide is intended for Division 3, ''Fuels and Materials Facilities.'' This draft guide is being developed to provide guidance on procedures for preventing nuclear criticality accidents in operations involving handling, processing, storing, and transporting special nuclear material at fuels and materials facilities. The guide will also endorse 13 standards on nuclear criticality safety that have been developed by the American National Standards Institute/ American Nuclear Society.

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–3013. 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 6th day of January 1998.

For the Nuclear Regulatory Commission.

Joseph A. Murphy,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 98–1213 Filed 1–16–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Order No. 1205; Docket No. A98–1]

In the Matter of Nassau, Minnesota 56272 (James Schneichel, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued January 14, 1998.

Docket Number: A98–1.

Name of Affected Post Office: Nassau, Minnesota 56272.

Name(s) of Petitioner(s): James Schneichel.

Type of Determination: Closing.

Date of Filing of Appeal Papers: December 22, 1997.

Categories of Issues Apparently Raised

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).

2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any

arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by January 29, 1998.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Nassau, Minnesota 56272

[Docket No. A98–1]

Appendix

December 22, 1997: Filing of Appeal letter.

January 14, 1998: Commission Notice and Order of Filing of Appeal.

February 3, 1998: Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)).

February 13, 1998: Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b)).

March 2, 1998: Postal Service's Answering Brief (see 39 CFR 3001.115(c)).

March 17, 1998: Petitioner's Reply Brief should Petitioner choose to file one (see 39 CFR 3001.115(d)).

March 24, 1998: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

April 21, 1998: Expiration of the Commission's 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 98–1275 Filed 1–16–98; 8:45 am]

BILLING CODE 7710–FW–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 meetings during the week of January 19, 1998.

A closed meeting will be held on Wednesday, January 21, 1998, at 3:00 p.m. An open meeting will be held on Thursday, January 22, 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 Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, January 21, 1998, at 3:00 p.m., will be:

Institution and settlement of injunctive actions

Institution and settlement of administrative proceedings of an enforcement nature

The subject matter of the open meeting scheduled for Thursday, January 22, 1998, at 10:00 a.m., will be:

The Commission will consider adopting (1) a rule requiring plain English for the cover page, summary, and risk factor sections of prospectuses filed under the Securities Act of 1933; and (2) codifying earlier interpretive advice on how public companies can comply with the current rule that prospectuses be clear, concise and understandable. The purpose of the proposed change is to make prospectuses simpler, clearer, more useful, and more used. For further information, please contact David Maltz at (202) 942–1921.

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 14, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1296 Filed 1–14–98; 4:01 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39524; File No. SR–CBOE–97–57]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to an Extension of the Permissible Maturity Term of FLEX Equity Options

January 8, 1998.

I. Introduction

On October 23, 1997 the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit a FLEX equity option to have a term of five years in certain circumstances.

The proposed rule change was published for comment in the **Federal Register** on November 14, 1997.[3] No comments were received on the proposal. This order approves the proposal.

II. Description

The CBOE is proposing to allow FLEX equity options[4] traded on the Exchange to have a maturity beyond three years and up to five years when the longer term is requested by a submitting member and the FLEX Post Official[5] determines that sufficient liquidity exists among Equity FLEX Qualified Market Makers. Currently, FLEX equity options, by operation of Rule 24A.4(a)(4)(i), are limited to a maturity of three years.

When the Exchange filed for permission to list and trade FLEX equity options[6] it determined to limit the maturity of these options to three years because, unlike FLEX Index options which had been traded on the Exchange since February 1993 and which could have a maturity of up to five years, the Exchange was concerned that there would not be sufficient liquidity in many equity option classes to support series with a longer term to expiration. The CBOE represents, however, that since it has traded FLEX equity options, the Exchange has had numerous requests from broker-dealers to extend the maturity of FLEX equity options to five years. According to the Exchange, among the reasons the broker-dealer firms have been interested in seeking an extension in the allowable maturity is that such longer expiration FLEX equity options might be used to hedge a firm's issuance of long-term structured products linked to returns of an individual stock. The Rule would permit the longer term FLEX equity options (up to a maximum of five years) to be listed when requested by the submitting member if the FLEX Post

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 39305 (November 6, 1997), 62 FR 61156 (November 14, 1997).

[4] FLEX equity options are flexible exchange-traded options contracts which overlie equity securities. In addition, FLEX equity options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

[5] Under CBOE Rule 24A.1(g), a FLEX Post Official is the Exchange employee designated pursuant to Rule 24A.12 to perform the FLEX post functions set forth in that rule.

[6] SR–CBOE–95–43 approved in Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

Official determined that sufficient liquidity existed among Equity FLEX Qualified Market Makers. The CBOE believes that by allowing for the extension of the maturity of FLEX equity options to five years in situations where there is demand for a longer term expiration and where there is sufficient liquidity among Exchange qualified market-makers to support the request, the proposed rule change will better serve the needs of CBOE's customers and the Exchange members who make a market for such customers.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.[9]

The Commission believes it is appropriate to extend the maximum permissible maturity term of FLEX equity options to five years for several reasons. First, FLEX equity options with a maturity term of up to five years should benefit investors by allowing them to hedge positions on a longer term basis through investment in one options series, rather than having to roll shorter term expirations into new series to remain hedged on a longer basis. In this regard, the Commission notes that the FLEX equity options market is characterized by large, sophisticated institutional investors (or extremely high net worth individuals) who have the experience, ability and, in many cases, need to engage in negotiated, customized transactions.[10] The longer-term FLEX equity options will allow investors to customize their portfolios further over an extended period of time. Second, the extension of the permissible maturity term for FLEX equity options to five years potentially could expand the depth and liquidity of the FLEX equity market without significantly increasing concerns regarding intermarket manipulations or disruptions of the options or the underlying securities.[11] Third, under the rule, FLEX equity options with maturity terms between three and five years could only be issued if a FLEX Post Official determines that there is sufficient liquidity among Equity FLEX Qualified Market Makers. This will help to ensure that there is not a proliferation of longer term FLEX equity options series where no interest in trading such options exist. Finally, as with all exhange-traded options, the Options Clearing Corporation will act as the counter-party guarantor, thereby ensuring that obligations will be met over the long-term.[12]

For the foregoing reasons, the Commission finds that CBOE's proposal to extend the permissible maturity term of certain FLEX equity options, as described above, is consistent with the requirements of the Act and the rules and regulations thereunder.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–CBOE–97–57) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1180 Filed 1–16–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] For example, with a required minimum size of 250 contracts to open a transaction in a new series, FLEX equity options are designed to appeal to institutional investors. *See* Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666, 6669 (February 21, 1996); *see also* Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558, 33560, (June 27, 1996).

[11] Position and exercise limits for FLEX equity options have recently been eliminated. *See* Exchange Act Release No. 39032 (Sept. 9, 1997), 62 FR 48683 (Sept. 16, 1997). In eliminating these limits, the Exchange adopted several important safeguards to monitor large positions in order to identify instances of potential risk and to assess additional margin and/or capital charges, if necessary. These safeguards also continue to apply to large positions in FLEX equity options regardless of the term of the option.

[12] As to any future proposal to permit options instruments with terms longer than five years, the Commission would need to re-evaluate several issues including margin requirements, disclosure, sales practices, and other legal and regulatory issues.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39541; File No. SR–MSRB–98–1]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–38 on Consultants

January 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4, thereunder,[2] notice is hereby given that on January 9, 1998,[3] the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, (File No. SR–MSRB–98–1), as described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a notice of interpretation concerning Rule G–38 on consultants (hereafter referred to as ''the proposed rule change''). The proposed rule change is as follows:

Rule G–38 Questions and Answer Bank Affiliates and Definition of Payment

Q: A bank and its employees communicate with an issuer on behalf of an affiliated dealer to obtain municipal securities business for that dealer. In return, the bank and its employees receive certain ''credits'' from the dealer. These credits, which do not involve any direct or indirect cash payments from the dealer to the bank or its employees, are used for internal purposes to identify the source of business referrals. Are the credits considered a ''payment'' under rule G–38 thereby requiring the dealer to designate the bank or its employees as consultant and comply with the requirements of rule G–38?

A: Rule G–38 defines a consultant as any person used by a dealer to obtain or retain

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On November 13, 1997, the Board filed the same proposal under Section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of filing by the Commission. *See* Securities Exchange Act Release No. 39391 (December 3, 1997), 62 FR 65114 (December 10, 1997). The Commission received four comment letters on the filing. *See infra* note 12. In order to provide additional time to fully air the concerns of commenters, the Board agreed to withdraw this filing and resubmit it, pursuant to Section 19(b)(2). *See* letter from Diane G. Klinke, General Counsel, Municipal Securities Rulemaking Board, to Katherine A. England, Assistant Director, Division of Market Regulation, dated January 9, 1998.

municipal securities business through direct or indirect communication by such person with an issuer on behalf of the dealer where the communication is undertaken by the person in exchange for, or with the understanding of receiving, **payment** from the dealer or any other person.[4] The term payment, as used in rule G–38, means any gift, subscription, loan, advance, or deposit of money or **anything of value.** The absence of an immediate transfer of funds or anything of value to an affiliate or individual employed by the affiliate would not exclude the credits from the definition of payment if such credits eventually (*e.g.*, at the end of the fiscal year) result in compensation to the affiliate or individual employed by the affiliate for referring municipal securities business to the dealer. In this regard, the compensation may be in the form of cash (*e.g.*, a bonus) or non-cash. In either case, if the dealer or any other person [5] eventually gives anything of value (*i.e.*, makes a ''payment'') to the affiliate or individual based, even in part, on the referral, then the affiliate or individual is a consultant for purposes of rule G–38 and the dealer must comply with the various requirements of the rule. For additional guidance in this area, you may wish to review Q&A numbers 6 and 7 (dated February 28, 1996) in the MSRB Manual following Rule G–38, as well as Q&A number 4 (dated December 7, 1994) in the MSRB Manual following Rule G–37.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 17, 1996, the Commission approved Board Rule G–38 on consultants.[6] The Board adopted the rule because it was concerned about dealers' increasing use of consultants to obtain or retain municipal securities business, notwithstanding the requirements of Rule G–37 [7] on political contributions and prohibitions on municipal securities business, Rule G–20 [8] on gifts and gratuities, and Rule G–17 [9] on fair dealing. Rule G–38 requires dealers to disclose information about their consultant arrangements to issuers and the public. Recently, the Board has received inquiries from market participants concerning the definition of payment, as used in Rule G–38, and whether bank affiliates and their employees may, under certain circumstances, be deemed consultants for purposes of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with Rule G–38, the Board has determined to publish this third notice of interpretation which sets forth, in question-and-answer format, general guidance on Rule G–38.[10] The Board will continue to monitor the application of Rule G–38, and, from time to time, will publish additional notices of interpretations, as necessary.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Commission received four comment letters from banking industry participants, opposing this interpretation of Rule G–38.[12] As a result of these comments, the Board resubmitted the proposed rule change pursuant to Section 19(b)(2).[13]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at

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[4] Municipal finance professionals and any person whose sole basis of compensation is the actual provision of legal, accounting or engineering advice, services or assistance are excepted from the definition of consultant.

[5] The Securities Exchange Act of 1934 (the ''Act'') defines the term ''person'' as a ''natural person, company, government, or political subdivision, agency, or instrumentality of a government.'' Board rule D–1 provides that unless the context otherwise specifically requires, the terms used in Board rules shall have the same meanings as set forth in the Act.

[6] Securities Exchange Act Release No. 36727 (Jan. 17, 1996); 61 FR 1955 (Jan. 24, 1996). The rule became effective on March 18, 1996. *See also MSRB Manual*, General Rules, Rule G–38 (CCH) ¶3686.

[7] *MSRB Manual*, General Rules, Rule G–37 (CCH) ¶3681.

[8] *MSRB Manual*, General Rules, Rule G–20 (CCH) ¶3596.

[9] *MSRB Manual*, General Rules, Rule G–17 (CCH) ¶3581.

[10] *See* Securities Exchange Act Release No. 36950 (March 11, 1996); 61 FR 10828 (March 15, 1996) and Securities Exchange Act Release No. 37997 (Nov. 29, 1996); 61 FR 64781 (Dec. 6, 1996). *See also* MSRB Reports Vol. 16, No. 2 (June 1996) at 3–5; and Vol. 17, No. 1 (Jan. 1997) at 15.

[11] Section 15B(b)(2)(C) states in pertinent part that the rules of the Board ''shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.''

[12] *See* letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated December 30, 1997; letter from Alan R. Leach, Senior Vice President and Manager, Dealer Bank Department, Deposit Guaranty National Bank, to Jonathan G. Katz, Secretary, SEC, dated January 5, 1998; letter from Robert J. Nagy, Senior Counsel, NationsBank, to Jonathan G. Katz, Secretary, SEC, dated December 31, 1997; and letter from Victor M. DiBattista, Chief Regional Counsel, PNC Bank, N.A., to Jonathan G. Katz, Secretary, SEC, dated January 2, 1998.

[13] *See supra* note 3.

the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–1 and should be submitted by February 10, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret J. McFarland,

Deputy Secretary.

[FR Doc. 98–1181 Filed 1–16–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0578]

Hudson Venture Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On June 4, 1997, an application was filed by Hudson Venture Partners, L.P., at 660 Madison Avenue, 14th 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. 02/72–0578 on December 31, 1997, to Hudson Venture Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 9, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–1178 Filed 1–16–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Computer Matching Program SSA/Office of Personnel Management (OPM)—SSA Consolidated Match Numbers 1005, 1019, 1020, 1021

AGENCY: Social Security Administration.

ACTION: Notice of Computer Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with OPM.

[14] 17 CFR 200.30–3(a)(12).

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Associate Commissioner for Program Support, 4400 West High Rise Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Program Support at the address shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by establishing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. Among other things, it requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the match agreement by the Data Integrity Boards (DIB) of the participating Federal Agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: December 19, 1997.

Kenneth S. Apfel,

Commissioner of Social Security.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Office of Personnel Management (OPM)

A. Participating Agencies

SSA and OPM.

B. Purpose of the Matching Program

This matching program will have four separate components. The purposes of each of these parts are as follows.

SSA Match 1021: SSA will match OPM's civil service benefit and payment data with SSA's records of beneficiaries receiving Social Security spouse's benefits which are subject to reduction under the Social Security Act when the beneficiary is also receiving a government pension based on employment not covered under that Act. SSA will match the OPM data to verify information provided (or identify information that should have been provided) by the SSA beneficiary at the time of initially applying for Social Security benefits and on a continuing basis to ensure that any reduction in Social Security benefits is based on the current pension amount.

SSA Match 1020: OPM records will be used in a matching program wherein SSA will match OPM's benefit data with SSA's records for disabled and retired annuitants. These annuitants may be subject to the use of a modified benefit computation formula used by SSA under the Social Security Act for certain persons who receive both a civil service benefit and a Social Security retirement or disability benefit. SSA will use the OPM data to verify the pension or annuity information provided (or to identify such information that should have been provided) directly to SSA by the retirees/annuitants.

SSA Match 1005: OPM records will be used in a matching program where SSA will match OPM's data with SSA's records to verify the accuracy of information furnished by applicants and recipients concerning eligibility factors for the SSI program as authorized by section 1631(e)(1)(B) and (f) of the Social Security Act (42 U.S.C. 1383(e)(1)(B) and (f)). The SSI program provides payments to individuals who have income and resources below levels established by law and regulations.

SSA Match 1019: SSA will match OPM's records of civil service disability benefit and payment data with SSA's records of Social Security disability insurance (DI) benefits to identify DI beneficiaries whose benefits should be reduced under the Act because the disabled worker is receiving a civil service disability annuity benefit. SSA will match the OPM data to verify information provided (or identify such information that should have been provided) by the disabled worker at the time of initially applying for Social Security benefits and on a continuous basis to ensure any reduction in Social Security disability benefits is based on the current civil service disability benefit amount.

C. Authority for Conducting the Matching Program

SSA Match 1021: Section 202(b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A), and (g)(u)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A) and (g)(4)(A)).

SSA Match 1020: Sections 215 (a)(7) and 215 (d)(3) of the Social Security Act ((42 U.S.C. 415 (a)(7) and 415 (d)(3)).

SSA Match 1005: Section 1631 (e)(1)(B) and (f) of the Social Security Act (42 U.S.C. 1383 (e)(1)(B) and (f)).

SSA Match 1019: Section 224 of the Social Security Act (42 U.S.C. 424).

D. Categories of Records and Individuals Covered by the Match

OPM will provide SSA with an electronic file extracted from OPM's Annuity and Survivor Masterfile. The extracted file will contain information about each new annuitant and annuitants whose pension amount has changed. Each record on the OPM file will be matched to SSA's Master Beneficiary Record (MBR) or Supplemental Security Income Record (SSR) for the purposes described above in Section B.

E. Inclusive Dates of the Match

The matching program shall become effective upon the signing of the agreement by both parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of this matching program is sent to Congress and the Office of Management and Budget (OMB) or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 98–1176 Filed 1–16–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Industry Working Group Meeting on Operations Specifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of an industry working group meeting to discuss Operations Specifications.

DATES: The meeting will be held on January 27 at 1:00 p.m. until 5:00 p.m. and January 28, from 8:00 a.m. until noon.

ADDRESSES: The meeting will be held at the Air Transport Association of America, Suite 1100, 1301 Pennsylvania Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Connie Streeter, Federal Aviation Administration, Air Transportation Division, (AFS–260), 800 Independence Avenue, SW., Washington, DC 20591, e-mail at connie.streeter@faa.dot.gov, or Mike Dugan, Air Transport Association of America, (202) 626–4000.

SUPPLEMENTARY INFORMATION: Pursuant to sections 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of an industry working group to discuss operations specifications. This meeting will be held January 27, 1:00 p.m. to 5:00 p.m. and January 28, 8:00 a.m. until noon at the Airline Transportation Association, Suite 1100, 1301 Pennsylvania Avenue, NW., Washington, DC.

Attendance is open to the interested public but may be limited to the space available.

Issued in Washington, DC on January 14, 1998.

Quentin J. Smith,

Manager, Air Transportation Division, Flight Standards Service.

[FR Doc. 98–1367 Filed 1–15–98; 1:14 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Joint Special Committee 182; Minimum Operational Performance Standards (MOPS) for an Avionics Computer Resource

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–182 meeting to be held February 4–6, 1998, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks; (2) Review and Approval of the Agenda; (3) Review of Meeting Reports: a. RTCA SC–182 Meeting (10/22–24/97); b. EUROCAE Working Group 48 Meeting; (4) Adoption of Proposed Sections of Draft MOPS (Proposed MOPS material has been posted to the SC–182 web site, http://forums.americas.digital.com/avf/RTCA.SC–182/dispatch.cgi in the Discussion Document Forums. Discussion of these papers during the meeting will be limited to decisionmaking: Incorporate, refer to subgroup, or reject); (5) Working Group Sessions, Chapters 1–4; (6) Working Group Reports; (7) Other Business; (8) Date and Place of Next Meeting (Tentative Future Meetings: 05/12–14/98, Nice, France; 09/09–11/98, in Europe, colocated with SC–190/Working Group 52; 12/98, Washington, DC.)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 13, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–1227 Filed 1–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Privacy Act of 1974; System of Records

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of alteration of a system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Office of Thrift Supervision (OTS) is issuing notice of its intent to alter the system of records entitled, ''Treasury/OTS.012—Payroll/Personnel System & Payroll Records,'' by adding a new routine use. We invite public comment on this publication.

DATES: Comments must be received no later than February 19, 1998 The proposed alteration will become effective without further notice on March 2, 1998, unless comments are received that result in a contrary determination. OTS will publish a new notice if changes are made based on review of comments received.

ADDRESSES: Interested individuals may comment on this publication by writing to the Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: Privacy Act. These submissions may be hand-delivered to 1700 G Street, NW., from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX number 202/906–7755, or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW. from 9 a.m. until 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Richard L. Abood, Planning, Budget, and Finance, (202) 906–6149, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the OTS will disclose data from its payroll records to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, for use in its Federal Parent Locator System (FPLS) and Federal Tax Offset System, (DHHS/OCSE No. 09–90–0074). Information on the above system was last published at 61 FR 38754 (July 25, 1996).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. Effective October 1, 1997, the FPLS was enlarged to include the National Directory of New Hires, a database containing information on unemployment compensation benefits. Effective October 1, 1998, the FPLS will be expanded to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified of the participant's current employer. State requests to the FPLS for location information will also continue to be processed after October 1, 1998. The data to be disclosed by the OTS to the FPLS include: name, address, social security number and name and address of the agency.

We are proposing this routine use in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)). The Privacy Act permits the disclosure of information about individuals without their consent for a routine use where the information will be used for a purpose which is compatible with the purpose for which the information was originally collected. The Office of Management and Budget has indicated that a ''compatible'' use is a use which is necessary and proper. See OMB Guidelines, 51 FR 18982, 18985 (May 23, 1986). Since the proposed uses of the data are required by Pub. L. 104–193, they are clearly necessary and proper uses, and therefore ''compatible'' uses which meet Privacy Act requirements. We will disclose information under the proposed routine use only as required by Pub L. 104–193 and as permitted by the Privacy Act.

Accordingly, the Payroll/Personnel System & Payroll Records System notice originally published at 60 FR 13776 (March 14, 1995), is amended as set forth below:

Treasury/OTS .012

SYSTEM NAME:

Payroll/Personnel System & Payroll Records System

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(5) records from this system may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, and identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

* * * * *

Dated: January 12, 1998.

Alex Rodriguez,

Deputy Assistant Secretary(Administration)

[FR Doc. 98–1182 Filed 1–19–98; 8:45 am]

BILLING CODE:6720–01–F

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation, Board of Directors.

TIME AND DATE: 11:00 a.m., Wednesday, January 14, 1998.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The telephone conference meeting was closed to the public.

MATTERS CONSIDERED: Issues related to the privatization of the Corporation and other commercial, financial and operational issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Joseph Tomkowicz 301–564–3345.

Dated: January 15, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–1368 Filed 1–15–98; 12:11 pm]

BILLING CODE 8720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978),

and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Ancient Gold: The Wealth of the Thracians, Treasures from the Republic of Bulgaria'' (See list [1]) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed exhibit objects at Saint Louis Art Museum, Saint Louis, MO, from on or about February 5, 1998, to on or about April 5, 1998; Kimbell Art Museum, Fort Worth, TX, from on or about May 3, 1998, to on or about July 19, 1998; California Palace of the Legion of Honor, San Francisco, CA, from on or about July 31, 1998, to on or about October 25, 1998; New Orleans Museum of Art, New Orleans, LA, from on or about October 31, 1998, to on or about January 31, 1999; Memphis Brooks Museum of Art, Memphis, TN, from on or about January 17, 1999, to on or about March 28, 1999; Museum of Fine Arts, Boston, MA, from on or about April 2, 1999, to on or about June 7, 1999; The Detroit Institute of Arts, Detroit, MI, from on or about June 19, 1999, to on or about August 29, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: January 14, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–1265 Filed 1–16–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul Manning, Assistant General Counsel, at 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, ''Pierre-Paul Prud'hon'' (See list[1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York City, New York, from on or about March 2, 1998, to on or about June 7, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: January 14, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–1266 Filed 1–16–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul Manning, Assistant General Counsel, at 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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●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:			
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●141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
●200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
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●400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
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21 Parts:			
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●170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
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●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
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●§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
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●600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
●1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

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●43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
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●1926	(869–032–00107–3)	31.00	July 1, 1997
●1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
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●200–699	(869–032–00110–3)	28.00	July 1, 1997
●700–End	(869–032–00111–1)	32.00	July 1, 1997
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●630–699	(869–032–00117–1)	22.00	July 1, 1997
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33 Parts:			
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●125–199	(869–032–00121–9)	36.00	July 1, 1997
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34 Parts:			
●1–299	(869–032–00123–5)	28.00	July 1, 1997
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●400–End	(869–032–00125–1)	44.00	July 1, 1997
●35	(869–032–00126–0)	15.00	July 1, 1997
36 Parts			
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●53–59	(869–032–00138–3)	14.00	July 1, 1997
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●87-135	(869–032–00145–6)	40.00	July 1, 1997
●136–149	(869–032–00146–4)	35.00	July 1, 1997
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●190–259	(869–032–00148–1)	22.00	July 1, 1997
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7		6.00	[3] July 1, 1984
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●400–429	(869–032–00161–8)	35.00	Oct. 1, 1997
*●430–End	(869–032–00162–6)	50.00	Oct. 1, 1997
43 Parts:			
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*●1000–end	(869–032–00164–2)	50.00	Oct. 1, 1997
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
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46 Parts:			
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●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	(869–032–00175–8)	20.00	Oct. 1, 1997
●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:			
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●20–39	(869–032–00180–4)	27.00	Oct. 1, 1997
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*●1 (Parts 52–99)	(869–032–00185–5)	29.00	Oct. 1, 1997
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[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.