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January 21, 1998

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

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. 97–024–1]

RIN 0579–AA89

Animal Welfare; Regulation of Pocket Pets

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Policy statement.

SUMMARY: This document gives notice that we are now regulating under the Animal Welfare Act the handling, care, and treatment at retail pet stores of small mammals commonly referred to as ''pocket pets'' and requiring any retail pet store that sells pocket pets to be licensed as a dealer under the Animal Welfare Act. This action is necessary because the Animal Welfare Act regulations require regulation of all persons who sell exotic or wild animals for research, exhibition, or for use as a pet, and we consider pocket pets to be exotic or wild animals for this purpose.

FOR FURTHER INFORMATION CONTACT: Dr. Bettye K. Walters, Staff Veterinarian, Animal Care, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–7833.

SUPPLEMENTARY INFORMATION: The Animal Welfare Act (AWA)(7 U.S.C. 2131 *et seq.*) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers and other regulated businesses. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. APHIS regulates animal dealers by issuing them annual licenses and conducting unannounced inspections of their premises to check for compliance with the AWA standards and regulations.

In recent years, several species of small, generally nondangerous mammals, including hedgehogs, degus, spiny mice, prairie dogs, flying squirrels, and jerboas, have increasingly been sold at retail pet stores in the United States. These and other small mammalian species are collectively and commonly referred to as ''pocket pets.'' However, none of these species, some of which are native to the United States and others of which are native to foreign countries, have been domesticated as pets in the United States in the sense that dogs, cats, and other common pet-type animals have been domesticated. Therefore, APHIS considers pocket pets to be exotic or wild animals under the AWA regulations, and any retail pet store that sells a pocket pet is subject to AWA regulation.

Several years ago, some retail pet stores across the United States started selling limited numbers of pocket pets on a sporadic basis. In general, retail pet stores are exempt from AWA regulation unless they sell animals to a research facility, an exhibitor, or a dealer. Our policy was not to regulate the retail pet stores that were selling pocket pets because the effort needed to identify and regulate these stores did not appear to be a prudent use of our AWA enforcement resources. However, we continued to reevaluate this policy as the popularity of pocket pets grew among U.S. consumers. Because many retail pet stores are now selling pocket pets on a regular basis, we now believe that it is feasible and necessary to identify and regulate these stores.

Therefore, we are giving notice that, in order to ensure the humane care and treatment of pocket pets in the commercial pet trade, we are now regulating the handling, care, treatment, and transportation provided to such animals by retail pet stores and requiring that retail pet stores dealing in these animals be licensed under the AWA. The AWA licensing requirements for animal dealers are specified in 9 CFR part 2, subpart A, and the care standards for pocket pets are covered in 9 CFR part 3, subpart F. For information about becoming licensed as a dealer under the AWA, contact the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 13th day of January 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1312 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 95–100–2]

RIN 0579–AA78

Humane Treatment of Dogs and Cats; Wire Flooring

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations under the Animal Welfare Act regarding suspended flooring of mesh or slatted construction in primary enclosures for dogs and cats. We are requiring that such flooring made of metal strands be constructed either of metal strands greater than ⅛ of an inch in diameter or of metal strands equal to or less than ⅛ of an inch in diameter coated with a material such as plastic or fiberglass. We are also requiring that any primary enclosure with a suspended floor for a dog or cat be constructed so that the floor does not bend or sag between the supports. It is our experience that suspended flooring made of wire (by which we mean any metal strand that has a diameter equal

to or less than ⅛ of an inch) is uncomfortable on animals' feet and contributes to foot injuries and that suspended flooring made of coated wire or made of metal strands larger than wire causes fewer such problems. It is also our experience that suspended floors that bend and sag can cause psychological trauma for dogs who must try to balance on them. We believe that adding these requirements will improve comfort for dogs and cats housed in primary enclosures with suspended floors and will help eliminate foot injuries to these animals.

DATES: *Effective date:* February 20, 1998. *Compliance dates:* February 20, 1998 for primary enclosures constructed on or after that date and for floors installed or replaced on or after that date and January 21, 2000 for all other primary enclosures.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 et seq.), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, and carriers and intermediate handlers. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Animal and Plant Health Inspection Service (APHIS). Regulations established under the AWA are contained in 9 CFR parts 1, 2, and 3. Subpart A of 9 CFR part 3 (referred to below as the regulations) contains specific standards for the humane handling, care, treatment, and transportation of dogs and cats.

The standards for primary enclosures for dogs and cats are found in § 3.6. The regulations require that, among other things, all surfaces in contact with the animals must be able to be readily cleaned and sanitized or replaced when worn or soiled. Primary enclosures must also ''(h)ave floors that are constructed in a manner that protects the dogs'' and cats' feet and legs from injury, and that, if of mesh or slatted construction, do not allow the dogs' and cats' feet to pass through any openings in the floor. If the floor of the primary enclosure is constructed of wire, a solid resting surface or surfaces that, in the aggregate, are large enough to hold all the occupants of the primary enclosure at the same time comfortably must be provided.''

On July 2, 1996, we published in the **Federal Register** (61 FR 34389–34391, Docket No. 95–100–1) a proposal to amend the regulations to require that, if the floor of a primary enclosure for a dog or cat is constructed of wire, the wire must be coated with a material, such as plastic or fiberglass, that can be cleaned and sanitized readily. We further proposed to require that the coated wire must have a well-rounded surface and must be of a large enough diameter so that it is comfortable on the animals' feet and protects the animals' feet from injury, and that it must be strong enough that the floor does not sag or bend between structural supports. We believed that these requirements would improve comfort for dogs and cats housed in wire-floored enclosures, would help eliminate foot injuries for such animals, and would ensure that wire flooring for dogs and cats is clean and sanitary.

We solicited comments concerning our proposal for 60 days ending September 3, 1996. We received 51 comments by that date. They were from dog breeders, humane organizations, veterinarians, trade associations, and a Federal government agency, among others. Thirty-seven comments opposed the proposal, seven favored the proposal, and seven did not explicitly favor or oppose the proposal but asked for some clarifications. The comments are discussed below by topic.

The proposed rule referenced three public meetings APHIS held in 1996 to gather information on the requirements in 9 CFR part 3, subpart A, that apply to the care of dogs and cats in the commercial pet trade. At those meetings, we met with members of affected industries, such as dealers, research facilities, and commercial animal transporters, and animal protection organizations. Each of the three meetings was divided into four workshops covering specific topic areas. One of the workshops covered sanitation, materials, flooring, and construction of primary enclosures. Several commenters on the proposal stated that, by issuing the proposed rule, APHIS had ignored input received from the public meetings because a common opinion expressed at those meetings was that APHIS should not issue new rules regarding primary enclosures for dogs and cats but instead concentrate on enforcing the current regulations. We have considered that recommendation and all of the others we received at the public meetings, and further rulemaking may result from our continued analysis of the input we obtained at those meetings. However, we believe that, with regard to suspended flooring made of mesh or slatted construction, a more specific standard is necessary to make it clear how such flooring should be constructed in order to protect the dogs and cats from injury. This specificity will make it easier for APHIS inspectors to ensure consistency in judging the soundness of such floors and for regulated individuals to comply with the regulations.

Many commenters requested a more specific definition of wire. They wanted to know if we consider expanded metal, welded rods, and other types of metal flooring of mesh or slatted construction to be wire; many commenters stated that galvanized expanded metal works well for flooring in primary enclosures for dogs and cats. Some commenters requested that the regulations specify a certain width of diameter (gauge) to differentiate between wire and other types of metal strands, such as rods.

We agree that we need to be more specific about what we consider wire, and we regret any confusion that was caused by this lack of specificity in the proposed rule. Moreover, we agree that certain types of suspended flooring made of metal strands in a mesh or slatted configuration are not harmful to dogs and cats and do not need to be coated with a material such as plastic or fiberglass to ensure the animals' comfort and safety. We do not want to place an unnecessary burden on the regulated industry by establishing a requirement that would cause AWA licensees and registrants to replace types of suspended floors that are not known to cause harm to dogs and cats.

We do not consider any flooring material that is inflexible, such as expanded metal, to be wire. Floors made of inflexible metal strands do not bend and sag and, therefore, provide an even resting surface for the animals. Moreover, floors made of inflexible metal strands cause fewer foot problems than floors made of flexible strands, such as wire, because, to be inflexible, the strands must be of a substantial diameter. We agree with the commenters who stated that we need to be more specific regarding acceptable diameters of metal strands used in flooring for dogs and cats. The diameter of the metal strands plays a significant role in regard to ensuring the comfort and safety for the animals because strands of a relatively large diameter are less likely to cause injuries and discomfort to the animals than strands with very narrow diameters. Animals housed on floors made of metal strands of a relatively large diameter are less likely to suffer from interdigital cysts

and lesions caused by the digits of the animals' paws passing around the individual strands.

In this final rule, we are requiring that metal strands used in flooring be coated if the metal strands have a diameter equal to or less than ⅛ of an inch (9 gauge). We chose ⅛ of an inch as the defining measurement, in part, because that measurement is used by the metalworking industry as the point of demarcation between welded wire and welded rods. In addition, many cage manufacturers currently use metal strands with diameters greater than ⅛ of an inch in cage production. Therefore, cages made with floors of such metal strands are easily available to consumers. Such cages are sturdy, and the floors are less likely to break easily from rust or from the weight of the animal than cages made of metal strands with a diameter of ⅛ of an inch or less (hereafter in this document referred to as wire).

We are making changes in other areas of the regulations to be consistent with this use of the word ''wire.'' The word ''wire'' appears in reference to flooring in §§ 3.6(a)(2)(x), 3.11(a), and 3.14(a)(9) and refers to metal strands in general. We are amending these sections to remove the word ''wire'' from them.

Several commenters questioned APHIS' justification for the proposal and asked if APHIS has scientific evidence to show that wire flooring is harmful to dogs and cats.

We are not aware of any scientific research that has been done regarding the inadequacy of wire flooring in providing for the comfort and well-being of dogs and cats. As stated in the proposed rule, this belief is based on our own experience in AWA enforcement. Because APHIS has been enforcing the AWA for over 30 years, our field staff of Animal Care inspectors has extensive experience in monitoring the well-being of dogs and cats raised for breeding. The idea to prohibit bare wire flooring in primary enclosures for dogs and cats originated within the Animal Care staff. APHIS veterinarians have been concerned for some time that bare wire flooring often causes discomfort for dogs and cats, provides inadequate support for them, and has the potential to cause lesions and sores on the animals' feet. This perception was confirmed in a recent survey of Animal Care inspectors. The responses indicated that, in the year preceding the survey, the 39 inspectors who responded to the survey were aware of a total of 238 animals that were injured as the result of being housed on bare wire flooring. A majority of the survey respondents indicated that bare wire flooring often sags or bends, creating an uncomfortable resting place for animals, and causes lesions or sores to animals' feet; the majority of respondents further indicated that coated wire flooring does not cause these problems.

One commenter said that not enough information was provided in the proposal to explain why the current standards for flooring are ineffective for protecting the animals or how requiring coated wire will correct the inadequacy.

While the current regulations regarding primary enclosures for dogs and cats require that the floors be constructed in a manner that protects the dogs' and cats' feet and legs from injury, the regulations do not address the issue of basic comfort for the animals. In enforcing the AWA, APHIS is charged with, among other things, promulgating standards to govern the humane care and treatment of animals covered by the law. Therefore, in carrying out the AWA, we believe that we are responsible for establishing minimum levels of comfort for regulated animals. We have come to believe that, while wire flooring may not actually cause injury to all dogs and cats housed on it, such flooring is generally uncomfortable for these animals. Coated wire provides a stronger mesh and a more inflexible surface than bare wire. Because many dogs acquire foot lesions and suffer psychological trauma from trying to balance on wire floors, which often sag and bend, we believe that it is necessary to change the existing regulations concerning flooring for dogs and cats to prohibit bare wire flooring.

Some commenters stated that coated or bare wire of the same diameter and mesh size are likely to be equal in terms of comfort under foot. We disagree. Our inspectors have found that coated wire generally causes fewer lesions on animals' feet than bare wire.

Other commenters suggested that we require a certain width of the mesh at a size small enough to prevent foot and leg injuries. We do not believe that it is necessary to specify a mesh width for wire flooring. The regulations currently specify that, if the floor of the primary enclosure is of mesh or slatted construction, the floor may not allow the dogs' and cats' feet to pass through any openings in the floor. We believe that this requirement is specific enough to ensure that the mesh is of a sufficient size to prevent foot and leg injuries from passage through the floor.

Some commenters questioned the quality of wire coatings currently available on the commercial market. Others stated that, once cracks develop in the coating of coated wire, germs can accumulate in the cracks, and the wire under the coating can rust badly as such wire is often not galvanized.

We have found that high-quality coated wire is readily available to consumers through kennel magazines and building supply stores and can be purchased in bulk rolls. According to our inspectors, most licensees are already using coated wire or some other acceptable type of mesh or slatted flooring, such as galvanized expanded metal. Some commenters who currently use coated wire stated that they think coated wire makes an excellent floor for both comfort and cleanliness and that they have never experienced problems with flooring made of coated wire. In our experience, coated wire is generally easier to keep clean than bare wire because it provides a smoother surface. Bare wire is prone to rust, which creates a rough surface that is hard to clean. When a coated wire floor becomes cracked to the point that rust develops, the floor should be replaced.

Many commenters expressed concern about the length of time a plastic or fiberglass coating would remain on wire used for flooring for dogs and cats. Some commenters stated that dogs chew on coated wire, destroying the coating. The commenters wanted to know whether they would be in violation of the regulations if their dogs chewed off the coating and whether they would be required to replace the flooring as soon as it was damaged from being chewed. Other commenters expressed concern that dogs could become ill from ingesting the coating material.

Breeders who experience extensive problems with dogs chewing on coated wire are probably not providing enough physical or psychological stimulation for their dogs and should perhaps provide them with diversions such as pet chews or toys. While we recognize that the possibility exists for dogs to become ill from ingesting the coating material, we have not been made aware of such incidents from the many licensees who already use coated wire flooring. We believe that it is unlikely that the relatively small amounts of coating that an animal would ingest before human intervention occurred would seriously harm the animal. We will expect breeders whose dogs chew on the coating of coated wire floors to replace the flooring when an APHIS inspector determines that the flooring is too worn for further use. However, breeders who have chronic difficulties with dogs chewing on flooring made of coated wire have the option of using flooring made of metal strands that are of a diameter greater than ⅛ of an inch or any of the many other types of acceptable flooring.

Two commenters recommended that APHIS prohibit the use of any type of flooring of mesh or slatted construction in primary enclosures for dogs and cats and instead require the use of solid flooring made of such materials as impervious concrete or stainless steel. We have found that, for animals raised in the commercial pet breeding industry, primary enclosures with flooring that allows the passage of excrement are generally kept cleaner than primary enclosures with solid flooring surfaces. We believe that the commercial pet breeding industry has demonstrated that animals can successfully be raised on suspended flooring of mesh or slatted construction. AWA licensees may certainly choose to use primary enclosures with floors made of solid surfaces, but we do not believe that it is necessary to require the use of such floors at this time.

One commenter requested that we allow uncoated wire to be used in the flooring of primary enclosures of dogs and cats in research projects in which fecal collection is required, to prevent any interference with the research as a result of the adherence of fecal material to coated wire flooring. Researchers in this situation may use flooring made of metal strands of a diameter greater than ⅛ of an inch. If a researcher can prove that, for the purposes of the research, the dog or cat needs to be housed on bare wire flooring, the researcher may request approval through the laboratory's Institutional Animal Care and Use Committee in accordance with 9 CFR part 2.38(k)(1) for an exemption to the flooring requirements.

Two commenters made comments and recommendations regarding AWA enforcement, the AWA regulations pertaining to veterinary care provided to regulated animals, and the breeding frequency for female animals in the commercial pet trade. In addition, one of the commenters had recommendations regarding reclassification of animal dealers, primary enclosures, exercise requirements, and air transit of animals. Although these comments are outside the scope of the proposed regulation, we are taking them into consideration. If we decide to make any changes to the AWA regulations in response to these comments, we will publish a proposed rule in the **Federal Register**.

One commenter indicated that we should extend the proposed regulation to cover dogs and cats in the care of show breeders, pounds, humane societies, groomers, and boarding kennels. While we agree that all dogs and cats should be treated in a humane manner, the AWA does not authorize us to promulgate standards for the care of animals in these circumstances.

As stated in the proposal, we will have two compliance dates for this final rule. We are requiring that any new primary enclosures constructed on or after 30 days from the date of publication of this final rule in the **Federal Register**, and any floors installed on or after that date, will have to comply with the final rule. Other existing enclosures must be brought into compliance within 2 years. Although several commenters stated that the 2-year compliance period was reasonable, some thought that this timeframe was too long, and one thought that it was too short. Several commenters thought that the rule change should include a ''grandfather clause'' to allow the use of existing flooring in primary enclosures until it wears out. One commenter proposed that the 2-year compliance period apply ''also to those which are able to demonstrate that wire flooring was installed within 90 days of final publication in a manner consistent with current requirements'' to prevent facilities that have new construction under way at the time of final rule publication from having to destroy partially completed facilities. We have considered these comments, but we are not making any change to the proposed phase-in of compliance dates. We believe that the two timeframes discussed above provide ample time for licensees and registrants who have primary enclosures with wire flooring to convert the flooring to any of the many acceptable types.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 604, we have prepared a Final Regulatory Flexibility Analysis, which is set out below, regarding the economic impact of this rule on small entities. The discussion also serves as our cost-benefit analysis under Executive Order 12866.

APHIS administers the Animal Welfare Act (AWA), which requires that minimum standards of care and treatment be established for certain animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Dogs and cats are covered under the AWA.

In the July 2, 1996, **Federal Register**, APHIS proposed (61 FR 34389–34391) that, if the floor of a primary enclosure for dogs or cats covered by the AWA is constructed of wire, the wire must be coated with a material such as plastic or fiberglass. APHIS further proposed that the coated wire: (1) have a well-rounded surface and be large enough in diameter so that it is comfortable on the animals' feet and protects the animals' feet from injury; and (2) be strong enough so that the floor does not sag or bend between the structural supports. The proposed rule suggested two effective dates: The first would have required that all new construction and replacements be in compliance 30 days after publication of the final rule; the second would have required that all regulated facilities be in compliance no later than 2 years after publication of the final rule.

The proposal was in response to concern that wire flooring is inadequate in providing for the comfort and well-being of dogs and cats. In developing the proposal, APHIS considered its own experience in enforcing the AWA, as well as the recommendations and opinions expressed by participants at three public meetings hosted by the agency in 1996 to gather information on the regulations that cover the care of cats and dogs in the commercial trade. The current AWA standards do not specifically preclude wire flooring for housing dogs and cats, and the proposal pointed out a number of problems with such flooring. Bare wire can be uncomfortable on the animals' feet because of its narrow diameter. Bare wire is prone to rust, which not only affects the structural integrity of the primary enclosure but can also cause foot injuries because rusty wire is abrasive. Bare wire is difficult to clean and sanitize thoroughly because rust makes the wire semiporous in places. Finally, bare wire flooring often sags or bends between structural supports, creating an uncomfortable resting surface. The proposed rule change was intended to eliminate or mitigate these problems.

APHIS received 51 comments on the proposal. Thirty-seven commenters opposed the proposal, seven favored it, and seven did not indicate a preference. Many of those opposed to the proposal argued that it was not adequately justified, both in terms of any hard evidence (e.g., inspection reports, documented cases) and in terms of the insufficiency of the current regulations. The U.S. Small Business Administration (SBA) commented that, prior to issuing

a final rule, APHIS should better articulate the scope of the problem and should consider the possibility of viable alternatives.

The final rule is essentially a refined version of the proposed rule. The proposed rule did not define wire, and many commenters requested clarification as to what APHIS considers to be wire. Under the final rule, APHIS defines wire as flexible metal strands ⅛ of an inch or less in diameter. The rule change is needed because the current regulations do not specifically preclude wire flooring, a documented source of injuries and discomfort. The commenters' arguments that the rule is not needed are not persuasive. Many commenters argued that the rule was not justified with any scientific evidence. That argument is correct, to the extent that the published proposal did not include any hard evidence supporting the rule change. However, the absence of hard evidence does not mean that the rule is not needed or that it was initiated without adequate forethought. APHIS proposed the rule change only after carefully considering the views of persons within and outside the agency.

In early 1997 (following the receipt of public comment), APHIS conducted a survey of its field inspectors. The inspectors, many of whom are licensed veterinarians, have extensive experience in monitoring the well-being of dogs and cats raised for breeding. Of the 39 inspectors responding to the survey, over half had more than 21 percent of their facilities having dogs and cats; one-third of the respondents had more than 50 percent of their facilities having dogs and cats.

The survey results document the problems with wire flooring that were identified in the proposal. The survey revealed that, during the past year alone, the inspectors were aware of 238 animal injuries that resulted from wire flooring at facilities under their inspection. The number of reported injuries would no doubt have been even higher if inspections were conducted on a more frequent basis. (Inspectors visit each facility on an average of only 1.46 times per year.)

Of the five most common types of flooring used in suspended enclosures for dogs and cats (coated wire, molded plastic, expanded metal, metal rods, and bare metal wire), the inspectors ranked bare wire last in terms of what is best for the animals; coated wire was ranked second. Molded-plastic flooring was ranked first, but that type of flooring has been rejected as a viable alternative because of its cost. The advantages of molded-plastic flooring are not justified by its additional cost.

Some commenters agreed with the intent of the rule but disagreed with the proposed solution. They maintained that any type of mesh flooring is inadequate and that APHIS should instead require flooring made of impervious concrete, Teflon, stainless steel, or fiberglass. APHIS agrees that these materials can make excellent flooring surfaces for dogs and cats, if a concerted effort is made to keep them clean. However, APHIS inspectors have found that animals raised in primary enclosures with suspended flooring that allows the passage of fecal material are often kept in cleaner conditions than animals raised on flooring made of solid surfaces. Therefore, to protect the health of AWA-regulated animals by helping to ensure the cleanliness of their enclosures, APHIS will continue to allow dogs and cats to be raised in enclosures with suspended floors that allow the passage of fecal material.

Many commenters argued against the rule on the grounds that the current standards are already sufficient; they stated that those standards merely need to be enforced uniformly. However, enforcement activity, regardless of how diligent or aggressive, will never solve the injury and discomfort problems if the regulations continue to allow for the use of the material that causes the problems in the first place. Likewise, one commenter suggested that the injuries might be due more to neglect than to wire flooring and that an increase in the caretaker-to-animal ratio might be a better solution than requiring coated wire. However, the injuries and discomfort caused by wire flooring are not directly related to the level of supervision provided. Even if the caretaker-to-animal ratio were increased, the animals would still experience problems on floors made of bare wire.

Over half of the surveyed inspectors disagreed that the current regulations on wire flooring are sufficient. Furthermore, any corrective action taken as a result of enforcement activity is likely to produce the very same results that this rule change is intended to achieve, i.e., the replacement of bare metal strands that are ⅛ of an inch or less in diameter with an acceptable flooring material. From a regulatory standpoint, there seem to be only two solutions: Have regulated entities replace the unacceptable flooring in existing enclosures or have them purchase new or used enclosures with acceptable flooring already built in. The rule change allows regulated entities the option of choosing either solution, thereby minimizing the rule's economic impact.

Finally, many commenters were concerned about the proposed rule's lack of specificity. They pointed out that the term ''wire'' was not clearly defined, an important consideration as not all metal strands used in flooring are harmful to animals. That concern is a reasonable one and, for that reason, the final rule defines wire as flexible metal strands that are ⅛ of an inch or less in diameter. This modification was made to distinguish between metal strands that can be harmful to animals and inflexible metal strands, such as rods, that are not. This modification will allow APHIS inspectors to be consistent when judging the soundness of suspended floors of mesh or slatted construction. This modification will also make it easier for regulated individuals and organizations to comply with the new rule and significantly reduce the rule's impact.

Small Entity Impact

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small entities. In its initial regulatory flexibility analysis, APHIS stated that the proposed rule change would affect all breeders, dealers, research facilities, and exhibitors of dogs and cats that are licensed or registered under the AWA and that house their animals in primary enclosures with wire floors. However, APHIS stated that it could not at that time make a definitive finding as to the proposed rule's impact because certain critical information was not available. For example, the total number of licensees and registrants was known, but the number who housed dogs and cats on wire flooring was not available. Nor was information available on the number of animals involved. For that reason, APHIS sought comments on the proposed rule's potential effects. APHIS specifically sought comment on the number of licensees and registrants who would have to replace wire flooring as a result of the proposed rule and the average number of animals these licensees house.

Unfortunately, the commenters furnished little or no new information on the rule's overall impact on small entities. Several commenters stated that it would be too costly to implement, but none provided details to support that statement. One commenter stated that it would cost $27,949 (labor and materials) to replace his galvanized expanded metal with coated wire (the commenter further stated the cost would be $42,949, or $15,000 more in additional labor costs, if the commenter

could not ''rent, borrow, or buy'' two winches). However, galvanized expanded metal would not have to be replaced under the rule, so that cost estimate is not relevant. In any event, the commenter provided no details as to how the dollar amount was arrived at, including information on the square footage of the flooring to be replaced.

In fiscal year 1995, 10,108 facilities were licensed or registered under the AWA. Of that number, 4,325 were licensed dealers, 2,304 were licensed exhibitors, and 3,479 were registrants. The dealers are subdivided into two classes. Class A dealers (3,056) breed animals, and Class B dealers (1,269) serve as animal brokers. The registrants comprise research facilities (2,688), carriers and intermediate handlers (756), and exhibitors (35).

It is not known how many of the licensees and registrants are considered small entities under SBA standards, since information as to their size (in terms of gross receipts or number of employees) is not available. However, it is reasonable to assume that most are small, based on composite data for providers of the same and similar services in the United States. In 1992, the per-firm average gross receipts for all 6,804 firms in SIC 0752 (which includes breeders) was $115,290, well below the SBA's small-entity threshold of $5.0 million. Similarly, the 1992 per-establishment average employment for all 3,826 U.S. establishments in SIC 8731 (which includes research facilities) was 29, well below the SBA's small-entity threshold of 500 employees.

The economic impact of the rule change cannot be determined with certainty because critical information, such as the number of licensees and registrants who currently house dogs and cats on wire flooring is not available. However, based on information furnished by APHIS and the industry, discussed below, the economic impact is not expected to be significant.

For the overwhelming bulk of research facilities, the final rule will have virtually no economic impact because the use of wire flooring of any diameter size for dogs and cats in those facilities is rare.[1] Nor will the rule significantly affect regulated exhibitors because few use dogs and cats as exhibit animals. Registered carriers and intermediate handlers will also be largely unaffected because the enclosures they use to transport animals are not considered to be the animals' ''primary'' enclosures.

As a group, dealers (breeders and brokers) of dogs stand to be affected most by the rule change. However, even the impact on dog dealers should be minimal. (The impact on AWA-licensed cat dealers is likely to be negligible because most raise their animals on solid flooring surfaces in primary enclosures containing litter boxes, which are required by the regulations. Moreover, the percentage of licensed dealers who deal in cats is extremely small; the vast majority of licensed dealers deal in dogs.)

It is estimated that there are approximately 2,000 Class A dog breeders in the United States, who produce about 175,000 dogs annually—an average of 90 dogs per breeder.[2] To support the production of 90 dogs annually, each breeder would need about 16 separate enclosures—13 to accommodate the mothers and their newborns and 3 to accommodate the fathers. (This calculation assumes that: (1) newborns are housed with their mothers before being sold; (2) each mother produces about 7 newborns annually; (3) fathers are housed separately from the mothers and the newborns; and (4) the ratio of mothers to fathers at each facility is 4 to 1.) The 16 enclosures, in turn, would translate into a total of 156 square feet of needed floor space, assuming all mothers and fathers are medium-sized. (Floor space requirements for primary enclosures vary depending on the size of the animals; large dogs on average require 13 square feet of floor space, but small dogs require only 6.5 square feet. Medium-sized dogs are assumed to need 9.75 square feet, an average of the large and small dog requirements.)

Based on a recent quote, the material cost for a 200-square-foot roll of 14-gauge vinyl-coated galvanized wire is $148.60. The same roll without the vinyl coating costs $78.70.[3] The cost difference, therefore, is $69.90, or $0.35 per square foot. Based on the average floor space of 156 square feet, the maximum additional cost per breeder for the coated wire would be $55 (156 × $0.35). The maximum additional cost for all 2,000 dog breeders would be $110,000 (2,000 × $55). These cost figures represent a worst-case scenario because they assume that each breeder would have to replace all 156 square feet of floor space under the new rule. Such a scenario is unlikely because not all flooring used by dealers in housing for dogs is wire.

It is estimated that there are approximately 75 Class B dog brokers in the United States and that these brokers purchase/sell about 315,000 dogs annually—an average of 4,200 dogs per broker.[4] To support the purchase/sale of 4,200 dogs annually, each broker would need about 27 separate enclosures. (This calculation assumes that: (1) the brokers have custody of each dog for 1 week; and (2) the dogs are housed three to an enclosure.) The 27 enclosures, in turn, would translate into a total of 176 square feet of needed floor space, assuming that all dogs are small-sized. (Most dogs in the custody of brokers are puppies, and small dogs require only 6.5 square feet of floor space.) Based on the average floor space of 176 square feet, the maximum additional cost per broker for the coated wire would be $62 (176×$0.35). The maximum additional cost for all 75 dog brokers would be $4,650 (75×$62). Again, these cost figures represent a worst-case scenario because they assume that each broker would have to replace all 176 square feet of floor space under the new rule. Such a scenario is unlikely.

Small entities should not experience any additional labor costs as a result of the rule. Regulated entities have 2 years to bring existing flooring into compliance. By that time, it is likely that all bare wire flooring will have been replaced anyway, due to its limited useful life. The rule, therefore, should not force regulated entities into premature replacement of existing flooring. Because of that, and because the labor cost to replace wire flooring should be the same regardless of whether the wire is coated or uncoated, the rule should have no impact on small entities' labor costs.

On average, therefore, it would cost each breeder only about $55 to switch from bare wire to coated wire. This amount is relatively insignificant; it represents less than 1 percent of the per-firm average gross receipts for all firms in SIC 0752, which includes breeders. The average cost of $62 for each broker would also be relatively insignificant—less than 1 percent of the per-establishment average sales for all establishments in SIC 5199, which

[1] Members of the National Association for Biomedical Research (NABR) account for between 50 and 60 percent of all dogs used in research. Barbara Rich of NABR said that members' use of bare wire flooring is rare. Steve Smith (APHIS) indicated that use of bare wire flooring by non-NABR research facilities is also rare.

[2] Per N. Marshall Myers (Pet Industry Joint Advisory Council).

[3] These material quotes were obtained by Steve Smith (APHIS). In the initial analysis, APHIS stated that the market price of both bare and coated wire varies, depending on the quality and diameter width of the material. APHIS asserted that bare wire of the type most often used as flooring sells for approximately $1.50 per square foot and that coated wire (that meets the other standards) sells for between $2.25 and $5.00 per square foot.

[4] Per N. Marshall Myers (Pet Industry Joint Advisory Council).

includes brokers. The rule would have a carryover cost effect because each subsequent replacement would require coated wire or some other acceptable material, such as galvanized expanded metal. However, the increased cost of coated wire would be made up, at least partially, over time because coated wire will provide longer use.

This rule contains no reporting or recordkeeping requirements.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 3

Animal welfare, Marine mammals, Pets, Reporting and recordkeeping requirements, Research, Transportation.

Accordingly, 9 CFR part 3 is amended as follows:

PART 3—STANDARDS

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

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 3.6 is amended as follows:

a. In paragraph (a)(2)(x), the words ''constructed of wire'' are removed, and the words ''of mesh or slatted construction'' are added in their place, and the word ''and'' at the end of the paragraph is removed.

b. In paragraph (a)(2)(xi), the period at the end of the paragraph is removed, and ''; and'' is added in its place.

c. A new paragraph (a)(2)(xii) is added to read as follows:

§ 3.6 Primary enclosures.

* * * * *

(a) * * *

(2) * * *

(xii) Primary enclosures constructed on or after February 20, 1998 and floors replaced on or after that date, must comply with the requirements in this paragraph (a)(2). On or after January 21, 2000, all primary enclosures must be in compliance with the requirements in this paragraph (a)(2). If the suspended floor of a primary enclosure is constructed of metal strands, the strands must either be greater than ⅛ of an inch in diameter (9 gauge) or coated with a material such as plastic or fiberglass. The suspended floor of any primary enclosure must be strong enough so that the floor does not sag or bend between the structural supports.

* * * * *

§ 3.11 [Amended]

3. In § 3.11(a), the word ''wire'' is removed from the last sentence, and the word ''mesh'' is added in its place.

§ 3.14 [Amended]

4. In § 3.14(a)(9), the word ''wire'' is removed each time it appears.

Done in Washington, DC, this 13th day of January 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1311 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–139, Special Conditions No. 25–ANM–135]

Special Conditions: Ilyushin Aviation Complex Model Il–96T Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Ilyushin Aviation Complex Model Il–96T airplane. This airplane will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

EFFECTIVE DATE: February 20, 1998.

FOR FURTHER INFORMATION CONTACT: Norm Martenson, FAA, International Office, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2196.

SUPPLEMENTARY INFORMATION:

Background

Ilyushin Aviation Complex, 45 Leningradsky Prospect, Moscow, 125190, Russia, has applied for Russian type certification of their Model Il–96T airplane by the Aviation Register (AR) of the Interstate Aviation Committee in accordance with existing AR standards. The AR is authorized to perform airworthiness certification functions on behalf of the Commonwealth of Independent States, including the Russian government. In addition, Ilyushin applied for U.S. type certification of the Model Il–96T on February 16, 1993.

Section 21.29 of 14 CFR part 21 of the Federal Aviation Regulations (FAR) prescribes a reciprocal bilateral agreement between the U.S. and exporting country as a requirement for consideration of U.S. design or airworthiness approval of an imported aeronautical product. Such agreements are known as bilateral aviation safety agreements (BASA). Although the U.S. does not presently have a BASA with Russia providing reciprocal acceptance of transport category airplanes, the FAA is working with the AR and Russian government officials to conclude an agreement of this nature. FAA Advisory Circular (AC) 21–23, Airworthiness Certification of Civil Aircraft, Engines, Propellers, and Related Products Imported to the United States, provides further guidance in this regard.

A BASA with Russia may be concluded following successful completion of an assessment by the FAA and the AR of each other's technical competence and regulatory capability for performing airworthiness certification functions. The scope of the agreement is defined by each authority in Implementation Procedures. FAA type certification of the Model Il–96T transport airplane is therefore conditional upon successful implementation of a BASA with Russia, providing acceptance of transport category airplanes.

One of the key elements of any BASA assessment program is the shadow certification program. Under the Russian shadow certification program, FAA specialists are ''shadowing'' their AR counterpart specialists during AR certification of an example of the

aeronautical product that the BASA is intended to cover. This program is intended to provide FAA assessment specialists with ample opportunity to evaluate the AR certification process and the AR specialists' technical competencies to support the airworthiness authority responsibilities inherent in a bilateral agreement. The Ilyushin Model Il–96T was selected as the product for this shadow certification which, if successful, would lead to a U.S.-Russian BASA. Conclusion of the BASA and related implementation procedures would, in turn, be followed by issuance of a U.S. type certificate for that model.

Under the anticipated provisions of the future BASA, the AR has elected to certify that the Model Il–96T complies with the AP–25 type certification standards, plus any additional requirements identified by the FAA to ensure an equivalent level of safety to that provided by the U.S. type certification standards. The AP–25 airworthiness standards, which were developed as the successor to the NLGS–3 standards of the former Soviet Union, were approved by the AR in November 1993 and implemented in Russia in July 1994. These standards have also been accepted by many of the other Commonwealth of Independent States for type certification of transport category airplanes. They were established after extensive harmonization with part 25 of the FAR and the European Joint Airworthiness Requirements (JAR)–25. The AP–25 standards are similar to part 25 of the FAR; however, there are certain specified differences in the requirements of the two documents.

Based on the application date of February 16, 1993, the U.S. type certification standards are part 25 of the FAR, as amended by Amendments 25–1 through 25–77, and these special conditions. In addition, the type certification basis includes the sections of part 25, as amended by Amendment 25–80, pertaining to lightning protection. Compliance with those sections is required under the provisions of § 21.17(a)(1)(ii).

Because the AR has elected to certify that the Model Il–96T complies with the Russian type certification standards, the FAA will make a comparison of the Russian type certification basis and the U.S. type certification standards described above. Based on this comparison, the FAA will prescribe any additional requirements that are necessary to ensure that the Model Il–96T meets a level of safety equivalent to that provided by the U.S. type certification standards. For U.S. certification of the Model Il–96T, the FAA will therefore accept the Russian type certification basis, plus any additional requirements, and these special conditions. As the program progresses, other features of the Model Il–96T may be determined to be novel or unusual. The equivalent certification basis may therefore include other special conditions or exemptions not pertinent to these special conditions.

Since noise certification and emission requirements are beyond the scope of the possible future bilateral agreement, the FAA will make findings of compliance with the applicable U.S. noise, fuel venting, and exhaust emission requirements. The U.S. noise certification basis for the Model Il–96T is 14 CFR part 36 of the FAR, as amended by Amendments 36–1 through 36–21, and any subsequent amendments that are applicable on the date on which the U.S. type certificate is issued. In addition to compliance with part 36, the statutory provisions of Public Law 92–574, ''Noise Control Act of 1972,'' require that the FAA issue a finding of regulatory adequacy pursuant to Section 611 of that Act. The Model Il–96T must also comply with the fuel venting and exhaust emission requirements of 14 CFR part 34 of the FAR, as amended by Amendment 34–1, and any subsequent amendments that are applicable on the date the type certificate is issued.

Special conditions are prescribed under the provisions of § 21.16 of the FAR when the applicable regulations for type certification do not contain adequate or appropriate standards because of novel or unusual design features. As discussed below, the new Ilyushin Model Il–96T airplane incorporates a number of such design features.

Il–96T Design Features

General

The Model Il–96T airplane presented for U.S. type certification is a long range, four engine, transport category cargo airplane powered by four (4) Pratt & Whitney PW2337 engines with 37,500 lbs. thrust ratings and incorporating Rockwell/Collins avionics. It is designed to be flown by a two-man crew; however, it incorporates seats for 2 additional crewmembers. The airplane is intended for cargo operation only and is designed to carry cargo on main and lower decks. The aircraft cargo loading system includes a large main deck cargo door (15.91 feet × 9.43 feet) and two lower deck cargo doors (8.69 feet × 5.74 feet). The main cargo compartment on the upper deck has a volume of 20,480 cubic feet and can accommodate 25 P–6 pallets. The two cargo compartments on the lower deck have a total volume of 6,900 cubic feet, and can accommodate a total of 32 LD–3 containers or 9 P–6 pallets. The Il–96T has a maximum takeoff weight of 595,240 lbs. and a maximum landing weight of 485,000 lbs. The maximum cruise altitude is 43,000 feet.

The structure of the Il–96T is generally of conventional design and construction. The landing gear system employs a center landing gear for use during ground handling conditions with heavy airplane weights. The structural design also makes use of an electronic flight control system which provides the potential for a wide range of structural and system interactions.

The Model Il–96T flight control system is an electro-hydromechanical system utilizing both fly-by-wire (FBW) and conventional mechanical (cables and push-pull rods) linkages between pilot control column and control surface hydraulic actuators in two simultaneously operated and synchronized channels. The conventional mechanical channel, in normal operation, functions as a passive redundancy of the FBW channel and provides feedback to the pilots via the Automatic Feel Load System.

Hydraulic power to the flight control system is simultaneously provided by four independent hydraulic systems. Functions are shared among these systems in order to ensure airplane control in the event of loss of one, two, or three systems. The four systems are pressurized by variable displacement pumps driven by the engine accessory gearbox. In addition, the systems can be powered by electrically driven pumps. A ram air turbine (RAT)-driven pump is available as an emergency hydraulic power source.

Normal electrical power is supplied by four constant frequency generators, one on each engine. An auxiliary power unit (APU) providing electrical and hydraulic supply is available for ground use only and is not used in flight. Five batteries provide an alternative source of electrical power for loads required to continue safe flight and landing in the case of failure of four generators.

The engine control system consists of a dual-channel electronic engine control (EEC) mounted on the fan case of each engine. Each EEC interfaces with various airplane computer systems. The EEC provides gas generator control, engine limit protection, power management, thrust reverser control, and engine parameter inputs for the flight deck displays. The engine EEC and associated airplane related systems

form the complete propulsion control system.

Pitch and roll control inputs are made through conventional flight deck central control columns. The flight instruments are displayed on six cathode ray tube (CRT) displays. Two CRT's are mounted directly in front of both the pilot and copilot and display primary flight instruments and navigational information. The other two CRT's are located in the center of the instrument panel and display engine parameters, warnings, and system diagnostics.

The type design of the Model Il–96T contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

Airframe

1. Center Landing Gear

The Ilyushin Il–96T landing gear arrangement includes a center braking landing gear under the fuselage. The center main landing gear does not differ from that of the right or left main landing gear in construction and performs the same functions. The current landing gear design criteria are applicable to conventional landing gear arrangements. Special Condition No. 1 provides additional taxi, takeoff, and landing criteria for this arrangement.

2. Design Maneuver Requirements

In a conventional airplane with a hydro-mechanical flight control system, pilot inputs directly affect control surface movement (both rate and displacement) for a given flight condition. In the Il–96T, the pilot's controls and the flight control surfaces are connected through the electronic flight control system, which introduces additional surface movements based on its design control laws. The control surface movement during maneuvers differs from the pilot control displacements in terms of both rate and displacement. The additional effects of the electronic flight control system are not reflected in the current FAR; therefore, Special Condition No. 2 is provided.

3. Interaction of Systems and Structure

The Ilyushin Model Il–96T is equipped with an electrical flight control system and a load alleviation system that effects both gust and maneuver loads. These systems can directly, or as a result of failure or malfunction, affect structural performance. This degree of system and structures interaction was not envisioned in the structural design regulations of part 25 of the FAR for transport airplanes. Special Condition 3 provides comprehensive criteria in which the structural design safety margins are dependent on systems reliability.

Systems

4. Protection From Unwanted Effects of High Intensity Radiated Fields (HIRF)

The use of fly-by-wire designs to command and control engines and flight control surfaces increases the airplane's susceptibility to HIRF sources external to the airplane. The airworthiness regulations do not provide adequate requirements for protection from unwanted effects of HIRF.

High intensity radiated fields have the potential to cause adverse and potentially hazardous effects on fly-by-wire systems if design measures are not taken to ensure the immunity of such systems. This is particularly true with the trend toward increased power levels from ground based transmitters and the advent of space and satellite communications.

The Model Il–96T is being designed with electrical interfaces between crew inputs and (1) the flight control surfaces, and (2) the engines. These interfaces, and the interconnection among the electronic subsystems controlling these functions, can be susceptible to disruption of both command/response signals and the operational mode logic as a result of electrical and magnetic interference. Traditional airplane designs have utilized mechanical means to connect the primary flight controls and the engine to the flight deck. This traditional design results in control paths that are substantially immune to the effects of HIRF. A special condition is required to ensure that critical and essential systems be designed and installed to preclude component damage and system upset or malfunction due to the unwanted effects of HIRF. Therefore, Special Condition No. 4 is provided.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and become part of the type certification basis in accordance with § 21.17(a)(2).

Discussion of Comments

Notice of proposed special conditions No. SC–97–2–NM was published in the **Federal Register** on April 9, 1997 (62 FR 17117). No comments were received, and the special conditions are adopted as proposed.

Applicability

These special conditions are applicable initially to the Ilyushin Model Il–96T airplane. Should Ilyushin Aviation Complex apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation Safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Ilyushin Aviation Complex Model Il–96T series airplanes.

1. *Center Landing Gear.* Notwithstanding § 25.477 of the FAR, the requirements of §§ 25.473 and 25.479 through § 25.485 apply, except as noted:

(a) In addition to the requirements of § 25.473, landing should be considered on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations. The maximum loads determined from these two conditions must be applied to each main landing gear and to the center landing gear.

(b) The requirements of § 25.483 apply and, in addition, the condition represented by the following figure also applies:

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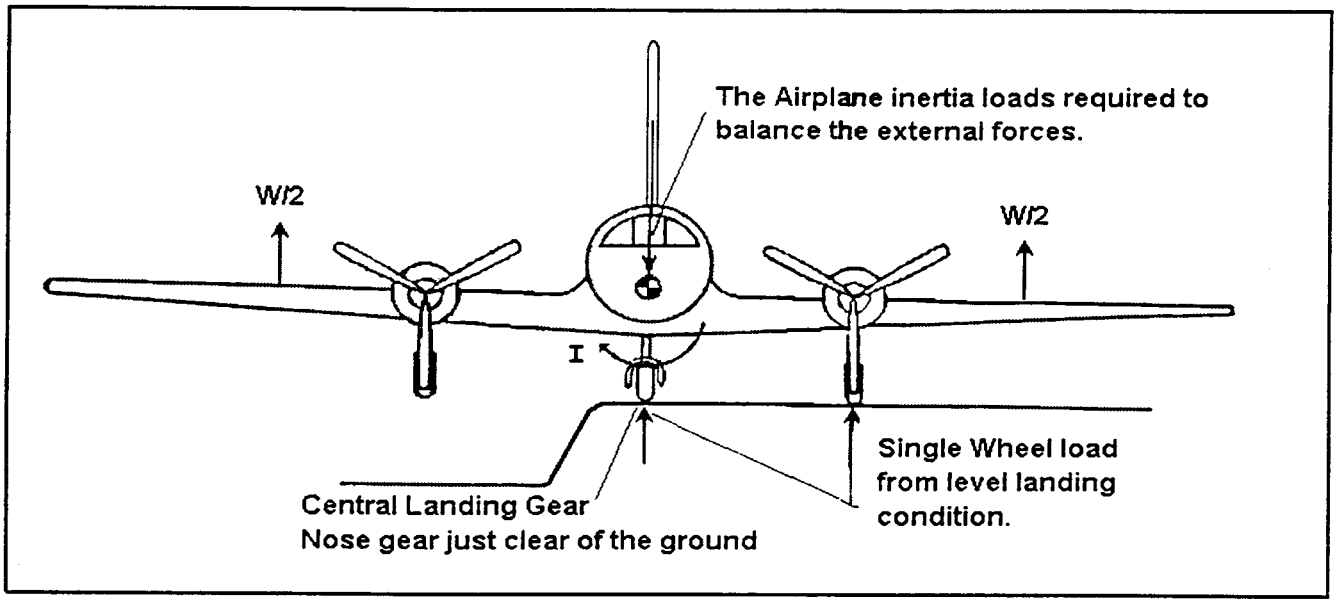
Figure 1. Center gear landing Condition



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(c) In lieu of the requirements of § 25.485, the following apply:

(1) The airplane is considered to be in the level attitude with only the main and central wheels contacting the ground.

(2) Vertical reactions of one-half of the maximum vertical reaction obtained at each main and center gear in the level landing conditions should be considered. The vertical loads must be combined with side loads that for the main gear are 0.8 of the vertical reaction (on one side) acting inward and 0.6 of the vertical reaction (on the other side) acting outward, and for the center gear are 0.7 of the vertical reaction acting in the same direction as main gear side loads. (Drag load=0)

(d) In addition to the requirements of § 25.489, ''Ground handling conditions,'' the following applies: The airplane should be considered to be on a level runway and on a runway having a convex upward shape that may be approximated by a slope of 1.5 percent with the horizontal at main landing gear stations. The ground reactions must be distributed to the individual landing gear units in a rational or conservative manner (zero lift, shock struts in the static position).

(e) In lieu of the requirements of § 25.503, the following apply:

(1) The airplane is assumed to pivot about one of the outer main gears with the brakes locked on the selected gear. The limit vertical load factor must be 1.0 and the coefficient of friction must be 0.8.

(2) The airplane is assumed to be in static equilibrium, with the loads being applied at the ground contact points.

(3) All of the main gear units must be designed for the scrubbing or torsion loads, or both, induced by pivoting during ground maneuvers produced by:

(i) Towing at the nose gear, no brakes applied; and

(ii) Application of symmetrical or unsymmetrical forward thrust to aid pivoting and with or without braking on the outside main gear closest to the pivot center.

(f) The following applies to the center landing gear in lieu of § 25.723, ''Shock absorption tests'':

(1) The center landing gear should not fail in a test demonstrating its reserve energy absorption capacity at design landing weight, assuming airplane lift no greater than the airplane weight acting during an impact simulating:

(i) A center landing gear descent velocity of 120 percent of the maximum aircraft descent velocity at the time of center landing gear ground contact; or

(ii) A 12 fps airplane landing impact taking into account both the main and center landing gears acting during the impact, whichever is more critical.

2. *Design Maneuver Requirements.* (a) *Maximum elevator displacement at* V_A. In lieu of compliance with § 25.331(c)(1) of the FAR, the airplane is assumed to be flying in steady level flight (point A1 within the maneuvering envelope of § 25.333(b)) and, except as limited by pilot effort as specified in § 25.397 concerning pilot effort forces, the cockpit pitching control device is suddenly moved to obtain extreme positive pitching acceleration (nose up). In defining the tail load condition, the response of the airplane must be taken into account. Airplane loads which occur subsequent to the point at which the normal acceleration at the center of gravity exceeds the maximum positive limit maneuvering factor, n, need not be considered.

(b) *Pitch maneuvering loads induced by the system*. In addition to the requirements of § 25.331(c) of the FAR, it must be established that pitch maneuver loads induced by the system itself (e.g. abrupt changes in orders made possible by electrical rather than mechanical combination of different inputs) are acceptably accounted for.

(c) *Roll maneuver loads.* In lieu of compliance with § 25.349(a) of the FAR, the following conditions, speeds, spoiler and aileron deflections (except as the deflections may be limited by pilot effort) must be considered in combination with an airplane load factor of zero and of two-thirds of the positive maneuvering factor used in design. In determining the required aileron and spoiler deflections, the torsional flexibility of the wing must be considered in accordance with § 25.301(b).

(1) Conditions corresponding to steady rolling velocities must be investigated. In addition, conditions corresponding to maximum angular

acceleration must be investigated. For the angular acceleration conditions, zero rolling velocity may be assumed in the absence of a rational time history investigation of the maneuver.

(2) At V_A, sudden deflection of the cockpit roll control up to the limit is assumed. The position of the cockpit roll control must be maintained until a steady roll rate is achieved and then must be returned suddenly to the neutral position.

(3) At V_C, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than that obtained in paragraph (2).

(4) At V_D, the cockpit roll control must be moved suddenly and maintained so as to achieve a rate of roll not less than one third of that obtained in paragraph (2) of this paragraph.

(5) It must also be established that roll maneuver loads induced by the system itself (i.e., abrupt changes in orders made possible rather than mechanical combination of different inputs) are acceptably accounted for.

(d) *Yaw maneuver loads.* In lieu of compliance with § 25.351 of the FAR, the airplane must be designed for loads resulting from the conditions specified in subparagraphs (a) and (b) of this paragraph. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner, considering the principal masses furnishing the reacting inertia forces. Physical limitations of the airplane from the cockpit yaw control device to the control surface deflection, such as control stop position, maximum power and displacement rate of the servo controls, and control law limiters may be taken into account.

(1) Maneuvering. At speeds from V_{MC} to V_D, the following maneuvers must be considered. In computing the tail loads, the yawing velocity may be assumed to be zero:

(i) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit yaw control device (pedal) is suddenly displaced (with critical rate) to the maximum deflection, as limited by the stops.

(ii) With the cockpit yaw control device (pedal) deflected as specified in subparagraph (1) of this paragraph, it is assumed that the airplane yaws to the resulting sideslip angle (beyond the static sideslip angle).

(iii) With the airplane yawed to the static sideslip angle with the cockpit yaw control device deflected as specified in sub-paragraph (1) of this paragraph, it is assumed that the cockpit yaw control device is returned to neutral.

3. *Interaction of Systems and Structure.* (a) *General.* For an airplane equipped with flight control systems, load alleviation systems, or flutter control systems that directly, or as a result of a failure or malfunction, affect its structural performance, the influence of these systems and their failure conditions shall be taken into account in showing compliance with subparts C and D of part 25 of the FAR.

(b) *System fully operative.* With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the deterministic limit conditions specified in subpart C, taking into account any special behavior of such systems or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of part 25 (static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the systems presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) *System in the failure condition.* For any system failure condition not shown to be extremely improbable, the following apply:

(1) *At the time of occurrence.* Starting from 1g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads, multiplied by an appropriate factor of safety, related to the probability of occurrence of the failure. These loads should be considered as ultimate loads for this evaluation. The factor of safety is defined as follows:

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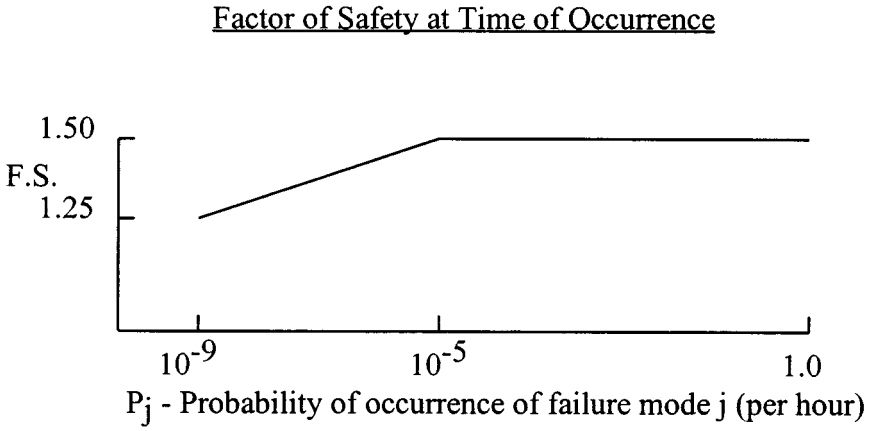

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(i) The loads must also be used in the damage tolerance evaluation required in § 25.571(b), if the failure condition is probable. The loads may be considered as ultimate loads for the damage tolerant evaluation.

(ii) Freedom from flutter and divergence must be shown at speeds up to V_D or 1.15 V_C, whichever is greater. However, at altitudes where the speed is limited by Mach number, compliance need be shown only up to M_D, as defined in § 25.335(d). For failure conditions that result in speed increases beyond V_C/M_C, freedom from flutter and divergence must be shown at increased speeds, so that the above margins are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce peak loads that could result in permanent deformation of primary structure.

(2) *For the continuation of the flight.* For the airplane, in the failed configuration and considering any appropriate flight limitations, the following apply:

(i) Static and residual strength must be determined for loads induced by the failure condition, if the loads could continue to the end of the flight. These loads must be combined with the deterministic limit load conditions specified in subpart C.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph multiplied by a safety factor depending on the probability of being in this failure state.

The factor of safety is defined as follows:

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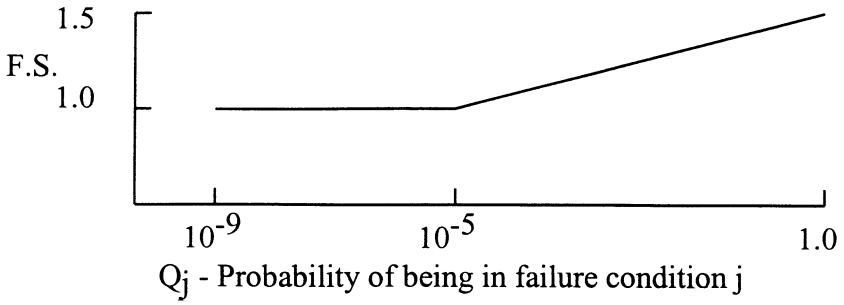
Factor of Safety for Continuation of Flight



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Qj=(Tj)(Pj) where:

Tj=Average time spent in failure condition j (in hours)

Pj=Probability of occurrence of failure mode j (per hour)

Note: If Pj is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be used.

(iii) For residual strength substantiation as defined in § 25.571(b), for structures also affected by failure of the system and with damage in combination with the system failure, a reduction factor may be applied to the residual strength loads of § 25.571(b). However, the residual strength level must not be less than the 1g flight load, combined with the loads introduced by the failure condition plus two-thirds of the load increments of the conditions specified in § 25.571(b) in both positive and negative directions (if appropriate). The reduction factor is defined as follows:

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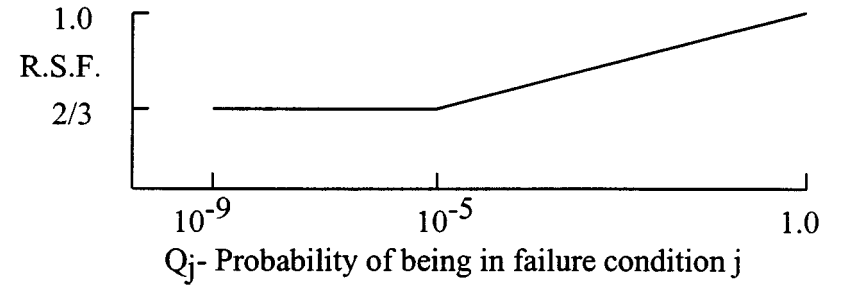
Residual Strength Reduction Factor



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Qj=(Tj)(Pj) where:

Tj=Average time spent in failure condition j (in hours)

Pj=Probability of occurrence of failure mode j (per hour)

Note: If Pj is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) Freedom from flutter and divergence must be shown up to a speed determined by the following figure:

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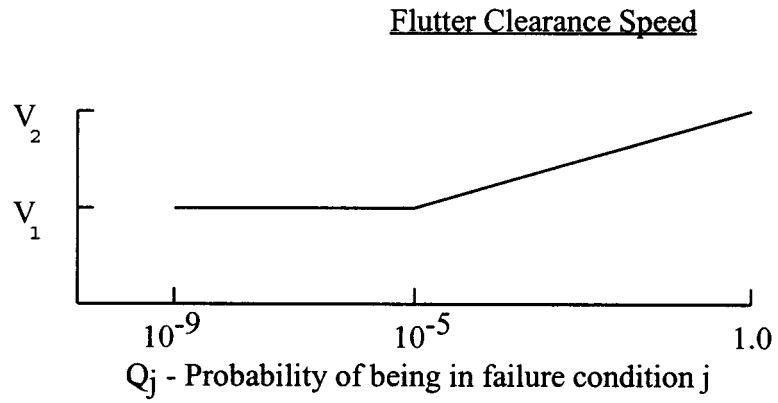

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V_1=Clearance speed as defined in § 25.629(b)(2).
V_2=Clearance speed as defined in § 25.629(b)(1).
Qj=(Tj)(Pj) where:
Tj=Average time spent in failure condition j (in hours)
Pj=Probability of occurrence of failure mode j (per hour)

Note: If Pj is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V_2.

(v) Freedom from flutter and divergence must also be shown up to V_1 in the above figure for any probable system failure condition combined with any damage required or selected for investigation in § 25.571(b).

(vi) If the time likely to be spent in the failure condition is not small compared to the damage propagation period, or if the loads induced by the failure condition may have a significant influence on the damage propagation, then the effects of the particular failure condition must be addressed and the corresponding inspection intervals adjusted to adequately cover this situation.

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the prescribed value of the current requirement.

(d) *Warning considerations.* For system failure detection and warning, the following apply:

(1) Before flight, the system must be checked for failure conditions, not shown to be extremely improbable, that degrade the structural capability of the airplane below the level intended in paragraph (b) of this special condition. The crew must be made aware of these failures, if they exist, before flight.

(2) An evaluation must be made of the necessity to signal, during the flight, the existence of any failure condition that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations. The assessment of the need for such signals must be carried out in a manner consistent with the approved general warning philosophy for the airplane.

(3) During flight, any failure condition not shown to be extremely improbable, in which the safety factor existing between the airplane strength capability and loads induced by the deterministic limit conditions of subpart C of part 25 is reduced to 1.3 or less, must be signaled to the crew if appropriate procedures and limitations can be provided so that the crew can take action to minimize the associated reduction in airworthiness during the remainder of the flight.

(e) *Dispatch with failure conditions.* If the airplane is to be knowingly dispatched in a system failure condition that reduces the structural performance of the airplane, then operational limitations must be provided whose effects, combined with those of the failure condition, allow the airplane to meet the structural requirements described in paragraph (b) of this special condition. Subsequent system failures must also be considered.

Discussion: This special condition is intended to be applicable to flight controls, load alleviation systems, and flutter control systems. The criteria provided by the special condition only address the direct structural consequences of the systems responses and performances and therefore cannot be considered in isolation but should be included in the overall safety evaluation of the airplane. The presentation of these criteria may, in some instances, duplicate standards already established for this evaluation. The criteria are applicable to structure, the failure of which could prevent continued safe flight and landing. The following definitions are applicable to this special condition:

Structural performance: Capability of the airplane to meet the structural requirements of part 25.

Flight limitations: Limitations that can be applied to the airplane flight conditions following an inflight occurrence and which are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

Operational limitations: Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., payload limitations).

Probabilistic terms: The probabilistic terms (probable, improbable, extremely improbable) used in this special condition should be understood as defined in AC 25.1309–1.

Failure condition: The term failure condition is defined in AC 25.1309–1; however, this special condition applies only to system failure conditions that have a direct impact on the structural performance of the airplane (e.g., failure conditions that induce loads or change the response of the airplane to inputs such as gusts or pilot actions).

4. *Protection from Unwanted Effects of High Intensity Radiated Fields (HIRF).* In the absence of specific requirements for protection from the unwanted effects of HIRF, the following apply:

Each airplane system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

Discussion: The Ilyushin Model Il–96T will utilize electrical and electronic systems that perform critical functions. These systems include the electronic

displays, integrated avionics computer, electronic engine controls, etc. The existing airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of HIRF which are external to the airplane.

Airplane designs that utilize metal skins and mechanical command and control means have traditionally been shown to be immune from the effects of HIRF energy from ground-based and airborne transmitters. With the trend toward increased power levels from these sources, plus the advent of space and satellite communications, the immunity of the airplane to HIRF energy must be established. No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established.

For the purposes of this special condition, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane. At this time the FAA and other airworthiness authorities are unable to precisely define or control the HIRF energy level to which the airplane will be exposed in service. Therefore, the FAA hereby defines two acceptable interim methods for complying with the requirement for protection of systems that perform critical functions.

(1) The applicant may demonstrate that the critical systems, as installed in the airplane, are protected from the external HIRF threat environment defined in the following table:

Frequency	Field peak (V/M)	Strength average V/M
10 KHz-500 KHz	60	60
500 KHz-2 MHz	80	80
2 MHz-30 MHz	200	200
30 MHz-100 MHz	33	33
100 MHz-200 MHz	150	33
200 MHz-400 MHz	56	33
400 MHz-1 GHz	4,020	935
1 GHz-2 GHz	7,850	1,750
2 GHz-4 GHz	6,000	1,150
4 GHz-6 GHz	6,800	310
6 GHz-8 GHz	3,600	666
8 GHz-12 GHz	5,100	1,270
12 GHz-18 GHz	3,500	551
18 GHz-40 GHz	2,400	750

or,

(2) The applicant may demonstrate by laboratory test that the critical systems elements and their associated wiring harnesses can withstand a peak electromagnetic field strength of 100 volts per meter, without the benefit of airplane structural shielding, in the frequency range of 10 KHz to 18 GHz.

Compliance Method: This paragraph describes an acceptable method of showing compliance with the HIRF energy protection requirements.

(1) *Compliance Plan:* The applicant should present a plan for Aviation Register approval, outlining how compliance with the HIRF energy protection requirements will be attained. This plan should also propose pass/fail criteria for the operation of critical systems in the HIRF environment.

(2) *System Criticality:* A hazard analysis should be performed by the applicant for approval by Aviation Register to identify electrical and/or electronic systems which perform critical functions. These systems are candidates for the application of HIRF energy protection requirements.

(3) *Compliance Verification:* Compliance with the HIRF energy protection requirements may be demonstrated by tests, analysis, models, similarity with existing systems, or a combination thereof as acceptable to Aviation Register. Service experience alone is not acceptable since such experience in normal flight operations may not include an exposure to the HIRF environmental condition.

(4) *Pass/Fail Criteria:* Acceptable system performance is attained by demonstrating that the system under consideration continues to perform its intended function during and after exposure to the required electromagnetic fields. Deviations from system specification may be acceptable depending on an independent assessment of the deviations for each application.

(5) *Test Methods and Procedures:* RTCA document DO–160C, Section 20, provides information on acceptable test procedures. In addition, the following information on modulation is presented to supplement that found in DO–160C. Equipment and subsystem radiated susceptibility qualification tests should be conducted by slowly scanning the entire frequency spectrum with an unmodulated signal which produces the required average electric field strength as the equipment under test (EUT) and its wiring. A peak level detector should be used to monitor the peak values of the signal and these values should be recorded at each test point. The EUT should not be damaged by this test and should operate normally for frequencies under 400 MHz. Deviations from normal operation for test frequencies above 400 MHz should be recorded. The test should be repeated with an appropriate modulation applied to the test signal. At each test point, the amplitude of the RF test signal should be adjusted to the peak values recorded during the unmodulated test. The modulation should be selected as the signal most likely to disrupt operation of the equipment under test based on its design characteristics. For example, flight control systems might be susceptible to 3 Hz square wave modulation while the video signals for CRT displays may be susceptible to 400 Hz sinusoidal modulation. If the worst case modulation is unknown or cannot be determined, default modulations can be used. Suggested default values are 1 KHz sine wave with 80% depth of modulation in the frequency range from 10 KHz to 400 MHz and 1 KHz square wave with greater than 90% depth of modulation from 400 MHz to 18 GHz. For frequencies where the unmodulated signal caused deviations from normal operation of the EUT, several different modulating signals with various waveforms and frequencies should be applied. Modern laboratory equipment may not be able to continuously scan the spectrum in the manner of analog equipment. These units will only generate discrete frequencies. For such equipment, the number of test points and the dwell time at each test point must be specified. For each decade of the frequency test spectrum (a ten times increase in frequency (i.e., 10 Kz to 100 KHz) there should be at least 25 test points, and for the decades from 10 MHz to 100 MHz, and 100 MHz to 1 GHz there should be a minimum of 180 test points each. The dwell time at each test point should be at least 0.5 second.

(6) *Data Submittal:* An accomplishment report should be submitted to the Aviation Register showing fulfillment of the HIRF energy protection requirements. This report should contain test results, analysis and other pertinent data.

(7) *Maintenance Requirements:* The applicant (manufacturer) must provide maintenance requirements to assure the continued airworthiness of the installed system(s).

Issued in Renton, Washington, on December 16, 1997.

Gilbert L. Thompson,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–101.

[FR Doc. 98–865 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–29–AD; Amendment 39–10286; AD 98–02–04]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–5B/2P Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFM International (CFMI) CFM56–5B/2P series turbofan engines, that requires a reduction of the low cycle fatigue (LCF) retirement life for certain low pressure turbine (LPT) cases. This amendment is prompted by the results of a refined life analysis performed by the manufacturer which revealed minimum calculated LCF lives significantly lower than the published LCF retirement life. The actions specified by this AD are intended to prevent a LCF failure of the LPT case, which could result in damage to the aircraft.

DATES: Effective March 23, 1998.

ADDRESSES: This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7138; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to CFM International (CFMI) CFM56–5B/2P series turbofan engines was published in the **Federal Register** on September 19, 1997 (62 FR 49179). That action proposed to require a reduction of the low cycle fatigue (LCF) retirement life for certain low pressure turbine (LPT) cases.

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

One commenter supports the rule as proposed.

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

There are approximately 18 engines of the affected design in the worldwide fleet. The manufacturer has advised the FAA that there are no engines installed on U.S. registered aircraft that are affected by this AD. Therefore, there is no associated cost impact on U.S. operators as a result of this AD. However, should an affected engine be imported on an aircraft and placed on the U.S. registry in the future, and assuming that the parts cost is proportional to the reduction of the LCF retirement life, the required parts would cost approximately $40,423 per engine. Based on these figures, the total cost impact of the AD is estimated to be $40,423 per engine.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–02–04 CFM International: Amendment 39–10286. Docket 97–ANE–29–AD.

Applicability: CFM International (CFMI) CFM56–5B1/2P, –5B2/2P, –5B3/2P, and –5B4/2P turbofan engines, installed with low pressure turbine (LPT) case, Part Number (P/N) 338–117–004–0, installed on but not limited to Airbus A320 and A321 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent a low cycle fatigue (LCF) failure of the LPT case, which could result in damage to the aircraft, accomplish the following:

(a) Remove from service LPT case, P/N 338–117–004–0, and replace with a serviceable part, as follows:

(1) For CFM56–5B2/2P and –5B3/2P engines, prior to accumulating 10,500 cycles.

(2) For CFM56–5B1/2P and –5B4/2P engines, prior to accumulating 15,500 cycles.

(b) This action establishes the new LCF retirement lives of 10,500 and 15,500 cycles for the engines stated in paragraphs (a)(1) and (a)(2) of this AD, which are published in Chapter 05 of CFM56–5B Engine Shop Manual, CFMI–TP.SM.9.

(c) For the purpose of this AD, a ''serviceable part'' is one that has not exceeded its respective new life limit as set out in this AD.

(d) Except as provided in paragraph (e) of this AD, no alternative replacement times may be approved for LPT case, P/N 338–117–004–0.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

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

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

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

Issued in Burlington, Massachusetts, on January 7, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–1326 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–7494, 34–39542, File No. S7–17–97]

RIN 3235–AH18

Covered Securities Pursuant to Section 18 of the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting Rule 146(b) under Section 18 the Securities Act of 1933, as amended (''Securities Act''). The purpose of the Rule is to designate securities listed on the Chicago Board Options Exchange, Tier I of the Pacific Exchange, and Tier I of the Philadelphia Stock Exchange as covered securities for the purposes of Section 18 of the Securities Act. Covered Securities under Section 18 are exempt from state law registration requirements.

EFFECTIVE DATE: This final rule is effective January 21, 1998.

FOR FURTHER INFORMATION CONTACT: Sharon M. Lawson, Senior Special Counsel, James T. McHale, Special Counsel, or David S. Sieradzki, Esq., at 202/942–0181, 202/942–0190, or 202/942–0135; Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 2–2), 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 11, 1996, The National Securities Markets Improvement Act of 1996 (''NSMIA'')[1] was signed into law. Among other changes made to the federal securities laws, NSMIA amends Section 18 of the Securities Act[2] to provide for exclusive federal registration of securities listed, or authorized for listing, on the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or listed on the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), or any other national securities exchange designated by the Commission to have substantially similar listing standards to those markets. More specifically, Section 18(a) provides that ''no law, rule, regulation, or order, or other administrative action of any State * * * requiring, or with respect to, registration or qualification of securities * * * shall directly or indirectly apply to a security that—(A) is a covered security.'' Covered securities are defined in Section 18(b)(1) to include those securities listed, or authorized for listing, on the NYSE, Amex, or listed on Nasdaq/NMS (collectively the ''Named Markets''), or those securities listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule are ''substantially similar'' to one of the Named Markets.

The Pacific Exchange, Incorporated (''PCX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the Chicago Stock Exchange, Incorporated (''CHX''), and the Philadelphia Stock Exchange, Incorporated (''Phlx'') (collectively the ''Petitioners'') have petitioned the Commission to adopt a rule which finds their listing standards to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS and, therefore, entitling securities listed pursuant thereto to be deemed covered securities under Section 18 of the Securities Act.[3]

On June 10, 1997, the Commission issued a release proposing to adopt Rule 146(b) that would designate securities listed on the CBOE and Tier I of the PCX as designated securities for the purposes of Section 18(a) of the Securities Act, and soliciting comment on whether Tier I securities of the CHX and Phlx should be included in Rule 146(b).[4] The Commission received three comment letters in response to the proposal.[5]

As to the inclusion of securities listed on Tier I of the CHX and Tier I of the Phlx in Rule 146(b), the Commission stated that while most of their Tier I listing standards are substantially similar to one of the Named Markets, they differed in several important respects.[6] The Commission also indicated, however, that if the CHX and Phlx were to revise their Tier I listing standards in these areas to conform them to those of the NYSE, Amex, or Nasdaq/NMS prior to the adoption of the proposed Rule, the Commission likely would include securities listed on these markets in final Rule 146(b). Accordingly, in order to obtain the benefits of the exemption under the proposed Rule, the CHX and Phlx[7] both revised their Tier I listing standards to address the noted deficiencies. Although CHX has modified its listing and maintenance standards as suggested, the Commission has concerns regarding the CHX's listing and maintenance procedures and thus does not include CHX in the final Rule. The Commission will continue to review the CHX's listing program, including listing standards and operations, and may determine to include securities listed on CHX Tier I in the future.

After careful comparison, the Commission concludes that currently

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[1] Pub. L. 104–290, 110 Stat. 3416 (1996).

[2] 15 U.S.C. 77r.

[3] *See* Letter from David P. Semak, Vice President, Regulation, Pacific Stock Exchange, Incorporated (n/k/a Pacific Exchange, Inc.), to Arthur Levitt, Jr., Chairman, Commission, dated November 15, 1996 (''PCX Petition''); letter from Alger B. Chapman, Chairman, CBOE, to Jonathan G. Katz, Secretary, Commission, dated November 18, 1996 (''CBOE Petition''); letter from J. Craig Long, Esq., Foley and Lardner, to Jonathan G. Katz, Secretary, Commission, dated February 4, 1997(''CHX Petition''); and letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Phlx, to Jonathan G. Katz, Secretary, Commission, dated March 31, 1997 (''Phlx Petition'') (collectively the ''Petitions'').

[4] Securities Act Release No. 7422, Securities Exchange Act Release No. 38728 (June 10, 1997) (''proposing release''), 62 FR 32705 (June 17, 1997).

[5] *See* Letter from J. Craig Long, Esq., Foley & Lardner, to Jonathan G. Katz, Secretary, Commission, dated June 26, 1997 (received June 30, 1997) (''Foley letter''); letter from Ira L. Kotel, Esq., Roberts, Sheridan & Kotel, to Jonathan G. Katz, Secretary, Commission, dated July 16, 1997 (received July 21, 1997) (''Kotel letter''); and letter from James C. Yong, First Vice President and General Counsel, The Options Clearing Corporation (''OCC''), to Jonathan G. Katz, Secretary, Commission, dated July 8, 1997 (received July 22, 1997) (''OCC letter'').

[6] Specifically, the Commission noted that unlike the NYSE, Amex, or Nasdaq/NMS, the CHX did not have a minimum share price requirement for continued listing of common stock on Tier I. With regard to the Phlx, the Commission identified the Exchange's lack of a maintenance standard for bonds and debentures listed on Tier I of the Exchange as a deficiency in their listing standards. Moreover, with respect to stock index, currency and currency index warrants, the Phlx had no public distribution, aggregate market value, nor term to maturity requirements. Finally, the Commission noted that issuers of ''other securities'' listed on Tier I of the Phlx were required to have pre-tax income of only $100,000 in three of the four last fiscal years, versus the Amex requirement that issuers have $750,000 in pre-tax income in their last fiscal year, or in two of their last three fiscal years. *See* proposing release, *supra* note 4.

[7] *See* Phlx Listing Standards Order, *infra* note 18.

the listing standards of Tier I of the PCX, and Phlx, and the listing standards of the CBOE are substantially similar to the listing standards of the NYSE, Amex or Nasdaq/NMS. Accordingly, the Commission today is adopting Rule 146(b) which designates securities listed on such markets as covered securities under Section 18(b)(1) of the Securities Act. As adopted, Rule 146(b) will provide those covered securities with an exemption from state blue sky provisions as set forth under Section 18(a) of the Securities Act.

II. Background

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is of critical importance to financial markets and the investing public. Listing standards serve as a means for a self-regulatory organization (''SRO'') to screen issuers and to provide listed status only to bona fide companies with sufficient float, investor base and trading interest to maintain fair and orderly markets. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity.

Many States have recognized the importance of listing standards by excepting from state registration requirements securities traded on the Named Markets.[8] In enacting Section 18, Congress intended to codify in the Securities Act an exemption from state registration requirements similar to these state law provisions.[9] In order to avoid competitive disparities, Congress provided the Commission with the discretionary authority to extend similar preemption treatment to other national securities exchanges (or tiers or segments thereof) that have substantially similar listing standards.[10]

As noted above, the PCX, CBOE, CHX, and Phlx all have petitioned the Commission to adopt a rule as contemplated by Section 18.[11] The Petitioners assert that their Tier I listing standards [12] are substantially similar to those of the Named Markets, and that until the Commission acts to provide them with the benefits of the Section 18 exemption, they will be at a competitive disadvantage to these markets. The Commission recognizes the competitive concerns raised by the Petitioners, but notes that the statute requires the Commission to make an independent finding that the Petitioners' listing standards are substantially similar to those of the NYSE, the Amex or Nasdaq/NMS.

III. Comment Letters

As noted above, the Commission received three comment letters in response to the proposal.[13] The Foley letter, filed on behalf of the CHX, noted that the CHX had submitted a proposed rule change with the Commission to amend its maintenance standards for common stock listed on Tier I of the Exchange to add a minimum share price. The Foley letter urged that once approved, the amendment should resolve the Commission's concerns relating to the CHX's Tier I standards and that the Commission should include securities listed on CHX's Tier I in Rule 146(b).

The Kotel letter did not address the desirability of adopting proposed Rule 146(b) generally, but urged the Commission to include securities listed on the Nasdaq SmallCap Market (''SmallCap'') in the Rule. In support of this view, the Kotel letter noted that the National Association of Securities Dealers, Inc. (''NASD'') recently proposed to amend the requirements for initial listing on SmallCap and that once the new SmallCap listing standards were approved, they would be substantially similar to those of the Amex.[14] Accordingly, the Kotel letter urged that securities listed on SmallCap should be deemed covered securities for purposes of Rule 146(b). In addition, the Kotel letter stated that extending the benefits of the Rule to securities listed on SmallCap would further the Commission's policy of simplifying securities regulation for small businesses and would lower the costs for small businesses in complying with federal and state regulations.

The third comment letter received by the Commission, the OCC letter, generally supported the proposed Rule. In addition, the OCC letter urged the Commission to designate standardized options traded on Tier I of the Phlx as covered securities under the Rule, in the event the Phlx did not file to amend its listing standards to address the concerns raised by the Commission in the proposing release.

IV. Discussion

The Commission has reviewed extensively the listing and maintenance standards for all securities listed and traded on the Petitioners' markets, including common stock, preferred stock, bonds and debentures, and options.[15] With regard to applying the ''substantially similar'' standard, the Commission notes that under Section 18(b)(1)(B) of the Securities Act the Commission has the authority to compare the listing standards of a petitioner with those of either the NYSE, Amex, or Nasdaq/NMS. The Commission attempted initially to compare a petitioner's listing standards for all securities with only one of these markets.[16] If a petitioner's listing standards in a particular category did not meet the standards of that market, however, the Commission compared the petitioner's standards to the other two markets. Additionally, the Commission interpreted the substantially similar standard to require listing standards at least as comprehensive as those of the markets named in Section 18(b)(1)(A). If a petitioner's standards were higher than such markets, then the Commission still determined that the petitioner's standards were substantially similar to these markets. Finally, the Commission reviewed the listing standards for each type of security in making the substantially similar determination. Differences in language or approach of the listing standards for a particular security did not necessarily lead to a determination that the listing standards of a petitioner were not substantially similar to those of the named exchange.

After careful comparison, using the approach outlined above, the Commission concludes that currently the listing standards of the CBOE and Tier I of the PCX, and Phlx are substantially similar to the listing standards of the NYSE, Amex or Nasdaq/NMS.[17] Therefore, the

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[8] *See, e.g.*, Del. Code Ann. tit. 6 sec. 7309(a)(8) (1996).

[9] H.R. Rep. No. 622, 104th Cong., 2d Sess., pt. 1, at 30 (1996) (''Legislative History''). As a result of this federal preemption of the state registration process, SRO listing standards have become all the more important to preserving the integrity of U.S financial markets and protecting investors.

[10] *See* Legislative History, *supra* note 9.

[11] *See* Petitions, *supra* note 3.

[12] The Commission notes that presently the CBOE only has one tier, or segment, for listing purposes.

[13] *See supra* note 5.

[14] The changes to the SmallCap listing standards referred to in the Kotel letter were recently approved by the Commission. *See* Securities Exchange Act Release No. 38961 (August 22, 1997) (''Nasdaq Listing Standards Order'').

[15] The Commission also has reviewed each exchange's listing and maintenance standards for warrants, currency and index warrants, other securities, contingent value rights, equity linked notes, and unit investment trusts. *See* proposing release, *supra* note 4.

[16] For purposes of comparing the listing standards of the CBOE and Tier I of the PCX, Phlx and CHX, the Commission used the listing standards applicable to securities listed on the Amex.

[17] The proposing release contains a more detailed description of the comparison of these exchanges to the Named Markets. *See* proposing release, *supra note 4.*

Commission is adopting Rule 146(b), designating securities listed on these markets as ''covered securities'' for purposes of Section 18 of the Securities Act. With regard to the CHX, the Commission has determined not to include securities listed on Tier I of the Exchange at this time. Although the Exchange has modified its listing and maintenance standards as suggested, the Commission has concerns regarding the CHX's listing and maintenance procedures. The Commission will continue to review the CHX's listing program, including listing standards and operations, and may determine to include securities listed on CHX Tier I in the future.

With regard to the Phlx, the Commission concludes that the changes recently made by the Exchange to its Tier I listing standards [18] enable the Commission to make the substantially similar finding.[19] First, the Phlx amended Rule 803(e) to adopt additional listing standards for stock index warrants, currency warrants and currency index warrants (collectively ''non-equity warrants''). New subsection (2) to Rule 803(e) requires that non-equity warrants have a term of between one and five years from the date of issuance. Rule 803(e)(3) imposes a minimum public distribution and market value requirement of 1,000,000 non-equity warrants with at least 400 public warrant holders and a minimum aggregate market value of $4,000,000. Finally, new subsection (9) to Rule 803(e) requires that non-equity warrants be cash-settled in U.S. dollars.[20]

Second, the Phlx increased the pre-tax income requirement for issuers of ''other securities'' in Rule 803(f)(2) from $100,000 in three of the four prior fiscal years to $750,000 in the issuer's last fiscal year or in two of its last three fiscal years.[21] Other securities are hybrid securities that have features common to both equity and debt securities, yet do not fit within the traditional definitions of either.

Third, the Phlx amended Rule 810(a), which contains the maintenance standards for Tier I securities, to add maintenance standards for bonds, notes and debentures. New subsection (5) to Rule 810(a) requires that debt securities maintain an aggregate market value or principal amount of bonds that are publicly held of $400,000 and that the issuer is able to meet its obligations in the listed debt securities. Also, for any debt security convertible into a listed equity security, the debt security will be reviewed when the underlying equity security is delisted and will be delisted when the underlying equity security is no longer subject to real-time trade reporting in the United States. In addition, if common stock is delisted for violation of any of the corporate governance criteria in Phlx Rules 812 through 899, the Exchange also will delist any listed debt security convertible into that common stock.[22]

In light of the above changes made by the Phlx to its Tier I listing standards, the Commission concludes that the Phlx's Tier I listing standards, when taken as a whole, are substantially similar to those of the Amex, and that securities listed on Tier I of the Phlx should be included in Rule 146(b) as covered securities. In addition, because Phlx Tier I securities include options, the Commission need not consider whether standardized options traded on the Phlx could be deemed covered securities separately from other Phlx Tier I securities, as suggested in the OCC letter.

With regard to the Kotel letter, while it does appear that the SmallCap initial listing standards for common stock are similar to those of the Amex, the Commission has determined not to include securities listed on SmallCap in Rule 146(b) at this time. First, the proposing release did not solicit comment on whether SmallCap listing standards are substantially similar to one of the Named Markets. Second, the Commission has identified several aspects of the SmallCap listing standards which appear to differ significantly from those of the Amex and the other primary markets.[23] Third, pursuant to the Nasdaq Listing Standards Order, the new maintenance standards do not become effective until six months after the Order was issued (February 22, 1998), and the existing maintenance standards for securities listed on SmallCap are considerably less stringent than those of any one of the Named Markets. Finally, the Commission notes that it has the authority to undertake a more extensive review of the SmallCap listing standards in the future and, if appropriate, propose an amendment to Rule 146(b) to include securities listed on SmallCap in the Rule.

With respect to a designated exchange maintaining its status under Rule 146(b), the Commission notes that Congress intended for the Commission to monitor the listing requirements of the regional exchanges, consistent with its supervisory authority under the Securities Exchange Act of 1934 (''Exchange Act''), to ensure the continued integrity of these markets and the protection of investors.[24] For example, if a regional exchange proposed to lower its listing standards for common stock, the Commission likely would consider this to be a substantive revision which may change the finding that the regional exchange's listing standards are substantially similar to those of the Named Markets.[25] Accordingly, in reviewing future proposed changes to SRO listing standards, the Commission will consider whether the proposed change(s) will require an amendment to Rule 146(b). In the event that the

[18] *See* Securities Exchange Act Release No. 39053 (September 11, 1997), 62 FR 49286 (September 19, 1997) (''Phlx Listing Standards Order'').

[19] As noted above, the Commission stated in the proposing release that if the Phlx were to revise its Tier I listing standards in the areas where the Commission identified deficiencies prior to the adoption of the proposed Rule, the Commission likely would include securities listed on the Phlx in final Rule 146(b).

[20] Although the Commission did not identify the lack of a cash-settlement requirement as a deficiency in the Phlx's Tier I listing standards, the Phlx determined to codify its existing requirement that non-equity warrants be cash-settled in U.S. dollars. This requirement is identical to Section 106(d) of the Amex Company Guide.

[21] This provision is substantially similar to Section 107 and, by reference, Section 101(b) of the Amex Company Guide.

[22] These provisions are substantially similar to Section 1003(b)(iii) and (e) of the Amex Company Guide.

[23] Specifically, the minimum share price for preferred stock to be listed on SmallCap is $4 per share, while the minimum share price for initial inclusion of preferred shares on the Amex is $10. *See* Section 103(b) of the Amex Company Guide and NASD Rule 4310(c)(4). In addition, SmallCap does not have a minimum distribution requirement for preferred stock, while the Amex requires a minimum of 100,000 publicly held shares when the issuer of the preferred shares has common stock listed on the Amex or NYSE. *See* Amex Section 103(b). Lastly, warrants listed on SmallCap are required to have a minimum distribution of 100,000 warrants for initial inclusion, while Amex requires a minimum distribution of 1,000,000 warrants to 400 public holders or 500,000 warrants to 800 public holders. *See* Amex Section 105(b) and NASD Rule 4310(c)(9).

[24] *See* Legislative History, *supra* note 9.

[25] If, however, one of the Named Markets raised its listing standards with respect to a particular security, a conforming change by the exchanges designated in Rule 146(b) may not necessarily be required for two reasons. First, Section 18(b)(1)(B) requires that the regional exchanges' listing standards be substantially similar to only one of the Named Markets in order to qualify for the exemption. Second, a listing standard change made by one of the Named Markets should not force the exchanges designated in Rule 146(b) to conform their listing standards. Otherwise, a single Named Market would be, in effect, setting the listing standards for all the regional exchanges. If, however, all three Named Markets were to raise their listing standards, and the Commission believed that the change was significant enough so that failure to adopt the new standard rendered the exchanges designated in Rule 146(b) to have substantially inferior standards, then the Commission may require the latter exchanges to raise their standards in order to maintain their exemption under the Rule.

Commission determines that a proposed change in listing standards would require an amendment to Rule 146(b), and where the proposed rule change is subject to full notice and comment under Section 19(b) of the Exchange Act, the Commission may conclude that it is unnecessary to provide notice and comment for the corresponding amendment to this Rule.[26] Finally, the Commission notes that enforcement of an SRO's listing standards is subject to periodic inspections by Commission staff, as is enforcement of all SRO rules, and should the Commission find that an exchange designated in Rule 146(b) is not adequately enforcing its requirements for initial and continued listing, the Commission will take appropriate action to revoke that exchange's exemption.

V. Conclusion

For the reasons discussed above, as supplemented by the Commission's detailed discussion in the proposing release, the Commission concludes that the listing standards of the CBOE, and Tier I of the PCX, and Phlx are substantially similar to those of the NYSE, Amex or Nasdaq/NMS. Accordingly, securities listed on these Exchanges should be deemed covered securities and entitled to an exemption from state blue sky provisions as set forth in Section 18(a) of the Securities Act.

The Commission concludes that the Rule offers potential benefits for investors. The Rule should facilitate listings on qualifying exchanges, or tiers or segments thereof, which should increase competition and enhance the overall liquidity of the U.S. securities markets. The Commission does not anticipate that the Rule would result in any costs for U.S. investors or others. As noted above, through the review of SRO listing standards pursuant to Section 19(b) of the Exchange Act, the Commission will be able to continue to ensure such listing standards are sufficient to protect investors. The Commission also concludes that Rule 146(b) should serve to reduce the cost of raising capital because it will streamline the registration process for issuers listing on the Exchanges designated in the Rule. Thus, the Commission has considered the Rule's impact on efficiency, competition and capital formation and concludes that it would promote these three objectives.[27] At the same time, Rule 146(b) does not undercut the state securities review of offerings because the listing standards of the CBOE and Tier I of the PCX, and Phlx are substantially similar to the Named Markets, which are already exempt from state registration. Finally, Rule 146(b) imposes no recordkeeping or compliance burdens, and merely provides a limited purpose exemption under the federal securities laws.

VI. Administrative Requirements

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that Rule 146(b) should not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as Appendix A. The Paperwork Reduction Act does not apply because the proposed amendments do not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et. seq.

VII. Statutory Basis

Rule 146(b) is being adopted pursuant to 15 U.S.C. 77r *et seq.*, particularly Section 18 of the Securities Act unless otherwise noted.

List of Subjects in 17 CFR Part 230

Securities.

Text of the Rule

For the reasons set forth in the preamble, Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.146 is amended by revising the section heading, redesignating the introductory text and paragraphs (a) and (b) as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively, and adding paragraph (b) to read as follows:

§ 230.146 Rules under Section 18 of the Act.

* * * * *

(b) *Covered securities for purposes of Section 18.* (1) For purposes of Section 18(b) of the Act (15 U.S.C. 77r), the Commission finds that the following national securities exchanges, or segments or tiers thereof, have listing standards that are substantially similar to those of the New York Stock Exchange (''NYSE''), the American Stock Exchange (''Amex''), or the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS''), and that securities listed on such exchanges shall be deemed covered securities:

(i) Tier I of the Pacific Exchange, Incorporated;

(ii) Tier I of the Philadelphia Stock Exchange, Incorporated; and

(iii) The Chicago Board Options Exchange, Incorporated.

(2) The designation of securities in paragraphs (b)(1)(i) through (iii) of this section as covered securities is conditioned on such exchanges' listing standards (or segments or tiers thereof) continuing to be substantially similar to those of the NYSE, Amex, or Nasdaq/NMS.

By the Commission.

Dated: January 13, 1998.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that Rule 146(b) (''Rule'') under the Securities Act of 1933 (''Securities Act''), which will designate securities listed on certain national securities exchanges, or tiers or segments thereof, as covered securities under Section 18 of the Securities Act, and therefore provide them with an exemption from state registration requirements, will not have a significant economic impact on a substantial number of small entities for the following reasons. Under the Securities Act, a small entity is defined as ''an issuer whose total assets on the last day of its most recent fiscal year were $5,000,000 or less.'' Issuers of this size generally will not qualify for listing on the national securities exchanges, or tiers or segments thereof, designated in Rule 146(b). More specifically, both the Chicago Board Options Exchange, Incorporated and Tier I of the Pacific Exchange, Incorporated require issuers of common stock to have net worth of at least $4,000,000. To be listed on Tier I of the Philadelphia Stock Exchange, Incorporated issuers of common stock must have net tangible assets of at least $4,000,000. I do not believe that there are a substantial number of small entities which have total assets less than $5,000,000, yet a net worth or net tangible assets of at least $4,000,000. For example, none of the issuers of common stock listed exclusively on Tier I of the

[26] Although the Administrative Procedure Act states that an agency must provide general notice of the proposed rulemaking and an opportunity for comment, these requirements do not apply if the agency for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

[27] 15 U.S.C. 77b(b).

Pacific Exchange have total assets of $5,000,000 or less. In addition, the proposed rule imposes no record-keeping or compliance burden, but merely exempts certain qualifying securities from state law registration requirements.

Dated: January 2, 1998.

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 98–1295 Filed 1–20–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–97–004]

RIN 2115–AE46

Special Local Regulation; Laughlin, Nevada

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard amends the table of events in 33 CFR 100.1102 by adding the Laughlin Aquamoto Sports Challenge and Expo being conducted in the waters of the Colorado River from Davis Dam south to Harrah's Hotel and Casino on the following dates: annually, commencing on the last Thursday of May every year, and lasting a total of 4 days, ending on Sunday. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

EFFECTIVE DATE: May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike A. Arguelles, Coast Guard Marine Safety Office San Diego; telephone number (619) 683–6484.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 27, 1997, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the **Federal Register** (62 FR 14379). The comment period ended May 10, 1997. The Coast Guard received one letter commenting on the proposal. A public hearing was not requested and no hearing was held. The only change the Coast Guard has made to the language of this regulation since the publication of the NPRM is to specify a more certain date and time schedule for the annual Laughlin Aquamoto Sports Challenge and Expo.

Background and Purpose

The Laughlin Aquamoto Sports Challenge and Expo will consist of five various styles of watercraft racing. The races will take place, annually, over a four day period beginning on the last Thursday of May, and ending on Sunday. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events. The race zone encompasses the Colorado River from the Davis Dam south to Harrah's Hotel and Casino. The race courses will be marked by vessels with signs, and both north and south boundaries of the race zone will have major signs to alert non-participants using the river. On the following days and times, the race zone will be in use by vessels competing in the event: (1) the first day of the event, the last Thursday of each May each year, from 3:00 PM PDT to 5:00 PM PDT, (2) the second day of the event, Friday, from 8:00 AM PDT to 2:00 PM PDT, and from 3:30 PM PDT to 6:00 PM PDT, (3) the third day of the event, Saturday, from 8:00 AM PDT to 1:30 PM PDT, and from 4:00 PM PDT to 5:00 PM PDT; and, (4) the fourth and final day of the event, Sunday, from 9:00 AM PDT to 1:30 PM PDT, from 3:00 PM PDT to 4:00 PD PDT, and from 6:00 PM PDT to 7:00 PM PDT. During these times the Colorado River from Davis Dam south to Harrah's Hotel and Casino will be closed with the exception of emergency vessels. No vessels other than participants or official patrol vessels will be allowed to enter this zone unless specifically cleared by or through an official patrol vessel. Once the zone is established, authorization to remain within the zone is subject to termination at any time.

The Patrol Commander may impose other restrictions within the zone if circumstances dictate. Restrictions will be tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary to safely conduct the Aquamoto and Expo.

Discussion of Comments

The only comment received was from a local business that sought notice of the exact date of the event. The comment also expressed concern that closure of the area of the Colorado River specified in the NPRM for an entire Saturday afternoon in May or June might prejudice business; suggested that the river be open for unrestricted use on Saturday afternoon from 1 p.m. PDT until Sunday morning. The language of this Final Rule provides the public with more specific notice of the date and time schedule for the annual Laughlin Aquamoto Sports Challenge and Expo. It also alleviates the concern that the river not be closed for an entire Saturday afternoon, because on Saturday, the river will be open from 1:30 P.M. PDT to 4 P.M. PDT, and from 5 P.M. PDT on.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review 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 regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000. Because it expects the impact of this proposal to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a substantial impact on a significant number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B as revised in 59 CFR 38654, July 29 1994 and 61 FR 13563, March 27, 1996, it will have no significant environmental impact and it is categorically excluded from further environmental

documentation. A Categorical Exclusion Determination and environmental analysis checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Regattas and Marine parades.

Regulation

For the reasons set out in the preamble the Coast Guard proposes to amend 33 CFR Part 100, section 100.1102, Table I, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. Section 100.1102, Table I is amended by adding an entry for the Laughlin Aquamoto Sports Challenge and Expo immediately following the entry for the Laughlin Classic to read as follows:

§ 100.102— Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

* * * * *

Table 1

* * * * *

Laughlin Aquamoto Sports Challenge and Expo

Sponsor: Baja Promotions

Dates: The last Thursday of May every year, lasting a total of 4 days, ending on Sunday, per the following schedule: 1.) the first day of the event, the last Thursday of May each year, from 3 p.m PDT to 5 p.m. PDT, 2.) the second day of the event, Friday, from 8 a.m. PDT to 2 p.m. PDT, and from 3:30 p.m. PDT to 6 p.m. PDT, 3.) the third day of the event, Saturday, from 8 a.m. PDT to 1:30 p.m. PDT, and from 4 p.m. PDT to 5 p.m. PDT; and, 4.) the fourth and final day of the event, Sunday, from 9 a.m. PDT to 1:30 p.m. PDT, from 3 p.m. PDT to 4 p.m. PDT, and from 6 p.m. PDT to 7 p.m. PDT.

Where: That portion of the Colorado River near Laughlin, Nevada, from Davis Dam to Harrah's Hotel and Casino.

Dated: December 19, 1997.

J.C. Card,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 98–1270 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 041–1041; FRL–5948–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Missouri State Implementation Plan (SIP) related to the regulation of emissions of particulate matter as fugitive dust. These revisions include the addition of a new fugitive dust rule which replaces four previous fugitive dust rules. The new fugitive dust rule provides a consistent and enforceable mechanism to help maintain compliance with the National Ambient Air Quality Standards (NAAQS) for particulate matter.

DATES: This rule is effective on February 20, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Aaron J. Worstell at (913) 551–7787.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

On August 15, 1997, the EPA proposed revisions to the Missouri SIP related to the regulation of fugitive particulate emissions (see 62 FR 43679). Today, the EPA is taking final action on those proposed SIP revisions and is responding to comments received during the public comment period.

Missouri originally adopted new rule 10 CSR 10–6.170 (the fugitive dust rule) on June 28, 1990. The new fugitive dust rule replaced four previous SIP-approved rules that were rescinded by the state on September 28, 1990 (effective date). The new fugitive dust rule was amended by Missouri and submitted to the EPA for SIP approval on November 20, 1996. The SIP revisions approved here, the incorporation of the new fugitive dust rule and rescission of the four previous rules, will reconcile the Missouri state regulations with the Federally approved SIP. In addition, the SIP revisions will strengthen the existing SIP by making the fugitive control requirements consistent throughout the state, by clarifying the actions which constitute prohibited emissions, and by clarifying the types of measures which must be implemented to minimize such emissions.

B. Response to Comments

On September 2, 1997, the EPA received comments from the Missouri AG Industry Council (MO–AG) on the proposed fugitive dust SIP revisions. Subsequently, the EPA received comments from the Missouri Limestone Producers Association (MLPA) on September 5, 1997, and additional comments from MO–AG on September 11, 1997. Many of the comments submitted from MO–AG and MLPA overlap and will be addressed together where appropriate.

Both commentors contend that the EPA has no authority to take final action on the fugitive dust SIP revisions in light of the pending appeal to the Missouri Air Conservation Commission (MACC). The appeal was requested on behalf of MLPA, the Missouri Concrete Association, and others, and is in regard to the Missouri Department of Natural Resources' (MDNR) request that the EPA approve 10 CSR 10–6.170 for incorporation into the SIP.

The EPA acknowledges that an appeal has been granted by the MACC in regard to inclusion of the fugitive dust rule in the Missouri SIP. However, this in no way stays the EPA's processing of the SIP revisions. The fugitive dust rule was submitted by the Director of the MDNR on February 24, 1997, pursuant to authority granted by the Missouri statutes and rule 10 CSR 10–1.010(2)(B)6. Moreover, Missouri has not withdrawn its request to include the fugitive dust rule in the SIP. Therefore, the EPA has determined that Missouri's submission meets the requirements of 40 CFR 51.103(a), relating to procedures for submission of plan revisions.

Additionally, the commentors dispute the EPA's statement that the fugitive dust rule will help maintain compliance with the PM_{10} NAAQS. The commentors assert that the EPA has failed to provide sufficient scientific evidence to support this claim, that it is contrary to assertions made by MDNR staff when the consolidated rule was originally adopted, that the fugitive dust rule is in fact a ''nuisance rule,'' and that EPA entered into an ''agreement'' with the MDNR not to include the fugitive dust rule in the SIP. The EPA does not believe that any of the

commentors' contentions are an adequate basis, nor are they fully accurate, to disapprove the Missouri submission, as discussed below.

In regard to the scientific evidence supporting the regulation of fugitive dust as a means of reducing PM_{10} emissions and thereby contributing to efforts to maintain the NAAQS, it is well established that particulate matter size distribution for fugitive dust emissions typically includes a significant subset of particles with aerodynamic diameters in the range of 0 to 10 microns (i.e., particles meeting the definition of PM_{10}). This is evidenced by the particle size distributions provided in Appendix B of the EPA's Compilation of Air Pollution Emission Factors (AP–42), 5th ed. (1995). For example, when considering uncontrolled process fugitive emissions from material handling and processing of aggregate and unprocessed ore, Appendix B, Table B.2.2 of AP–42 indicates that the cumulative percent of particles with a particle diameter less than 10 microns is 50 percent. In addition, in AP–42 the emission factors and estimation methods provided for certain fugitive sources reinforce that fugitive dust is a significant source of PM_{10}. For example, particle size multipliers provided in the estimation methods for calculating fugitive PM_{10} emissions from unpaved roads (section 13.2.1) and aggregate handling and storage (section 13.2.2) also indicate that PM_{10} accounts for approximately 50 percent of all fugitive particulate emitted. These estimation methods are based on tests performed by a sound methodology at many randomly chosen facilities with a source population sufficient to minimize variability, and are therefore considered capable of providing an excellent estimation of emissions.

In light of the available technical information, the EPA has determined that control of fugitive dust emissions will assist in the protection of the PM_{10} NAAQS, and is an appropriate emission control for meeting applicable requirements of the Act (section 110(a)(2)(A)). The EPA has also determined that the Missouri rule meets the other applicable requirements of section 110 of the Act. Although one commentor referenced an assertion by an MDNR official from a public hearing held in 1990 indicating that, at least at that time, MDNR did not believe that the then-existing fugitive dust rule had direct relevance to section 110, the commentor did not provide any technical information indicating the basis for this assertion, and the EPA is not aware of a technical basis for it. In fact, when Missouri adopted revisions to the rule in 1996, MDNR specifically concluded that the Missouri rule helps to protect public welfare (21 MoReg 2015, col. 2, September 16, 1996), which is also the basis for the EPA's secondary PM_{10}, as explained below. Whatever the position might have been in 1990, Missouri now believes that the rule should be included in the SIP, and the available technical information clearly supports the benefit of fugitive dust controls in protecting the NAAQS. Therefore, the EPA does not have a basis under the Act to disapprove the state's submission, and is taking final action to approve it.

The commentors also assert that the fugitive dust rule should be treated as a nuisance rule. In fact, MO–AG specifically states that ''the fugitive dust rule is a ''nuisance rule'' and not a NAAQS compliance rule.'' The term ''nuisance rule'' is often associated with rules such as odor rules that may not be considered to directly protect public health. However, a nuisance rule may in fact have a beneficial impact on public welfare. For example, the reduction of fugitive particulate matter may help to protect vegetation and to prevent damage to and deterioration of property. In this respect, the fugitive dust rule will help to maintain secondary PM_{10} NAAQS which is associated with public welfare. (See, section 302(h), which defines welfare effects, which secondary NAAQS are set to protect, to include effects on ''damage to and deterioration of property'' and effects on ''personal comfort and well-being.'') Thus, the mere fact that an air pollution control requirement may be characterized as a ''nuisance rule'' does not mean that the requirement is unrelated to protection of the NAAQS. In addition to the role of the fugitive dust rule in maintaining the secondary PM_{10} NAAQS, it also serves to protect the primary PM_{10} NAAQS. See the EPA's response to the previous comment.

Also, one commentor takes issue with the EPA's statement that ''the impetus for the development of 10 CSR 10–6.170 was the need for a consistent, statewide rule that serves to protect the particulate matter NAAQS by limiting fugitive dust emissions.'' However, the rule was developed to replace four existing SIP rules that served just that function. These fugitive dust rules have been part of the Federally enforceable SIP since originally submitted in 1972 and have been revised as part of the SIP on a number of occasions. To remove these rules from the SIP, without replacing them with equivalent fugitive dust rule(s), would be considered a relaxation of the SIP under section 110, the state would then be required to demonstrate that the rules are not needed for maintenance of the standard. The state has chosen to retain the fugitive dust controls in the SIP. The EPA has no basis under the Act for rejecting the state's choice. The EPA did receive a letter from the Director of MDNR requesting that the EPA rescind four old fugitive dust rules from the SIP, but suggesting that by ''prior agreement'' with the EPA the rescinded rules not be replaced by 10 CSR 10–6.170. This letter was dated September 6, 1990, and is acknowledged in Part II of the proposed rulemaking published in the August 15, 1997, **Federal Register**. However, any determination to include the fugitive dust rule in the SIP is appropriately made in consideration of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements, and not on any informal agreement that may have existed between the EPA and MDNR. The MDNR has determined that the consolidated fugitive dust rule should be submitted as part of the SIP, and the EPA has no basis to reject the state's determination. Moreover, the commentor has not provided any support for the assertion that the purported ''breach'' of some agreement between the EPA and MDNR is detrimental to the public. In fact, as has been substantiated here, the inclusion of the rule in the SIP is to the public benefit since it helps to maintain compliance with the PM_{10} NAAQS and thereby protects the public health and welfare.

Although not specifically a concern relating to the SIP, the EPA also notes that the state determined that inclusion of the consolidated rule in the SIP would simplify the permitting process under Title V of the Act. This is accomplished by ensuring that the regulations adopted by the state and those maintained as part of the SIP are consistent, since both types of regulations would be required to be included in state operating permits. The state has determined that consolidation of the various fugitive dust rules and inclusion of all of the rules in the SIP will reduce the regulatory burden on the permitting authority and on regulated sources.

II. Final Action

In this document, the EPA takes final action to approve revisions to the Missouri SIP as submitted on September 25, 1990, and November 20, 1996 (with supplemental information submitted February 24, 1997). These revisions include the addition of new rule 10 CSR 10–6.170, Restriction of Particulate

Matter to the Ambient Air Beyond the Premises of Origin, and the rescission of rules 10 CSR 10–2.050, Preventing Particulate Matter From Becoming Airborne (Kansas City); 10 CSR 10–3.070 Restriction of Particulate Matter From Becoming Airborne (Outstate); 10 CSR 10–4.050, Preventing Particulate Matter From Becoming Airborne (Springfield); and CSR 10–5.100, Preventing Particulate Matter From Becoming Airborne (St. Louis).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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 this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 23, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 15, 1997.

Dennis Grams,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(102) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(102) Revised regulations for the control of fugitive particulate matter emissions were submitted by the Missouri Department of Natural Resources (MDNR) on September 25, 1990, and on November 20, 1996.

(i) Incorporation by reference.

(A) Regulation 10 CSR 10–6.170, entitled Restriction of Particulate Matter Beyond the Premises of Origin, effective November 30, 1990, as amended October 30, 1996.

(B) Rescission of regulation 10 CSR 10–2.050, entitled Preventing Particulate Matter From Becoming Airborne, effective September 28, 1990.

(C) Rescission of regulation 10 CSR 10–3.070, entitled Restriction of Particulate Matter From Becoming Airborne, effective September 28, 1990.

(D) Rescission of regulation 10 CSR 10–4.050, entitled Preventing Particulate Matter From Becoming Airborne, effective September 28, 1990.

(E) Rescission of regulation 10 CSR 10–5.100, entitled Preventing Particulate Matter From Becoming Airborne, effective on September 28, 1990.

(ii) Additional material.

(A) Letter from Missouri submitted on February 24, 1997, pertaining to the submission of supplemental documentation.

[FR Doc. 98–1354 Filed 1–20–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7245]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood

elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Lauderdale.	City of Florence	Oct. 8, 1997, Oct. 15, 1997, *Times Daily.*	The Honorable Eddie Frost, Mayor of the City of Florence, P.O. Box 98, Florence, Alabama 35631.	Jan. 13, 1998 ...	010140 C
Connecticut: Litchfield.	Town of Watertown	Sept. 9, 1997, Sept. 16, 1997, *Waterbury Republican-American.*	Mr. Charles Frigon, Town of Watertown Interim Manager, Town Hall Annex, 424 Main Street, Watertown, Connecticut 06795.	Dec. 15, 1997 ...	090058 B
Georgia: Gwinnett	Unincorporated Areas.	July 29, 1997, Aug. 5, 1997, *Gwinnett Daily Post.*	Mr. Wayne Hill Chairman of the Board of Commissioners, Gwinnett County Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30245–6900.	July 23, 1997	130322 C
Illinois: Cook	Village of Schaumburg.	Sept. 30, 1997, Oct. 7, 1997, *Daily Herald.*	The Honorable Al Larson, Mayor of the Village of Schaumburg, 101 Schaumburg Court, Schaumburg, Illinois 60193–1899.	Jan. 5, 1998	170158 D
Illinois: DuPage ...	Village of Bensenville.	Aug. 27, 1997, Sept. 3, 1997, *Bensenville Press.*	Mr. John C. Geils, President of the Village of Bensenville, Bensenville Village Hall, 700 West Irving Park Road, Bensenville, Illinois 60106.	Aug. 19, 1997 ...	170200 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Illinois: DuPage ...	Village of Winfield	May 7, 1997, May 14, 1997, *Winfield Estates*.	Mr. Bryon Vana, Village of Winfield Manager, 27 W. 465 Jewell Road, Winfield, Illinois 60190.	Apr. 29, 1997 ...	170223 B
Illinois: Lake	Unincorporated Areas.	Sept. 11, 1997, Sept. 18, 1997, *News-Sun*.	Mr. Robert L. Grever, Chairman of the Lake County Board, 18 North County Street, Room 901, Waukegan, Illinois 60085.	Dec. 17, 1997 ...	170357 F
Illinois: Lake	Village of Mundelein.	Sept. 11, 1997, Sept. 18, 1997, *Mundelein Review*.	The Honorable Marilyn Sindels, Mayor of the Village of Mundelein, Village Hall, 440 East Hawley Street, Mundelein, Illinois 60060.	Dec. 17, 1997 ...	170382 F
Maine: Aroostook	Town of Fort Fairfield.	Aug. 13, 1997, Aug. 20, 1997, *Fort Fairfield Review*.	Mr. Eugene Conlogue, Fort Fairfield Town Manager, P.O. Box 451, Fort Fairfield, Maine 04742.	Nov. 18, 1997 ...	230018 B
Maryland: Prince George's.	City of Laurel	Aug. 21, 1997, Aug. 28, 1997, *Laurel Leader*.	The Honorable Frank P. Casula, Mayor of the City of Laurel, 8103 Sandy Spring Road, Laurel, Maryland 20707.	Nov. 26, 1997 ...	240053 D
Maryland: Prince George's Unincorporated Areas.	Aug. 21, 1997, Aug. 28, 1997, *The Prince George's Journal*.	Mr. Wayne K. Curry, Prince George's County Executive Officer, 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772.	Nov. 26, 1997	245208 C.	
Michigan: Macomb County.	Township of Chesterfield.	Sept. 15, 1997, Sept. 22, 1997, *The Chesterfield Review*.	Mr. Elbert J. Tharp, Chesterfield Township Supervisor, 47275 Sugarbush, Chesterfield, Michigan 48047.	Dec. 21, 1997 ...	260120 B
Virginia: Independent City.	City of Alexandria	Oct. 23, 1997, Oct. 30, 1997, *The Alexandria Journal and The Alexandria Gazette Packet*.	The Honorable Kerry J. Donley, Mayor of the City of Alexandria, 301 King Street, Suite 2300, Alexandria, Virginia 22314.	Oct. 10, 1997 ...	515519
Wisconsin: La-Crosse.	City of Onalaska ...	Oct. 9, 1997, Oct. 16, 1997, *Onalaska Community Life*.	The Honorable Clarence Stellner, Mayor of the City of Onalaska, 415 Main Street, Onalaska, Wisconsin 54650.	Jan. 14, 1998 ...	550221 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 13, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–1384 Filed 1–20–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any

existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Calhoun (FEMA Docket No. 7225).	City of Jacksonville.	May 14, 1997, May 21, 1997, *Jacksonville News*.	The Honorable George Douthit, Mayor of the City of Jacksonville, 320 Church Avenue, S.E., Jacksonville, Alabama 36265.	May 8, 1997	010022 B
Jefferson (FEMA Docket No. 7221).	Unincorporated areas.	Mar. 5, 1997, Mar. 12, 1997, *Birmingham Post-Herald*.	Ms. Mary M. Buckelew, President of the Jefferson County Board of Commissioners, 716 North 21st Street, Birmingham, Alabama 35263.	Feb. 26, 1997	010217 B
Connecticut:					
New Haven (FEMA Docket No. 7217).	City of New Haven	Feb. 24, 1997, Mar. 3, 1997, *New Haven Register*.	The Honorable John DeStefano, Jr., Mayor of the City of New Haven, Office of the Mayor, 165 Church Street, New Haven, Connecticut 06510.	Feb. 18, 1997	090084 C
New Haven (FEMA Docket No. 7225).	City of New Haven	Apr. 8, 1997, Apr. 15, 1997, *New Haven Register*.	The Honorable John DeStefano, Jr., Mayor of the City of New Haven, 200 Orange Street, New Haven, Connecticut 06510.	June 30, 1997	090084 C
Florida:					
Charlotte (FEMA Docket No. 7225).	Unincorporated areas.	May 5, 1997, May 12, 1997, *Sarasota Herald-Charlotte AM Edition*.	Mr. Matthew D. DeBoer, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Room 536, Port Charlotte, Florida 33948–1094.	Apr. 21, 1997	120061 E
Illinois:					
Cook (FEMA Docket No. 7225).	City of Des Plaines.	May 21, 1997, May 28, 1997, *Journal and Topics Newspaper*.	The Honorable Ted Sherwood, Mayor of the City of Des Plaines, 1420 Miner Street, Des Plaines, Illinois 60016.	May 14, 1997	170081 C
Cook (FEMA Docket No. 7213).	City of Prospect Heights.	Feb. 7, 1997, Feb. 14, 1997, *Daily Herald*.	The Honorable Edward P. Rotchford, Mayor of the City of Prospect Heights, 1 North Elmhurst Road, Prospect Heights, Illinois 60070.	Jan. 30, 1997	170919 B
Cook (FEMA Docket No. 7221).	Village of Schaumburg.	Apr. 10, 1997, Apr. 17, 1997, *Daily Herald*.	The Honorable Al Larson, Mayor of the Village of Schaumburg, 101 Schaumburg Court, Schaumburg, Illinois 60193–1899.	Mar. 26, 1997	170158 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Cook (FEMA Docket No. 7225).	Unincorporated areas.	Apr. 1, 1997, Apr. 8, 1997, *Chicago Sun-Times*.	Mr. John H. Stroger, President of the Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, Illinois 60602.	Mar. 20, 1997	170054 B
Cook & DuPage (FEMA Docket No. 7225).	Village of Elk Grove Village.	May 15, 1997, May 22, 1997, *Daily Herald*.	Mr. Dennis Gallitano, Elk Grove Village President, 901 Wellington Avenue, Elk Grove, Illinois 60007.	Aug. 20, 1997	170088 C
Cook and DuPage (FEMA Docket No. 7221).	Village of Roselle	Apr. 11, 1997, Apr. 18, 1997, *Daily-Herald*.	The Honorable Gayle Smolinski, Mayor of the Village of Roselle, 31 South Prospect Street, Roselle, Illinois 60172.	July 17, 1997	170216 B
DuPage and Cook (FEMA Docket No. 7213).	Village of Burr Ridge.	Feb. 7, 1997, Feb. 14, 1997, *The Doings*.	Mr. Emil J. Coglianese, Jr., President of the Village of Burr Ridge, 7660 South County Line Road, Burr Ridge, Illinois 60521.	May 15, 1997	170071 C
McHenry (FEMA Docket No. 7221).	Village of Spring Grove.	Apr. 2, 1997, Apr. 9, 1997, *Northwest Herald*.	Mr. Robert Martens, Village of Spring Grove President, 7401 Meyer Road, Spring Grove, Illinois 60081.	Mar. 21, 1997	170485 B
Indiana: Hendricks (FEMA Docket No. 7225).	Unincorporated areas.	May 12, 1997, May 19, 1997, *Hendricks County Flyer*.	Mr. John D. Clampitt, President of the Hendricks County Board of Commissioners, P.O. Box 188, Danville, Indiana 46122.	Aug. 17, 1997	180415 B
Maryland:					
Washington (FEMA Docket No. 7217).	Town of Boonsboro.	Feb. 14, 1997, Feb. 21, 1997, *The Morning Herald* and *The Daily Mail*.	The Honorable Charles F. Kauffman, Jr., Mayor of the Town of Boonsboro, 21 North Main Street, Boonsboro, Maryland 21713.	May 22, 1997	240071 A
Washington (FEMA Docket No. 7217).	Unincorporated areas.	Feb. 14, 1997, Feb. 21, 1997, *The Morning Herald* and *The Daily Mail*.	Mr. Rodney Shoop, Washington County Administrator, 100 West Washington Street, Hagerstown, Maryland 21740.	May 22, 1997	240070 A
New Jersey: Passaic (FEMA Docket No. 7223).	Borough of West Paterson.	Mar. 5, 1997, Mar. 12, 1997, *North Jersey Herald and News*.	The Honorable Matthew T. Capano, Mayor of the Borough of West Paterson, 5 Brophy Lane, West Paterson, New Jersey 07424.	June 10, 1997	340412 B
Ohio:					
Fairfield and Franklin (FEMA Docket No. 7225).	City of Columbus	Mar. 28, 1997, Apr. 4, 1997, *The Columbus Dispatch*.	The Honorable Gregory S. Lashutka, Mayor of the City of Columbus, 90 West Broad Street, Columbus, Ohio 43215.	July 3, 1997	390170 G
Fairfield and Franklin (FEMA Docket No. 7221).	City of Columbus	May 23, 1997, May 30, 1997, *The Columbus Dispatch*.	The Honorable Gregory S. Lashutka, Mayor of the City of Columbus, 90 West Broad Street, Columbus, Ohio 43215.	Aug. 28, 1997	390170 G
Tuscarawas (FEMA Docket No. 7217).	City of Dover	Feb. 14, 1997, *The Times-Reporter*.	The Honorable Richard M. Homrighausen, Mayor of the City of Dover, 110 East Third Street, Dover, Ohio 44622.	Mar. 9, 1997	390543 B
Tennessee:					
Shelby (FEMA Docket No. 7221).	Unincorporated areas.	Mar. 3, 1997, Mar. 10, 1997, *The Daily News*.	Mr. Jim Kelly, Shelby County Chief Administrative Officer, 160 North Main Street, Memphis, Tennessee 38103.	Feb. 26, 1997	470214 E
Shelby (FEMA Docket No. 7225).	Unincorporated areas.	May 13, 1997, May 20, 1997, *Commercial Appeal*.	The Honorable James Rout, Mayor of Shelby County, 160 North Main Street, Suite 850, Memphis, Tennessee 38103.	May 7, 1997	470214 E
Virginia:					
Arlington (FEMA Docket No. 7213).	Unincorporated areas.	Feb. 7, 1997, Feb. 14, 1997, *Arlington Journal*.	Ms. Ellen M. Bosman, Chairman of the Arlington County Board of Commissioners, 2100 Clarendon Boulevard, Suite 300, Arlington, Virginia 22201.	May 15, 1997	515520 B
Culpeper (FEMA Docket No. 7225).	Unincorporated areas.	Mar. 11, 1997, Mar. 18, 1997, *Culpeper Star-Exponent*.	Mr. Steven Miner, Culpeper County Administrator, 135 West Cameron Street, Culpeper, Virginia 22701.	Sept. 3, 1997	510041 B
Loudoun (FEMA Docket No. 7221).	Town of Leesburg	Mar. 19, 1997, Mar. 26, 1997, *Loudoun Times-Mirror*.	The Honorable James Klem, Mayor of the Town of Leesburg, P.O. Box 88, 25 West Market Street, Leesburg, Virginia 20176.	June 24, 1997	510091 B
Wisconsin:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Dane (FEMA Docket No. 7217).	City of Madison	Feb. 18, 1997, Feb. 25, 1997, *Wisconsin State Journal*.	The Honorable Paul Soglin, Mayor of the City of Madison, City-County Building, Room 403, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53710.	Feb. 12, 1997	550083 E
Dane (FEMA Docket No. 7217).	Unincorporated areas.	Feb. 18, 1997, Feb. 25, 1997, *Wisconsin State Journal*.	Mr. Richard Phelps, Dane County Executive, City-County Building, Room 421, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53709.	Feb. 12, 1997	550077 B
Richland (FEMA Docket No. 7225).	City of Richland Center.	Apr. 3, 1997, Apr. 10, 1997, *The Richland Observer*.	The Honorable Thomas McCarthy, Mayor of the City of Richland Center, P.O. Box 230, Richland Center, Wisconsin 53581.	Mar. 25, 1997	555576 B

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 13, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–1383 Filed 1–20–98; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Owens Cross Roads (Town), Madison County (FEMA Docket No. 7199)	
Yellow Bank Creek:	
Approximately 3,500 feet downstream of New Hobbs Island Road	*580
Approximately 750 feet downstream of New Hobbs Island Road	*580
Maps available for inspection at the Owens Cross Roads Town Hall, 2965 Old Highway 431, Owens Cross Roads, Alabama.	
Triana (Town), Madison County (FEMA Docket No. 7199)	
Tennessee River: At Record Street	*569
Maps available for inspection at the Triana Town Hall, 640 Sixth Street, Madison, Alabama.	
CONNECTICUT	
New Britain (City), Hartford County (FEMA Docket No. 7219)	
Willow Brook:	
Approximately 250 feet downstream of Park Road	*62
Approximately 1,525 feet upstream of Steele Street	*200
Mason Pond Brook:	
At confluence with Willow Brook	*170
Approximately 75 feet upstream of Shuttle Meadow Avenue	*171
Schultz Pond Brook:	
At the confluence with Willow Brook	*176
Approximately 740 feet upstream of Reservoir Road	*343
Bass Brook:	
Approximately 1,600 feet downstream of East Street	*90
Approximately 825 feet upstream of upstream crossing of Lewis Road	*267
Batterson Park Pond Brook:	
Approximately 400 feet downstream of Stanley Park Road	*177
Approximately 115 feet upstream of Brittany Farms Road	*206
Gaffney Brook:	
At Francis Street	*176
Approximately 1,400 feet upstream of Francis Street	*181
Sandy Brook:	
At corporate limits	*90
Approximately 650 feet upstream of Ella Grasso Road	*131
Maps availables for inspection at the New Britain City Hall, Engineering Department—Room 503, 27 West Main Street, New Britain, Connecticut.	
INDIANA	
Boone County (Unincorporated Areas) (FEMA Docket Nos. 7155 and 7223)	
New Reynolds Ditch:	
Approximately 500 feet downstream of Golf Course Road	*930
At downstream side of Elm Swamp Road	*939
Maps available for inspection at the Boone Area Planning Commission, Building Inspector's Office, Boone County Courthouse Square, Room B–3, Lebanon, Indiana.	
Ulen (Town), Boone County (FEMA Docket No. 7227)	
New Reynolds Ditch:	
Approximately 500 feet downstream of Golf Course Drive	*930
At Elm Swamp Road	*939
Maps available for inspection at the Ulen Town Office, c/o Steve Million, 141 Ulen Boulevard, Lebanon, Indiana.	
MAINE	
Alfred (Town), York County (FEMA Docket No. 7223)	
Mousam River:	
At downstream corporate limits	*154
At downstream side of Estes Lake Dam	*184
Tributary to Middle Branch Mousam River:	
Approximately 225 feet downstream of Middle Branch Drive	*349
Approximately 0.53 mile upstream of Middle Branch Drive	*379
Maps available for inspection at the Alfred Town Hall, 16 Saco Road, Alfred, Maine.	
MINNESOTA	
Isanti County (Unincorporated Areas) (FEMA Docket No. 7223)	
Rum River:	
Approximately 3.1 miles downstream of 2nd Avenue SW (most downstream corporate limit of the City of Cambridge)	*915
Approximately 1.6 miles upstream of 1st Avenue West	*918
Maps available for inspection at the Isanti County Zoning Office, 555 18th Avenue, SW, Cambridge, Minnesota.	
Lakeville (City), Dakota County (FEMA Docket No. 7195)	
North Creek:	
At downstream corporate limits	*914
At confluence of Unnamed Tributary No. 2 to North Creek	*939
Approximately 810 feet upstream of Icon Trail	*1,059
South Creek:	
At downstream corporate limits	*930
Approximately 0.9 mile upstream of State Route 50	*989
West Branch South Creek:	
At confluence with South Creek	*944
Approximately 1,100 feet upstream of Kenrick Avenue	*1,081
East Branch South Creek:	
At downstream corporate limits	*935
At upstream side of Hamburg Avenue	*1,032
Marion Branch South Creek:	
Approximately 100 feet upstream of Dodd Boulevard	*976
At upstream side of Icalee Path	*985
Maps available for inspection at the Lakeville City Engineer's Office, Lakeville City Hall, 20195 Holyoke Avenue, Lakeville, Minnesota.	
MISSISSIPPI	
Laurel (City), Jones County (FEMA Docket No. 7235)	
Daphne Park Tributary:	
Upstream side of Illinois Central Gulf Railroad	*230
Approximately 750 feet upstream of 8th Street	*270
Maps available for inspection at the City of Laurel Inspection Department, 401 North 5th Avenue, Room 304, Laurel, Mississippi.	
NEW HAMPSHIRE	
Bristol (Town), Grafton County (FEMA Docket No. 7199)	
Newfound Lake: Entire shoreline within community	*591
Maps available for inspection at the Bristol Town Hall, 71 Lake Street, Bristol, New Hampshire.	
Rindge (Town), Cheshire County (FEMA Docket No. 7199)	
Contoocook Lake: Entire shoreline within community	*1,013

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pool Pond: Entire shoreline within community	*1,013
Maps available for inspection at the Rindge Town Office, 49 Payson Hill Road, Rindge, New Hampshire.	
Salem (Town), Rockingham County (FEMA Docket No. 7199)	
West Channel Policy Brook:	
At confluence with Policy Brook	*126
Approximately 250 feet upstream of Northeastern Boulevard	*168
Porcupine Brook:	
At I–93	*129
Approximately 1,100 feet upstream of Old Causeway	*133
Porcupine Brook Tributary:	
At confluence with Porcupine Brook	*132
Approximately 1,740 feet upstream of Stiles Road	*133
World End Pond: Entire shoreline within community	*117
World End Brook: Entire reach east of Lawrence Road	*117
Maps available for inspection at the Engineer's Office, Municipal Office Building, 33 Geremonty Drive, Salem, New Hampshire.	
NEW YORK	
Brookhaven (Town), Suffolk County (FEMA Docket No. 7190)	
Seatuck Creek: Approximately 0.7 mile south of Long Island Railroad crossing along Seatuck Creek	*10
Maps available for inspection at the Brookhaven Town Hall, 3233 Route 112, Medford, New York.	
Sag Harbor (Village), Suffolk County (FEMA Docket No. 7211)	
Sag Harbor Bay:	
Approximately 400 feet east of the intersection of Harding Terrace and Taft Place	*9
Approximately 350 feet north of the intersection of Harding Terrace and Taft Place	*11
Maps available for inspection at the Village Office, 55 Main Street, Sag Harbor, New York.	
South Bristol (Town), Ontario County (FEMA Docket No. 7227)	
Canandaigua Lake: Entire shoreline within community	*692
Maps available for inspection at the South Bristol Town Hall, 6500 Gannett Hill Road, Naples, New York.	
Southampton (Town), Suffolk County (FEMA Docket No. 7211)	
Seatuck Creek: North of Main Street	*9
Maps available for inspection at the Southampton Town Hall, Building and Zoning Department, 116 Hampton Road, Southampton, New York.	
NORTH CAROLINA	
High Point (City), Davidson, Guilford, and Randolph Counties (FEMA Docket No. 7231)	
Boulding Branch:	
Approximately 300 feet upstream of Deep River Road	*776
Approximately 100 feet downstream of Montlieu Avenue	*849
Payne Creek Tributary:	
At confluence with Payne Creek	*744
Approximately 1.1 miles upstream of Canterbury Road	*782
Payne Creek (formerly Stream 95 in High Point):	
Just upstream of corporate limits	*743
Approximately 1,470 feet upstream of Rockford Road	*826
Stream 97:	
Approximately 1.1 miles downstream of Chestnut Glen Way	*750
Approximately 115 feet upstream of Westchester Drive	*823
Sandy Ridge Tributary:	
Approximately 1,550 feet downstream of State Route 68	*797
Approximately 150 feet downstream of Gallimore Dairy Road	*832
Tributary to West Fork Deep River:	
At confluence with West Fork Deep River	*817
Approximately 1,700 feet upstream of confluence with West Fork Deep River	*817
Davis Lake Tributary No. 1:	
At the confluence with East Fork Deep River	*787
Just downstream of State Route 68	*805
Davis Lake Tributary No. 2:	
At confluence with Davis Lake Tributary No. 1	*797
Approximately 1,775 feet upstream of Highway 68	*819
Long Branch:	
Approximately 1,800 feet downstream of Jamesford Road	*770
Approximately 0.51 mile upstream of Jamesford Drive	*777
Stream No. 18:	
Approximately 0.46 mile upstream of confluence with West Fork Deep River	*777
Approximately 1,350 feet upstream of Hickswood Road	*820
Stream No. 92:	
Approximately 300 feet downstream of corporate limits	*779
Approximately 60 feet downstream of confluence of Stream No. 93	*791
Stream No. 93:	
Approximately 25 feet upstream of confluence with Stream No. 92	*792
Approximately 50 feet downstream of Westchester Drive (State Route 68)	*827
Stream 99:	
Approximately 1.4 miles downstream of Westchester Drive	*748
Approximately 20 feet downstream of Westchester Drive	*826
Richland Creek:	
Approximately 1,550 feet upstream of Kersey Valley Road	*705
Approximately 900 feet upstream of Brentwood Street	*784
Rich Fork:	
Approximately 1,450 feet downstream of Rock Bridge Road	*748
Approximately 250 feet upstream of upstream corporate limits	*754
Mile Branch:	
At confluence with Richland Creek	*705
Approximately 950 feet upstream of confluence with Richland Creek	*706
Maps available for inspection at the City of High Point Municipal Office Building, 211 South Hamilton Street, High Point, North Carolina.	
Indian Beach (Town), Carteret County (FEMA Docket No. 7227)	
Atlantic Ocean:	
Approximately 150 feet south of the intersection of Salter Path Road (State Route 58) and State Route 1192	*13
Approximately 700 feet south of the intersection of Salter Path Road (State Route 58) and State Route 1192	*19
Bogue Sound:	
Approximately 0.4 mile west/northwest of the intersection of Salter Path Road (State Route 58) and easternmost corporate limits	*6
Approximately 0.6 mile north of the intersection of Salter Path Road (State Route 58) and State Route 1192	*7
Maps available for inspection at the Indian Beach Town Hall, 1400 Salter path Road, Indian Beach, North Carolina.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
PENNSYLVANIA	
Amity (Township), Berks County (FEMA Docket Nos. 7172 and 7227)	
Schuylkill River:	
Approximately 1,300 feet downstream of Legislative Route 147 (Douglassville Road)	*150
Approximately 1,200 feet downstream of the confluence of Hay Creek	*161
Monocacy Creek:	
Upstream side of CONRAIL	*156
Approximately 300 feet upstream of Monocacy Hill Road	*156
Maps available for inspection at the Amity Township Municipal Office, 2004 Weavertown Road, Douglassville, Pennsylvania.	
Exeter (Township), Berks County (FEMA Docket No. 7172 and 7227)	
Tributary B to Antietam Creek:	
At Exeter Road	*390
Approximately 800 feet downstream of Five Point Road	*538
Hersters Creek:	
Upstream side of CONRAIL	*169
Approximately 0.5 mile downstream of U.S. Route 422	*169
Antietam Creek:	
At confluence with Schuylkill River	*172
At downstream side of Lorane Road	*172
Tributary No. 3 to Schuylkill River:	
At confluence with Schuylkill River	*168
Approximately 500 feet upstream of Lincoln Road	*170
Schuylkill River:	
Approximately 1,200 feet downstream of confluence of Hay Creek	*161
Approximately 1,500 feet upstream of U.S. Route 422	*181
Maps available for inspection at the Township of Exeter Engineering Office, 4975 DeMoss Road, Reading, Pennsylvania.	
Plains (Township), Luzerne County (FEMA Docket No. 7219)	
Mill Creek:	
Confluence with Susquehanna River	*549
Approximately 900 feet upstream from State Route 315	*694
Unnamed Tributary to Mill Creek:	
Confluence with Mill Creek	*680
Approximately 1,360 feet upstream of confluence with Mill Creek	*680
Susquehanna River:	
At downstream corporate limits	*549
Approximately 900 feet upstream of the upstream corporate limits	*553
Maps available for inspection at the Plains Town Hall Municipal Building, 126 North Main Street, Plains, Pennsylvania.	
TENNESSEE	
Chattanooga (City), Hamilton County (FEMA Docket Nos. 7199 and 7227)	
South Chickamauga Creek:	
Approximately 0.33 mile downstream of Amnicola Highway	*660
At state boundary	*689
Spring Creek:	
On the upstream side of Interstate 75	*679
On the downstream side of Spring Creek Road	*679
Mackey Branch:	
At its confluence with South Chickamauga Creek	*687
Approximately 550 feet upstream of East Berainerd Road (State Route 320)	*690
Friar Branch:	
At confluence with South Chickamauga Creek	*670
Approximately 132 feet upstream of Noah Reid Road	*678
Maps available for inspection at the Planning Commission, Chattanooga City Hall Annex, East 11th Street, Chattanooga, Tennessee.	
Cocke County (Unincorporated Areas) (FEMA Docket No. 7227)	
Pigeon River:	
Approximately 1.5 miles downstream of the confluence of Cosby Creek	*1,111
Approximately 0.35 mile upstream of Wilton Springs Road	*1,139
Cosby Creek:	
At confluence with Pigeon River	*1,129
Approximately 70 feet upstream of Ballpark Road	*1,327
Maps available for inspection at the Cocke County Courthouse, 111 Court Avenue, 360 East Main Street, Newport, Tennessee.	
La Vergne (City), Rutherford County (FEMA Docket No. 7182)	
Hurricane Creek:	
Approximately 0.9 mile downstream of U.S. Routes 41 and 705	*510
At confluence of East and West Branches Hurricane Creek	*575
West Branch Hurricane Creek:	
Approximately 820 feet downstream of Bridgestone Parkway	*575
Approximately 200 feet downstream of Heil Quaker Boulevard	*585
Rock Spring Branch:	
Approximately 900 feet downstream of Waldron Road	*654
At Waldron Road	*660
East Branch Hurricane Creek (after levee overtopping):	
Approximately 0.18 mile upstream of Bridgestone Parkway	*579
Approximately 0.16 mile upstream of Waldron Road	*582
J. Percy Priest Reservoir: Shoreline within community	*506
East Branch Hurricane Creek (before levee overtopping): Approximately 100 feet downstream of Industrial Boulevard	*587
Maps available for inspection at the La Vergne City Hall, 5093 Murfreesboro Road, La Vergne, Tennessee.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 13, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–1386 Filed 1–20–98; 8:45 am]

BILLING CODE 6718–04–P

Proposed Rules

Federal Register
Vol. 63, No. 13
Wednesday, January 21, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV97–930–6 PR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 1997–98 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on the establishment of final free and restricted percentages for the 1997–98 crop year. The percentages are 55 percent free and 45 percent restricted. These percentages would establish the proportion of cherries from the 1997 crop which may be handled in normal commercial outlets and are intended to stabilize supplies and prices, and strengthen market conditions. This proposed rule would also establish the date by which restricted percentage obligations must be satisfied and a 30-day grace period. This rule was recommended by the Cherry Industry Administrative Board (Board), which locally administers the marketing order. The free and restricted percentages in this proposal would not apply to handlers in the districts of Southwest Michigan, Oregon, Pennsylvania, Washington and Wisconsin.

DATES: Comments must be received by February 5, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under marketing agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and restricted percentages may be established for tart cherries handled by handlers during the crop year. This rule establishes final free and restricted percentages for tart cherries for the 1997–98 crop year, July 1, 1997, through June 30, 1998. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The order prescribes procedures for computing an optimum supply and preliminary and final percentages that establish the amount of tart cherries that can be marketed throughout the season. Regulations setting free and restricted percentages apply to all handlers of tart cherries that are in the regulated districts. Tart cherries in the free percentage category may be marketed, while restricted percentage cherries must be held by handlers in a primary or secondary reserve, or be diverted in accordance with section 930.59. The regulated Districts for this season are: District one—Northern Michigan; District two—Central Michigan; District four—New York; and District seven—Utah. Districts three, five, six, eight and nine (Southwest Michigan, Oregon, Pennsylvania, Washington, and Wisconsin, respectively) would not be regulated for the 1997–98 season.

The order prescribes under section 930.52 that the districts to be regulated shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. Districts not meeting the 15 million pound requirement would not be regulated. Therefore, for this season, handlers in the districts of Oregon, Pennsylvania, Washington, and Wisconsin would not be subject to volume regulation. In addition, Southwest Michigan handlers would not be subject to volume regulation this season because their estimated production fell below 50 percent of the average annual processed production in that district in the previous five years. Section 930.52(d) of the order provides that when this occurs that district would be exempt from any volume regulation if, in that year, a restricted percentage is established. Southwest Michigan's tart cherry production was subjected to a freeze during early bud development that reduced its crop yield for the 1997 season.

Section 930.50(a) describes procedures for computing an optimum

supply for each crop year. The Board must meet on or about July 1 to review sales data, inventory data, current crop forecasts and market conditions in order to establish an optimum supply level for the crop year. The optimum supply is calculated as 100 percent of the average sales of the prior three years to which shall be added a desirable carryout inventory not to exceed 20 million pounds or such other amount as the Board, with the approval of the Secretary may establish. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year. This optimum supply volume shall be announced by the Board in accordance with section 930.50(h).

The order also provides that on or about July 1 of each crop year, the Board should establish a preliminary free market tonnage percentage based on the optimum supply formula. To calculate such percentage the Board should deduct the carryin inventory to determine the tonnage requirements (adjusted to raw product equivalent—the actual weight of cherries handled to process into cherry products) for the current crop year which will be subtracted by the current year USDA crop forecast. If the resulting number is positive, this would represent the estimated over-production which would need to be the restricted percentage tonnage. This restricted percentage tonnage would then be divided by the sum of the USDA crop forecast for the regulated districts to obtain the percentages for the regulated districts. If the resulting quotient is 100 percent or more, the Board should establish a preliminary free market tonnage percentage of 100 percent. If the quotient is less than 100 percent, the Board should establish a preliminary restricted tonnage percentage equivalent to the quotient, rounded to the nearest whole number, with the compliment being the preliminary free tonnage percentage.

The Board met on June 26–27, 1997, and computed, for the 1997–98 crop year, an optimum supply of 247 million pounds. This number was calculated by using 270 million pounds for the average three year sales figure and subtracting 23 million pounds for exports that could have received diversion credit. The Board recommended that the carryout figure be zero pounds. The Board calculated preliminary free and restricted percentages as follows: The optimum supply was 247 million pounds; a 70 million pound carryin subtracted from that yielded a tonnage requirement for the current crop year of 177 million pounds. The tonnage requirement for the current crop year was subtracted from the USDA crop estimate of 242 million pounds, resulting in an estimated restricted percentage tonnage of 65 million pounds of tart cherries. The estimated restricted percentage tonnage was divided by the USDA crop estimate for the regulated districts of 192 million pounds which resulted in 66 percent free and 34 percent restricted for the 1997–98 season. The Board recommended these percentages by a 17 to 1 vote. No reason was provided for the one dissenting vote. The Board recommended the percentages and announced them to the industry as required by the order.

The preliminary percentages were based on the USDA production estimate and the following supply and demand information for the 1997–98 crop year:

		Millions of pounds
Optimum Supply Formula		
(1) Average sales of the prior three years		270
(2) Plus carryout		0
(3) Less amount for exports that would have received diversion credit		23
(4) Optimum Supply calculated by the Board at the June meeting		247
Preliminary Percentages		
(5) Less carryin as of July 1, 1997		70
(6) Tonnage requirement for current crop year		177
(7) USDA crop estimate		242
(8) Estimated restricted percentage tonnage (item 7 minus item 6)		65
(9) USDA crop estimate for regulated districts		192
Percentages	Free	Restricted
(10) Preliminary percentages (item 8 divided by item 9)×100	66	34

The Board may adjust the estimated crop production as the actual pack is realized and interim percentages may be announced between July 1 and September 15 of the crop year.

Section 930.50(d) of the order requires the Board to meet no later than September 15 to recommend final free and restricted percentages to the Secretary. The Board met on September 11–12, 1997, and recommended final free and restricted percentages of 55 and 45, respectively. At that time, the Board had available actual production amounts to review and made the necessary adjustments to the percentages. The Board used a revised optimum supply figure of 270 million pounds for its final percentage calculations because it was determined that exports of 23 million pounds should not have been deducted from the average sales figure.

A 70 million pound carryin was subtracted from the optimum supply, which yields a tonnage requirement for the current crop year of 200 million pounds. The actual production reported by the Board was 284 pounds, a 42 million pound increase from the USDA crop estimate. The increase in the crop was due to very favorable growing conditions in portions of the State of Michigan this season. Subtracted from the Board reported production is the tonnage required for the current crop year (200 million pounds) which results in an 84 million pound surplus. An adjustment for changed economic conditions of 23 million pounds was added to the surplus, pursuant to section 930.50(f). This adjustment is discussed later in this document. This yielded a total surplus of 107 million pounds of tart cherries. The free and restricted percentages would only apply to those handlers in regulated districts. Therefore, the percentages would be calculated by dividing the restricted tonnage volume by the regulated districts' production. The total surplus

of 107 million pounds is divided by the 239 million pound volume of tart cherries produced in the regulated districts. This results in a 45 percent restricted percentage and a corresponding 55 percent free percentage for those districts that would be regulated.

Section 930.51(d) provides that the Board, with the approval of the Secretary, shall develop rules and regulations which shall provide guidelines for handlers in complying with any restricted tonnage requirements, including but not limited to, a grace period of at least 30 days to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates. A previous rulemaking action published in the **Federal Register** on January 6, 1998, [63 FR 399], provided such guidelines. However, that action did not establish a date by which restricted tonnage requirements must be satisfied or a 30-day grace period. This rule proposes to require that restricted tonnage obligations must be met when this proposed rule becomes final with a 30-day grace period added to that date.

The final percentages are based on the Board's reported production figures and the following supply and demand information for the 1997–98 crop year:

		Millions of pounds
Optimum Supply Formula		
(1) Average sales of the prior three years		270
(2) Plus carryout		0
(3) Optimum Supply calculated by the Board at the September meeting		270
Final Percentages		
(4) Less carryin as of July 1, 1997		70
(5) Tonnage required current crop year		200
(6) Board reported production		284
(7) Surplus (item 6 minus item 5)		84
Modification to Marketing Policy		
(8) Economic adjustment to surplus		23
(9) Adjusted surplus (item 7 plus item 8)		107
(10) Production in regulated districts		239
Percentages	Free	Restricted
(11) Final Percentages (item 9 divided by item 10)×100	55	45

As previously mentioned, the Board had made an earlier recommendation to modify the optimum supply formula by defining average sales to not include exports that were granted diversion credit. However, it was determined that exports should not have been subtracted from the average sales figure. The Board thus recommended at its September meeting that the marketing policy be modified by 23 million pounds due to changes in economic conditions as provided under section 930.50(e)(5) and (7) and (f).

By recommending the 23 million pound modification, the Board believes that it will provide stability to the marketplace and the industry will be in a better situation for future years since new markets will have been developed. Board members discussed at that meeting that, if this adjustment is not made, growers, due to an abundant supply of available tart cherries, could be paid less than their production costs, because handlers could suffer financial losses. Handlers might have to default or renegotiate contracts with buyers due to additional cherries being available on the domestic market, which could have a depressing impact on prices received for all tart cherries. These costs would likely be passed on to growers. In addition, the value of cherries already in inventory could be depressed by 20 to 50 percent due to a 23 million pound increase to an already abundant supply of available cherries, a result inconsistent with the intent of the order.

The changes in economic conditions that caused the Board to modify its marketing policy are as follows: (1) the determination that export sales could not be subtracted from the optimum supply formula calculation was made late in the season; (2) handlers had made marketing plans, sales and sales commitments (including exports) based on the Board's recommendations made in March and June; and (3) prices received for tart cherries and tart cherry products would be severely impacted by an additional large volume of cherries being made available to the market when there is already an abundant supply of cherries.

USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' provide that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal would be met by the establishment of a final percentage which releases 100 percent of the optimum supply and the additional release of tart cherries provided under section 930.50(g). This release of tonnage, equal to 10 percent of the average sales of the prior three years sales, is made available to handlers each season. The Board will make such cherries available to handlers for one or more weeks during the crop year. Handlers can decide how much of the 10 percent release they would like to receive during such releases. Once released, such cherries are released for free use by such handler. Approximately 27 million pounds should be made available to handlers this season in accordance with USDA Guidelines. This release would be made available to every handler and released to such handler in proportion to its percentage of the total regulated crop handled. If such handler does not take such handler's proportionate amount, such amount shall remain in the inventory reserve.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities.

However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 1,220 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Marketing order board and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members and entities (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations usually represent the interests of both small and large business entities in the industry.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced and pureed. During the period 1993/94 through 1996/97, approximately 94 percent of the U.S. tart cherry crop, or 285.7 million pounds, was processed annually. Of the 285.7 million pounds of tart cherries processed, 63 percent was frozen, 32 percent canned and 3 percent utilized for juice. The remaining 2 percent was dried or assembled into juice packs.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward since the 1991/92 season. In the ten-year period, 1986/87 through 1996/97, tart cherry area decreased from 48,180 acres, to less than 42,000 acres. Approximately 78 percent of domestic tart cherry acreage is located in four States: Michigan, New York, Utah and Wisconsin. Michigan leads the nation in tart cherry acreage with 65 percent of the total. Michigan produces about 72 percent of the U.S. tart cherry crop each year. In 1996/97, tart cherry acreage in Michigan was down 2,700 acres, to 27,300.

In crop years 1986 through 1993, tart cherry production ranged from a high of 359 million pounds in 1987 to a low of 189.9 million pounds in 1991. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Growers testified during the order promulgation process that the average prices of 12 to 17 cents per pound which they received during this period did not come close to covering the costs of production for the vast majority of tart cherry growers. They also testified that production costs for most growers range between 20 and 22 cents per pound, which is well above average prices received.

As previously stated, this is the first year of operation for this marketing order. The industry demonstrated a need for such order during the order promulgation process based on the argument that large variations in annual tart cherry supplies and prices tend to lead to disorderly marketing. As a result of these fluctuations in supplies and prices, growers realize a smaller return for their crop. Therefore, the industry elected the establishment of a volume control marketing order to even out the wide variations in supply and thereby improve returns to growers. During the promulgation process, proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because many such growers and handlers have been going out of business over most of the last eight years due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between business success and failure because small growers and handlers tend to be less capitalized than larger growers and handlers.

In discussing the possibility of marketing percentages for the 1997–98 crop year, the Board considered: (1) The estimated and actual total production of tart cherries; (2) the estimated and actual size of the crop to be handled; (3) the expected and actual general quality of such cherry production; (4) the expected and actual carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

The Board's review of these factors resulted in the computation and announcement in July 1997 of preliminary free and restricted percentages, and subsequent recommendation of interim and final percentages at its September meeting. At its September 1997 meeting, the Board recommended that the interim percentages and final percentages (55 percent free and 45 percent restricted) be the same percentages.

The Board considered the fact that the demand for tart cherries is inelastic at high and low levels of production. At the extremes, various factors become operational. The promulgation record stated that when crops are very low there is limited but sufficient exclusive demand for cherries that can cause processor prices to double and grower prices to triple. In the event of large crops, there seems to be no price low enough to expand tart cherry sales in the marketplace sufficient to market the crops. This year the crop has been a large one.

The Board discussed alternatives to the volume recommendation including not having volume regulation this season. Board members stated that no volume regulation would be detrimental to the tart cherry industry. Returns to growers would not even cover their production costs for this season causing some to go out of business.

The Board also discussed not granting exemptions, and diversion credit for such exemptions, for exports to eligible countries (including juice and juice concentrate), other exempt uses, and charitable donations. However, the Board felt this would not be in the best interest of the industry or the public. The Board expressed that not allowing the export and other exemptions would have a detrimental effect on the market this season if free and restricted percentages are imposed. Without such exemptions and diversion credits for export sales, new market development and other specified uses, about 50

million pounds of cherries would not be removed from the domestic market this season, depressing grower returns for all cherries. The marketing order was designed to increase grower returns by stabilizing supplies with demand as well as stabilizing prices and creating a more orderly and predictable marketing environment. Expanding markets and developing new products is key to meeting this marketing order's goals.

Not granting exemptions and diversion credit for exports to countries other than Canada, Mexico, and Japan was also discussed at Board meetings. However, the Board expressed that this recommendation is very important to creating stable conditions in the export marketplace this season and would encourage future market growth. The Board further stated that such action will improve returns to growers because of the tremendous growth in the export market this season. Exemptions and diversion credit have been addressed in other rulemaking actions.

As mentioned earlier, USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

The free and restricted percentages proposed to be established by this rule release the optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their tart cherries will generate.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed regulation.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though tart cherry supplies fluctuate widely from season to season.

Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements have been previously approved by OMB and the assigned OMB Number 0581–0177.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms related to handler diversion and handlers meeting restricted percentage obligations (*i.e.,* Inventory Reserve Summary, Cherries Acquired From Producers, Handler Reserve Plan and Final Pack Report, and Inventory Location Report) have received approval by OMB. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. It was anticipated that as many as 45 handlers might be regulated if volume regulations are established. Many reports are submitted a single time each season, while some are submitted more frequently. In addition, the bulk of the information handlers must report is obtained during the normal course of their business operations. It would take handlers approximately 15 minutes per report to complete for a total of 60 minutes per handler and approximately 2,700 minutes annually for the estimated 45 handlers. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This proposed rule does not change those requirements.

A 15-day comment period is provided to allow interested persons to respond to this proposal. Fifteen days is deemed appropriate because this rule needs to be in place as soon as possible since handlers are currently marketing 1997–98 crop tart cherries and this action should be taken promptly to achieve the intended purpose of making the optimum supply quantity computed by the Board available to handlers. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cheeries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new Subpart—Supplementary Regulations consisting of § 930.250 is added to read as follows:

Note: This subpart will consist of handling regulations which will not appear in the annual Code of Federal Regulations.

Subpart—Supplementary Regulations

§ 930.250 Final free and restricted percentages for the 1997–98 crop year.

The final percentages for tart cherries handled by handlers in volume regulated districts during the crop year beginning on July 1, 1997, which shall be free and restricted, respectively, are designated as follows: Free percentage, 55 percent and restricted percentage, 45 percent. Restricted percentage obligations must be satisfied on or before the effective date of this rule. A grace period of 30 days will be allowed for handlers to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates.

Dated: January 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1429 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–63A]

Peter G. Crane; Receipt of an Amended Petition for Rulemaking, Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Amended petition for rulemaking: extension of comment period.

SUMMARY: On December 17, 1997 (62 FR 66038), the Nuclear Regulatory Commission published a notice of receipt of an amended petition for rulemaking filed by Peter G. Crane and requested public comment on the amended petition. In the amended petition for rulemaking, the petitioner seeks to amend NRC's emergency planning regulations to require consideration of sheltering, evacuation, and the prophylactic use of potassium iodide for the general public in developing a range of emergency planning protective actions. In addition, the petitioner has filed supplemental information in support of his amended petition which is available in the NRC Public Document Room. The comment period on the amended petition was to have expired on January 16, 1998. In response to several requests, the NRC has decided to extend the comment period for this action.

DATES: The comment period has been extended and now expires on February 17, 1998. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except to those comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

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.

For a copy of the amended petition, write: Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. A copy of the amended petition and other documentation filed by the petitioner are also available for public inspection, and copying for a fee, in the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone: 301–415–6534, E-mail: MTJ1@nrc.gov; or Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone: 301–415–7163 or Toll Free: 1–800–368–5642, E-mail: MTL@nrc.gov.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of January, 1998.

Annette Vietti-Cook,

Acting Secretary of the Commission.

[FR Doc. 98–1379 Filed 1–20–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Efficiency Test Procedures for Distribution Transformers

[Docket Number EE–DET–97–550]

RIN 1904–AA85

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of public workshop.

SUMMARY: The Department of Energy (DOE) will hold an informal public workshop to discuss issues and gather information related to test procedures for electric distribution transformers. All persons are hereby given notice of the opportunity to attend this public workshop and to submit written comments.

DATES: The public workshop will be held on Tuesday, February 10, 1998, from 9 a.m. to 4 p.m.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW, Washington, DC 20585.

Written comments are welcome, especially following the workshop. Please submit 10 copies (no faxes) to: Ms. Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, ''Energy Conservation Program for Consumer Products: Test Procedures for Distribution Transformers, Docket No. EE–DET–97–550,'' EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121. Telephone: (202) 586–7425; Telefax: (202) 586–4617.

Copies of the transcript of the public workshop, public comments received, and this notice may be read (or copied) at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7574, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–7425, email: Kathi.Epping@hq.doe.gov, or Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9507, email: Edward.Levy@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On October 22, 1997, the Secretary determined, based on the best information currently available, that energy conservation standards for electric distribution transformers are technologically feasible, economically justified, and would result in a significant energy savings. This determination initiated the process of establishing, by notice and comment rulemaking, test procedures and energy conservation standards for this product.

The Department of Energy is drafting a proposed rule to implement the provisions of the Energy Policy and Conservation Act, 42 U.S.C. 6317, for test procedures for distribution transformers. However, several issues have been raised. The purpose of the public workshop is to discuss the following issues for developing the notice of proposed rulemaking:

a. Adoption of national and international consensus standards in the test procedures for determining energy efficiency of distribution transformers;

b. Burden imposed on industry, especially on manufacturers, by additional testing and data processing;

c. The definition of ''basic model'' for distribution transformers;

d. Sampling plan for units to be tested;

e. Selection of a measure of energy consumption for distribution transformers;

f. Selecting reference temperatures—the reference temperatures in the consensus standards lack uniformity;

g. Requirement for applying corrections to measurement data of both liquid-immersed and dry-types of transformers; and

h. Requirement for quality assurance in testing.

The Department has prepared a paper entitled ''Issues Paper for the Distribution Transformers Test Procedures Workshop on February 10, 1998'' that explains and discusses these

issues in greater detail. For many of the issues, the paper sets forth approaches that the Department is considering and may propose in the notice of proposed rulemaking (NOPR). In addition, the National Institute of Standards and Technology (NIST) has prepared a draft set of test procedures for transformers, and the Department is considering these as well in preparing the NOPR. Copies of the issues paper and the NIST draft are available upon request.

The Department is particularly interested in receiving at the workshop comments and views of interested parties concerning (1) the above-listed issues, (2) the approaches the Department is considering for addressing these issues, (3) the NIST draft of test procedures, and (4) possible alternatives to the approaches the Department is considering and to the provisions in NIST's draft test procedures. The Department encourages those who wish to participate in the workshop to obtain the issue paper and the NIST draft, and to make presentations that address their contents. Workshop participants need not limit their statements to those topics, however. The Department is interested in receiving views concerning other issues that participants believe would affect the content of distribution transformer test procedures.

The meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by antitrust law. After the meeting and a period for written statements, the Department will consider the views presented in formulating a Notice of Proposed Rulemaking regarding energy efficiency test procedures for distribution transformers.

If you would like to participate in the workshop, to receive workshop materials, or to be added to the DOE mailing list to receive future notices and information regarding distribution transformers, please contact Ms. Brenda Edwards-Jones at (202) 586–2945.

Issued in Washington, DC, on January 14, 1998.

Dan W. Reicher,

Assistant Secretary for Energy Efficiency and Renewable Energy.

[FR Doc. 98–1370 Filed 1–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–127–AD]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Models S10 and S10–V Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Stemme GmbH & Co. KG (Stemme) Models S10 and S10–V sailplanes. The proposed AD would require replacing the horizontal stabilizer rear fittings with parts of improved design. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent structural failure of the horizontal stabilizer caused by cracked rear fittings, which could result in reduced sailplane controllability.

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–127–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 Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany; telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–127–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–127–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Stemme S10 and S10–V sailplanes. The LBA reports that operational loads are causing internal stress on the welds of the rear fitting of the horizontal stabilizer of the above-referenced sailplanes.

This condition, if not detected and corrected, could result in failure of the horizontal stabilizer with possible reduced sailplane controllability.

Relevant Service Information

Stemme has issued Service Bulletin No. A31–10–022, dated August 16, 1996, which specifies procedures for inspecting the horizontal stabilizer rear fittings for cracks and replacing any cracked fittings with parts of improved design obtained from Stemme; and also specifies revising the maintenance manual.

The LBA classified this service bulletin as mandatory and issued German AD 96–300, effective October 24, 1996, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

This sailplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

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

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Stemme Model S10 and S10–V sailplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require replacing the horizontal stabilizer rear fittings with parts of improved design. Accomplishment of the proposed installation would be in accordance with the service information previously referenced.

Differences Between the Service Bulletin, German AD, and This Proposed AD

Stemme Service Bulletin No. A31–10–022, dated August 16, 1996, and German AD No. 96–300, effective October 24, 1996, both require inspecting the horizontal stabilizer fittings for cracks and replacing the fittings if found cracked. Stemme Service Bulletin No. A31–10–022 specifies changing the maintenance manual to include repetitive inspections of these fittings.

The FAA's policy is to provide corrective action that will eliminate the need for repetitive inspections. The FAA has determined that long-term operational safety will be better assured by design changes that remove the source of the problem, rather than by repetitive inspections or other special procedures.

Because replacing the horizontal stabilizer rear fittings with parts of improved design on the affected sailplanes eliminates the need for repetitive inspections, the proposed AD differs from the service bulletin and German AD in that it would mandate replacement of the horizontal stabilizer rear fittings.

Cost Impact

The FAA estimates that 9 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 workhours per sailplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $200 per sailplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,420.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Stemme GmbH & Co. KG: Docket No. 97–CE–127–AD.

Applicability: The following sailplane models and serial numbers, certificated in any category:

Models	Serial Nos.
S10	10–03 through 10–63.
S10V	14–002 through 14–026 and transformed S10V airplanes with serial numbers of 14–012M through 14–063M.

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

Compliance: Required within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent structural failure of the horizontal stabilizer caused by cracked rear fittings, which could result in reduced sailplane controllability, accomplish the following:

(a) Replace the horizontal stabilizer rear fittings with improved design fittings in accordance with the instructions in Stemme Service Bulletin No. A31–10–022, dated August 16, 1996.

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

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

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

(d) Questions or technical information related to Stemme Service Bulletin No. A31–10–022 dated August 16, 1996, should be directed to Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Germany;

telephone: 49.33.41.31.11.70; facsimile: 49.33.41.31.11.73. 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 German AD 96–300, dated October 24, 1996.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1298 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–47–AD]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. Model TPE331 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal Inc. Model TPE331 series turboprop engines. This proposal would require removal of suspect fuel manifold assemblies and replacement with serviceable assemblies. This proposal is prompted by an FAA investigation into Hoses Unlimited's repairs of TPE331 fuel manifolds, which were not approved by the FAA. The actions specified by the proposed AD are intended to prevent fuel leakage at the fuel manifold fittings, resulting in fuel spraying on hot turbine components, which could result in an engine fire.

DATES: Comments must be received by March 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments also may be submitted to the Rules Docket by using the following Internet address: ''9-ad-engineprop@faa.dot.gov''. All comments must contain the Docket No. in the subject line of the comment. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Federal Aviation Administration, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, CA 90712–4137; Telephone (562) 627–5246, Fax (562) 627–5210.

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 summarizing 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 Number 97–ANE–47–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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

This proposed airworthiness directive (AD) is applicable to AlliedSignal Inc. Model TPE331–8, –10, –11 and –12 series turboprop engines with fuel manifold, Part Number (P/N) 3102469–1 or –2, repaired by Hoses Unlimited, Inc. prior to November 11, 1995. Following an FAA investigation into Hoses Unlimited's repairs of TPE331 fuel manifolds, which was not approved by the agency, the FAA determined that the repair processes were not consistent and some manifolds were repaired using procedures not approved and substantiated by the FAA. The FAA discovered that Hoses Unlimited crimped fittings of unfamiliar configuration with unsubstantiated force causing excessive deformation of the fitting and Teflon tube. Excessive crimping of the tetraflourethelene hose onto the fitting's nipple causes reduced fatigue resistance of the internal Teflon tube. Reduced fatigue resistance may lead to premature and unexpected failure of the fuel hose. Although there have been no reported incidents of fuel leakage from fuel manifolds repaired by Hoses Unlimited, this condition, if not corrected, could result in fuel leakage of the fuel manifold, resulting in fuel spraying on hot turbine components, which could result in an engine fire.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal of suspect fuel manifold assemblies and replacement with serviceable assemblies.

There are approximately 70 engines of the affected design in the worldwide fleet. The FAA estimates that 50 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $1,800 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $105,000.

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 proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the 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 is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ''**ADDRESSES.**''

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AlliedSignal Inc.: Docket No. 97–ANE–47–AD.

Applicability: AlliedSignal Inc. (formerly Allied-Signal Aerospace Company, Garrett Engine Division and Garrett Turbine Engine Co.) Model TPE331–8, –10, –11 and –12 series turboprop engines with fuel manifold, Part Number (P/N) 3102469–1 or –2, repaired by Hoses Unlimited, Inc. prior to November 20, 1995. These engines are installed on but not limited to Ayres S2R–G10; Cessna Model 441; Construcciones Aeronauticas, S.A. (CASA) C–212 series; Dornier 228 series; Fairchild SA226 and SA227 series; Jetstream 3101 and 3201 series; Mitsubishi MU–2B series (MU–2 series); and Twin Commander Aircraft Corp. Models 695 and 695A aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage of the fuel manifold, resulting in fuel spraying on hot turbine components, which could result in an engine fire, accomplish the following:

(a) Check all fuel manifold identification bands for P/Ns 3102469–1 or –2 and the Hoses Unlimited, Inc. name, or review engine and aircraft maintenance records and purchase receipts to establish the origin and repairs on all fuel manifolds. If records indicate that fuel manifolds, P/Ns 3102469–1 or –2, are not installed in an engine or that Hoses Unlimited, Inc. has not been used as a repair facility, no further AD action is required.

(b) Remove from service all fuel manifolds with the Hoses Unlimited, Inc. name and P/Ns 3102469–1 or –2 and replace with a serviceable fuel manifold in accordance with the applicable AlliedSignal engine maintenance manual, at first access to the fuel manifold assembly, at the next engine hot section inspection, or 3 years after the effective date of this AD, whichever occurs first.

(c) For the purposes of this AD, first access to the fuel manifold is defined as any repair, modification, removal, or testing of the fuel manifold assembly or components of the fuel manifold assembly.

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

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

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

Issued in Burlington, Massachusetts, on January 7, 1998.

James C. Jones,

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

[FR Doc. 98–1325 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114000–97]

RIN 1545–AV41

Withholding on Interest in the Case of Sales of Obligations Between Interest Payment Dates; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations under section 1441 regarding the obligation to withhold on interest paid with respect to obligations in the case of the sale of obligations between interest payment dates.

DATES: The public hearing originally scheduled for Monday, January 26, 1998, beginning at 10:00 a.m. is canceled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1441 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Tuesday, October 14, 1997 (62 FR 53503), announced that the public hearing on proposed regulations under section 1441 of the Internal Revenue Code would be held on Monday, January 26, 1998, beginning at 10:00 a.m., in the Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Monday, January 26, 1998, is canceled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–1403 Filed 1–20–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP–300551; FRL–5743–8]

Revocation of Tolerances and Exemptions From the Requirement of a Tolerance for Canceled Pesticide Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke the tolerances and exemptions from the requirement of a tolerance listed in this document. EPA is proposing to revoke these tolerances and exemptions because there are no active registrations for the pesticide chemicals covered by these tolerances and exemptions.

DATES: Written comments should be submitted to EPA by March 23, 1998.

ADDRESSES: By mail, submit written comments to the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under Unit V. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Morris, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Special Review Branch, Crystal Station #1, 3rd floor, 2800 Crystal Drive, Arlington, VA, Telephone: (703) 308–8029; e-mail: morris.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, as amended by the Food Quality Protection Act of 1996 (FQPA), Pub. L. 104–170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods pursuant to section 408, 21 U.S.C. 346(a), as amended. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances or exemptions under the FFDCA, but also must be registered under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a.

Under FFDCA section 408(f), if EPA determines that additional data are needed to support continuation of a tolerance, EPA may require that those data be submitted by registrants under FIFRA section 3(c)(2)(B), by producers under the Toxic Substances Control Act (TSCA) section 4, or by other persons by order after opportunity for hearing. EPA intends to use Data Call-In (DCI) procedures for pesticide registrants, and FFDCA section 408(f)(1)(C) orders for non-registrants as its primary means of obtaining data. In general, EPA does not intend to use the procedures under TSCA section 4, because such procedures generally will not be applicable to pesticides.

Section 408(f) of the FFDCA states that if EPA determines that additional data are needed to support the continuation of an existing tolerance or exemption, EPA shall issue a notice that: (1) Requests that any parties identify their interest in supporting the tolerance or exemption, (2) solicits the submission of data and information from interested parties, (3) describes the data and information needed to retain the tolerance or exemption, (4) outlines how EPA will respond to the submission of supporting data, and (5) provides time frames and deadlines for the submission of such data and information.

II. Regulatory Background

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients for which FIFRA registrations no longer exist. In accord with FFDCA section 408, however, EPA will not revoke any tolerance or exemption proposed for revocation if any person will commit to support its retention, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties commit to support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated.

Tolerances and exemptions established for pesticide chemicals with FIFRA registrations cover residues in or on both domestic and imported commodities. To retain these tolerances and exemptions for import purposes only, EPA must make a finding that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions.

EPA determines on a case-by-case basis the data required to determine that a tolerance or exemption is safe, and in general requires the same technical chemistry and toxicology data for tolerances without related U.S. registrations as are required to support U.S. food-use registrations and any resulting tolerances or exemptions. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. At a future date, EPA will issue its import tolerance policy.) In most cases, EPA also requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s) or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as for domestic purposes; i.e., the studies are required to either fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP requirements do not significantly affect the results of the studies.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the United States.

III. Proposed Actions

This document proposes to revoke the tolerances and exemptions from the requirement of a tolerance listed at the regulatory text of this document. EPA is proposing these revocations because EPA has cancelled the registrations for the pesticide chemicals associated with the tolerances and exemptions, and it is EPA's general practice to propose revocation of those tolerances and exemptions for residues of pesticide chemicals for which there are no active registrations.

IV. Effective Date

EPA proposes that these actions become effective 30 days following publication in the **Federal Register** of a final rule revoking the tolerances. EPA is proposing this effective date because EPA believes that all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation were exhausted more than 1 year ago, giving ample time for any treated fresh produce to clear trade channels.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this proposal, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any

residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

V. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. After consideration of comments, EPA will issue a final rule. Such rule will be subject to objections. Failure to file an objection within the appointed period will constitute waiver of the right to raise in future proceedings issues resolved in the final rule.

Comments must be submitted by March 23, 1998. Comments must bear a notation indicating the docket number OPP–300551. Three copies of the comments should be submitted to either location listed under ''ADDRESSES'' at the beginning of this proposal.

This proposal provides 60 days for any interested person to request that a tolerance be retained. If EPA receives a comment to that effect, EPA will not revoke the tolerance, but will take steps to ensure the submission of supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f). The order would specify the data needed, the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. Thereafter, if the data are not submitted as required, EPA will take appropriate action under FIFRA or FFDCA.

Information submitted as a comment concerning this proposal may be claimed confidential by marking any or all of that information as CBI. EPA will not disclose information so marked, except in accordance with procedures set forth in 40 CFR part 2. A second copy of such comments, with the CBI deleted, also must be submitted for inclusion in the public record. EPA may publicly disclose without prior notice information not marked confidential. A record has been established for this proposal under docket number OPP–300551 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record, which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this proposal.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in this Executive Order.

Pursuant to the terms of E.O. 12866, EPA has determined that this proposed rule is not a significant regulatory action and, since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), it is not subject to review by OMB. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. EPA believes that revocation of a tolerance after use of the pesticide becomes illegal in this country will generally not have a significant impact on a substantial number of small entities.

In the case of domestically grown food, the tolerances proposed for revocation by this proposal will have no economic impact. The associated pesticide registered uses have already been canceled. Since U.S. growers may no longer use these pesticides on such crops, revoking the tolerances should have no effect on food grown in the U.S. after cancellation of registered uses. As for food legally treated under FIFRA before the cancellation occurred, it will not be considered adulterated if the residue level complies with the tolerance in effect at the time of treatment.

Revocation has a greater potential to affect foreign-grown food, since the uses of a pesticide prohibited in the U.S. may still be lawful in other countries. If foreign growers use a pesticide on crops for which there is no tolerance, the food they grow will be considered adulterated and subject to detention and regulatory action when offered for import or imported into the United States. However, while revocation may have an economic effect on foreign growers that export food to the U.S., the RFA is concerned only with the effect of U.S. regulations on domestic small entities.

Revocation may also have an effect on domestic importers of foreign-grown

food to the extent their suppliers use pesticides in ways that result in residues no longer allowed in the U.S. Theoretically, U.S. importers could face higher food prices and transactions costs. However, EPA believes that the effect on U.S. importers will be minimal. The revocation of a particular tolerance is unlikely to have a significant impact on the price of a commodity on the international market. Transaction costs may occur as a result of having to find alternative suppliers of food untreated with pesticides for which tolerances were revoked. Affected importers, however, would have the options of finding other suppliers in the same country or in other countries, or inducing the same supplier to switch to alternative pest controls. Given the existence of these options, EPA expects any price increases or transaction costs resulting from revocations will be minor. As to the pesticide uses involved in this action, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with these pesticides, generally within the same countries from which the relevant commodities are currently imported.

Moreover, whatever the effect on U.S. importers of foreign-grown food, EPA believes that it would be inappropriate and inconsistent with the purpose of the RFA to ameliorate that effect. To the extent any adverse effect occurs, it will be the result of foreign growers using pesticides in ways or on crops not allowed in the U.S. Domestic growers have no choice but to refrain from using pesticides in ways or on crops prohibited by U.S. law. U.S. growers and those who follow them in the chain of commerce distributors and consumers will bear the cost of complying with U.S. law. For EPA to somehow address the economic effect of the revocation on U.S. distributors of foreign-grown food would potentially give those distributors a competitive advantage over distributors of U.S.-grown food, and that advantage could potentially translate to a competitive advantage for foreign growers over domestic growers. The RFA was enacted in part to preserve competition in the marketplace, and it would be perverse to implement it in a way that creates competitive inequities, particularly between U.S. and foreign products. Finally, EPA notes that potential increased costs to importers would not be cognizable as grounds for not revoking the tolerances.

Based on the above analysis, I certify that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 180

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

40 CFR Part 185

Environmental protection, Food additives, Pesticide and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticide and pests.

Dated: January 12, 1998.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180, 185, and 186 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

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

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

b. In § 180.2, by revising paragraph (a) to read as follows:

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium sorbate, sodium carbonate, sodium chloride, sodium hypochlorite, sulfur, and when used as plant desiccants, sodium metasilicate (not to exceed 4 percent by weight in aqueous solution) and when used as postharvest fungicide, citric acid, fumaric acid, oil of lemon, and oil of orange are not for the purposes of section 408(a) of the Act generally recognized as safe.

* * * * *

§§ 180.115, 180.118, 180.144, 180.148, 180.158, 180.159, 180.162, 180.171, 180.219, 180.239, 180.263, 180.277, 180.305, and 180.306 [Removed]

c. By removing §§ 180.115, 180.118, 180.144, 180.148, 180.158, 180.159, 180.162, 180.171, 180.219, 180.239, 180.263, 180.277, 180.305, and 180.306.

§ 180.319 [Amended]

d. By removing from the table in § 180.319, the entire entry for Isopropyl carbanilate (IPC).

§§ 180.321, 180.325, 180.326, 180.347, 180.357, 180.374 [Removed]

e. By removing §§ 180.321, 180.325, 180.326, 180.347, 180.357, 180.374.

f. In § 180.1001, by revising paragraph (b)(1), removing paragraphs (b)(6) and (b)(9) and redesignating paragraphs (b)(7), (b)(8), and (b)(10) as (b)(6), (b)(7), and (b)(8), respectively and removing from the table in paragraph (d) the entry for Fumaric acid to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(b) * * *

(1) The following copper compounds: Bordeaux mixture, basic copper carbonate (malachite), copper hydroxide, copper-lime mixtures, copper oxychloride, copper octanoate, copper sulfate basic, copper sulfate pentahydrate, cupric oxide, cuprous oxide. These compounds are used primarily as fungicides.

* * * * *

§§ 180.1010, 180.1018, 180.1030, 180.1031, 180.1034, 180.1055, 180.1059, 180.1061, 180.1067, 180.1079, 180.1081, and 180.1085 [Removed]

g. By removing § 180.1010, 180.1018, 180.1030, 180.1031, 180.1034, 180.1055, 180.1059, 180.1061, 180.1067, 180.1079, 180.1081, and 180.1085.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 348.

§§ 185.1350, 185.1650, 185.3600, 185.4250, 185.4300, and 185.4800 [Removed]

b. By removing §§ 185.1350, 185.1650, 185.3600, 185.4250, 185.4300, and 185.4800.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

§§ 186.450, 186.850, 186.1350, 186.1650, 186.2450, and 186.3000 [Removed]

b. By removing §§ 186.450, 186.850, 186.1350, 186.1650, 186.2450, and 186.3000.

[FR Doc. 98–1356 Filed 1–20–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5951–1]

40 CFR Part 300

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Berlin and Farro Liquid Incineration Site from the national priorities list; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Berlin and Farro Liquid Incineration Site (the Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that responsible parties have implemented all appropriate response actions required under CERCLA. U.S. EPA, in consultation with the State of Michigan, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before February 20, 1998.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the Site is available at U.S. EPA's Region V office and at the local information repository located at: Gaines Township Hall, 9255 W. Grand Blanc Rd., Gaines, Michigan 48436. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Robert Whippo at (312) 886–4759 (SR–6J), Remedial Project Manager or Gladys Beard (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Don Deblasio, (P–19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–4360.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Berlin and Farro Liquid Incineration Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Potentially Responsible Parties or the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the Site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The Berlin and Farro facility is a 40-acre site situated in a primarily rural area approximately 3½ miles south of the town of Swartz Creek in Gaines Township, Genesee County, Michigan. The Site is located at 8322 South Morrish Road, Swartz Creek, Michigan. Primary land use in the area consists of agricultural row crops and small deciduous woodlands. Residences are located within about 500 feet of the northeast and southeast boundaries of the Site. Approximately 80 permanent residences are located within a ½ mile radius of the Site. There are no known endangered species or critical habitats within close proximity of the Site.

Residents near the Site obtain groundwater from wells in glacial till aquifers and from the underlying bedrock. There are 115 residential wells within one mile of the Site. Approximately ⅓ of the residential wells draw water from the glacial till aquifers. At least one well in the area draws water from the shallow portion of the aquifer. The remaining residential wells draw water from the bedrock.

Berlin and Farro Liquid Incineration, Inc. began operations at the site in April 1971. The facility was permitted to accept industrial waste for incineration, to store waste prior to incineration, and to operate an on-site 1.1 acre landfill for disposal of crushed used drums. Numerous violations of permit requirements were cited during the period of operation, until September 1975 when Berlin and Farro lost its operating incinerator permit for the incinerator. Permit violations included failure to comply with air emission standards and on-site storage volume limits, and failure to meet permit standards prohibiting on-site disposal of wastes other than solid wastes. The facility also operated two unauthorized waste storage lagoons and two unlined storage lagoons, illegally buried five tanks of waste water, buried liquid wastes, operated underground storage tanks, poured liquid wastes into subsurface agricultural drains and dumped large volumes of gallons of barreled waste into two pits. These permit violations and unpermitted activities led to the revocation of Berlin and Farro's incinerator and landfill permits on September 16, 1975. From 1975 until 1978, while the permit revocations were under appeal, Berlin and Farro was permitted by the State of Michigan (the State) to transport industrial waste for other generators, but not to transport wastes to its own site. Michigan Department of Environmental Quality (MDEQ) investigations indicated that illegal dumping of industrial wastes into the lagoons apparently continued after 1975. In 1978, Berlin and Farro's appeal of its permit revocation failed.

Limited cleanup activities were conducted by Berlin and Farro under a plan submitted to MDEQ from 1978 until 1980, when Berlin and Farro filed for chapter 11 Bankruptcy.

In 1978 and 1981, ownership of the property was transferred to the State for nonpayment of property taxes. Ten acres of the site remained under the jurisdiction of the Genesee County Circuit Court as a result of a lawsuit filed by the State. The site was proposal for the National Priorities List (NPL) on July 16, 1992 and was placed on the NPL on September 8, 1983.

U.S. EPA identified more than 125 generators through review of site records. U.S. EPA, the State, and certain settling PRPs undertook surface cleanup actions intermittently from December 1981 through October 1984.

A Remedial Investigation (RI) was conducted from March 1986 through January 1989. A Remedial Investigation/ Feasibility Study (RI/FS) Report and a Proposed Plan were released to the public on July 20, 1990. A fact sheet summarizing this Proposed Plan and remedial alternatives were released to the public on August 2, 1990. The notice of availability for the RI/FS Report and the Proposed Plan was published in the Flint Journal on July 20, 1990. A sixty-day public comment period was held from July 20, 1990 through September 19, 1990. On September 7, 1990, U.S. EPA sent a letter to all persons on the site mailing list informing them about a change in its preference among the various alternatives under consideration, subject to review of public comments.

At the start of the 1990 public comment period, U.S. EPA proposed a remedial alternative which addressed both groundwater and soil contamination at the Berlin and Farro Liquid Incineration Site, Swartz Creek, Michigan. The alternative, as specified in the proposed plan, called for on-site incineration of contaminated soils and for the extraction of contaminated groundwater with treatment via air stripping. On-site incineration was projected to last for approximately 1 year and extraction and treatment of the groundwater was projected to last for at least 30 years. In addition, the Berlin and Farro proposed planned required groundwater monitoring and long-term maintenance of the air stripper.

Initial written comments received by the U.S. EPA and those voiced at the August 9, 1990 public meeting in Swartz Creek indicated that most concerned members of the public were strongly opposed to on-site incineration.

The strong opposition to the proposed plan expressed early in the comment period, especially those comments offered at the public meeting, led the U.S. EPA and the MDEQ to alter the preferred soil cleanup plan. This opposition was based on the short term risk presented by the estimated 380 days of operation of the on-site incinerator. In addition, information was provided indicating that much of the volume of soil proposed to be remediated was to be treated based only on metal, contamination. Incineration is not generally considered an effective treatment for metals, and in fact may produce treatment residuals that could require significant additional treatment. The new plan called for the removal of excavated soils to a licensed off-site facility for treatment and disposal. This plan retained the use of an air stripper for treatment of contaminated groundwater.

A second public meeting was held on September 12, 1990. At this meeting representatives from U.S. EPA and MDEQ discussed the changes that the Agencies were considering based on public comments. During this 1990 public comment period U.S. EPA continued negotiations with PRPs regarding cleanup options at Berlin and Farro as required under the terms of the RI/FS Consent Decree (Decree). U.S. EPA made it clear that at the end of the public comment period, following response to all comments, the terms of the Decree would be met and it intended to sign a ROD as early as the last week of September 1990. PRPs filed for and were granted an order which enjoined the U.S. EPA from issuing a ROD as planned. The Court ruled on September 27, 1990 that terms of the Decree would not be fulfilled and a ROD could not be issued, until an additional sixty-day period of negotiations had been held.

U.S. EPA and MDEQ determined, based on information developed and clarified during these extended negotiations that remedial action to address soil contamination other than the previously proposed options is most appropriate for Berlin and Farro.

A Proposed Plan for this remedial alternative was released July 11, 1991. The notice of availability for the Proposed Plan was published in the Flint Journal on July 8, 1991. A sixty-day public comment period was held from July 11, 1991 through September 9, 1991. In addition, a public meeting was held on August 8, 1991. At this meeting, representatives of the U.S. EPA and MDEQ answered questions about problems at the site and the remedial alternatives under consideration and accepted formal comments from the Public regarding the proposed alternative and other alternatives analyzed in the FS.

On September 30, 1991, U.S. EPA signed a Record of Decision (ROD) for the final remedy at the Site. The ROD required: (1) excavation of on-site soil and sediment and sediments from Slocum Drain where levels of contamination exceed ROD cleanup standards; (2) disposal of these materials in an on-site hazardous waste disposal cell; and (3) extraction and treatment by air stripping of ground water with

contaminant levels above the ROD cleanup standards. Following completion of these elements of the cleanup, permanent deed and land use restrictions were to be implemented to control land use, to restrict development of the Site and to prohibit installation of ground water wells.

U.S. EPA issued a Unilateral Administrative Order (UAO) to PRPs September 24, 1993. During an October 28, 1994 meeting attended by representatives of U.S. EPA, MDEQ and the PRP technical committee and by follow-up letter dated December 2, 1994 responsible party representatives requested U.S. EPA and MDEQ to consider an alternate cleanup option for remediation of contaminated soil and sediment and contaminated groundwater. In addition, the Predesign Report submitted in March 1995 included a contingency proposal for modification of the groundwater remedy, if necessary, following assessment of monitoring results.

Following public review of and comment upon the proposed changes to remedial action at the Site, the ROD was amended on October 24, 1995. The amended ROD specified a revised Remedial Action (RA) for the Site soils/sediments and groundwater based on the RI and predesign data and reevaluation of the cleanup standards for soil and groundwater.

An Amended ROD was signed on October 24, 1995. The major components of this remedy include:

- Excavation of contaminated soil and sediment from the central site area and Slocum Drain and transportation to an off-site facility for appropriate treatment/disposal.
- Excavation of the water-bearing zones in the area of highest groundwater contamination and off-site disposal of the excavated materials.
- Implementation of a groundwater monitoring program and implementation of site deed restrictions on the installation of drinking water wells until all cleanup standards have been met and maintained.

Activities at the Site were consistent with the amended ROD and the RD/RA statement of work for design and construction. The RD Report, including a Quality Assurance Project Plan (QAPP), incorporated all necessary U.S. EPA and State quality assurance and quality control (QA/QC) procedures and protocol. U.S. EPA analytical methods were used for all validation and monitoring samples during RA activities. All procedures and protocol followed for soil, groundwater, and air sample during the RA are documented in the RD Report and were conducted through a participating Contract Laboratory Program (CLP) in accordance with the statement of work.

A Close Out Report was signed on September 18, 1996, which stated that the Site meets all site completion requirements as specified in OSWER Directive 9320.2–3c, *Procedures for Completion and Deletion of National Priorities Sites and Update.* Specifically, confirmatory sampling verifies that the Site has achieved the ROD cleanup objective, that all soil, sediment, and groundwater cleanup standards have been met and that all cleanup actions specified in the amended ROD have been implemented. Furthermore, U.SS. EPA has removed all other contamination detected to acceptable levels. Confirmatory groundwater sampling and backfilling and grading the Site with unaffected Site soils provide further assurance that the Site no longer poses unacceptable threats to human health or the environment. No further activity is planned at the Site.

A five-year review pursuant to OSWER Directive 9355.7–02 (''Structure and Components of Five-Year Reviews'') will not be conducted at the Site. There are no hazardous Substances that remain at the Site above health-based levels, U.S. EPA will not conduct a five-year review.

EPA, with concurrence from the State of Michigan, has determined that responsible parties have implemented all appropriate responses under CERCLA at the Berlin and Farro Liquid Incineration Site, and no further CERCLA response actions are appropriate in order to provide protection of human health and environment. Therefore, EPA proposes to delete the Site from the NPL.

Dated: December 9, 1997.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–1249 Filed 1–20–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7243]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Alabama	Huntsville (City), Madison County.	Tributary 1 to Dry Creek 2	At confluence with Dry Creek 2	None	*705
		Tributary 3 to Dry Creek 2	Backwater area surrounding intersection of Nick Fitcheard Road and Bob Wade Lane.	None	*764
		Tributary 4 to Dry Creek 2	At confluence with Dry Creek 2	None	*770
		Tributary to Knox Creek	Approximately 500 feet upstream of Wall Triana Highway.	None	*744
			At Capshaw Road	None	*752
		Piney Creek	At Roberts Road	None	*572
Maps available for inspection at Huntsville City Hall, 308 Fountain Circle, Huntsville, Alabama.					
Send comments to The Honorable Loretta Spencer, Mayor of the City of Huntsville, P.O. Box 308, Huntsville, Alabama 35804.					
Alabama	New Hope (City), Madison County.	Tributary to Yellow Bank Creek.	Approximately 600 feet upstream of confluence with Yellow Bank Creek.	None	*581
Maps available for inspection at the New Hope City Hall, 5496 Main Drive, New Hope, Alabama.					
Send comments to The Honorable Billy G. Jones, Mayor of the City of New Hope, P.O. Box 419, New Hope, Alabama 35760.					
Alabama	Madison (City), Madison County.	Bradford-Sullivan Ditch	At confluence with Bradford Creek	*615	*618
			Just upstream of Westchester Road	*618	*619
Maps available for inspection at the Madison City Hall, Community Development Department, 100 Hughes Road, Madison, Alabama.					
Send comments to The Honorable Charles Yancura, Mayor of the City of Madison, 100 Hughes Road, Madison, Alabama 35758.					
Alabama	Madison County (Unincorporated Areas).	Tributary 2 to Dry Creek 2	At confluence with Dry Creek	None	*726
			At Rideout Road	None	*732
		Unnamed Tributary to Brier Fork Flint River.	At upstream crossing of U.S. Route 431	None	*790
		Dry Creek 2	At confluence with Indian Creek	None	*672
			Approximately 300 feet downstream of Indian Creek Road.	None	*673
		Tributary 3 to Dry Creek 2	At confluence with Dry Creek 2	None	*759
			Downstream side of Bob Wade Lane	None	*764
		Tributary 4 to Dry Creek 2	At confluence with Dry Creek 2	None	*770
		Huntsville Spring Branch	Approximately 260 feet downstream of Martin Road.	None	*575
			Approximately 1,000 feet upstream of Martin Road.	None	*575
		Indian Creek	Upstream side of Old Moravia Road	None	*701
		Brier Fork Flint River	At confluence with Flint River	None	*672
		Flint River	Upstream side of Ryland Pike	None	*646
			Approximately 0.5 mile upstream of Ryland Pike.	None	*647
		Miller Branch	At Wall Triana Highway	None	*571

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Madison County Engineering Building, 814 Cook Avenue, Huntsville, Alabama.					
Send comments to Mr. Mike Gillespie, Chairman of the Madison County Commission, Madison County Courthouse, 100 Northside Square, Huntsville, Alabama 35801–4820.					
Alabama	Mobile (City), Madison County.	East Eslava Creek	Approximately 1,170 feet downstream of Pinehill Road.	*10	*11
			Approximately 3,320 feet upstream of Airport Boulevard.	None	*27
Maps available for inspection at the Mobile City Hall, 205 Government Street, 3rd Floor, Mobile, Alabama.					
Send comments to The Honorable Michael C. Dow, Mayor of the City of Mobile, P.O. Box 1827, Mobile, Alabama 36633–1827.					
Georgia	Charlton County (Unincorporated Areas).	St. Mary's River	Approximately 500 feet downstream of County boundary.	None	*9
			Approximately 1.0 mile upstream of upstream crossing of State Route 94.	None	*116
Maps available for inspection at the Charlton County Assessor's Office, 100 North 3rd Street, Folkston, Georgia.					
Send comments to Mr. C.L. Nazworth, Chairman of the Charlton County Board of Commissioners, 100 North 3rd Street, Folkston, Georgia 31537.					
Georgia	Tift County (Unincorporated Areas).	Channel A–1	At confluence with New River	*314	*316
			Approximately 275 feet upstream of Tift Avenue.	None	*357
		Channel A–2	Approximately 1,100 feet downstream of 40th Avenue.	None	*341
			Approximately 3,000 feet upstream of 40th Street.	None	*353
		Channel B	Approximately 2,000 feet upstream of confluence with Little River.	*260	*261
			Approximately 750 feet upstream of Hunt Road.	None	*305
		New River	Approximately 10 feet upstream of upstream side of Seaboard Coast.	*309	*310
			Ferry Lake Road	*326	*324
Maps available for inspection at the Tift County Zoning Department, 225 North Tift Avenue, Tifton, Georgia.					
Send comments to Mr. James Spurlin, Chairman of the Tift County Board of Commissioners, P.O. Box 826, Tifton, Georgia 31793–0826.					
Georgia	City of Tifton (Tift County).	Channel A–1	Approximately 50 feet downstream of Bill Bowen Road.	*317	*319
			Approximately 250 feet upstream side of Tift Avenue.	None	*357
		Channel A–2	At confluence with Channel A	*337	*338
			Approximately 450 feet upstream of 40th Street.	None	*351
		New River	Ferry Lake Road	*327	*324
			Approximately 1,200 feet upstream of 20th Street bridge.	None	*362
		Channel E	Approximately 100 feet upstream of 16th Street bridge.	*339	*340
			Approximately 1,100 feet upstream of 28th Street bridge.	*367	*371
		Channel E–1	Confluence with Channel E	None	*355
			Approximately 1,850 feet upstream of 28th Street.	None	*366
		Channel B	Approximately 900 feet upstream of McCormick Drive.	None	*294
			Approximately 350 feet upstream of Victory Drive bridge.	None	*333
		Channel G	Just upstream of Ferry Lake Road bridge	*328	*324
			Approximately 50 feet upstream of Goff Avenue.	*330	*329
Maps available for inspection at the Tift County Zoning Department, 225 North Tift Avenue, Tifton, Georgia.					
Send comments to Mr. Charles Howell, Tifton City Manager, P.O. Box 229, Tifton, Georgia 31794.					
Maryland	Caroline County (Unincorporated Areas).	Miles Branch	Downstream corporate limits	None	*12
			At Wright Road	None	*37

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Caroline County Planning Office, 109 Market Street, Caroline County Courthouse, Second Floor, Denton, Maryland.					
Send comments to Mr. Edwin G. Richards, Caroline County Administrator, 109 Market Street, Room 109, Denton, Maryland 21629.					
Maryland	Federalsburg (Town) Caroline and Dorchester Counties.	Miles Branch	At Reliance Avenue	None	*22
			Approximately 0.8 mile upstream of Reliance Avenue.	None	*34
Maps available for inspection at the Federalsburg Town Hall, 118 North Main Street, Federalsburg, Maryland.					
Send comments to The Honorable Dan A. Happersett, Mayor of the Town of Federalsburg, P.O. Box 471, Federalsburg, Maryland 21632.					
Michigan	Meridian (Charter Township), Ingham County.	Herron Creek	At upstream side of CSX Transportation	*846	*847
			At Jolly Road	*855	*854
		Smith Drain	Approximately 1,650 feet upstream of confluence with Red Cedar River.	*848	*847
			Approximately 200 feet downstream of Jolly Road.	*873	*872
Maps available for inspection at the Charter Township of Meridian Municipal Building, 5151 Marsh Road, Okemos, Michigan.					
Send comments to Mr. Gerald J. Richards, Meridian Charter Township Manager, 5151 Marsh Road, Okemos, Michigan 48864.					
Minnesota	Cambridge (City), Isanti County.	Rum River	Approximately 2.74 miles downstream of 2nd Avenue SW.	None	*916
			Approximately 2.60 miles downstream of 2nd Avenue SW.	None	*916
			Approximately 1.09 miles upstream of 1st Avenue.	None	*918
			Approximately 1.62 miles upstream of 1st Avenue West.	None	*918
Maps available for inspection at the Cambridge Town Hall, 626 North Main Street, Cambridge, Minnesota.					
Send comments to The Honorable Carsten Seecamp, Mayor of the City of Cambridge, 626 North Main Street, Cambridge, Minnesota 55008.					
New Jersey	Barnegat Light (Borough), Ocean County.	Atlantic Ocean	Approximately 1,000′ southeast of intersection of East 26th Street and Long Beach Boulevard.	*14	*10
			East side of Long Beach Boulevard	*9	#1
Maps available for inspection at the Borough Hall, 10 West 10th Street, Barnegat Light, New Jersey.					
Send comments to The Honorable Kirk L. Larsen, Mayor of the Borough of Barnegat Light, P.O. Box 576, Barnegat Light, New Jersey 08006.					
New Jersey	Beach Haven (Borough) Ocean County.	Atlantic Ocean	At intersection of Beach Avenue and 6th Street.	*9	*8
			Approximately 650′ southeast of the intersection of Atlantic Avenue and Taylor Avenue.	*14	*13
			Approximately 50′ east of intersection of 6th Street and Atlantic Avenue.	*10	#1
		Little Egg Harbor	Entire shoreline within community	*11	*10
Maps available for inspection at the Borough Zoning Office, Beach Haven Municipal Building, 300 Engleside Avenue, Beach Haven, New Jersey					
Send comments to The Honorable Robert Bahner, Mayor of the Borough of Beach Haven, 300 Engleside Avenue, Beach Haven, New Jersey 08008.					
New Jersey	Harvey Cedars (Borough), Ocean County.	Atlantic Ocean	Approximately 650′ southeast of intersection of Long Beach Boulevard and 68th Street.	*14	*13
			Approximately 250′ southeast of intersection of Long Beach Boulevard and 68th Street.	*9	#1
		Manahawkin Bay	Approximately 500′ northwest of intersection of Suffolk Place and Buckingham Avenue.	*6	*8
Maps available for inspection at the Borough Municipal Building, 7606 Long Beach Boulevard, Harvey Cedars, New Jersey.					
Send comments to The Honorable Jonathan S. Oldham, Mayor of the Borough of Harvey Cedars, P.O. Box 3185, Harvey Cedars, New Jersey 08008.					
New Jersey	Long Beach (Town), Ocean County.	Atlantic Ocean	At intersection of Coast Avenue and Arts Lane.	*9	#1

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			At intersection of 127th and Ocean Avenue.	*10	#1
			At intersection of Beach Avenue and Oceanview Drive.	*9	*8
			Approximately 400′ east of intersection of Coast Avenue and Arts Lane.	*14	*13
		Barnegat Bay	Approximately 150′ west of intersection of Bayview and Panorama Drives.	*6	*8
		Manahawkin Bay	At intersection of Roxie Avenue and Long Beach Boulevard.	*8	*7
		Little Egg Harbor	Entire shoreline of Shelter Island	*11	*10

Maps available for inspection at the Long Beach Township Zoning Office, James J. Mancini Administration Building, 6805 Long Beach Boulevard, Long Beach, New Jersey.

Send comments to Mr. Peter L. Murphy, Township of Long Beach Commissioner for Public Affairs and Safety, 6805 Long Beach Boulevard, Brant Beach, New Jersey 08008.

New Jersey	Ship Bottom (Borough), Ocean County.	Atlantic Ocean	Approximately 1,000′ southeast of the intersection of Long Beach Avenue and 7th Street.	*14	*13
			Approximately 400’ southeast of the intersection of Long Beach Avenue and 7th Street.	*9	#1

Maps available for inspection at the Borough Clerk’s Office, Borough Hall, 1621 Long Beach Boulevard, Ship Bottom, New Jersey.

Send comments to The Honorable Robert W. Nissen, Mayor of the Borough of Ship Bottom, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.

New Jersey	Surf City (Borough), Ocean County.	Atlantic Ocean	Approximately 400′ southeast of intersection of Ocean Terrace and 17th Street.	*14	*13
			West side of Ocean Terrace	*9	#1

Maps available for inspection at the Borough Municipal Clerk’s Office, Borough Hall, 813 Long Beach Boulevard, Surf City, New Jersey.

Send comments to The Honorable Leonard T. Connors, Jr., Mayor of the Borough of Surf City, 813 Long Beach Boulevard, Surf City, New Jersey 08008.

New York	Camden (Town)	Cobb Brook	At confluence with West Branch Fish Creek.	None	*472
			Approximately 0.82 mile upstream of Shady Lane.	None	*574
		Mad River	At downstream corporate limits	None	*520
			Approximately 100 feet upstream of River Road.	None	*597
		West Branch Fish Creek	Approximately 0.4 mile downstream of Brewer Road.	None	*461
			Approximately 1.12 miles upstream of State Route 13.	None	*526

Maps available for inspection at the Camden Town Hall, Code Enforcement Office, Second Street, Camden, New York.

Send comments to Mr. Daniel Yerdon, Supervisor for the Town of Camden, Camden Town Hall, Camden, New York 13316.

New York	Camillus (Town) Onondaga County.	Geddes Brook	Approximately 40 feet downstream of Gerelock Road.	*383	*382
			Approximately 1,800 feet upstream of Whedon Road.	*516	*515
		Ninemile Creek	At northeastern corporate limits	*380	*371
			Approximately 50 feet upstream of State Route 174.	*461	*458
		Unnamed Stream near Garden Terrace.	At the confluence with Ninemile Creek	*386	*380
			Approximately 40 feet downstream of Pottery Road.	*386	*385

Maps available for inspection at the Town of Camillus Code Enforcement Office, 4600 West Genesee Street, Syracuse, New York.

Send comments to Mr. Donald D. Fittipaldi, Camillus Town Supervisor, 4600 West Genesee Street, Syracuse, New York 13219.

New York	Endicott (Village) Broome County.	Susquehanna River	Approximately 1,500 feet upstream of the confluence of Nanticoke Street.	*830	*829
			Approximately 600 feet upstream of the Vestal Avenue bridge.	*831	*830

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Endicott Municipal Building, 1009 East Main Street, Endicott, New York.					
Send comments to The Honorable David J. Archer, Mayor of the Village of Endicott, Municipal Building, 1009 East Main Street, Endicott, New York 13760.					
New York;	Lee (Town), Oneida County.	Canada Creek	At downstream corporate limits	None	*478
			Approximately 1,200 feet upstream of Point Rock Road.	None	*697
		Tributary to Canada Creek	At confluence with Canada Creek	None	*591
			Approximately 915 feet upstream of Lee Center Taberg Road.	None	*652
		Mohawk River	At corporate limits	None	*920
			Approximately 1,050 feet upstream of corporate limits.	None	*931
		West Branch Mohawk River.	At confluence with East Branch Mohawk River and Mohawk River.	None	*931
			Approximately 510 feet upstream of State Route 26.	None	*1,001
		Sash Factory Creek	At downstream corporate limits	None	*430
			On downstream side of Kiwanis Road	None	*557
		Tributary to Delta Lake	At confluence with Delta Lake	None	*542
			Approximately 0.39 mile upstream of Lee Center Taberg Road.	None	*678
Maps available for inspection at the Lee Town Hall, 5808 Stokes-Lee Center Road, Lee Center, New York.					
Send comments to Mr. John Urtz, Lee Town Supervisor, RR #2, Box 200, Cemetery Road, Lee Center, New York 13363.					
New York	Rome (City), Oneida County.	Wood Creek	Approximately 600 feet downstream of Erie Canal Triple Culvert.	None	*414
			Approximately 100 feet upstream of West Dominick Street.	*437	*438
Maps available for inspection at the City Engineer's Office, Rome City Hall, Liberty Plaza, Rome, New York.					
Send comments to The Honorable Joseph Griffo, Rome City Hall, Liberty Plaza, Rome, New York 13440.					
North Carolina	Watauga County (Unincorporated Areas).	Watauga River	Approximately 0.75 mile upstream of Breached Dam.	*2,904	*2,905
			Approximately 0.79 mile upstream of Aldridge Road (SR 1594).	*3,239	*3,240
Maps available for inspection at the Watauga County Planning and Inspections Department, County Courthouse, 842 West King Street, Suite 7, Boone, North Carolina.					
Send comments to Mr. Jack D. Lawrence, Sr., Chairman of the Watauga County Board of Commissioners, Watauga County Courthouse, 842 West King Street, Suite 1, Boone, North Carolina 28607.					
Tennessee	Murfreesboro (City), Rutherford County.	Middle Fork Stones River	At confluence with West Fork, Stones River.	*598	*597
			Approximately 0.6 mile upstream of confluence with West Fork, Stones River.	*598	*597
Maps available for inspection at the Murfreesboro City Hall, City Planning Department, 111 West Vine Street, Murfreesboro, Tennessee.					
Send comments to The Honorable Joe B. Jackson, Mayor of the City of Murfreesboro, P.O. Box 1139, Murfreesboro, Tennessee 37133–1139.					
Tennessee	Rutherford County (Unincorporated Areas).	Lees Spring Branch	At confluence with Lytle Creek	*620	*621
			Approximately 150 feet upstream of Dilton-Mankin Road.	None	*630
		Bradley Creek	At confluence with East Fork, Stones River.	*564	*559
			Approximately 264 feet upstream of Browns Mill Road.	*564	*563
		Middle Fork Stones River	At confluence with West Fork Stones River.	*598	*597
			Approximately 0.6 mile upstream of confluence with West Fork Stones River.	*598	*597
		West Fork Stones River ...	Approximately 800 feet upstream of U.S. Route 70.	None	*565
			Downstream side of I–24	None	*586

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Rutherford County Courthouse, County Engineering Department, #1 Public Square South, Room 101, Murfreesboro, Tennessee.					
Send comments to Ms. Nancy Allen, Rutherford County Executive, Rutherford County Courthouse, #1 Public Square South, Room 101, Murfreesboro, Tennessee 37130.					
Tennessee	Smyrna (Town), Rutherford County.	West Fork Stones River	Approximately 0.5 mile southeast of intersection of Enon Springs Road and Florence Road.	None	*509
			Northwest corner of intersection of Wade Herrod Road and Florence Road.	None	*520
Maps available for inspection at the Smyrna Town Hall, 315 South Lowry Street, Smyrna, Tennessee.					
Send comments to The Honorable Paul H. Johns, Mayor of the Town of Smyrna, 315 South Lowry Street, Smyrna, Tennessee 37167.					
Wisconsin	Avoca (Village), Iowa County.	Wisconsin River	At upstream corporate limits	*689	*688
			At downstream corporate limits	*687	*686
Maps available for inspection at the Avoca Village Hall, 407 Front Street, Avoca, Wisconsin.					
Send comments to Mr. Richard Olsen, President of the Village of Avoca, 407 Front Street, P.O. Box 188, Avoca, Wisconsin 53506.					
Wisconsin	Boscobel (City), Grant County.	Wisconsin River	Approximately 0.91 mile downstream of U.S. Route 61.	None	*655
			Approximately 0.56 mile upstream of U.S. Route 61.	*660	*657
		Sanders Creek	At U.S. Route 61	*659	*657
			Approximately 90 feet upstream of upstream corporate limits.	None	*678
Maps available for inspection at the Boscobel City Hall, 1006 Wisconsin Avenue, Boscobel, Wisconsin.					
Send comments to The Honorable Paul J. Bloyer, Mayor of the City of Boscobel, 1006 Wisconsin Avenue, Boscobel, Wisconsin 53805.					
Wisconsin	Manitowoc County, (Unincorporated Areas).	Sheboygan River	At county boundary	*848	*845
			At corporate limits of Kiel (State Routes 67 and 32).	*888	*882
Maps available for inspection at the Manitowoc County Planning & Park Commission, 4319 Expo Drive, Manitowoc, Wisconsin					
Send comments to Mr. Donald Markwardt, Chairman of the Manitowoc County Board of Supervisors, 1010 South 9th Street, Manitowoc, Wisconsin 54221–5374.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 13, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–1385 Filed 1–20–98; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 94–055]

RIN 2115–AF23

Licensing and Manning for Officers of Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meetings; request for comments.

SUMMARY: The Coast Guard is holding four public meetings on its proposed rule to revise the requirements for licensing mariners who operate inspected as well as uninspected towing vessels. The proposed rule would ensure that all towing vessels are manned by officers holding licenses specifically authorizing their service. The Coast Guard is holding the public meetings to receive additional views on the licensing issues in the proposed rule.

DATES: The meeting in Memphis, Tennessee, will be held on February 11, 1998, from 9 a.m. to 5 p.m. The meeting in Houston, Texas, will be held on February 13, 1998, from 9 a.m. to 5 p.m. The meeting in Boston, Massachusetts, will be held on February 18, 1998, from 9 a.m. to 5 p.m. The meeting in Seattle, Washington, will be held on February 24, 1998, from 9 a.m. to 5 p.m. Written material must reach the Coast Guard not later than February 20, 1998. Comments on the supplemental notice of proposed rulemaking must be received on or before February 24, 1998.

ADDRESSES: The Memphis meeting will be held in the City Council Chambers, 125 North Main, Memphis, TN 38103. The Boston meeting will be held in the Coast Guard Marine Safety Office, 455 Commercial Street, Boston, MA 02109–1045. The Houston meeting will be held at Hollywood Marine Inc., 16402–1/2 Dezavala, Channelview, TX 77530. The Seattle meeting will be held in the South Auditorium, Federal Building, 915 Second Avenue, Seattle, WA 98174–1067. You may send written comments to the Executive Secretary, Marine Safety Council (G–LRA) [CGD 94–055], U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Don Darcy, Operating and Environmental Standards Division (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, telephone 202–267–0221.

SUPPLEMENTARY 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 [CGD 94–055] and the specific section of the proposed rule to which each comment applies, and give the reasons for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comment 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.

Public Meeting

Attendance is open to the public. Persons who are hearing-impaired may request sign translation by asking the person under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting. With advance notice, and as time permits members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted before, during, or after the meeting. Persons unable to attend the public meetings should submit written comments as outlined in the interim rule by February 24, 1998.

Dated: January 13, 1998.

R. L. Skewes,

Captain, U.S. Coast Guard, Acting Director of Standards Marine Safety and Environmental Protection.

[FR Doc. 98–1399 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MM Docket No. 95–176; FCC 98–3]

Closed Captioning of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Viewers with hearing disabilities may not always have access to the same televised emergency information that is currently available to other viewers. The Commission adopted this *Further Notice of Proposed Rulemaking (''Further Notice'')* seeking information and comment regarding appropriate rules and policies to promote and to ensure the accessibility of televised emergency information to persons with hearing disabilities. Closed captioning rules for emergency information programs were not adopted in the *Report and Order* in MM Docket No. 95–176, *In the Matter of Closed Captioning and Video Description of Video Programming, Video Programming Accessibility (''Closed Captioning Order'')* due to the limited comments submitted in that proceeding on the issue of captioning of such programs.

The *Further Notice* does not contain proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

DATES: Comments are due on or before February 25, 1998 and reply comments are due on or before March 27, 1998.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexis D. Johns, Cable Services Bureau, (202) 418–7038, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Further Notice of Proposed Rulemaking*, MM Docket 95–176, adopted January 9, 1998 and released January 14, 1998. The full text of this *Further Notice* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036.

Synopsis of the Further Notice of Proposed Rulemaking

1. The rules we adopted in the *Closed Captioning Order* require video program providers to increase gradually the amount of captioned new programming offered over time. The rules require minimum captioning benchmarks to be met at two year intervals, starting on January 1, 2000. Appendix B at § 79.1(b)(1) (62 FR 48487, September 16, 1997). New programming is defined as programs first published or exhibited after January 1, 1998. Appendix B at § 79.1(a)(5) (62 FR 48487, September 16, 1997). The rules allow video program providers to exercise discretion with respect to what types of programs to caption first, and permit video program providers to caption news programming using the electronic newsroom (''ENR'') method. Para. 47 and Appendix B at § 79.1(e)(3) (62 FR 48487, September 16, 1997). ENR captions are created from the text in the station's news script computers. With ENR, only text transmitted from the scripting computers onto teleprompters is captioned; unscripted material, such as live reports from the field, reports of breaking news, and weather and sports reporting, is not captioned.

2. The emergency information which we address in this *Further Notice* falls under the *Closed Captioning Order's* definition of new programming. By ''emergency information,'' we generally mean state, local and regional emergency announcements or reports, including interruptions of regularly-scheduled programming and late-breaking reports during live news programs. Pursuant to the rules adopted in the *Closed Captioning Order*, emergency information would be subject to the same closed captioning requirements as other new programming. Such programming would not be required to be offered with closed captioning before 2000 at the earliest, and each video program provider would have the discretion to determine whether to give emergency information priority for captioning relative to other new programming. In addition, under the rules, a video program provider could caption its live news programming using the ENR method, which could leave much emergency information inaccessible to persons with hearing disabilities since it is likely to be late-breaking news and unscripted.

3. Given the significant health and safety issues inherent in emergency information, in the *Closed Captioning Order* we concluded that closed captioning requirements for emergency information should be considered further. In this *Further Notice*, we seek comment on how our rules can best ensure that such programs are accessible to viewers with hearing disabilities. We request comment on whether separate transitional closed captioning requirements are needed for emergency information or whether there are other methods of providing accessibility for this type of programming.

4. As we stated in the *Closed Captioning Order*, providing all viewers with accurate information regarding emergencies is of great importance, and we are concerned that viewers with hearing disabilities may not always have access to the same information that is available to other viewers. As a threshold matter, we seek comment on the types of information and programs that should be considered ''emergency information'' for the purposes of our rules. We note that the Commission currently requires broadcast licensees to make the emergency information programming that they transmit accessible to persons who are deaf or hard of hearing. *See* 47 CFR 73.1250(h). The types of emergency information contemplated in the *Further Notice* are not those which must be transmitted by the Emergency Alert System (''EAS'') under our existing rules. *See* 47 CFR 11.1 *et seq.* Use of the EAS is required only in the event of a national emergency, though state and local authorities may use the EAS to provide early warnings to communities about regional, state and local emergencies. The rules and policies proposed in this *Further Notice* are not intended to conflict with or supersede the EAS rules in any way. The broadcast rule enumerates the following examples of emergency situations as being subject to the rule: tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, and school closings and changes in school bus schedules resulting from such conditions. We tentatively conclude that for this purpose, we should broadly define emergency information to ensure that sufficient information regarding situations that affect the safety of viewers is available to persons with hearing disabilities with the same immediacy as it is for other viewers. To the types of situations cited in the existing broadcast rule, we believe that it would be appropriate to add warnings and watches of impending changes in weather affecting the safety of viewers, and seek comment on how to define such situations. We also seek comment on whether defining emergency information more broadly here than in the broadcast rule would cause any practical problems or other complications for entities subject to emergency closed captioning requirements.

5. We seek comment on whether it is feasible to require video program providers to supply closed captions for emergency information programs. By its nature, emergency information is not typically programming that can be pre-recorded and captioned in advance of airing. A requirement that such programs be captioned would therefore oblige providers to obtain real-time captioning services for such programs. As we described in the *Closed Captioning Order*, real-time captioning resources are somewhat limited at this time. We declined to require that all live news programming be captioned using real-time captioners in part due to concerns about the limited real-time resources in existence and the need to allow captioning companies sufficient time to recruit and train more captioners to meet the increased demands for their services that the rules will create.

6. We seek comment on the estimated costs, in both financial and human resource terms, that a captioning requirement for emergency information will impose on video providers. In particular, we seek updated information on the number of real-time captioners currently available as well as the number projected to be available in the near future. In the event a real-time captioning requirement is instituted for emergency information, we seek comment on the effect such a rule will have on the availability of live captioning resources for other types of live programming. Captioning companies and commenters who regularly use real-time captioning services should submit detailed information on the hourly costs charged for such services, and whether and under what conditions those costs vary. Is it feasible for video program providers to have real-time captioners ''on call'' for closed captioning when emergencies arise, or would providers have to hire full-time staff to produce live closed captions? What would it cost to hire an ''on call'' real-time captioner?

7. We request information on the availability and feasibility of providing live captions remotely in emergency situations. Where an emergency affects a large geographic region, all video providers in that region will need to access real-time captioning resources at the same time. Given the limited number of real-time captioning

resources available at present, it may not be possible for each provider to obtain the necessary captioning assistance within its geographic region. For example, a major snowstorm such as that which occurred on the East Coast in early 1996 could place a significant strain on real-time resources throughout the northeast and mid-Atlantic states. Could video program providers use real-time captioners located in other areas (e.g., California) unaffected by the emergency to offer remote captioning under such circumstances? Would remote real-time captioning incur greater costs or be less costly than local live captioning under such circumstances?

8. We specifically seek comment on whether emergency programming should be given a higher priority for captioning than other types of new programs. Specifically, should we require that emergency information be provided with captions prior to the commencement of the captioning requirement for other new programs? If so, when should video program providers be required to begin captioning these programs? With respect to the minimum benchmarks for captioning of new programs, we ask whether video program providers should be required to supply closed captions for emergency information programs during the transition period, regardless of whether the provider has already met its captioning benchmark for new programs. Would such a requirement be feasible, or would it pose significant logistical problems or economic burdens on video program providers? We tentatively conclude that any textual presentation of emergency information programs should be required to incorporate substantially the entire text of the audio portion of the program. We seek comment on this tentative conclusion.

9. The closed captioning rules also include exemptions based on video program providers' gross revenues. Under the revenue exemption, video program providers with annual gross revenues of less than $3 million per channel are exempt from all captioning requirements, except for the obligation to pass through captions where programs are received from the program supplier with captions. Appendix B at § 79.1(d)(12) (62 FR 48487, September 16, 1997). Also, our rules provide that once a video program provider has spent an amount equal to 2% of its gross annual revenues on captioning, that provider need not spend any more money on captioning. Appendix B at § 79.1(d)(11) (62 FR 48487, September 16, 1997). We seek comment as to whether these exemptions should be suspended for the limited purpose of emergency information programming closed captioning. Should all video program providers be required to supply closed captions for emergency information, even where the provider is otherwise eligible for one of our revenue-based exemptions? How would such a rule affect small entities such as small or low power television stations and small cable operators? Commenters should submit proposals for reducing the burdens on small entities that such a mandatory closed captioning rule might impose.

10. Alternatively, we ask whether other methods of visually presenting emergency information would be acceptable in lieu of a closed captioning requirement. As noted above, the Commission currently requires broadcast licensees to make such programming accessible to persons who are deaf or hard of hearing. To the extent broadcast licensees transmit emergency information programming, they are required by our rules to transmit such programs both aurally and visually or only visually. The broadcast rules allow television stations to ''use any method of visual presentation which results in a legible message conveying the essential emergency information,'' including, but not limited to, slides, electronic captioning, manual methods (e.g., hand printing), or mechanical printing processes. 47 CFR 73.1250(h). However, no equivalent obligation exists for emergency information transmitted by cable television operators or other multichannel video program distributors (''MVPDs''). We seek comment as to whether an extension of the existing broadcast rules to cover emergency information disseminated by MVPDs, in conjunction with our existing captioning rules, would be appropriate or sufficient to address the concerns raised in this *Further Notice.*

11. In addition, an emergency information program may consist of an audio report that is not displayed visually, or the audio portion of the report may be longer and offer more complete information than that displayed visually, leaving viewers with hearing disabilities without full details on the situation. We seek information on methods or requirements that could be adopted to ensure that all pertinent details are accessible. We also seek comment on a proposal submitted by Cal-TVA for cases where local stations are unable to provide an instant visual transcription of audio emergency messages. Cal-TVA recommends use of a second text channel that a viewer may switch to within ten minutes of the airing of an emergency message, to read a typed report of the audio message and any actions the viewer is being instructed to take. We seek comment regarding the feasibility of this proposal, and request information regarding other possible methods of ensuring the accessibility of this information to persons with hearing disabilities.

12. Finally, we seek comment on any other proposals to promote and to ensure the accessibility of emergency programming and other special reports that have not already been raised in this *Further Notice* or in the closed captioning proceeding. In particular, we ask commenters to address the legal, policy, and practical implications of any such proposals.

Initial Regulatory Flexibility Analysis

13. Pursuant to Section 603 of the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, the Commission has prepared the following initial regulatory flexibility analysis (''IRFA'') of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Further Notice*, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall cause a copy of this *Further Notice* to be sent to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'') in accordance with section 603(a) of the RFA, 5 U.S.C. 603(a).

14. *Reason for Action and Objectives of the Proposed Rule:* Section 713 of the 1996 Act required the Commission to adopt rules and timetables for the captioning of video programming by August 8, 1997. In the course of the closed captioning proceeding, a few commenters addressed the particular need for captioning of emergency programming and similar special reports, but the information submitted to the Commission regarding this issue was insufficient to support the adoption of specific captioning rules for emergency programming. Instead, the *Closed Captioning Order* directed that a separate proceeding be initiated to address this issue. In this *Further Notice*, we seek comment on appropriate requirements for promoting and ensuring the accessibility of emergency programming to viewers with hearing disabilities.

15. *Legal Basis:* This *Further Notice* is adopted pursuant to Sections 4(i), 303(r), and 713 of the Communications

Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 613.

16. *Description and Number of Small Entities Affected:* The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act. 5 U.S.C. 601(3). A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. 15 U.S.C. 632.

17. *Small MVPDs:* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. 13 CFR 121.201 (SIC 4841). This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We address below each service individually to provide a more precise estimate of small entities. We seek comment on the tentative conclusions below.

18. *Cable Systems:* The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. 47 CFR 76.901(e). Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules proposed in this *Futher Notice.*

19. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' 47 U.S.C. § 543(m)(2). The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. 47 CFR 76.1403(b) (SIC 4833). Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

20. *Multipoint Multichannel Distribution Systems (''MMDS''):* The Commission refined the definition of ''small entity'' for the auction of MMDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the preceding three calendar years. 47 CFR 21.961(b)(1). This definition of a small entity in the context of MMDS auctions has been approved by the SBA.

21. The Commission completed its MMDS auction in March 1996 for authorizations in 493 basic trading areas (''BTAs''). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MMDS is an especially competitive service, with approximately 1,573 previously authorized and proposed MMDS facilities. Information available to us indicates that no MMDS facility generates revenue in excess of $11 million annually. We tentatively conclude that, for purposes of this IRFA, there are approximately 1,634 small MMDS providers as defined by the SBA and the Commission's auction rules.

22. *ITFS:* There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. 5 U.S.C. § 601(5). However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 licensees are small businesses.

23. *Direct Broadcast Satellite (''DBS''):* Because DBS provides subscription services, DBS falls within the SBA definition of cable and other pay television services (SIC 4841). As of December 1996, there were eight DBS licensees. The Commission does not collect annual revenue data for DBS, and is unable to determine with certainty the number of small DBS licensees that could be affected by these proposed rules. However, estimates of 1996 revenues for various DBS operators are significantly greater than $11,000,000, and range from a low of $31,132,000 for Alphastar to a high of $1,100,000,000 for Primestar. Accordingly, we tentatively conclude that no DBS operator qualifies as a small entity.

24. *Home Satellite Dish (''HSD''):* The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 265 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 115 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming packager. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only nonsubscription programming; and (3) viewers who receive satellite programming services illegally without subscribing.

25. According to the most recently available information, there are approximately 30 program packagers nationwide offering packages of scrambled programming to retail consumers. These program packagers provide subscriptions to approximately 2,314,900 subscribers nationwide. This is an average of about 77,163 subscribers per program packager. This is substantially smaller than the 400,000 subscribers used in the Commission's definition of a small multiple system operator (''MSO''). Furthermore, because this is an average, it is likely that some program packagers may be substantially smaller. We seek comment on these tentative conclusions.

26. *Open Video Systems (''OVS''):* The Commission has certified nine OVS operators. Of these nine, only two are providing service. On October 17, 1996, Bell Atlantic received approval for its

certification to convert its Dover, New Jersey Video Dialtone (''VDT'') system to OVS. Bell Atlantic subsequently purchased the division of Futurevision which had been the only operating program package provider on the Dover system, and has begun offering programming on this system using these resources. Metropolitan Fiber Systems was granted certifications on December 9, 1996, for the operation of OVS systems in Boston and New York, both of which are being used to provide programming. Bell Atlantic and Metropolitan Fiber Systems have sufficient revenues to assure us that they do not qualify as small business entities. On October 10, 1996, Digital Broadcasting Open Video Systems received approval to offer OVS service in southern California. Digital Broadcasting Open Video Systems is a general partnership just beginning operations. Little financial information is available for the other entities authorized to provide OVS that are not yet operational. Given that other entities have been authorized to provide OVS service but have not yet begun to generate revenues, we tentatively conclude that at least some of the OVS operators qualify as small entities.

27. *Satellite Master Antenna Television (''SMATVs''):* Industry sources estimate that approximately 5,200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators served approximately 1.05 million residential subscribers as of September 1996. The ten largest SMATV operators together pass 815,740 units. If we assume that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, we are not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, we tentatively conclude that a substantial number of SMATV operators qualify as small entities.

28. *Local Multipoint Distribution System (''LMDS''):* Unlike the above pay television services, LMDS technology and spectrum allocation will allow licensees to provide wireless telephony, data, and/or video services. A LMDS provider is not limited in the number of potential applications that will be available for this service. Therefore, the definition of a small LMDS entity may be applicable to both cable and other pay television (SIC 4841) and/or radiotelephone communications companies (SIC 4812). The SBA definition for cable and other pay services is defined in paragraph 16 *supra.* A small radiotelephone entity is one with 1500 employees or less. 13 CFR 121.201. However, for the purposes of this *Further Notice,* we include only an estimate of LMDS video service providers.

29. LMDS is a service that was expected to be auctioned by the FCC in 1997. The vast majority of LMDS entities providing video distribution could be small businesses under the SBA's definition of cable and pay television (SIC 4841). However, in *In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services and Suite 12 Group Petition for Pioneer's Preference,* CC Docket No. 92–297 (60 FR 43740 at ¶ 188, August 23, 1995), we proposed to define a small LMDS provider as an entity that, together with affiliates and attributable investors, has average gross revenues for the three preceding calendar years of less than $40 million. We have not yet received approval by the SBA for this definition.

30. There is only one company, CellularVision, that is currently providing LMDS video services. Although the Commission does not collect data on annual receipts, we assume that CellularVision is a small business under both the SBA definition and our proposed auction rules. No commenters addressed the tentative conclusions we reached in the Further Notice. We tentatively conclude that a majority of the potential LMDS licensees will be small entities, as that term is defined by the SBA.

31. *Small Broadcast Stations:* The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts. 13 CFR 121.201.

32. *Estimates Based on Census and BIA Data:* According to the Bureau of the Census, in 1992, 1,155 out of 1,478 operating television stations reported revenues of less than $10 million for 1992. This represents 78% of all television stations, including noncommercial stations. The Bureau of the Census does not separate the revenue data by commercial and noncommercial stations in this report. Neither does it allow us to determine the number of stations with a maximum of $10.5 million in annual receipts. Census data also indicate that 81% of operating firms (that owned at least one television station) had revenues of less than $10 million.

33. We also have performed a separate study based on the data contained in the BIA Publications, Inc. Master Access Television Analyzer Database, which lists a total of 1,141 full power commercial television stations. It should be noted that, using the SBA definition of small business concern, the percentage figures derived from the BIA database may be underinclusive because the database does not list revenue estimates for noncommercial educational stations, and these therefore are excluded from our calculations based on the database. The BIA data indicate that, based on 1995 revenue estimates, 440 full power commercial television stations had an estimated revenue of $10.5 million or less. That represents 54% of full power commercial television stations with revenue estimates listed in the BIA program. The database does not list estimated revenues for 331 stations. Using a worst case scenario, if those 331 stations for which no revenue is listed are counted as small stations, there would be a total of 771 stations with an estimated revenue of $10.5 million or less, representing approximately 68% of the 1,141 full power commercial television stations listed in the BIA data base.

34. Alternatively, if we look at owners of commercial television stations as listed in the BIA database, there are a total of 488 owners. The database lists estimated revenues for 60% of these owners, or 295. Of these 295 owners, 156 or 53% had annual revenues of less than $10.5 million. Using a worst case scenario, if the 193 owners for which revenue is not listed are assumed to be small, then small entities would constitute 72% of the total number of owners.

35. In summary, based on the foregoing worst case analysis using Bureau of the Census data, we estimate that our proposed rules will apply to as many as 1,150 commercial and noncommercial television stations (78% of all stations) that could be classified as small entities. Using a worst case analysis based on the data in the BIA data base, we estimate that as many as 771 commercial television stations (about 68% of all commercial television stations) could be classified as small entities. As we noted above, these estimates are based on a definition that we tentatively believe greatly overstates the number of television broadcasters that are small businesses. Further, it

should be noted that, under the SBA's definitions, revenues of affiliates that are not television stations should be aggregated with the television station revenues in determining whether a concern is small. The estimates overstate the number of small entities since the revenue figures on which they are based do not include or aggregate such revenues from nontelevision affiliated companies.

36. *Reporting, Recordkeeping and Compliance Requirements:* The *Further Notice* seeks comment on whether we should require video programming providers (including broadcast licensees and MVPDs) to closed caption or otherwise visually display emergency programming and similar special reports to ensure the accessibility of these types of video programs to viewers with hearing disabilities. If this proposal is adopted, video programming providers may choose to maintain records of the closed captioned emergency programming carried in order to resolve any disputes which may arise regarding compliance.

37. *Federal Rules Which Overlap, Duplicate or Conflict With the Commission's Proposal:* None.

38. *Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives:* The *Closed Captioning Order* directs us to initiate proceedings to establish captioning requirements for emergency programming. We seek comment on proposals to promote and ensure the accessibility of emergency programming and other special reports to persons with hearing disabilities. We also seek comment on methods of visually displaying emergency information to viewers other than closed captioning which may be less costly or burdensome than captioning.

Ex Parte

39. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comment Dates

40. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before February 25, 1998 and reply comments on or before March 27, 1998. All relevant and timely comments will be considered before final action is taken in this proceeeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

41. Accordingly, *It is ordered* that pursuant to the authority contained in Sections 4(i), 303(r), and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 613, the *Further Notice of Proposed Rulemaking* IS ADOPTED.

42. *It is further ordered* that the Office of Public Affairs shall send a copy of this *Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 79

Closed Captioning of Video Programming.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1394 Filed 1–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[ET Docket No. 95–183; PP Docket No. 93–253; FCC 97–391]

Use of the 38.6–40.0 GHz Band for Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts a *Second Notice of Proposed Rule Making* regarding the use of the 38.6–40.0 GHz Band for fixed microwave services. Specifically, the Commission seeks comment on the appropriate unjust enrichment requirements for approving partitioning and disaggregation arrangements involving a complete or partial transfer of a license owned by a qualified small business to a non-small business or a small business eligible for a smaller bidding credit.

DATES: Comments are due on or before February 20, 1998, and reply comments are due on or before March 9, 1998.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, Public Safety and Private Wireless Division, (202) 418–0871, or Christina Eads Clearwater, Auctions Division, (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Second Notice of Proposed Rule Making* in the *Report and Order and Second Notice of Proposed Rule Making,* ET Docket No. 95–183, PP Docket No. 93–253, FCC 97–391, adopted October 24, 1997, and released November 3, 1997. The complete text of this *Report and Order and Second Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036.

Synopsis of the Second Notice of Proposed Rule Making in the Report and Order and Second Notice of Proposed Rule Making

1. The Commission has concluded in the *Report and Order* that any 39 GHz licensee will be permitted to partition or disaggregate portions of its authorization. In the *Second Notice of Proposed Rule Making,* the Commission seeks comment regarding what restrictions to impose on partitioning and/or disaggregation by licensees that have received bidding credits when the buyer is a small business subject to less favorable bidding credits or a non-small business not eligible for bidding credits.

2. The Commission seeks comment on the type of unjust enrichment requirements that should be placed as a condition for approval of partitioning and disaggregation arrangements, *e.g.,* an application for a partial transfer of a license owned by a qualified small business to a non-small business. The Commission tentatively concludes that these unjust enrichment provisions would include payment of any bidding credit that it may adopt for small business and would be applied on a proportional basis. The Commission seeks comment on how such unjust enrichment amounts should be calculated, especially in light of the difficulty of devising a methodology or

formula that will differentiate the relative market value of the opportunities to provide service to various partitioned areas within a geographic or market area. The Commission seeks comment on whether it should consider the price paid by the partitionee in determining the percentage of the outstanding principal balance to be repaid.

3. The Commission tentatively concludes that if it permits a small business licensee to disaggregate to another qualified small business that would not qualify for the same level of bidding credit as the disaggregating licensee, the disaggregating licensee will be required to repay a portion of the benefit it received. The Commission seeks comment on how that amount should be calculated. The Commission seeks comment on what provisions, if any, it should adopt to address the situation of a small business licensee's disaggregation followed by default in payment of a winning bid at auction.

Regulatory Flexibility Act/Initial Regulatory Flexibility Analysis

4. As required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in the *Second Notice of Proposed Rule Making.* Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on this *Second Notice of Proposed Rule Making,* but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall send a copy of this *Second Notice of Proposed Rule Making,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

5. *Need for and Objectives of the Action.* In the companion *Report and Order,* the Commission expanded the Commission's geographic partitioning provisions to all 39 GHz licensees and permitted spectrum disaggregation. The Commission seeks further comment on the use of partitioning and disaggregation by parties taking advantage of bidding credits under the Commission's competitive bidding licensing rules, and certain technical rules. The expansion of the partitioning and disaggregation rules in the *Report and Order* to include all 39 GHz licensees implements, in part, the requirements of section 257 of the Telecommunications Act of 1996, which requires that the Commission eliminate entry barriers into the telecommunications market for small businesses. In the *Second Notice of Proposed Rule Making,* the Commission tentatively concludes that unjust enrichment provisions should apply when a licensee has benefitted from the small business provisions (*i.e.,* installment plans and bidding credits) in the auction rules and then partitions a portion of the license area to another entity that would not qualify for such benefits or would not qualify for the same level of benefits. The Commission seeks comment on how such unjust enrichment should be calculated under each scenario. The Commission further seeks comments on what the respective obligations of the participants in partitioning transfer should be.

6. *Legal Basis.* The proposed action is authorized under sections 4(i), 257, 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 257, 303(r), and 309(j).

7. *Description and Number of Small Entities Involved.* The unjust enrichment proposals with respect to partitioning and disaggregation will affect all small businesses that avail themselves of partitioning and/or disaggregation, including small businesses currently holding 39 GHz licenses who choose to partition and/or disaggregate and small businesses who may acquire licenses through partitioning and/or disaggregation. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities.

8. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *Second Notice of Proposed Rule Making.* In particular, the Commission seeks estimates of how many such entities will be considered small businesses. As explained in the Final Regulatory Flexibility Analysis in the *Report and Order,* the Commission is utilizing the SBA definition applicable to radiotelephone companies, *i.e.,* an entity employing less than 1,500 persons. The Commission seeks comment on whether this definition is appropriate for 39 GHz licensees in this context. Additionally, the Commission requests each commenter to identify whether it is a ''small business'' under this definition. If a commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

9. *Reporting, Recordkeeping, and Other Compliance Requirements.* The proposals in the *Second Notice of Proposed Rule Making* include the possibility of imposing additional reporting and/or recordkeeping requirements in connection with businesses obtaining licenses through the partitioning and disaggregation rules. The information requirements placed on businesses seeking to obtain licenses through partitioning or disaggregation will be used to determine if the licensee is a qualifying entity to obtain a partitioned license or disaggregated spectrum. Those reporting requirements are stated in the companion Final Regulatory Flexibility Act. Those reporting requirements also will likely be used to ensure that a licensee is not unjustly enriched by a partitioning or disaggregation arrangement.

10. *Federal Rules that Overlap, Duplicate, or Conflict with These Proposals.* None.

11. *Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives.* In the *Second Notice of Proposed Rule Making,* the Commission tentatively concludes that unjust enrichment provisions should apply when a licensee has benefitted from the small business provisions in the auctions rules and partitions a portion of the license area to another entity that would not qualify for such benefits. The alternative to applying the unjust enrichment provisions would be to allow an entity who had benefitted from the special bidding provisions for small businesses to become unjustly enriched by partitioning a portion of their license area to parties that do not qualify for such benefits.

12. *Paperwork Reduction Act.* This *Second Notice of Proposed Rule Making* contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this *Second Notice of Proposed Rule Making,* as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due at the same time as other comments on this *Second Notice of Proposed Rule Making;* OMB comments are due March 23, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

13. *Ex Parte Rules.* This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1201, 1.1203, 1.1206(a).

14. *Comment Filing Procedures.* Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before February 20, 1998, and reply comments on or before March 9, 1998. To file formally in this proceeding, interested parties must file an original plus four copies of all comments, reply comments, and supporting comments. If commenters want each Commissioner to receive a personal copy of their comments, they must file an original plus nine copies. Comments and reply comments should be sent to: the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

15. Authority for issuance of this *Report and Order and Second Notice of Proposed Rule Making,* is contained in §§ 4(i), 257, 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 257, 303(r), and 309(j).

List of Subjects in 47 CFR 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1393 Filed 1–20–98; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 63, No. 13

Wednesday, January 21, 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

Forest Service

Routt Divide Blowdown Analysis, Medicine Bow-Routt National Forest, Hahns Peak/Bears Ears Ranger District, Routt County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an Environmental Impact Statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service, Medicine Bow-Routt National Forest will prepare an Environmental Impact Statement (EIS) to assess and disclose the environmental effects of proposed salvage logging of a portion of the Routt Divide Blowdown outside the Mount Zirkel Wilderness Area on the Hans Peak/Bears Ears Ranger District. The analysis area location is approximately 24 miles north of Steamboat Springs, Colorado, in portions of sections 3, 4, 5, 8, 9 and 10 of T9N, R83W; sections 1, 2, and 11 of T9N, R84W; sections 17, 20, 21, 27, 28, 29, 32, 33 and 34 of T10N, R83W; sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 of T10N, R84W; and sections 33, 34, 35, and 36 of T11N, R84W.

This Notice of Intent is being issued under the authority of the Routt National Forest Land and Resource Management Plan and Final EIS of November 1983, which is the current guidance for forest management of the area. It is anticipated that the final Revised Land and Resource Management Plan for the Routt National Forest will be issued before the project decision for the Routt Divide Blowdown Analysis is complete. Therefore, information from the draft Proposed Revised Land and Resource Management Plan, issued in January 1996, is also included so readers can evaluate how the project would fit within guidance provided by the revised plan. The project will tier to the plan that is in effect when the project decision is made.

The majority of lands affected by the blowdown event within the analysis area are currently allocated to Management Area 4B (wildlife habitat), as described in the current Forest Land and Resource Management Plan for the Routt National Forest, approved in 1983. There are also some inclusions of blowdown within Management Areas 2A (semiprimitive motorized recreation) and 6B (range management). The North Fork and Middle Fork of Elk River are identified as eligible for consideration by Congress for Scenic River designation. Forested lands within management areas 4B, 6B and 2A are designated as suitable for timber production by the forest plan and do contribute to the Allowable Sale Quantity (ASQ) calculation. Following is a summary of the general forest plan direction for the area.

Management Area 4B—Wildlife Habitat: Emphasizes wildlife habitat for one or more indicator species. Semiprivate motorized recreation opportunities will be provided, but vegetation manipulation and human activities are managed to provide optimum habitat for the selected species.

Management Area 2A—Semiprimitive motorized recreation: Emphasizes semiprimitive motorized recreation opportunities such as snowmobiling, four-wheel driving and motorcycling both on and off roads and trails in a naturally appearing environment. Management activities are visually subordinate. Timber harvest includes clearcutting and shelterwood and will enhance wildlife diversity.

Management area 6B—Rangeland Management: Emphasizes improving and/or maintaining rangeland. Improvements may include seeding, burning, spraying, crushing, or plowing as well as structural improvements.

The Forest Plan is being revised as required by the National Forest Management Act. The Draft Revised Land and Resource Management Plan for the Routt National Forest was issued in January 1996. The preferred alternative for the forest plan revision (Alternative C as described in the DEIS) allocates the majority of the project area to management area 5.11 (General Forest and Rangelands—Forest Vegetation Emphasis, which provides for a mix of forest products, forage, wildlife habitat and recreation), and management area 5.13 (Forest Products, which is managed to produce commercial wood products). These lands are included in the ASQ calculations as suitable lands. The analysis area also includes lands allocated to management area 1.32 (Backcountry Recreation with Limited Motorized Winter Use), which provides for backcountry recreation opportunities in a natural-appearing landscape and continues to consider the North Fork and Middle Fork of Elk River as eligible for Scenic River designation. These lands are not included in the ASQ calculations as suitable lands.

DATES: Written comments and suggestions should be postmarked or received by February 21, 1998. The estimated date for filing the draft EIS is March 1998, followed by the final decision in May 1998.

ADDRESSES: The Responsible Official is Jerry E. Schmidt, Forest Supervisor; Medicine Bow—Routt National Forest; 925 Weiss Drive; Steamboat Springs, CO 80487–9315. Written comments and suggestions concerning the scope of the analysis may be sent to him at that address.

FOR FURTHER INFORMATION CONTACT: Larry Lindner, Interdisciplinary Team Leader. Phone: 970–870–2220 (Steamboat Springs, CO) or 307–745–2424 (Laramie, WY).

SUPPLEMENTARY INFORMATION: On October 25, 1997, approximately 20,000 acres of Engelmann spruce and subalpine fir along the western boundary of the Mount Zirkel Wilderness Area were subjected to a windthrow event. The majority of trees were windthrown in about 40–50 patches ranging in size from about 50 to 4,000 acres. Approximately 12,000 acres of windthrow are within the Mount Zirkel Wilderness and approximately 8,000 acres are outside and to the west of the wilderness boundary. This Notice of Intent to prepare an Environmental Impact Statement concerns a portion of the blowdown that is within the North Fork and Middle Fork of Elk River watersheds outside the Mount Zirkel Wilderness Area. Additional analysis responsive to the National Environmental Policy Act (NEPA) will be completed for any activities that may be proposed for the remaining blowdown area.

Preliminary estimates indicate that as much as 80 million board feet of timber may be salvageable within the analysis area. Insects, rots and stains are expected to greatly reduce the economic value of the logs within a few years. Therefore, a timely decision is needed to maximize any economic benefit the people of the United States would achieve should the decision be made to salvage the blowdown sawtimber or any efforts to do so would be foregone.

Proposed Action

To restore recreation opportunities, to enhance regeneration of stands, and to use blowdown timber through salvage logging opportunities in response to the Routt Divide Blowdown event within one of the largest patches where road access already exists. The Forest Service intends to analyze: (a) The effects of the blowdown to the natural, social and economic resources; (b) the opportunities to mitigate the effects of the blowdown through salvage logging or other methods; and (c) the effects of salvage logging as well as any needed mitigation measures.

Most projects developed by the Forest Service are tailored to fit on-the-ground conditions and must meet numerous design constraints, such as size and shape of units, etc. The Routt Divide Blowdown was a natural disturbance rather than the result of a planned activity by the Forest Service. Since the blowdown was an act of nature rather than of Forest Service design, some aspects of projects developed in response to the blowdown may not look like projects that are regularly conceived, designed and implemented by the Forest Service.

Much of the analysis area has been inventoried as part of the analysis process for past and proposed sales, so there is already specific data and general information available. The Interdisciplinary Team will develop a site specific proposed action as part of its analysis for disclosure in the draft EIS. The design of any activities proposed for the area must be responsive to the effects of the event itself and will be guided by applicable Forest Plan Standards and Guidelines. Should circumstances warrant deviation from the Forest Plan Standards and Guidelines, an amendment(s) to the Plan subject to the NEPA process may be necessary. Some proposed activities may be innovative and non-traditional due to the nature of the blowdown itself.

This environmental analysis shall consider the environmental consequences of the proposed action, as well as alternatives reasonably implemented, while meeting the purpose and need of the action.

Decision To Be Made

The Medicine Bow-Routt Forest Supervisor will make a decision about the selection of one alternative among several concerning whether a portion of the Routt Divide Blowdown outside wilderness will be salvage logged and what mitigation measures will be required. The issues and alternatives developed from public comment and Interdisciplinary Team analysis will be clearly disclosed in the Environmental Impact Statement. From the project record alone, the Forest Supervisor and others who may review the decision, will be able to fully understand the consequences of implementing the selected alternative.

Preliminary Issues

—Effects to recreation
—Effects to Mount Zirkel Wilderness area
—Effects to Wild and Scenic River classification
—Effects to Roadless areas
—Effects to National Forest permittees
—Effects to local communities and Forest Users
—Effects to channel stability from increased water yield
—Effects to soil productivity from surface erosion
—Effects to wildlife and fish, including Threatened, Endangered and Sensitive species
—Social effects
—Safety
—Regeneration of new forests in the blowdown
—Effects of salvage logging
—Effects of road construction required to salvage logs
—Visual effects (including those resulting from the need to maintain roughness, shade and structure within a contiguous large area of blowdown)
—Potential that the blowdown material may lead to epidemic levels of insect populations and the effects of such an epidemic

Reviewers Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft Environmental Impact Statement stage but that are not raised until after completion of the final Environmental Impact Statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (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 draft Environmental Impact Statement 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 Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft Environmental Impact Statement 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 Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Responsible Official

Jerry E. Schmidt, Forest Supervisor; Medicine Bow—Routt National Forest; 2468 Jackson Street, Laramie, WY 82070 is the Responsible Official. As the Responsible Official, I will decide which, if any of the alternatives to be described in the draft Environmental Impact Statement will be implemented. I will document the decision and the reasons for my selection of the decision in the Record of Decision.

Dated: January 14, 1998.

Jerry E. Schmidt,

Forest Supervisor.

[FR Doc. 98–1324 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–GM–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension of a currently approved information collection, the Agricultural Prices that expires May 31, 1998.

DATES: Comments on this notice must be received by March 27, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 4117 South Building, Washington, DC 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Prices.

OMB Number: 0535–0003.

Expiration Date of Approval: May 31, 1998.

Type of Request: To extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production and prices. The Agricultural Prices surveys provide estimates of prices received by farmers and prices paid for production goods and services needed by the U.S. Department of Agriculture. These price estimates are used to compute Parity Prices in accordance with requirements of the Agricultural Adjustment Act of 1938 as amended (Title III, Subtitle A, Section 301a). In addition, price data are used to administer target price provisions (deficiency payments) of the Food, Agriculture, Conservation, and Trade Act of 1990. The Agricultural Prices Surveys has approval from OMB for a 3-year period. NASS intends to request that the survey be approved for another 3 years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response.

Respondents: Individual Job Applicants.

Estimated Number of Respondents: 81,800.

Estimated Total Annual Burden on Respondents: 15,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Ave., SW, Room 4162 South Building, Washington, DC, 20250–2000. 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, January 14, 1998.

Rich Allen,

Acting Administrator, National Agricultural Statistics Service.

[FR Doc. 98–1301 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension of a currently approved information collection, the Fruits, Nuts, and Specialty Crops that expires May 31, 1998.

DATES: Comments on this notice must be received by March 27, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 4117, South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Fruits, Nuts, and Specialty Crops.

OMB Number: 0535–0039.

Expiration Date of Approval: May 31, 1998.

Type of Request: To extend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production. The Fruits, Nuts, and Specialty Crops survey program collects information on acreage, yield, production, and value of non-citrus fruits and nuts and other specialty crops in states with significant commercial production. The program provides data needed by the U.S. Department of Agriculture and other government agencies to administer programs and to

set trade quotas and tariffs. State universities and agriculture departments also use data from this survey. The Fruits, Nuts, and Specialty Crops program has approval from OMB for a 3-year period. NASS intends to request that the survey be approved for another 3 years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 17 minutes per response.

Respondents: Individual Job Applicants.

Estimated Number of Respondents: 53,000.

Estimated Total Annual Burden on Respondents: 15,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 4162 South Building, Washington, DC 20250–2000. 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, January 14, 1998.

Rich Allen,

Acting Administrator, National Agricultural Statistics Service.

[FR Doc. 98–1302 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

National Sheep Industry Improvement Center; Notice of Annual Board of Directors Meeting

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of annual board meeting.

SUMMARY: The Board of Directors of the National Sheep Industry Improvement Center announces that it will hold its annual Board of Directors meeting. The meeting will be held over 2 days in the Washington, DC area.

DATES: The meeting dates are:

1. Februrary 11, 1998, 7:00 p.m. to 10 p.m., Arlington, VA.

2. February 12, 1998, 8:30 a.m. to 2:00 pm, Washington, DC.

ADDRESSES: The meeting locations are:

1. Arlington, VA—Holiday Inn Westpark, 1900 N. Ft. Meyer Drive, Arlington, VA (Call hotel, 703/807–2000, for conference room number).

2. Washington, DC—USDA South Building, 1400 Independence Avenue, SW, Washington, DC, Room 3107.

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Director, Cooperative Marketing Division, Cooperative Services, RBS, USDA, Stop 3252, Room 4204, 1400 Independence Ave., SW., Washington, DC 20250–3252, telephone (202) 690–0368. (This is not a toll free number.) E-mail: thomas.stafford@usda.gov. The Federal Information Relay service on 1–800–877–8339 may be used by TDD users.

SUPPLEMENTARY INFORMATION: This board meeting will serve as the National Sheep Industry Improvement Center's annual meeting.

Background

In response to challenges facing the sheep and goat industries, the 1996 Farm Bill established the National Sheep Industry Improvement Center to assist and strengthen the U.S. sheep and goat industries through projects and assistance financed through the Center's revolving fund. The Center will manage a revolving fund of up to $50 million in Federal funds to facilitate the production and marketing of sheep and goats, and their products.

Treasury has deposited the initial $20 million into the Center's fund. This fund is capped at $50 million Federal funds—where authorization was provided for an additional $30 million in appropriated funds. After 10 years or upon receipt of $50 million in Federal funds to the revolving fund, the Center and its activities shall be privatized and no additional Federal funds shall be used to carry out the activities of the Center.

The Center is managed by a nine member (7 voting and 2 nonvoting members), non-compensated board. The seven voting members were chosen by the Secretary of Agriculture from the sheep and goat industries and the two non-voting members from the USDA are the Under Secretary for Rural Development and the Under Secretary for Research, Education and Economics. The Board of Directors may use the monies in the fund to make grants, and intermediate and long-term loans, contracts, cooperative repayable agreements, or cooperative agreements in accordance with an annual strategic plan submitted to the Secretary of Agriculture. Funds may be used to participate with Federal and State agencies, other public and private funding sources, and in regional efforts. Funding activities include providing security for, or making principal or interest payments on, revenue or general obligation bond issues, accruing interest, guaranteeing or purchasing insurance for local obligations, and selling acquired assets or loans.

Purposes of the Center

The purposes of the Center are to:

(1) Promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) Optimize the use of available human capital and resources within the sheep or goat industries;

(3) Provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) Advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) Adopt flexible and innovative approaches to solving the long-term needs of the United States sheep and goat industries.

Board Meetings

The Board meetings are open to the public.

Authority: 7 U.S.C. 2008j, Pub.L. 104–130.

Dated: January 9, 1998.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 98–1310 Filed 1–20–98; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Written Assurances for Exports of Technical Data Under General License GTDR (to be Renamed, ''Written Assurances for Exports of Technical Data Under License Exception TSR'')

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 Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW., room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

U.S. exporters are required to receive letters of assurance from their foreign importers stating that they will not export or reexport technical data to destinations outlined in the E.A.R. unless they have received prior authorization from BXA.

II. Method of Collection

Submitted in written form.

III. Data

OMB Number: 0694–0023.
Form Number: n/a.
Type of Review: Regular submission.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 226.
Estimated Time Per Response: 30 minutes per response.
Estimated Total Annual Burden Hours: 117.
Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1348 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Report of Requests for Restrictive Trade Practice or Boycott—Single or Multiple Transactions

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 Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information obtained from this collection authorization is used to carefully and accurately monitor requests for participation in foreign boycotts against countries friendly to the U.S. which are received by U.S. persons. The information is also used to identify trends in such boycott activity and to assist in carrying out U.S. policy of opposition to such boycotts.

II. Method of Collection

Submitted in writing on forms.

III. Data

OMB Number: 0694–0012.
Form Number: BXA 621–P or BXA 6051–P.
Type of Review: Regular submission.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 1,574.
Estimated Time Per Response: 1 to 1.5 hours per response.
Estimated Total Annual Burden Hours: 3,306.
Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1349 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Delivery Verification Procedure

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 Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign governments sometimes require U.S. importers of strategic commodities to furnish their supplier with a U.S. Delivery Verification Certificate validating that the commodities shipped to the U.S. were in fact received. This procedure increases the effectiveness of controls over exports of strategic commodities.

II. Method of Collection

Submitted, as required, on form BXA–647P.

III. Data

OMB Number: 0694–0016.
Form Number: BXA 647–P.
Type of Review: Regular submission.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 500.
Estimated Time Per Response: 30 minutes per response.
Estimated Total Annual Burden Hours: 57.
Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1350 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Special Comprehensive License

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, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th and Constitution Avenue, NW, Room 6877, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The SCL Procedure authorizes multiple shipments of items from the U.S. or from approved consignees abroad who are approved in advance by BXA to conduct the following activities: servicing, support services, stocking spare parts, maintenance, capital expansion, manufacturing, support scientific data acquisition, reselling and reexporting in the form received, and other activities as approved on a case-by-case basis.

II. Method of Collection

Submitted on forms BXA–748P and BXA 752P.

III. Data

OMB Number: 0694–0089.
Form Number: None.
Type of Review: Regular submission for extension of a currently approved collection.
Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.
Estimated Number of Respondents: 150.
Estimated Time Per Response: 20 hours per response.
Estimated Total Annual Burden Hours: 3,036.
Estimated Total Annual Cost: $0 (no capital expenditure are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1351 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Technical Data Letter of Explanation

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 Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Department of Commerce, 14th & Constitution Avenue, NW, room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information contained in these letters will assure BXA that no unauthorized technical data will be exported for unauthorized end-uses or to unauthorized destinations and thus provide assurance that U.S. national security and foreign policy programs are followed. In addition, shipments to Poland, Hungary, and Czechoslovakia, need an Import Certificate issued by the appropriate national government.

II. Method of Collection

Submitted, as appropriate, with form BXA–748P.

III. Data

OMB Number: 0694–0047.

Form Number: BXA 748–P.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 570.

Estimated Time Per Response: 2–4 hours per response.

Estimated Total Annual Burden Hours: 935.

Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: January 14, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1352 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 2–98]

Proposed Foreign-Trade Zone—Palm Springs, California; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Palm Springs, California, to establish a general-purpose foreign-trade zone at sites in Palm Springs, California. The Palm Springs Regional Airport has been designated a Customs user fee airport facility by the U.S. Customs Service. The application was submitted pursuant to the provisions of the FTZ Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 12, 1998. The applicant is authorized to make the proposal under Section 6302 of the California Code.

The proposed zone would consist of 2 sites (918 acres) in Palm Springs: *Site 1* (904 acres)—Palm Springs Regional Airport complex, 3400 E. Tahquitz Canyon Way, Palm Springs; and, *Site 2* (14 acres)—an industrial development within the 18-acre Palm Springs Rail Station, 63950 Palm Springs Station Road, Palm Springs. The airport site includes aviation fuel facilities. Both sites are owned by the City of Palm Springs and operated by the City's Department of Transportation.

The application contains evidence of the need for zone services in the Palm Springs (Coachella Valley) area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on February 19, 1998, 9:00 a.m., City of Palm Springs, City Council Chambers, 3200 E. Tahquitz Canyon Way, Palm Springs, California 92262.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 23, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 6, 1998).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

City of Palm Springs City Hall, City Clerk's Office, 3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: January 13, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–1396 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 3–98]

Foreign-Trade Zone 93—Raleigh/Durham, NC; Request for Manufacturing Authority Rike Industries, Inc. (In-Line Skates)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Triangle J Council of Governments, grantee of FTZ 93, pursuant to § 400.28(a)(2) of the Board's regulations (15 CFR part 400), requesting authority on behalf of Rike Industries, Inc. (Rike), to assemble in-line skates under FTZ procedures within FTZ 93. It was formally filed on January 13, 1998.

The Rike facility (41,000 sq. ft.) is located within Site 1 of FTZ 93 at 1000 Parliament Court in the Imperial Business Center, in Durham, North Carolina. The Rike facility (12 employees) is used to assemble in-line skates under contract for Fila Sports, Inc., for the U.S. market and export. The assembly process involves the attachment of domestically sourced in-line skate chassis to foreign-origin textile/leather boots (HTSUS 6402—6404, as sports footwear; duty rate: 20%). The finished in-line skates are classified under HTSUS 9506.70 (duty free). The application indicates that 15 percent of the facility's shipments will be exported.

FTZ procedures would exempt Rike from Customs duty payments on the foreign components used in export production. On its domestic sales, Rike would be able to elect the Customs duty rate during Customs entry procedures that applies to finished in-line skates (duty free) for the foreign boots/footwear noted above. The request indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 23, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 6, 1998).

A copy of the application and the accompanying exhibits will be available for public inspection at the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002

Office of the Service Area Port Director, U.S. Customs Service—Raleigh/Durham, 120 South Center Court, Morrisville, NC 27560.

Dated: January 13, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–1397 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 23, 1997, the Department of Commerce published the preliminary results of the new shipper administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (62 FR 55215). This review covers one manufacturer/exporter of the subject merchandise to the United States, Taiyuan Heavy Machinery Import and Export Corporation, and the period of review is May 1, 1996, through October 31, 1996. We gave interested parties an opportunity to comment on our preliminary results.

We have determined that U.S. sales have been made below the normal value, and we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between Export Price and Normal Value.

EFFECTIVE DATE: January 21, 1998.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Brian C. Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4194 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION: 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, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to those codified at 19 CFR part 353 (April 1997). Where appropriate, references are made to the Department's final regulations, codified at 19 CFR part 351 (62 FR 27296), as a statement of current departmental practice.

Background

On October 23, 1997, the Department published in the **Federal Register** (62 FR 55215) the preliminary results of its new shipper administrative review of the antidumping duty order on pure magnesium from the PRC (62 FR 55215). On November 13, the petitioner [1] and Taiyuan Heavy Machinery Import and Export Corporation (Taiyuan) submitted publicly available information on surrogate values for factors of production for consideration in the final results. On November 18, the petitioner and Taiyuan each submitted case briefs. On November 20, both parties submitted comments on the other's publicly available information submitted on November 13. On November 26, the parties submitted rebuttal briefs. On December 2, 1997, the Department held a public hearing.

Scope of Order

The product covered by this order is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this order. Primary magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure primary magnesium is used as an input in producing magnesium alloy.

Pure primary magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) [2] with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight

[1] The petitioner includes the following entities: Magnesium Corporation of America, International Union of Operating Engineers, Local 564, and the United Steelworkers of America, Local 8319.

[2] Since the antidumping duty order was issued, we have clarified that the scope of the original order includes, but is not limited to, butt ends, stubs, crowns and crystals. *See* May 22, 1997, instructions in U.S. customs and November 14, 1997, *Final Scope Rule of Antidumping Duty Order on Pure Magnesium from the PRC.*

(generally referred to as ''ultra-pure'' magnesium);

(2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products (generally referred to as ''off-specification pure'' magnesium) that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium.

''Off-specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder), having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Separate Rates

In proceedings involving non-market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. De Jure Control

Taiyuan has placed on the administrative record documents to demonstrate absence of *de jure* control: the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988; (the Industrial Enterprises Law), and the 1992 regulations that supplemented it, ''Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises'' (Business Operation Provisions). We have analyzed these laws in previous cases and have found them sufficiently to establish an absence of *de jure* control of companies ''owned by the whole people,'' such as Taiyuan. (*See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* (''*Furfuryl Alcohol*'') 60 FR 22544 (May 8, 1995)). The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Business Operation Provisions confer upon state-owned enterprises the responsibility for making investment decisions, the right to dispose of retained capital and assets, and the authority to form joint ventures and to merge with other enterprises. Taiyuan also states that pure magnesium does not appear on any government lists regarding export provisions or export licensing, and that no quotas are imposed on pure magnesium. In sum, in prior cases, the Department examined both the Industrial Enterprises Law and the Business Operations Provisions, and found that they establish an absence of *de jure* control. We have no new information in this proceedings which would cause us to reconsider this determination with regard to Taiyuan.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide* and *Furfuryl Alcohol*.

Taiyuan asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. During verification proceedings, Department officials viewed such evidence as sales documents that showed Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department generally noted no significant indication of government involvement in Taiyuan's business operations. Taiyuan officials are appointed by a bureau of the provincial government, rather than the central government, and there are no other known exporters of the subject merchandise under the control of the provincial government. Sales documents reviewed indicated that Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department reviewed sales payments, bank statements and accounting documentation that provided evidence that Taiyuan received payment in U.S. dollars, which was deposited into its bank account after being converted to renminbi (RMB). *See* Taiyuan Sales Verification Report. This information, taken in its entirety, supports a finding that there is *de facto* an absence of governmental control of export functions. Consequently, we have determined that Taiyuan has met the criteria for the application of separate rates. *See Notice of Final Determination at Less Than Fair Value: Persulfates from the Peoples Republic of China*, 62 FR 27222 (May 19, 1997).

Fair Value Comparisons

To determine whether sales of the subject merchandise by Taiyuan to the United States were made at less than fair value, we compared the export price (EP) to the normal value (NV), as described in the ''Export Price and

Constructed Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price

We calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the PRC exporter to unaffiliated parties in the United States prior to importation into the United States and the constructed export price methodology was not warranted based on the facts of record. We calculated EP based on the same methodology used in the preliminary results, with the following exception:

To value foreign inland freight, we used the average rate contained in the Indian periodical *The Times of India.* We have used this same rate in numerous NME cases where India has been selected as the primary surrogate. *See Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China (PRC),* 62 FR 9160 (February 28, 1997) (*Brake Rotors*)).

Normal Value

We calculated NV in accordance with section 773(c) of the Act, which applies to non-market economy countries. In accordance with section 773(c)(4) of the Act, we must, to the extent possible, value the factors of production in one or more market economy countries that (1) are at a level of economic development comparable to that of the non-market economy country, and (2) are significant producers of comparable merchandise. We have determined that Indonesia and India are the countries most comparable to the PRC in terms of overall economic development and both are significant producers of comparable merchandise (aluminum). Further, India also produces magnesium. For these final results, we have continued to use India as a surrogate country because it meets the Department's criteria for surrogate country selection.

The selection of the surrogate values was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of tax-exclusive domestic prices (*see* Comment 17). Where we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted input prices to make them delivered prices. Where import values were used, we added an amount for surrogate freight attributable to the lesser of either the distance from the source to the factory or the nearest port to the factory (*see* Comment 18). For those values not contemporaneous with the POR, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics.* For a complete analysis of surrogate values, see the January 14, 1998, Calculation Memorandum (Calculation Memorandum). We note changes to surrogate valuation since the preliminary results as follows:

To value ferrosilicon, we used a simple average of prices applicable during the POR from *Metal Bulletin,* and the *Iron and Steel Newsletter* (*see* Comment 6).

To value calcinate dolomite and fluorite powder, we have used prices from *Monthly Statistics of the Foreign Trade of India* (*Monthly Statistics*) (*see* Comments 8 and 9, respectively).

To value barium chloride, we used prices from *United Nations Import Statistics* (*see* Comment 10).

To value electricity, we used the August 1996 rate in *Business World* (*see* Comment 12).

To value truck freight rates, we used the average rate contained in the Indian periodical *The Times of India.*

To value factory overhead, SG&A, and profit, we used the financial report of Southern Magnesium and Chemicals Ltd. (SMCL) because this company is a producer of the subject merchandise and the data from the report is contemporaneous to the POR (*see* Comment 2).

We have considered the line item labeled ''stores and spares consumed'' to include the reducing vessel and have treated the reducing vessel as part of factory overhead because the reducing vessel is not a direct material consumed in the production process. Although the SMCL financial report may have treated the reducing vessel as a direct material and included the reducing vessel as part of line item ''raw materials consumed,'' we have, in calculating the surrogate overhead percentage, reduced SMCL's cost of materials consumed and increased overhead by the amount attributable to the reducing vessel costs (*see* Comment 1). We have not included in the surrogate overhead and SG&A calculations the excise duty amount listed in SMCL's financial report (*see Brake Rotors* at 9164). We based our factory overhead calculation on the cost of goods manufactured rather than on the cost of goods sold. We also included interest and/or financial expenses in the SG&A calculation. In addition, we only reduced interest and financial expenses by amounts for interest income if the Indian financial report noted that the income was short-term in nature. Where the financial report did not distinguish short-term interest income as a line item within total ''other income,'' we used the relative ratio of interest income to total other income as reported for the Indian metals and chemicals industry in the *Reserve Bank of India Bulletin* (*RBI Bulletin*). For a further discussion of other adjustments made, see January 14, 1998, Calculation Memorandum).

Interested Party Comments

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from the petitioner and Taiyuan.

Comment 1: Treatment of the Reducing Vessel. The petitioner claims that evidence on the record demonstrates that the reducing vessel is not part of factory overhead and that the Department must treat and value the reducing vessel as a direct material regardless of which public information it uses to calculate a value for factory overhead. The petitioner also refers to a U.S. Bureau of Mines (BOM) study of the silicothermic process of magnesium production which treats the reducing vessel as a direct material cost and not part of factory overhead. If the Department decides to use the financial report of SMCL (an Indian producer) to value factory overhead, the petitioner argues, then it should also take into consideration the fact that the data in the financial report demonstrate that the vessel is treated as a direct material rather than as part of stores and spares. The petitioner points out that even though Indian accounting standards state that a material can be considered part of factory overhead if it assists the manufacturing process but does not enter physically into the composition of the finished product, this is not necessarily the case with reducing vessels. Alternatively, the petitioner argues that if the Department decides to use data from the *RBI Bulletin,* then it should take into consideration the fact that public information on the record demonstrates that the cost of the reducing vessel is not captured in a calculated factory overhead rate using data from the *RBI Bulletin,* because the cost of the vessel is neither indirect nor minor. The petitioner claims that if the Department uses the *RBI Bulletin* to calculate factory overhead, then the Department needs to make an adjustment to the factory overhead rate to account for the cost of the reducing vessel.

Taiyuan contends that the reducing vessel is not a raw material which is part of the direct cost of production. Rather, Taiyuan maintains that the reducing vessel is a reusable piece of equipment that does not physically enter into the finished product, and that

Indian general accounting principles treat such items as part of overhead costs. Therefore, Taiyuan maintains that the Department should continue to consider the reducing vessel as part of factory overhead.

DOC Position: We agree with Taiyuan. The reducing vessel is not incorporated into the finished product. Rather, it is equipment necessary for producing the subject merchandise which eventually needs to be replaced after continuous use. Although we conclude that SMCL treated the reducing vessel as a direct material in its 1995–96 financial report, we do not find that the reducing vessel should be considered a direct material rather than an indirect material for purposes of antidumping law. To the extent possible, we have adjusted the direct material amount reflected in SMCL's financial report by removing from the cost of direct materials and adding to factory overhead an amount for the reducing vessel based on data contained in SMCL's 1994–95 financial report. We have treated the reducing vessel cost as part of factory overhead and have used the SMCL 1995–96 financial report to calculate a factory overhead percentage (*see* Comment 2 for further discussion).

Comment 2: Surrogate Values for Factory Overhead, SG&A and Profit. The petitioner claims that the Department must use the financial statement of SMCL rather than the *RBI Bulletin* to value factory overhead, SG&A and profit because the Indian producer uses the silicothermic process employed by Taiyuan's supplier and therefore consumes the reducing vessel in producing magnesium. In addition, the petitioner claims that the data contained in SMCL's financial statement are more specific to magnesium production and more contemporaneous to the period of review (POR) than the data in the *RBI Bulletin.*

Taiyuan argues that the Department should use the data on the chemicals and metals industry from the *RBI Bulletin* to value factory overhead, SG&A and profit because the Department has used these data in numerous NME cases and because it has a high degree of reliability given that it contains data compiled from many companies. Taiyuan argues that the Department should not rely on the SMCL financial report to calculate these surrogate percentages because that financial report is not publicly available published information. Taiyuan also alleges that the SMCL financial report is not in accordance with Indian generally accepted accounting principles (GAAP) because SMCL may have considered the reducing vessel as part of direct materials and Indian GAAP require that materials which assist in the manufacturing process, but which do not enter physically into the finished product, are not to be considered as direct materials. Finally, Taiyuan argues that the SMCL financial report is unusable because information in the report indicates that SMCL was unable to produce and sell product during periods of high demand, undertook major capital improvement projects and maintained an abnormally high level of raw material stocks, all of which may have distorted its factory overhead, SG&A and profit ratios.

DOS Position: We agree with the petitioner. In numerous NME cases, we have expressed a preference for using the ''most product-specific information possible from the surrogate market'' (*see, e.g., Brake Rotors* at 9168). We find that SMCL's 1996 financial report is for an Indian producer of the subject merchandise and more specific than the industry-wide data for metals production contained in the 1992–93 RBI Bulletin. Moreover, we find that the 1996 SMCL financial report contains data which is more contemporaneous to the POR than data contained in the 1992–93 RBI Bulletin. In addition, we find that the SMCL financial report is publicly available information within the meaning of 19 CFR 351.301. As for Taiyuan's argument that SMCL's financial report is not in accordance with Indian GAAP, we find that the financial report has been audited by an Indian accounting firm and that even though SMCL may have treated the reducing vessel as a direct material in its financial report, this designation does not necessarily indicate that the financial report is not in accordance with Indian GAAP. With regard to the argument that SMCL's financial report is not usable because of possible production, capital investment and inventory irregularities, we note that there is no evidence in the financial report which indicates that these factors were abnormal for Indian producers in general. In addition, we find that Taiyuan has not provided any evidence which indicates that the data contained in the 1996 SMCL financial report is not reasonably representative of the production and selling experience of other producers of the subject merchandise in India during the time period in question.

Comment 3: Calculation of SG&A. Taiyuan contends that the Department should deduct from SG&A certain selling expenses (*i.e.*, royalty, selling commission, and advertisement) normally deducted from EP and CEP and also an amount reflected in the *RBI Bulletin* for ''other expenses'' and then take the remainder and divide it by the sum of total SG&A and COM to derive the SG&A percentage. Taiyuan cites to the Department's *Antidumping Manual* which states that SG&A should be expressed as a percentage of the cost of goods sold.

The petitioner contends that the Department should not deduct the royalty, selling commissions, or advertisement expenses from SG&A because it has made no such deductions to EP and because it cannot make a circumstance-of-sale (COS) adjustment based on the data on the record. Moreover, the petitioner maintains that the Department should not deduct ''other expenses'' from SG&A because there is no evidence that this expense category includes expenses already reported separately in the response (*i.e.*, packing costs). Finally, the petitioner states it is the Department's established practice to include only the COM in the denominator of the SG&A ratio.

DOC Position: We agree in part with the petitioner. We have not made a COS adjustment to NV. In NME proceedings, the Department does not generally adjust NV for COS differences given (a) the imprecise information for distinguishing between direct and indirect selling expenses in the surrogate SG&A source (*i.e.*, SMCL's financial report); and (b) the absence of non-NME information about what direct selling expenses are included in EP (except where CEP is used) (*see Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China,* 61 FR 19026, 19031 (April 30, 1996) (*Bicycles*)). As for accounting for expenses already reported separately in the response (*i.e.*, packing expenses), we note that SMCL's financial report does not provide a separate line item for packing expenses. Since there is no information in the financial report which indicates that SMCL incurs packing expenses, we have not removed any packing expenses from the SG&A calculation. Regarding the calculation of the SG&A percentage, we have used the cost of goods manufactured, not the cost of goods sold, in the denominator of the SG&A ratio consistent with our current practice, which is not reflected in the *Antidumping Manual* (*see Brake Rotors* at 9164).

Comment 4: Material Consumption Figures. The petitioner argues that the Department should not have subtracted the monthly values reported as negative from the total amount of material consumed because it is impossible that Taiyuan's supplier consumed negative amounts of inputs in any months in

which it produced magnesium ingots. Instead, the petitioner argues that the Department should require Taiyuan to provide additional information on its supplier's actual consumption figures for the inputs and months for which the supplier provided negative values. Alternatively, the petitioner argues that the Department should not reduce the quantities of the factors of production consumed by the amount of the reported negative consumption figures.

Taiyuan contends that if the Department recognizes adjustments to increase material usage, then the Department should also recognize adjustments which decrease material usage.

DOC Position: We agree with the respondent. The negative numbers do not reflect negative consumption amounts. Rather, the negative numbers noted in the inventory records are corrections to Taiyuan's supplier's records to reflect actual usage. The verification report specified all necessary corrections to reported data, and the correct information has been used for the final results.

Comment 5: Reseller SG&A Expenses and Profit. The petitioner argues that in calculating CV and/or EP, the Department failed to account for expenses Taiyuan incurred in reselling its product to the United States market. The petitioner contends that the Department should have included in CV both surrogate producer SG&A expenses and profit (noted in SMCL's financial statement) plus an amount of reseller SG&A expenses and profit (noted in the *RBI Bulletin*). Alternatively, the petitioner argues that the Department should reduce EP by the amount of reseller SG&A expenses and profit in accordance with 19 U.S.C. 1677a(c)(2)(A) and also adjust EP for reseller SG&A expenses and profit as a COS adjustment in accordance with 19 U.S.C. 1677b(a)(6)(C)(iii).

Taiyuan states that if the Department decides to include in CV an additional amount for the reseller's SG&A and profit, then the Department must make a corresponding level of trade adjustment to account for the different marketing level represented by such costs. However, Taiyuan states that the Department should not add these additional amounts to CV based on applicable costs to be included in the CV to establish NV.

DOC Position: We disagree with the petitioner. In cases involving NMEs, we do not use exporter expenses and profit in our analysis. Instead, we obtain ratios for expenses and profit from a surrogate country, which in this case is India, and include in NV amounts based on the surrogate ratios. We consider those selling expenses and profit to approximate the selling expenses incurred and profit realized by both Taiyuan and Taiyuan's supplier of the subject merchandise. Therefore, we have accounted for the expenses incurred and profit realized by Taiyuan in reselling the subject merchandise to the U.S. market. As for subtracting an amount for these expenses and profit from export price or making a COS adjustment we have no basis to conclude that such adjustments are warranted or feasible (*see* Comment 3 for further discussion).

Comment 6: Surrogate Value for Ferrosilicon. Taiyuan argues that the publication the Department used to value ferrosilicon in the preliminary results (*i.e., Metal Bulletin*) does not provide sufficient details on or reliable information for domestic values. Instead, Taiyuan claims that the Department should use a ferrosilicon import value submitted on November 13, 1997, from the publication *Iron and Steel Newsletter* (*Iron and Steel*). According to respondent, this information is more specific and reliable.

The petitioner contends that the Department should not derive an import value from data in *Iron and Steel* because the value (1) Is either based on imports from NME countries (*i.e.,* Russia) or from countries that are not ferrosilicon producers (*i.e.*, Germany, the Netherlands); and (2) does not most closely correspond to the actual input consumed by Taiyuan. In addition, the petitioner contends that the import data on ferrosilicon contained in *Iron and Steel* are not representative of the price paid by purchasers in India nor are these import values most contemporaneous with the POR. Furthermore, the petitioner argues that the Department should not use price data from a 1995–96 Indian producer financial statement submitted on November 20, 1997, because the price is aberrationally low when compared with the data from *Monthly Statistics* and *Metal Bulletin*. Therefore, the petitioner maintains that the Department should continue to use data from *Metal Bulletin* to value ferrosilicon.

DOC Position: We disagree in part with the petitioner. We have used a simple average POR value for all grades of ferrosilicon from two publications (*i.e., Metal Bulletin* and *Iron and Steel*). We find the July 1996 value of ferrosilicon in *Metal Bulletin* is no more representative or contemporaneous to the POR than is the July and August 1996 values of ferrosilicon in *Iron and Steel.* Therefore, we have used both values in the average price calculation. However, we have not removed an amount for excise or sales taxes from the domestic ferrosilicon value listed in *Metal Bulletin* because the publication does not indicate that the price is inclusive of these taxes. We have not included the values or quantities of ferrosilicon exported to India by countries listed in *Iron and Steel* which the Department has determined are NMEs (*i.e.,* Russia, Kazakhstan). We have included the values and quantities of ferrosilicon from countries listed in *Iron and Steel* that are market economies but which the petitioner claims are not known to be producers of ferrosilicon because these countries are the exporters of record and are market economies that are determining the price of ferrosilicon that they sell to the Indian market. We have no evidence on the record which indicates that the ferrosilicon exported from these countries originates in NMEs.

Comment 7: Surrogate Value for Dolomite. Taiyuan argues that the Department should not continue to use the April 1995–March 1996 value from a 1995–96 financial report of a single company (*i.e.,* Indian Ferroalloy) to value dolomite because that price is unreliable and because there is no information in the financial report which indicates the type of dolomite referenced in that report. Instead, Taiyuan contends that the Department should use an indexed and averaged import value for three grades of dolomite from the Indian government publication *1994 Index Numbers of Wholesale Prices in India* (*Index Numbers*). According to respondent, the data have been updated in this publication and are more contemporaneous to the POR than the data from a single company.

The petitioner contends that the Department should continue to use the 1995–96 dolomite value from Indian Ferroalloy's financial report because the report provides a more contemporaneous value that is specific to the grade of dolomite used in magnesium production.

DOC Position: We agree with the petitioner. We have used the April 1995–March 1996 value from Indian Ferroalloy's financial report because it is more representative and more contemporaneous to the POR than the data contained in *Index Numbers.* We also have not used the data in *Index Numbers* because, although the Indian government publication appears to provide POR values for dolomite, there is no explanation how the product-specific indices were determined or why 1994 prices were selected for

indexation. We have not removed an amount for excise or sales taxes from the domestic dolomite value listed in Indian Ferroalloy's financial report because the financial report does not indicate that the price is inclusive of these taxes.

Comment 8: Surrogate Value for Calcinated Dolomite (i.e., Calcinate). Taiyuan argues that it is the Department's policy to use, to the extent possible, statistics from a single country when developing the values for the factors of production. According to respondent, the Department used import statistics from Indonesia to value calcinated dolomite in the preliminary results. Taiyuan claims that because India is the primary surrogate country in this case, the Department should use the April–July 1996 Indian import value for calcinated dolomite from *Monthly Statistics* which Taiyuan furnished in its November 13, 1997, submission.

DOC Position: We agree with Taiyuan. We have used the April–July 1996 import value from *Monthly Statistics* to value calcinated dolomite.

Comment 9: Surrogate Value for Fluorite Powder. Taiyuan argues that the April 1995–March 1996 value from *Monthly Statistics* the Department used in the preliminary results to value fluorite powder provides unreliable information during the POR. Taiyuan claims that the Department should use the April–July 1996 fluorite value import value from *Monthly Statistics* contained in its November 13, 1997, submission. The respondent argues that the data from this publication are more contemporaneous to the POR than the data used in the preliminary results.

DOC Position: We agree with Taiyuan. We have used the April-July 1996 import value from *Monthly Statistics* to value fluorite powder because it is more contemporaneous to the POI than is the April 1995-March 1996 import value.

Comment 10: Surrogate Value for Barium Chloride. The petitioner contends that the Department should use the January-December 1996 Indian import value from *United Nations Import Statistics* instead of the Indonesian import value used in the preliminary results. The petitioner maintains that even though the Indian import value includes imports from the United States while the U.S. export data does not show exports of barium chloride to India, the export data of one country may not correspond to the import data of another for any number of reasons, including shipment of goods through intermediate countries. The petitioner also argues that if the Department continues to use the Indonesian import data to value barium chloride, the Department should not derive a hypothetical volume and value of U.S. imports into Indonesia and remove those amounts from the Indonesian import data since the Indonesian import data is not separately broken out by country of origin and because there is no necessary correlation between two different countries' import and export data.

Taiyuan argues that the Department should use the Indonesian import data rather than the Indian import data to value barium chloride because the Indian import data contains imports from the United States while U.S. export data does not show exports of barium chloride to India. Taiyuan also maintains that the U.S. quantity and value data contained in the Indonesian import data is aberrational and that the Department should therefore remove the U.S. data from Indonesian import data by taking the volume and value of imports of barium chloride from all countries reported in the Indonesian import data and subtracting the volume and value of exports of barium chloride to Indonesia reflected in U.S. export data.

DOC Position: We agree with the petitioner. Since India is the primary surrogate country in this case, we have used the Indian import prices to value barium chloride. We have used the January-December 1996 Indian import price from *United Nations Import Statistics* to value barium chloride because the data in *United Nations Import Statistics* for this material is more contemporaneous to the POR than the Indian import prices contained in *Monthly Statistics.* We do not agree that the Indian import data are necessarily in error because they do not correlate with U.S. export data. The lack of correlation between two different countries' import and export data could result from various factors such as the reporting of intermediate destinations on export declarations. Therefore, we have no basis to conclude that the Indian data are erroneous.

Comment 11: Surrogate Value for Coal. Taiyuan argues that the April 1995-March 1996 import value from *Monthly Statistics* the Department used in the preliminary results is unreliable. Instead, Taiyuan claims that the Department should use an indexed and averaged import value for coal from the *Index Numbers.* As asserted by the respondent, the data are current to the POR and thus need no index calculation.

The petitioner maintains that the Department should not use the prices from *Index Numbers* because those prices are domestic prices for coal produced in India, which are subject to government control. In addition, the petitioner asserts that the prices from this publication predate the POR by more than two years and are for a range of coal grades, none of which are used by Taiyuan. If the Department decides to use a domestic Indian coal price, then the petitioner contends that the Department should calculate an average price from *Index Numbers* using only the ''heat-intensive'' grades of coal listed in the publication.

DOC Position: We disagree with Taiyuan. Taiyuan has offered no reason for finding that the April 1995-March 1996 coal import price from *Monthly Statistics* is unreliable. We have not used the coal prices from *Index Numbers* because, although that Indian government publication appears to provide POR values for coal, there is no explanation for how the product-specific indices were determined or why 1994 prices were selected for indexation.

Comment 12: Surrogate Value for Electricity. Taiyuan argues that the Department should not use the August 1996 price in *Business World* to value electricity because this publication is not one normally considered by the Department in previous NME cases. Taiyuan maintains that the Department should use instead a 1995 value from the publication *Confederation of India Industrial Handbook* (''*Industrial Handbook*''), which has been used in previous NME cases, because the publication provides electricity rates applicable for rural areas in India. Taiyuan argues that since its producer is located in a rural area in the PRC, the rural electricity rates contained in *Industrial Handbook* would more accurately reflect the electricity costs incurred by the PRC producer.

The petitioner contends that the Department should not use the rates in *Industrial Handbook* to value electricity because the rates it contains are not contemporaneous with the POR. In addition, the petitioner argues that in previous NME cases the Department has not adjusted a surrogate value to account for the fact that a production facility is located in a particular type of region within a country and should not do so in this case. Moreover, the petitioner contends that the data in *Industrial Handbook* identify different rates for rural and urban customers for only two Indian states, and that for the other states, the publication only provides one set of rates without making any distinction between urban and rural areas.

DOC Position: We agree with the petitioner. We have used the August 1996 industrial electricity rate

contained in *Business World* because it is more contemporaneous to the POR than the 1995 industrial electricity rate contained in *Industrial Handbook*. We do not agree with Taiyuan that we should use the rural electricity rate in *Industrial Handbook* because Taiyuan's supplier is located in a rural area in the PRC. The *1995 Industrial Handbook* lists differentiated rural industrial rates for only one Indian state. This indicates that in general rural electricity rates are not different than urban electricity rates in India. Therefore, we find that the cited rural rates from *Industrial Handbook* would not be representative of rural rates for India as a whole.

Comment 13: Inclusion/Exclusion of Provident Fund and Employees' Welfare Expenses in COM. Taiyuan contends that the labor portion of the NV calculation already includes provident fund and employees' welfare expense contributions. Therefore, when calculating COM, Taiyuan maintains that including these expenses in the overhead would result in double-counting.

The petitioner maintains that the Department's new regression-based wage rate methodology uses wage rates from the *Yearbook of Labor Statistics* (*Labor Statistics*) published by the International Labor Office (ILO) and that these rates are based on cash payments received by employees. The petitioner contends that since provident fund payments and employee welfare expenses are not cash payments to employees, Taiyuan is incorrect that these costs are included in the surrogate value for labor. Therefore, the petitioner maintains that the Department should include these expenses in the factory overhead rate calculation.

DOC Position: We agree with Taiyuan. The regression-based wage rate we have used to value labor in this case is based on wage rates contained in *Labor Statistics*. Information contained in Labor Statistics states that the Indian wage rate is a comprehensive wage rate which also includes employers' social security expenditures and welfare services. Therefore, consistent with Department practice, we have not included provident fund payments and employee welfare expenses in the numerator of the factory overhead rate calculation. *See Final Determination for Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China* 61 FR 14057, 14061 (March 29, 1996) (Comment 5).

Comment 14: Adjustment of the Surrogate Value for No. 2 Flux. Taiyuan states that the Department made a clerical error in its preliminary results when it did not multiply the flux no. 2 surrogate value by the percentage purity of the input used by Taiyuan's suppliers as specified in the preliminary results calculation memorandum, in effect assuming the value to be for 100 percent pure flux.

The petitioner maintains that the value the Department calculated for no. 2 flux incorporates the percentage factor.

DOC Position: We agree with the petitioner. We have rechecked our calculation and find that our calculation is not in error.

Comment 15: Inclusion of Transportation Fee in Electricity Rate. Taiyuan claims that in the preliminary results the Department incorrectly included a transportation fee in its surrogate value calculation for electricity. Therefore, Taiyuan maintains that the Department should exclude the transportation fee from its electricity value calculation.

DOC Position: We agree with Taiyuan and have removed the transportation fee from the electrical surrogate value calculation.

Comment 16: Packing Cost Calculation. Taiyuan claims that in the preliminary results the Department incorrectly determined the packing labor cost by calculating a cost based on labor hours rather than on labor minutes as reported in the response. Therefore, Taiyuan maintains that the Department should recalculate the packing labor cost using the reported labor minute factor.

DOC Position: We agree with Taiyuan and have calculated a labor cost based on the labor minutes reported in Taiyuan's response.

Comment 17: Deduction of Taxes from Surrogate Values Assigned to Raw Materials. Taiyuan contends that in any case where the Department uses financial statements of Indian producers to establish surrogate values for raw material inputs, the Department should follow the normal practice used in *Brake Rotors* to calculate a tax-exclusive value (*see Brake Rotors* at 9163). To ensure that surrogate values are exclusive of all taxes, Taiyuan states that the excise duty amount between 15 and 20 percent plus a minimum of 4 percent for sales taxes should be deducted from any domestic purchase prices.

Petitioner contends that although in prior NME cases the Department has adjusted for taxes only where the quoted price was specifically identified as being inclusive of excise and/or sales taxes, in this review, Taiyuan has not identified a single surrogate value that is specifically identified as being inclusive of taxes.

DOC Position: We agree in part with Taiyuan. Consistent with Department practice, we have removed, where applicable, an amount for excise taxes (*i.e.*, 15 percent since 1995 based on information contained in the record) and an amount for sales taxes (*i.e.*, 4 percent) from the domestic Indian values we are using in our calculations. Only one of the Indian publications we used for domestic values (*i.e.*, sulfuric acid from *Chemical Weekly*) noted that the price was inclusive of excise and sales taxes. Therefore, we only removed tax amounts from prices we obtained from *Chemical Weekly*. Our decision in this case is consistent with the Department's decision in *Brake Rotors* where we removed taxes from prices for certain steel products obtained from an Indian government steel publication (*i.e., Statistics for Iron and Steel*) because data in the publication indicated that taxes were included in the prices.

Comment 18: Use of Import Surrogate Values Net of Any Additional Amount for Domestic Inland Freight. Taiyuan argues that if the Department uses Indian import statistics for surrogate values of raw material inputs, it cannot add a constructed freight charge. Taiyuan cites *Sigma Corp.* v. *United States* (*Sigma*), 117 F.3d 1401 (CAFC July 7, 1997) in which Taiyuan claims the Court held that using such a methodology was beyond the limits of permissible approximation. *Sigma* at 15.

Petitioner argues that the Department properly calculated inland freight for raw materials in the preliminary results. Petitioner contends that Taiyuan misread the *Sigma* ruling. Petitioner states that, in *Sigma*, the Court did not determine that no additional amount for inland freight could be included in CV. According to petitioner, *Sigma*'s ruling requires only that, when the surrogate value for an input is based on a CIF import value, any additional amount for freight for that input may not exceed the calculated freight costs of shipping the material from respondents' seaports in the PRC to their factories.

DOC Position: We agree in part with the petitioner. Although the holding in *Sigma* permits, rather than dictates, the methodology referenced by the petitioner, it also does not dictate the outcome urged by Taiyuan. Instead, it leaves to the discretion of the Department the determination of a freight component which is not excessive. We do not find that the import values contained in Indian publications include all of the freight cost associated with transporting the imported input to the factory. Therefore, in accordance with *Sigma* decision, we

have included a freight amount equal to the lesser of: (1) The calculated freight cost of shipping material from the PRC port Taiyuan uses to export finished goods to its PRC factory or (2) the cost of shipping material from the domestic supplier to the factory. *See Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410,51413 (October 1, 1997).

Currency Conversion

We made currency conversions pursuant to section 773A(a) of the Act and 19 CFR 353.60 based on the rates certified by the Federal Reserve Bank.

Final Results of the Review

As a result of our comparison of EP and NV, we determine that the following weighted-average margin exists for the period May 1, 1996, through October 31, 1996:

Manufacturer/producer/exporter	Percent margin
Taiyuan Heavy Machinery Import and Export Corporation	69.53

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. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of AD duties calculated for the examined sales made during the POR to the total value of subject merchandise entered during the POR. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit rates shall be required for merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Taiyuan will be the rate indicated above; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all remaining PRC exporters, the cash deposit rate will be 108.26 percent, the PRC-wide rate established in the LTFV investigation; and (4) for non-PRC exporters, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the 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 the 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 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.28(c).

Dated: January 14, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1400 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011398C]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Anchorage, AK.

DATES: The meetings will be held the week of February 2, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the meetings.

ADDRESSES: All meetings will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK. All meetings are open to the public with the exception of a Council executive session tentatively scheduled for noon on Thursday, February 5, to discuss personnel, international issues, or litigation, as necessary.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION:

1. The Scientific and Statistical Committee (SSC) will meet beginning at 8:00 a.m. on Monday, February 2, continuing through Wednesday, February 4.

2. The Advisory Panel (AP) will begin meeting at 8:00 a.m. on Monday, February 2, and continue through Thursday, February 5.

3. The Council will meet in joint session with the Alaska Board of Fisheries on Tuesday, February 3, 1998, beginning at 8:30 a.m.

4. NMFS will hold a workshop on preliminary essential fish habit reports to gather public comments on Thursday, February 5, at 7:00 p.m.

5. The Council's regular plenary session will begin at 8:00 a.m. on Wednesday, February 4, and continue through Sunday, February 8. If necessary to complete the agenda, the Council may continue meeting on Monday, February 9.

Other workgroup or committee meetings may be held during the week. Notices of these meetings will be posted at the hotel.

The agenda for the Council's joint meeting with the Alaska Board of Fisheries will include the following:

1. Under halibut management, the Council and Board will discuss the following subjects:

a. Status report on Alaska Department of Fish and Game charterboat logbook;

b. Status report on Council's halibut charterboat guideline harvest level and management measures used off Oregon and Washington for recreations fisheries; and

c. Review and approve draft protocol on development of local area fishery management plans;

2. Groundfish issues for discussion are:

a. State waters Pacific cod fisheries;

b. Approval of letter to industry encouraging resolution of gear conflicts within industry; and

c. Ways to improve exchange of proposals.

3. Crab issues to be discussed are:

a. Status report on development of crab stock assessment document and overfishing definitions; and

b. Extension of overfishing and rebuilding considerations to species outside fishery management plans.

4. Deferral of scallop management to State of Alaska and discussion of limited entry considerations for the scallop fishery.

5. Report on Steller sea lion research.

6. Reports on bycatch estimation.

7. Discuss need to continue requirement for salmon bycatch retention until counted by an observer.

The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. A report from NMFS on the current status of the fisheries off Alaska, and a report from the International Pacific Halibut Commission on 1998 halibut quotas.

2. Final action on a third-party arrangement (joint project agreement) for observer procurement services.

3. Preliminary review of analysis for the allocation of pollock between inshore and offshore fisheries; direct staff on further development of alternatives.

4. Preliminary review of an amendment to the fishery management plans to incorporate essential fish habitat information as required by the Magnuson Act; direction to staff.

5. Final action on research priorities.

6. Review the local area management plan for Sitka Sound halibut, and discuss area management plans in general; determine how to proceed; direction to staff.

7. Under the Council's license limitation program for groundfish and crab, the following items will be discussed:

a. Crab buyback program: status report and discussion;

b. Discussion and direction to staff on potential amendments to the program;

c. Discussion of multi-species community development quota regulations with regard to vessel exemptions; direction to staff; and

d. Discussion and direction to staff on extension of the current moratorium on entry to the groundfish and crab fisheries off Alaska.

8. Status report on Amendment 3 to the Scallop Fishery Management Plan, and discussion of future limited entry program; direction to staff.

9. Groundfish amendments scheduled for action are as follows:

a. Final action on a regulatory amendment to revise Gulf of Alaska (GOA) trimester pollock allocations;

b. Final action on an amendment for stand-down and/or preregistration requirements in the Western and Central GOA;

c. Initial review of options to streamline the setting of total allowable catches; directions to staff to release for public review and/or revise;

d. Final action on an amendment to allocate shortraker/rougheye quota to fixed gear in the Bering Sea/Aleutian Islands;

e. Initial review of an amendment to revise boundaries for Eastern GOA regulatory area; and

f. Discussion and direction to staff on possible bycatch amendments.

9. Other groundfish issues scheduled for discussion are: a. Trip limits in the Western and Central GOA; direction to staff;

b. Salmon bycatch retention issues; direction to staff;

c. Catch and bycatch measurement; direction to staff; and

d. Vessel bycatch accounts; direction to staff.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during the meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: January 14, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–1342 Filed 1-15-98; 1:31 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011398B]

Marine Mammals; Scientific Research Permit (PHF# 369–1440)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Bruce Mate, Hatfield Marine Science Center, Oregon State University, 2030 South Marine Science Drive, Newport, OR 97365–5296, has applied in due form for a permit to take humpback (Megaptera novaeangliae), blue, (Balaenoptera musculus), gray (Escrichtius robustus), northern right (Eubalaena glacialis), bowhead (Balaena mysticetus), fin (Balaenoptera physalus), and sperm whales (Physeter macrocephalus) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before February 20, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13822, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by email or other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.), the regulations governing the taking and importing of marine mammals (50 CFR part 216) and the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

The applicant seeks authorization to tag and collect a skin sample from 100 each of various large whale species in the North Pacific, North Atlantic, and Gulf of Mexico over a five-year period. Approximately 1,000 additional whales of each species may be harassed during these activities. In addition, the applicant wishes to conduct non-invasive, opportunistic research on various pinniped and cetacean species.

The application and related documents are available for review

upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700;

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213;

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668;

Regional Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298; and

Regional Administrator, Southeast Region, National Marine Fisheries Service, NOAA, 9721 Executive Center Drive, North, St. Petersburg, FL 33702–2432.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: January 14, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–1343 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Quota and Visa Requirements for Discharge Printed Fabric Produced or Manufactured in Egypt

January 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending quota and visa requirements.

EFFECTIVE DATE: January 22, 1998.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1862, as amended.

In exchange of notes dated December 3, 1997 and December 29, 1997, the Governments of the United States and Egypt agreed that discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5208.52.3035, 5208.52.4035, 5209.51.6032 (Category 313), 5209.51.6015 (Category 314), 5208.52.4055 (Category 315), 5208.59.2085 (Category 317), 5208.59.2015, 5209.59.0015 and 5211.59.0015 (Category 326) which is produced or manufactured in Egypt and imported on or after January 1, 1998 will no longer be subject to visa requirements and will not be subject to 1998 limits. The new designation for Categories 313, 314, 315, 317, 317 and 326 will be part-category 313–O, 314–O, 315–O, 317–O, and 326–O, respectively. The 1998 quota levels established for Categories 313, 314, 315, 317 and 326 remain the same for the newly established part-categories.

Also effective on January 22, 1998, products in Categories 313, 314, 315, 317 and 326, produced or manufactured in Egypt and exported from Egypt on or after January 1, 1998 must be accompanied by a 313–O, 314–O, 315–O, 317–O and 326–O part-category visa. There will be a grace period from January 1, 1998 through January 31, 1998 during which products exported from Egypt in Categories 313, 314, 315, 317 and 326 may be accompanied by the whole or new part-category visa. A visa will not be required for discharge printed fabric in Categories 313, 314, 315, 317 and 326 beginning on January 1, 1998, regardless of the date of export.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the export quota and visa requirements.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 52 FR 48857 published on December 28, 1987; 55 FR 49936, published on December 3, 1990; and 62 FR 67829, published on December 30, 1997.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 14, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on January 22, 1998, discharge printed fabric classified in Harmonized Tariff Schedule (HTS) numbers 5208.52.3035, 5208.52.4035, 5209.51.6032 (Category 313), 5209.51.6015 (Category 314), 5208.52.4055 (Category 315), 5208.59.2085 (Category 317), 5208.59.2015, 5209.59.0015 and 5211.59.0015 (Category 326) which is produced or manufactured in Egypt and imported on or after January 1, 1998 will no longer be subject to visa requirements and will not be subject to 1998 limits, pursuant to exchange of notes dated December 3, 1997 and December 29, 1997 between the governments of the United States and Egypt. The new designation for Categories 313, 314, 315, 317 and 326 will be Categories 313–O [1], 314–O [2], 315–O [3], 317–O [4] and 326–O [5], respectively.

The 1998 quota levels established for Categories 313, 314, 315, 317 and 326 remain the same for the newly established part-Categories 313–O, 314–O, 315–O, 317–O and 326–O.

Also effective on January 22, 1998, you are directed to amend further the directive dated December 21, 1987 to require a part-category visa for Categories 313–O, 314–O, 315–O, 317–O and 326–O, produced or manufactured in Egypt and exported on or after January 1, 1998. There will be a grace period from January 1, 1998 through January 31, 1998 during which products exported from Egypt in Categories 313, 314, 315, 317 and 326 may be accompanied by the whole or new part-category visa. A visa will not be required for discharge printed fabric in Categories 313, 314, 315, 317 and 326 beginning January 1, 1998, regardless of the date of export.

Shipments entered or withdrawn from warehouse according to this directive which

[1] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[2] Category 314–O: all HTS numbers except 5209.51.6015.

[3] Category 315–O: all HTS numbers except 5208.52.4055.

[4] Category 317–O: all HTS numbers except 5208.59.2085.

[5] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–1359 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey; Correction

January 14, 1998.

On page 67840 of the document published in the **Federal Register** on December 30, 1997 (62 FR 67839), second column, correct the 1998 sublimit for Category 313 in the Fabric Group from 48,114,466 square meters to 49,114,466 square meters.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–1358 Filed 1–20–98; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Collection: Comment Request

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) , as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3508(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation for National and Community Service is soliciting comments concerning its proposed revision of the National Service Senior Corps (NSSC) Project Progress Report (PPR).

Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section on or before March 15, 1998.

The Corporation for National and Community Service is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Pat Kim, National Service Senior Corps, Program Officer, Corporation for National and Community Service, 1201 New York Ave., N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Pat Kim, (202) 606–5000, ext. 245.

SUPPLEMENTARY INFORMATION:

I. Background

The Project Progress Report (PPR) was designed to assure that National Service Senior Corps (NSSC) grantees address and fulfill legislated program purposes, meet agency program management and grant requirements, and assess progress toward work plan objectives agreed-upon in the granting of the award. Information is used by agency project managers to determine that projects are achieving goals and objectives, identify technical assistance needed to correct deficiencies, manage budget variances and resource issues arising in grants, track trends requiring changes in program policies and procedures, and establish priorities for project monitoring activities. Established NSSC grantees submit PPRs twice annually to their agency project manager. First-year projects, new components, demonstrations, and projects experiencing problems or with substantial project revisions report quarterly, as identified in the Notice of Grant Award agreed to and signed by the sponsor/grantee.

II. Current Action

The Corporation for National and Community Service seeks to revise the current PPR in order to reflect or mirror changes made in the revised National Senior Service Corps Grant Application which received OMB approval in mid-December 1997. All NSSC grantees with a start date of July 1, 1998 will be required to use the new Grant Application. We anticipate making available to all NSSC grantees, an OMB approved revised PPR by July of 1998.

The revised PPR will be used by NSSC grantees to report progress toward accomplishing work plan goals and objectives, achieving Government Performance and Results Act (GPRA) goals, meeting challenges encountered, describing significant activities, and requesting technical assistance.

Information gathered from PPRs will allow agency project managers to determine that projects are achieving goals and objectives outlined in the Grant Application, compile GPRA data, assess and monitor programmatic challenges and significant activities, identify technical assistance needs, and assure compliance with legislative requirements, policies, procedures, and grant conditions.

Type of Review: 60-Days Review and Comment.

Agency: Corporation for National and Community Service.

Title: Project Progress Report.

OMB Number: 3045–0033.

Agency Number: CNCS Form 1020 (9/96).

Affected Public: Sponsors of National Senior Service Corps Grants.

Total Respondents: 1245.

Frequency: Semi-annual.

Average Time Per Response: 15.9 hours.

Estimated Total Burden Hours: 19,795 hours.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 15, 1998.

Tom Endres,

Director, National Senior Service Corps.

[FR Doc. 98–1382 Filed 1–20–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated form, and OMB number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 230, Cost Accounting Standards, and DD Form 1861, Contract Facilities Capital Cost of Money; DD Form 1861; OMB Number 0704–0267.

Type of Request: Revision.

Number of Respondents: 25,609.

Responses Per Respondent: 1.6 (approximately).

Annual Responses: 42,058.

Average Burden Per Response: 10 hours.

Annual Burden Hours: 420,580.

Needs and Uses: It is Department of Defense policy to encourage contractor investment in facilities, which may lead, under DoD contracts, to increased productivity and reduced costs through the use of modern manufacturing technology. To motivate aggressive capital investment, DoD rewards contractors by recognizing contract facilities capital cost of money (CFCCM) and facilities capital employed in establishing the price of certain negotiated defense contracts, when such contracts are priced on the basis of cost analysis. DD Form 1861, Contract Facilities Capital Cost of Money, is used to compute these two elements of price. The contracting officer may require information from the contractor to complete this form. The CFCCM amount is used to help establish a price objective in negotiated contracts. The facilities capital employed amount is carried forward to DD Form 1547, Record of Weighted Guidelines Method Application, for the purpose of developing profit objectives on defense contracts when the Weighted Guidelines method is used. DFARS 230.7004–2, DD Form 1861, indicates that: (1) Completion of the DD Form 1861 requires information not included on the Form CASB–CMF; and (2) the contracting officer could request information through a solicitation provision.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 15, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1407 Filed 1–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Historical Records Declassification Advisory Panel

AGENCY: Department of Defense, Historical Advisory Committee.

ACTION: Notice.

SUMMARY: Notice is hereby given of the upcoming meeting of the Historical Records Declassification Advisory Panel. The purpose of this meeting is to discuss recommendations to the Department of Defense on topical areas of interest that, from a historical perspective, would be of the greatest benefit if declassified. The OSD Historian will chair this meeting.

DATE: Friday, February 6, 1998.

TIME: The HRDAP morning session will be closed to the public from 9:00 a.m. until 12:00 p.m. due to the necessity to hear classified and sensitive reports in accordance with 5 U.S.C., Sec 552©(1) (1982). The afternoon session will be open to the public from 1:00 p.m. to 3:30 p.m.

ADDRESS: The National Archives Building, Room 105, 7th and Pennsylvania Avenue, NW., Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Cynthia Kloss, Room 3C281, Office of the Deputy Assistant Secretary of Defense (Intelligence and Security), Office of the Assistant Secretary of Defense (Command, Control, Communications and Intelligence), 6000 Defense Pentagon, Washington, DC 20301–6000, telephone (703) 695–2289/2686.

Dated: January 15, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1408 Filed 1–20–98; 8:45 am]

BILLING CODE 5000–04–M

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 20, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 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 15, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.
Title: Fiscal Operations Report and Application to Participate in Federal Perkins Loan, Federal Supplemental Educational Opportunity Grant, and Federal Work-Study Program.
Frequency: Annually.
Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't; SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 4,800.
Burden Hours: 80,586.
Abstract: This application data will be used to compute the amount of funds needed by each institution during the 1999–2000 Award Year. The Fiscal Operations Report data will be used to assess program effectiveness, account for funds expended during the 1997–98 Award Year, and as part of the institutional funding process.

Office of Educational Research and Improvement

Type of Review: New.
Title: 1998 National Assessment of Educational Progress(NAEP), Writing Special Study.
Frequency: One Time.
Affected Public: Individuals or households.
Reporting Burden and Recordkeeping:
Responses: 6,200.
Burden Hours: 2,200.
Abstract: The 1998 NAEP writing special study is designed to bolster the understanding of study NAEP writing achievement with information on student's best writing assignments, and the writing process. In addition, the study will collect information about teachers' emphasis on writing curriculum and instructional approaches. The study will be conducted with a sample of 6000 (4th and 8th grade) students and 200 teachers. The study will use a structured protocol to obtain more detailed and valid information about classroom instructional practices than a standard background questionnaire. Students will be asked to select three examples of their best writing and to fill out a brief questionnaire describing the samples of writing that they submit.

[FR Doc. 98–1391 Filed 1–20–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) for the production of tritium using one or more commercial light water reactors (CLWR), pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4321 *et seq.*) and the DOE Regulations Implementing NEPA (10 CFR Part 1021). Under the CLWR Program, tritium production could occur in one of two manners: (1) purchase of CLWR irradiation services; or (2) purchase of a CLWR. Prior to preparation of the CLWR EIS, DOE initiated a procurement process to evaluate the feasibility of various CLWR alternatives, and the alternatives described in this notice have been derived from that procurement process. The CLWR EIS will evaluate the environmental impacts associated with tritium production for all reasonable alternatives identified through the procurement process.

DATES: Comments on the proposed scope of the CLWR EIS are invited from the public. To ensure consideration in the preparation of the EIS, comments must be postmarked by March 20, 1998. Late comments will be considered to the extent practicable. Public scoping meetings to discuss issues and receive oral comments on the scope of the EIS will be held in the vicinity of sites that may be affected by the proposed action. The public scoping meetings will provide the public with an opportunity to present comments, ask questions, and discuss concerns with DOE officials regarding CLWR activities. An interactive format will be used. The location, date, and time for these public scoping meetings is as follows:

Northeast Alabama Community College, 135 Alabama Highway 35 West, February 24, 1998, 7:00 p.m.-10:00 p.m., Rainsville, AL

Rhea County High School, February 26, 1998, 7:00 p.m.-10:00 p.m., Evensville, TN.

The Tennessee Valley Authority has been designated as a cooperating agency for this EIS. Any other agency that desires to be designated as a cooperating agency should contact the CLWR Program Office at the address listed below by March 20, 1998.

ADDRESSES: General questions concerning the CLWR Project can be asked by calling the toll-free telephone number at 1–800–332–0801, or by writing to: Stephen M. Sohinki, Director, CLWR Project Office, U.S. Department of Energy, P.O. Box 44539, Washington, DC 20026–4539.

As an alternative, comments can also be submitted by fax to: 1–800–631–0612; or electronically to the CLWR Web Site: http://www.dp.doe.gov/dp-62. Please mark envelopes, faxes, and E-mail: ''CLWR EIS Comments.''

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202–586–4600; or telephone 800–472–2756 to leave a message.

SUPPLEMENTARY INFORMATION: All of the nuclear weapons currently in the United States' stockpile must contain tritium, a radioactive isotope of hydrogen, to function as designed. Tritium decays at a rate of 5.5 percent per year, giving it a half-life of 12.3 years. Because of this decay, the tritium contained in the nuclear weapons must be periodically replenished. Tritium is not a fissile material and cannot be used alone to construct a nuclear weapon. Tritium also has commercial uses such as watch dials, exit signs, and medical research.

Tritium is so rare in nature that useful quantities must be man-made. The United States stopped producing new tritium in 1988 when the last government-owned nuclear materials production reactor at the Savannah River Site (SRS) was shut down. Currently, there is no capability to

produce the required amounts of tritium within the Nuclear Weapons Complex.

Previously, the Department evaluated the programmatic need for a new tritium source in a Programmatic Environmental Impact Statement (PEIS) for Tritium Supply and Recycling (DOE/EIS–0161, October 1995). Based on the findings in that PEIS and other technical, cost, and schedule evaluations, the Department issued a Record of Decision (ROD) on December 5, 1995 (60 FR 63877). In the ROD, the Department announced a decision to pursue a dual-track approach on the two most promising tritium supply alternatives: (1) To initiate purchase of an existing commercial reactor (operating or partially complete) or irradiation services with an option to purchase the reactor for conversion to a defense facility; and (2) to design, build, and test critical components of an accelerator system for tritium production (SRS was selected as the location for an accelerator, should one be built). The Department will select one of these approaches by the end of 1998 to serve as the primary source of tritium. The other alternative, if feasible, would continue to be developed as a backup tritium source.

In recent years, international arms control agreements have caused the nuclear weapons stockpile to be reduced in size. This, in turn, has allowed DOE to recycle the tritium removed from dismantled weapons for use in supporting the remaining stockpile. However, due to the decay of tritium, the current inventory of tritium will not meet the national security needs that are projected for the future. The most recent Presidential direction, which is contained in the 1996 Nuclear Weapons Stockpile Plan and an accompanying Presidential Decision Directive, mandates that new tritium be available by 2005 if a CLWR is the selected option for tritium production. If the accelerator is the selected option for tritium production, the Presidential direction mandates that new tritium be available by 2007.

The Department's strategy for compliance with NEPA has been to make decisions on programmatic alternatives in the ROD for the Tritium Supply and Recycling PEIS (now completed), followed by site-specific analyses to implement the programmatic decisions. The decisions made in the December 5, 1995, Tritium Supply and Recycling ROD have resulted in the Department's preparation of the following NEPA documents:

1. An EIS for the Selection of One or More Commercial Light Water Reactors for Tritium Production (the subject of this Notice of Intent);

2. An EIS for the Construction and Operation of an Accelerator for the Production of Tritium at the Savannah River Site (Draft EIS issued in December 1997);

3. An Environmental Assessment for the Consolidation of Tritium Recycling Facilities at the Savannah River Site (currently under preparation);

4. An EIS for the Construction and Operation of a Tritium Extraction Facility at the Savannah River Site (Notice of Intent issued September 5, 1996 (61 FR 46790);

5. An Environmental Assessment for the Lead Test Assembly Irradiation and Analysis (completed in July 1997).

CLWR Production of Tritium

The production of tritium in a CLWR is technically straightforward. As discussed in the Tritium Supply and Recycling PEIS, most existing pressurized water reactors utilize twelve-foot long rods containing an isotope of boron in ceramic form that is inserted in their fuel elements to absorb excess neutrons produced by the uranium fuel in the fission process. These rods are sometimes called burnable absorber rods. DOE's tritium program has developed another type of burnable absorber rod in which neutrons are absorbed by a lithium aluminate ceramic rather than the boron ceramic. These rods would be placed in the same locations in the reactor core as the standard burnable absorber rods. There is no fissile material (uranium or plutonium) in the DOE burnable absorber rods.

While the two types of rods function in a very similar manner to absorb excess neutrons in the reactor core, there is one notable difference: when neutrons strike the lithium aluminate ceramic material in the DOE burnable absorber rod, tritium is produced. This tritium is then captured almost instantaneously in a solid zirconium material in the rod, called a ''getter.'' Thus, there is virtually no free tritium in the rod. In fact, the solid material that captures the tritium as it is produced in the rod is so effective that the rod will have to be heated to temperatures in excess of 1800 degrees Fahrenheit in the extraction process to recover the tritium for eventual use in the nuclear weapons stockpile. Depending upon tritium needs, as many as 1000–3000 tritium-producing burnable absorber rods could be placed in each of one or more CLWRs for irradiation.

Relationship of the CLWR EIS and the CLWR Procurement Process

Prior to preparation of the CLWR EIS, DOE initiated a procurement process to evaluate the feasibility of various CLWR alternatives. DOE anticipated that it would enter into a contract/agreement with the owner/operator of one or more commercial reactors for the purpose of producing tritium. Such a contract/agreement could result in DOE purchasing CLWR irradiation services and/or purchasing a CLWR. A partially completed reactor could be utilized for tritium production if the owner/operator were to first complete construction of the reactor.

In June 1997, DOE requested proposals for producing tritium using existing and partially completed reactors. The proposals received from the Tennessee Valley Authority (TVA) in September were the only proposals that were determined to be responsive to the requirements in the procurement request. Consequently, the TVA proposals were the only proposals that were determined to be in the competitive range. The alternatives listed below, which were identified through the procurement process, currently constitute the reasonable alternatives that will be evaluated in the CLWR EIS. Through the procurement process, DOE may enter into an agreement with the TVA, contingent upon completion of the NEPA process, for the production of tritium required to support the nuclear weapons stockpile. However, before completion of the EIS and its associated Record of Decision, the Department and TVA will take appropriate actions, e.g., studies and analyses, related to the potential submission of licensing documents to the Nuclear Regulatory Commission (NRC). Only those actions that are determined to be allowable interim actions would be permitted prior to the completion of the NEPA process. The NRC must issue regulatory approval for the use of tritium production rods in its licensed reactors.

Proposed Action and Alternatives

The CLWR EIS will evaluate the environmental impacts associated with producing tritium at one or more of the following reactor plants:

Bellefonte Nuclear Plant Units #1 and/or #2 (Hollywood, Alabama)

Watts Bar Nuclear Plant Unit #1 (Spring City, Tennessee)

Sequoyah Nuclear Plant Units #1 and/or #2 (Soddy-Daisy, Tennessee)

All of these plants are owned and operated by the Tennessee Valley Authority.

As required by the Council on Environmental Quality regulations, the CLWR EIS will also evaluate the No Action alternative. Under this alternative, the stockpile demand for tritium would have to be met by other means, such as constructing and operating an accelerator at the Savannah River Site.

Identification of Environmental and Other Issues

The Department has identified the following issues for analysis in the EIS. Additional issues may be identified as a result of the scoping process.

1. Public and Worker Safety, Health Risk Assessment: Radiological and nonradiological impacts, including projected effects on workers and the public from construction, operation and accident conditions associated with tritium production.

2. Impacts from releases to air, water, and soil associated with tritium production.

3. Impacts to plants, animals, and habitats, including threatened or endangered species and their habitats associated with tritium production.

4. The consumption of natural resources and energy associated with tritium production.

5. Socioeconomic impacts to affected communities from construction and operation associated with tritium production.

6. Environmental justice: Disproportionately high and adverse human health or environmental effects on minority and low-income populations associated with tritium production.

7. Impacts to cultural resources such as historic, archaeological, scientific, or culturally important sites associated with tritium production.

8. Impacts associated with transportation of nuclear materials.

9. Status of compliance with all applicable Federal, state, and local statutes and regulations; required Federal and state environmental consultations and notifications; and DOE Orders on waste management, waste minimization, and environmental protection.

10. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at the alternative sites.

11. Potential irreversible and irretrievable commitments of resources associated with tritium production.

12. Pollution prevention and waste management practices, including characterization, storage, treatment and disposal of wastes associated with tritium production.

Public Scoping Process

To assist in defining the appropriate scope of the EIS and to identify significant environmental issues to be addressed, DOE will conduct public scoping meetings at the locations, dates, and times described above under DATES. DOE will begin each scoping meeting with an overview of the CLWR program. Following the initial presentation, DOE will answer questions and accept comments. Copies of handouts from the meetings will be available to those unable to attend, by contacting the DOE CLWR project described above under **ADDRESSES**.

Issued in Washington, D.C., this 15th day of January 1998.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 98–1398 Filed 1–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos. 97–104–NG et al.]

TPC Corporation, et al.; Orders Granting and Transferring Blanket Authorizations To Import and/or Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued Orders granting and transferring various natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders are available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 14, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED

[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import Volume Bcf	Export Volume Bcf	
1337	12/02/97	TPC Corporation, 97–104–NG	73		Import and export up to a combined total from and to Canada beginning January 1, 1998, through December 31, 1999.
1338	12/04/97	Phibro Inc., 97–106–NG	200	200	Import including LNG from Canada and, to export to Canada beginning on first delivery after December 31, 1997.
1339	12/04/97	Phibro Inc., 97–105–NG	200	200	Import including LNG from Canada and, to export to Canada beginning on first delivery after December 31, 1997.
1340	12/04/97	Puget Sound Energy, Inc., 97–103–NG	50	.....	Import from Canada beginning on first delivery after December 5, 1997.
1341	12/12/97	Direct Energy Marketing Inc., 97–111–NG	200	.....	Import from Canada beginning February 1, 1998, through January 31, 2000.
1342	12/12/97	UtiliCorp United Inc., 97–107–NG	400		Import and export up to a combined total from and to Canada beginning January 1, 1998, through December 31, 1999.

APPENDIX—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED—Continued

[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import Volume Bcf	Export Volume Bcf	
1240–A	12/12/97	CXY Energy Marketing (U.S.A.) Inc. (Formerly CanadianOxy Marketing (U.S.A.) Inc.), 97–06–NG.	.....	.....	Name change.
1343	12/17/97	Bay State Gas Company, 97–112–NG	40	.....	Import from Canada beginning on January 6, 1998 through January 5, 2000.
1344	12/18/97	Tenaska Washington Partners, L.P., 97–102–NG.	400		Import and export up to a combined total from and to Canada and Mexico beginning December 31, 1997, through December 30, 1999.
1345	12/18/97	POCO Petroleum, Inc., 97–108–NG	250	.....	Import from Canada beginning January 21, 1998, through January 20, 2000.
1346	12/19/97	The Consumers' Gas Company Ltd., 97–110–NG.	.....	100	Export to Canada beginning January 1, 1998, through December 31, 1999.
1347	12/23/97	PanCanadian Petroleum Company, 97–114–NG.	250		Import and export up to a combined total from and to Canada beginning November 1, 1997, through October 31, 1999.

[FR Doc. 98–1369 Filed 1–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Information Collection Submitted for Review and Request for Comments (FERC–523)

January 14, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to Office of Management and Budget (OMB) for review under provisions of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of September 15, 1997 (62 FR 48265) and made a notation in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 726 Jackson Place, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–523 ''Application for Authorization of the Issuance of Securities or the Assumption of Liabilities.''

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902–0043. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. There is no change to the reporting burden. These are mandatory collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of the Federal Power Act (FPA). The information reported under Commission identifier FERC–523 is filed in accordance with Sections 19, 20, and 204, (FPA). Under the FPA a public utility or licensee must obtain Commission authorization for the issuance of securities or the assumption of liabilities. The information is used by the Commission to make a determination as to whether to accept and/or reject for granting authorization to public utilities or licensees to issue securities or assume an obligation or liability.

5. *Respondent Description:* The respondent universe currently comprises on average, 60 applicants for an application for authorization of the issuance of securities or the assumption of liabilities.

6. *Estimated Burden:* 6,600 total burden hours, 60 respondents, 1 response annually, 110 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 6,600 hours ÷ 2,088 hours per year × $110,000 per year = $378,928.

(Statutory Authority: Sections 19, 20, and 204 of the Federal Power Act (FPA), 16 U.S.C. Sections 812 *et seq.*)

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1303 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–37–003]

Green Mountain Power Corporation; Notice of Filing

January 14, 1998.

Take notice that on September 2, 1997, Green Mountain Power Corporation tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 26, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1307 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–12–000]

Millennium Power Partners, L.P.; Notice of Filing

January 14, 1998.

On January 8, 1998, Millennium Power Partners, L.P. (Millennium), a Delaware limited partnership with its principal place of business of 7500 Old Georgetown Road, Bethesda, Maryland 20814, filed with the Federal Energy Regulatory Commission an Amendment to the Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

Millennium states that it will be engaged directly and exclusively in owning or operating, or both owning and operating a 360 MW natural gas-fired combined cycle power plant in the Town of Charlton, Massachusetts (the ''Facility''), and sell electric energy exclusively at wholesale. All capacity and energy from the plant will be sold exclusively at wholesale.

Copies of the filing were served upon the Securities and Exchange Commission and the Massachusetts Department of Public Utilities.

Any person desiring to be heard concerning the Amendment to the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385,214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before January 23, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1309 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–447–001]

Nevada Power Company; Notice of Filing

January 14, 1998.

Take notice that on December 29, 1997, Nevada Power Company (Nevada Power) tendered for filing, an amendment to its compliance filing in Docket No. ER96–447–001. Nevada Power inadvertently filed the incorrect rate schedule in that docket. The purpose of Nevada Power's compliance filing is to submit the correct rate schedule Nevada Power requests a waiver of the 60 day notice requirement and requests that the revised tariff sheets be effective as of the date of the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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 27, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1308 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3675–000]

Union Electric Company; Notice of Filing

January 14, 1998.

Take notice that on December 22, 1997, Union Electric Company (UE) submitted a request to withdraw the filing of the Sixth Amendment dated June 24, 1997 to the Interconnection Contract dated September 18, 1979 between the city of Columbia, Missouri and UE and terminate this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 27, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1304 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–677–000]

Western Resources, Inc.; Notice of Filing

January 14, 1998.

Take notice that on January 8, 1998, Western Resources, Inc., tendered for filing a Notice of Withdrawal in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 27, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1306 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–174–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

January 14, 1998.

Take notice that on January 8, 1998, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP98–174–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to replace the Kansas Gas & Electric Brock meter setting and to reinstall the existing Brock meter setting at the Catt regulator site, both in Bourbon County, Kansas, under Williams' blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7 of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williams states that the volumes of natural gas at the Catt site are currently measured by KG&E and that the installation of the Brock meter setting will eliminate Williams' dependence on KG&E for measurement at the site. Williams asserts that the projected volume of natural gas delivery at the new Brock setting is expected to increase over the next few years, but the delivery volumes at the Catt site will remain unchanged. Williams further asserts that this change is not prohibited by an existing tariff and that Williams has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to Williams' other customers. Williams indicates that the total project cost is estimated to be $124,125, which will be paid from available funds.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene 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 activities 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 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1305 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98–24–000, et al.]

Florida Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 13, 1998.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. DR98–24–000]

Take notice that on December 24, 1997, Florida Power & Light Company, filed a request for approval of changes in depreciation rates made on or after April 19, 1994 and prior to December 22, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Florida Public Service Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Monongahela Power Company

[Docket No. DR98–38–000]

Take notice that on December 30, 1997, Allegheny Power, filed on behalf of Monongahela Power Company, an application for approval of depreciation rates pursuant to Section 302 of the Federal Power Act. The proposed depreciation rates are for accounting purposes only. Allegheny Power states that the proposed new depreciation rates of Monongahela Power Company were approved for retail purposes by the Public Service Commission of West Virginia effective as of November 1, 1994 and the Public Utility Commission of Ohio effective as of October 20, 1995. Allegheny Power requests that the Commission allow the proposed depreciation rates to become effective on the same dates also.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Mississippi Power Company

[Docket No. DR98–39–000]

Take notice that on December 31, 1997, Mississippi Power Company filed a request for approval of changes in depreciation rates, for accounting purposes only, pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Mississippi Public Service Commission and became effective as of January 1, 1996. Mississippi Power Company requests that the Commission allow the proposed depreciation rates to become effective as of January 1, 1996 also.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Company

[Docket No. DR98–40–000]

Take notice that on December 31, 1997, Portland General Electric Company filed a request for approval of changes in depreciation rates, for accounting purposes only, pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Oregon Public Utilities Commission and became effective as of April 1, 1995. Portland

General Electric Company requests that the Commission allow the proposed depreciation rates to become effective as of April 1, 1995 also.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. DR98–41–000]

Take notice that on December 31, 1997, Southern California Edison filed a request for approval, for accounting purposes only, of changes in depreciation rates made on or after April 19, 1994 and prior to May 23, 1997, pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the California Public Utilities Commission.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Potomac Edison Company

[Docket No. DR98–42–000]

Take notice that on January 2, 1998 Allegheny Power, filed on behalf of Potomac Edison Company, an Application for approval of depreciation rates, for accounting purposes only, pursuant to Section 302 of the Federal Power Act. Allegheny Power states that the proposed Potomac Edison Company new depreciation rates were approved for retail purposes by the Maryland Public Service Commission as of June 1, 1995, the Virginia State Corporation Commission as of July 1, 1995 and the Public Service Commission of West Virginia as of November 1, 1994. Allegheny Power requests that the Commission allow the proposed depreciation rates to become effective on the same dates also.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Otter Tail Power Company

[Docket No. DR98–43–000]

Take notice that on January 2, 1998, Otter Tail Power Company, filed a request for approval of changes in depreciation rates made on or after April 19,1994 and prior to May 22, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Minnesota Public Utilities Commission, the North Dakota Public Service Commission and the South Dakota Public Service Commission.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company

[Docket No. DR98–44–000]

Take notice that on January 6, 1998, Kansas City Power & Light Company, filed a request for approval of depreciation rates for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed rates were approved for retail purposes by the Missouri Public Service Commission effective July 9, 1996. Kansas City Power & Light Company requests that the Commission allow the proposed depreciation rates to become effective as of July 9, 1996 also.

Comment date: February 6, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. PP&L, Inc.

[Docket No. ER98–1101–000]

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 QST Energy Trading, Inc. (QST) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds QST 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 QST and to the Pennsylvania Public Utility Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER98–1102–000]

On December 16, 1997, Florida Power & Light Company filed Service Agreements with Aquila Power Corporation, Constellation Power Source Inc., Entergy Power Marketing Corp., Illinois Power Company, NESI Power Marketing, Inc. and Williams Energy Services Company for service pursuant to Tariff No. 1 for Sales of Power and Energy by Florida Power & Light. FPL requests that the Service Agreement be made effective on November 24, 1997.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Illinois Power Company

[Docket No. ER98–1104–000]

Take notice that on December 16, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Griffin Energy Marketing, L.L.C. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of December 10, 1997.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Indianapolis Power & Light Company

[Docket No. ER98–1105–000]

Take notice that on December 17, 1997, Indianapolis Power & Light Company (IPL), tendered for filing an amendment to the interconnection agreement between IPL and PSI Energy, a public utility subsidiary of Cinergy.

Copies of this filing were sent to the Indiana Utility Regulatory Commission and Cinergy.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Company et al.

[Docket No. ER98–1106–000]

Take notice that on December 17, 1997, New England Power Company and the other New England electric utilities that are subject to the Commission's jurisdiction which are parties to the Agreement with Respect to Use of Quebec Interconnection dated as of December 1, 1981, as amended and restated as of September 1, 1985 (the Filing Parties) filed a Second Amended And Restated Agreement With Respect To Use Of Quebec Interconnection (Second Restated Use Agreement) and a related agreement entitled, Agreement With Respect To Second Amendment And Restatement Of Agreement With Respect To Use Of Quebec Interconnection (Second Amended Agreement), both dated as of November 19, 1997.

The Filing Parties request an effective date of December 12, 1997 for certain specified sections of the Second Restated Use Agreement and an effective date for the remaining sections of the Second Restated Use Agreement on the Second Effective Date, as defined in the Restated NEPOOL Agreement. The Filing Parties state that acceptance of the specified sections of the Second Restated Use Agreement as of December 12, 1997 will permit all participants and indirect participants in the Interconnection to immediately make greater and more flexible use of the Interconnection. Copies of this filing were sent to all participants and indirect participants in the Interconnection, the

New England Public Utility Commissioners and the New England Governors.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota Company)

[Docket No. ER98–1107–000]

Take notice that on December 17, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and Griffin Energy Marketing, L.L.C.

NSP requests that the Commission accept both the agreements effective December 5, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Portland General Electric Company

[Docket No. ER98–1108–000]

Take notice that on December 17, 1997, Portland General Electric Company (PGE), tendered for filing a report on refunds issued to customers as ordered by the Commission in Docket No. ER96–333–000.

Copies of this filing were served upon entities noted in the filing letter.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PP&L, Inc.

[Docket No. ER98–1110–000]

Take notice that on December 17, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 2, 1997, with Enron Power Marketing, Inc. (Enron), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds Enron as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Enron and to the Pennsylvania Public Utility Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. PP&L, Inc.

[Docket No. ER98–1111–000]

Take notice that on December 17, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 2, 1997, with Horizon Energy Company (HEC), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds HEC as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to HEC and to the Pennsylvania Public Utility Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Kansas City Power & Light Company

[Docket No. ER98–1112–000]

Take notice that on December 17, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated November 25, 1997, between KCPL and Western Resources, Inc. KCPL proposes an effective date of November 26, 1997, and requests a waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Short-term Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas City Power & Light Co.

[Docket No. ER98–1113–000]

Take notice that on December 17, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated November 21, 1997, between KCPL and Williams Energy Services Company. KCPL proposes an effective date of December 5, 1997, and requests a waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Short-term Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. PP&L, Inc.

[Docket No. ER98–1114–000]

Take notice that on December 17, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 2, 1997, with AYP Energy, Inc. (AYP), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds AYP as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to AYP and to the Pennsylvania Public Utility Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. PP&L, Inc.

[Docket No. ER98–1115–000]

Take notice that on December 17, 1997, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 12, 1997 with Energis Resources (Energis), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds Energis as an eligible customer under the Tariff.

PP&L requests an effective date of December 17, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Energis and to the Pennsylvania Public Utility Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Oklahoma Gas and Electric Company

[Docket No. ER98–1116–000]

Take notice that on December 17, 1997, Oklahoma Gas and Electric Company (OG&E), tendered for filing service agreements for parties to take service under its open access tariff.

Copies of this filing have been served on the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Tampa Electric Company

[Docket No. ER98–1118–000]

Take notice that on December 17, 1997, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with Virginia Electric and Power Company (VEPCO), and Enron Power Marketing, Inc. (Enron), for firm and non-firm point-to-point transmission service, and a service agreement with Tampa Electric as wholesale power merchant for non-firm point-to-point transmission service, under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of December 1, 1997, for the service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on VEPCO, Enron, Tampa Electric as wholesale power merchant, and the Florida Public Service Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Energetix, Inc.

[Docket No. ER98–1120–000]

Take notice that on December 16, 1997, Energetix, Inc. (Energetix) filed a Notice of Succession with the Federal Energy Regulatory Commission (FERC or the Commission) indicating that the name of ROXDEL has been changed to Energetix effective December 8, 1997. In accordance with § 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16 and 131.51, Energetix adopted and ratified all applicable rate schedules filed with the FERC by ROXDEL.

Copies of this filing were served upon all parties in Docket No. ER97–3556, ROXDEL's customers, and the New York State Public Service Commission.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. San Diego Gas & Electric Company

[Docket No. ER98–1122–000]

Take notice that on December 17, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing a Notice of Cancellation of Service Agreement. The Service Agreement is between SDG&E and SDG&E's Energy Trading for Firm Point-to-Point Transmission Service under SDG&E's Open Access Transmission Tariff (Tariff).

SDG&E requests that this cancellation become effective January 1, 1998.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Entergy Services, Inc.

[Docket No. ER98–1123–000]

Take notice that on December 17, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Engage Energy US, L.P.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Entergy Services, Inc.

[Docket No. ER98–1124–000]

Take notice that on December 17, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Engage Energy US, L.P.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Northern States Power Company (Minnesota Company)

[Docket No. ER98–1126–000]

Take notice that on December 17, 1997, Northern States Power Company (NSP), tendered Amendment No. 1, to the Municipal Interconnection and Interchange Agreement between NSP and the City of Sioux Falls, SD. NSP requests an effective date of January 1, 1998.

A copy of the filing was served upon each of the parties named in the Service List.

Comment date: January 27, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. El Segundo Power, LLC

[Docket No. ER98–1127–000]

Take notice that on December 17, 1997, El Segundo Power, LLC, tendered for filing pursuant to section 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, to be effective January 1, 1998.

El Segundo Power, LLC intends to sell electric power at wholesale. In transactions where El Segundo Power, LLC sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1, provides for the sale of energy and capacity at agreed prices.

Comment date: January 27, 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. 98–1339 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98–26–000, et al.]

Jersey Central Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 14, 1998.

Take notice that the following filings have been made with the Commission:

1. Jersey Central Power & Light Company

[Docket No. DR98–26–000]

Take notice that on December 29, 1997, Jersey Central Power & Light Company, filed a request for approval of changes in depreciation rates made on or after April 19, 1994 and prior to December 22, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the New Jersey Board of Public Utilities.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Metropolitan Edison Company

[Docket No. DR98–27–000]

Take notice that on December 29, 1997, Metropolitan Edison Company, filed a request for approval of changes in depreciation rates made on or after April 19, 1994 and prior to December 22, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Pennsylvania Public Utility Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Pennsylvania Electric Company

[Docket No. DR98–29–000]

Take notice that on December 29, 1997, Pennsylvania Electric Company, filed a request for approval of changes in depreciation rates made on or after April 19, 1994 and prior to December 22, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Pennsylvania Public Utility Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Power & Light Company

[Docket No. DR98–30–000]

Take notice that on December 29, 1997, Wisconsin Power & Light Company, filed a request for approval of changes in depreciation rates made on or after April 19, 1994 and prior to December 19, 1997, for accounting purposes only pursuant to Section 302 of the Federal Power Act. The proposed changes were approved for retail purposes by the Public Service Commission of Wisconsin.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. MidAmerican Energy Company

[Docket No. ER97–4466–001]

Take notice that on December 12, 1997, MidAmerican Energy Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: January 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER98–1177–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on December 24, 1997, tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date January 2, 1998. Wisconsin Electric is authorized to state that Tenaska Power Services Company joins in the requested effective date.

Copies of the filing have been served on Tenaska Power Services Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: January 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER98–1261–000]

Take notice that on December 31, 1997, Southern California Edison Company (Edison) tendered for filing a Surcharge to the Transmission Access Charges for retail customers.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. California Independent System Corporation

[Docket No. ER98–1309–000]

Take notice that on December 30, 1997, the California Independent System Corporation (ISO), tendered for filing a Participating Generator Agreement executed by the ISO and Texaco Exploration and Production 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 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Corporation

[Docket No. ER98–1310–000]

On December 30, 1997, the California Independent System Corporation (ISO), tendered for filing a Participating Generator Agreement executed by the ISO and El Segundo Power, LLC 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.

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. 98–1338 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP97–168–000 and CP97–169–000]

Alliance Pipeline L.P.; Notice of Public Meetings on the Draft Environmental Impact Statement for the Proposed Alliance Pipeline Project

January 14, 1998.

The Office of Pipeline Regulation's environmental staff will conduct public meetings to receive comments on the Alliance Pipeline Project Draft Environmental Impact Statement (EIS). All of the meetings will begin promptly at 7:00 p.m. The dates and locations of the meetings are:

- Monday, February 2, 1998: Valley City High School Cafeteria, 460 Central Avenue West, Valley City, ND, (701) 845–0483.
- Tuesday, February 3, 1998: Kennedy School Auditorium, 824 Seventh Street, Willmar, MN, (320) 231–8490.
- Wednesday, February 4, 1998: New Hampton Community Center, 112 East Spring Street, New Hampton, IA, (515) 394–5464.
- Thursday, February 5, 1998: Mendota Civic Center, 1901 Tom Merwin Drive, Mendota, IL, (815) 539–3411.

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impact described in the draft EIS. Transcripts of

the meetings will be prepared. For further information, contact Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1337 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–131–000 and CP98–133–000]

Vector Pipeline L.P.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Vector Pipeline Project and Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit

January 14, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Vector Pipeline Project.[1] This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Additionally, with this notice we are asking a number of Federal Agencies (see appendix 2) with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their agencies' responsibilities.[2]

Summary of the Proposed Project

Vector Pipeline L.P. (Vector) proposes to build new natural gas pipeline and compression facilities to transport 1.0 billion cubic feet per day of natural gas from Joliet, Illinois to St. Clair, Michigan. Accessing natural gas supplies from the Chicago area, the Vector Pipeline Project would deliver gas volumes within Michigan and to Vector Pipeline Limited Partnership (Vector Canada) at the U.S./Canada border facility.

Vector requests Commission authorization, in Docket No. CP98–133–000, to construct, lease, and operate the following facilities:

- Construct 265.9 miles of 42-inch diameter pipeline in Illinois, Indiana, and Michigan extending from Joliet, Illinois in Will County to Oakland County, Michigan (Segment 1). About 33 miles would be in Illinois, 67.7 miles would be in Indiana, and 165.2 miles would be in Michigan;
- Lease of 58.8 miles of an existing 36-inch-diameter pipeline in Michigan from Oakland County to St. Clair County (Segment 2);
- Construct 3.7 miles of 42-inch-diameter pipeline in St. Clair County, Michigan terminating at the border of the United States (U.S.) and Canada near St. Clair, Michigan (Segment 3);
- Construct five new meter/regulating stations including two in Will County, Illinois, one in Livingston County, Michigan, one in Oakland County, Michigan, and one in St. Clair County, Michigan;
- Construct two compressor stations each with 30,000 horsepower of compression in LaPorte County, Indiana, and Oakland County, Michigan; and
- Construct associated pipeline facilities, including 21 new mainline valves, 3 pig launchers, 2 pig receivers, and permanent access roads.

The general location of Vector's proposed project facilities is shown in appendix 1. If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

In addition, Vector requests in Docket No. CP98–131–000 a Presidential Permit to construct, operate, and maintain facilities at the International Border between the U.S. and Canada near St. Clair, Michigan. Vector's pipeline would terminate at the point of interconnection with the Canadian facilities of Vector Canada.

Land Requirements for Construction

The Vector Pipeline Project would include 58.8 miles of leased existing pipeline. Vector would construct about 253.4 miles (94 percent) of the new pipeline parallel to various existing utility rights-of-way. Only 15.1 miles (6 percent) of the route would be constructed on newly created right-of-way that does not parallel existing rights-of-way. Where possible, Vector's right-of-way would overlap the existing rights-of-way as much as 50 feet during construction to minimize impacts. Vector's pipeline would deviate from the existing rights-of-way in selected locations to avoid impact on homes and existing utility structures (meter stations, etc.). The pipeline would also deviate from the existing rights-of-way in selected locations to improve waterbody crossings and for other environmental or engineering reasons.

Construction of the Vector Pipeline Project would affect a total of about 3,581.9 acres of land including extra workspace and aboveground facilities. Of this total, about 3,268.1 acres would be disturbed by the construction rights-of-way, 270.9 acres would be disturbed by extra workspace, and 42.9 acres would be disturbed by the aboveground facilities and access roads. All these acreage figures are subject to change.

Vector would generally use a right-of-way width of 100 feet for construction. The Vector Pipeline Project would also require extra temporary work areas for waterbody, highway, and railroad crossing; for additional topsoil storage; and for pipe storage and equipment yards. Following construction and restoration of the right-of-way and temporary work spaces, Vector would retain a 30- to 50-foot-wide permanent pipeline right-of-way depending on whether the pipeline is adjacent to other utilities or on new right-of-way. Total land requirements for the permanent right-of-way would be about 1,185.4 acres. The project would also require an additional 22.1 acres for the operation of the new aboveground facilities and 0.9 acres for the operation of permanent access roads. Vector would restore the remaining 2,373.5 acres of land affected by construction of the project and allow these areas to revert to their former use.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents

[1] Vector Pipeline L.P.'s applications in Docket Nos. CP98–131–000 and CP98–133–000 were filed with the Commission under Section 3 of the Natural Gas Act and part 153 of the Commission's regulations and under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations, respectively.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

of this proposed action and encourage them to comment on their areas of concern.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Vector. These issues are listed below. This is a preliminary list of issues and may be changed based on your comments and our analysis.

- **Soils**

—Temporary and permanent impacts on prime farmland soils.
—Mixing of topsoil and subsoil during construction.
—Compaction of soil by heavy equipment.
—Impacts on drain tiles and irrigation systems.
—Erosion control and right-of-way restoration.

- **Water Resource**

—Effect of construction on areas with shallow groundwater.
—Effect of construction on crossings of 92 perennial waterbodies, including 13 coldwater fisheries.
—Crossing of eight rivers 100 feet wide or greater.
—Crossing three rivers on the Nationwide Rivers Inventory List, including an international waterbody.
—Effect of construction in waterbodies with contaminated sediments.
—Potential for erosion and sediment transport to the waterbodies.
—Effect of construction on groundwater and surface water supplies.
—Impact on wetland hydrology.

- **Biological Resources**

—Short- and long-term effects of right-of-way clearing and maintenance on wetlands, forests, riparian areas, and vegetation communities of special concern.
—Effect on wildlife and fisheries habitats.
—Impact on federally endangered species such as the Indiana bat and on federally threatened species such as the northern copperbelly watersnake.

- **Cultural Resources**

—Effect on historic and prehistoric sites.
—Native American concerns.

- **Socioeconomics**

—Effect of the construction workforce on demands for services in surrounding areas.
—Impact on property values.

- **Land Use**

—Impact on crop production.
—Impact on residential areas.
—Effect on public lands and special use areas including waterbodies on the Nationwide Rivers Inventory, a national scenic trail, a state game area, a state recreation area, a forest preserve district, a county park, city/township private parks, church property, a golf course, a county airport, campgrounds, and racetracks.
—Impact on future land uses and consistency with local land use plans and zoning.
—Visual effect of the aboveground facilities on surrounding areas.

- **Air Quality and Noise**

—Effect on local air quality and noise environment as a result of construction.
—Effect on local air quality and noise environment as a result of operation of the compressor stations.

- **Pipeline Reliability and Safety**

- **Cumulative Impact**

—Identify other projects which have been or may be proposed in the same region and similar time frames.
—Identify potential upstream and downstream facilities.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, affected landowners and other interested individuals, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received on the Draft EIS and will be used by the Commission in its decision-making process to determine whether to approve the project.

Public Participation and Scoping Meetings

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Send two copies to: David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, D.C. 20426.
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket Nos. CP98–131–000 and CP98–133–000; and
- Mail your comments so that they will be received in Washington, D.C. on or before February 20, 1998.

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meetings the FERC will conduct in the project area. The locations and times for these meetings are listed below.

Schedule of Public Scoping Meetings for the Vector Pipeline Project Environmental Impact Statement

February 9, 1998
7:00 pm—Crown Point, Indiana, Marion Education Center, St. Anthony's Hospital, 1201 S. Main Street, (219) 757–6398
February 10, 1998
7:00 pm—Three Rivers, Michigan, Three Rivers Community Center, 103 S. Douglas Avenue, (616) 278–8193
February 11, 1998
7:00 pm—Leslie, Michigan, Leslie High School Auditorium, 4141 Hull Road, (517) 589–8277
February 12, 1998
7:00 pm—Port Huron, Michigan, St. Claire Community College, 323 Erie Street, (810) 984–3881

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Vector representatives will be present at the scoping meetings to describe their proposal. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the Draft EIS. A transcript of each meeting will be made so that your comments will be accurately recorded.

On the dates of the meetings, we will also be conducting limited site visits to

the project area. Anyone interested in participating in the site visit may contact the Commission's Office of External Affairs identified at the end of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding or become an ''intervenor.'' Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3).

The date for filing of timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. As details of the project become established, representatives of Vector may also separately contact landowners, communities, and public agencies concerning project matters, including acquisition of permits and rights-of-way.

All commentors will be retained on our mailing list. If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EIS, you must return the Information Request (appendix 4). If you do not send comments or return the Information Request, you will be taken off the mailing list.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1336 Filed 1–20–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42203B; FRL–5766–7]

Enforceable Consent Agreement Development for Diethanolamine; Solicitation of Interested Parties and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting interested parties who want to monitor or participate in negotiations on an enforceable consent agreement (ECA) concerning the use of pharmacokinetics (PK) studies and mechanistic data to help meet testing requirements for diethanolamine (CAS No. 111–42–2) in the proposed hazardous air pollutants (HAPs) test rule. In addition, EPA invites all interested parties to attend a public meeting to initiate negotiations on the ECA for diethanolamine.

DATES: EPA must receive written notification requesting designation as an interested party for diethanolamine on or before February 11, 1998. Those persons who identify themselves as interested parties for diethanolamine may submit written comments to EPA on the PK proposal for this chemical, on EPA's preliminary technical analysis, and on other materials in the docket for the proposed HAPs test rule, that relate to the ECA process for this chemical by February 11, 1998.

The public meeting is scheduled from 9:00 a.m. to 5:00 p.m. on February 24, 1998.

ADDRESSES: Each comment must bear the docket control number OPPTS–42203B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

EPA will address these comments at the public meeting.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

The public meeting will be held at EPA Headquarters, 401 M St., SW., Washington, DC in the EPA Conference Center, North Conference Area in Room 1.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; fax: (202) 260–8850; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1998/).

II. Background

EPA proposed health effects testing under section 4(a) of the Toxic Substances Control Act (TSCA) on June 26, 1996, for a number of HAPs chemicals (61 FR 33178) (FRL–4869–1). As indicated in the proposed HAPs test rule, EPA would use the data obtained from testing to implement several provisions of section 112 of the Clean Air Act (CAA), including the determination of residual risk, the estimation of the risks associated with accidental releases of chemicals, and determinations whether substances should be removed from the CAA section 112(b)(1) list of hazardous air pollutants (delisting). The data also would be used by other Federal agencies (e.g. Agency for Toxic Substances and Disease Registry (ATSDR), National

Institute of Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), and Consumer Product Safety Commission (CPSC)) in assessing chemical risks and in taking appropriate actions within their programs.

In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the basis for negotiation of ECAs. These PK studies would be used to inform EPA about the use of route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. EPA received a PK proposal for diethanolamine from the Chemical Manufacturers Association, Alkanolamines Panel (CMA Alkanolamines Panel) on November 25, 1996. Based on the PK proposal received for diethanolamine, the Agency developed a preliminary technical analysis. A copy of this preliminary technical analysis was sent to the CMA Alkanolamines Panel on November 21, 1997. The CMA Alkanolamines Panel reviewed EPA's analysis and notified EPA on December 31, 1997, that it has a continued interest in pursuing the ECA process. A copy of the PK proposal, the EPA preliminary technical analysis and related references, and correspondence is contained in the public record for this ECA process. These materials will be used during discussions at the negotiating meeting. EPA has decided to proceed with the ECA process for diethanolamine and is providing public notice that the Agency is hereby initiating the procedures for ECA negotiations for the HAP chemical, diethanolamine. The procedures for ECA negotiations are described at 40 CFR 790.22(b).

EPA does not intend to publish additional **Federal Register** documents to solicit interested parties and announce public meetings to initiate ECA proceedings for other HAPs chemicals for which PK proposals were submitted in response to the June 26, 1996 EPA invitation to submit PK proposals. In a letter dated December 4, 1997, the Chlorobenzene Producers Association did not express a continued interest to enter into ECA proceedings for the HAPs chemical 1,2,4-trichlorobenzene. In the December 24, 1997 amendment to the HAPs rulemaking (62 FR 67466) (FRL–5742–2), EPA invited the submission of proposals for ECAs on all the HAPs chemicals for which ECA proposals have not been received (62 FR 67474). If the Agency receives such alternative testing proposals and decides to proceed with ECA proceedings for these proposals, it will publish, as appropriate, additional **Federal Register** documents soliciting persons to notify the Agency in writing of their interest in participating in or monitoring negotiations for the development of ECAs for the development of alternative testing to meet HAPs rule testing requirements.

With the publication of this document EPA has published a total of seven solicitations of interested parties and announcements of public meetings for ECAs on HAPs chemicals. EPA does not intend to publish additional **Federal Register** documents to solicit interested parties and announce public meetings to initiate ECA proceedings for other HAPs chemicals for which PK proposals were submitted in response to the EPA invitation to submit PK proposals that was contained in the original HAPs proposal, dated June 26, 1996 (61 FR 33178). In a letter to EPA dated December 4, 1997, the Chlorobenzene Producers Association did not express a continued interest in entering into ECA proceedings for the HAPs chemical 1,2,4-trichlorobenzene.

In the December 24, 1997, amendment to the proposed HAPs rule (62 FR 67466), EPA invited the submission of proposals for ECAs on all the HAPs chemicals for which ECA proposals have not been received. If the Agency receives such alternative testing proposals and decides to proceed with ECA proceedings for these proposals, it will publish, as appropriate, additional **Federal Register** documents soliciting persons to notify the Agency in writing of their interest in participating in or monitoring negotiations for the development of ECAs for alternative testing to meet HAPs rule testing requirements.

Negotiations on developing an ECA for the HAP chemical, diethanolamine, will focus on the use of PK studies and mechanistic data to help meet testing requirements for diethanolamine. In addition, discussion will include the adequacy of the available data base to be used for extrapolation to obtain the data needs identified for diethanolamine in the proposed HAPs test rule, as amended. The objective of the ECA process is to conclude an ECA that will set in place an industry-sponsored testing program that will adequately address EPA's data needs for diethanolamine.

III. Identification of Interested Parties

EPA is soliciting interested parties to monitor or participate in testing negotiations on an ECA for diethanolamine. The CMA Alkanolamines Panel, the submitter of the PK proposal for diethanolamine, and the member companies of the CMA Alkanolamines Panel are already considered interested parties and do not need to respond to this document. Additionally, any persons who respond to this document on or before February 11, 1998 will be given the status of interested parties. Interested parties must respond in writing to the address specified in the ''ADDRESSES'' at the beginning of this document. These interested parties will not incur any obligations by being so designated. Negotiations will be conducted in one or more meetings open to the public. The negotiation time schedule for diethanolamine will be established at the first negotiation meeting and will not exceed a period of 4 months from the initial meeting. If an ECA is not established in principle within this timeframe and EPA does not choose to extend the negotiation time period, negotiations will be terminated and testing will be required under the final HAPs test rule. If the testing from the ECA does not meet the Agency's needs, EPA reserves the right to enter into rulemaking.

IV. Public Participation in Negotiations

Under EPA regulations, the Agency is required to provide the public with an opportunity to comment on and participate in the development of ECAs. The procedural rule for ECAs (40 CFR part 790) contains provisions to ensure that the views of interested parties are taken into account during the ECA process.

Individuals and groups who respond to this document will have the status of interested parties. All negotiating meetings for the development of this ECA for diethanolamine will be open to the public and minutes of each meeting will be prepared by EPA and placed in the public docket for this ECA process. The Agency will advise interested parties of meeting dates and make available meeting minutes, testing proposals, background documents, and other materials exchanged at or prepared for negotiating meetings. Where tentative agreement is reached on an acceptable testing program, a draft ECA will be made available for comment by interested parties and, if necessary, EPA will hold a public meeting to discuss any comments that have been received and determine whether revisions to the ECA are appropriate. EPA will not reimburse costs incurred by non-EPA participants in this ECA negotiation process.

ECAs will only be concluded where an agreement can be obtained which is satisfactory to the Agency, manufacturers or processors who are potential test sponsors, and other interested parties, concerning the need for and scope of testing. In the absence of an ECA, EPA reserves the right to proceed with rulemaking.

A. The Agency will not enter into an ECA if either:

1. EPA and affected manufacturers or processors cannot reach an agreement on the provisions of the ECA; or

2. The draft ECA is considered inadequate by other interested parties who have submitted timely written objections to the draft ECA.

B. EPA may reject these objections if the Agency concludes either that:

1. They are not made in good faith;

2. They are untimely;

3. They are not related to the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of TSCA; or

4. They are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

EPA will prepare an explanation of the basis for each ECA. The explanatory document will summarize the agreement (including the required testing), explain the objectives of the testing, and outline the chemical's use and exposure characteristics. The document, which will also announce the availability of the ECA, will be published in the **Federal Register**.

V. Proposal of Export Notification Requirements for Diethanolamine

EPA intends to publish a proposed rule in an upcoming **Federal Register** document to require export notification by all persons who export or intend to export diethanolamine under TSCA section 12(b) upon the successful conclusion of an ECA for diethanolamine.

VI. Public Record and Electronic Submissions

As described above, diethanolamine is listed as a chemical that would be subject to testing requirements under the proposed HAPs test rule, as amended. This ECA negotiation process and the proposed rule, as amended, are separate and parallel activities. The official record for this ECA action, including the public version, has been established under docket control number OPPTS–42203B (including comments and data submitted electronically as described below). The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A, the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number OPPTS–42187B, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals.

The official record for this document, including the public version, which does not include any information claimed as CBI, has been established for this document under docket control number OPPTS–42203B. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–42203B. Electronic comments on this document may be filed online at many Federal Depository Libraries.

The record contains the following information:

A. **Federal Register** notices/EPA documents pertaining to this notice consisting of:

1. ''Proposed Test Rule for Hazardous Air Pollutants; Proposed Rule'' (61 FR 33178, June 26, 1996).

2. ''Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period'' (62 FR 67476, December 24, 1997).

B. PK proposal materials consisting of:

1. Chemical Manufacturers Association, Alkanolamine Panel, 'Proposal for Pharmacokinetics Studies of Diethanolamine'' (November 25, 1996).

2. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Diethanolamine'' and cover letter (November 21, 1997).

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 13, 1998.

Wardner G. Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–1355 Filed 1–20–98; 8:45 am]

BILLING CODE 6065–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42202B; FRL–5766–6]

Enforceable Consent Agreement Development for Ethylene Glycol; Solicitation of Interested Parties and Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting interested parties who want to monitor or participate in negotiations on an enforceable consent agreement (ECA) concerning the use of pharmacokinetics (PK) studies and mechanistic data to help meet testing requirements for ethylene glycol (CAS No. 107–21–1) in the proposed hazardous air pollutants (HAPs) test rule. In addition, EPA invites all interested parties to attend a public meeting to initiate negotiations on the ECA for ethylene glycol.

DATES: EPA must receive written notification requesting designation as an interested party for ethylene glycol on or before February 11, 1998. Those persons who identify themselves as interested parties for ethylene glycol may submit written comments to EPA on the PK proposal for this chemical, on EPA's preliminary technical analysis, and on other materials in the docket for the proposed HAPs test rule, that relate to the ECA process for this chemical by February 11, 1998.

The public meeting is scheduled from 9:00 a.m. to 1:00 p.m. on February 23, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42202B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

EPA will address these comments at the public meeting.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

The public meeting will be held at EPA Headquarters, 401 M St., SW., Washington, DC in the EPA Conference Center, North Conference Area in Room 1.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; fax: (202) 260–8850; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/EPA-TOX/1998/).

II. Background

EPA proposed health effects testing under section 4(a) of the Toxic Substances Control Act (TSCA) on June 26, 1996, for a number of HAPs chemicals (61 FR 33178) (FRL–4869–1). As indicated in the proposed HAPs test rule, EPA would use the data obtained from testing to implement several provisions of section 112 of the Clean Air Act (CAA), including the determination of residual risk, the estimation of the risks associated with accidental releases of chemicals, and determinations whether substances should be removed from the CAA section 112(b)(1) list of hazardous air pollutants (delisting). The data also would be used by other Federal agencies (e.g. Agency for Toxic Substances and Disease Registry (ATSDR), National Institute of Occupational Safety and Health (NIOSH), Occupational Safety and Health Administration (OSHA), and Consumer Product Safety Commission (CPSC)) in assessing chemical risks and in taking appropriate actions within their programs.

In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the basis for negotiation of ECAs. These PK studies would be used to inform EPA about the use of route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. EPA received a PK proposal for ethylene glycol from the Chemical Manufacturers Association, Ethylene Glycol Panel (CMA EG Panel) on November 5, 1996. Based on the PK proposal received for ethylene glycol, the Agency developed a preliminary technical analysis. A copy of this preliminary technical analysis was sent to the CMA EG Panel on August 26, 1997. The CMA EG Panel reviewed EPA's analysis and notified EPA on October 6, 1997 that it has a continued interest in pursuing the ECA process. A copy of the PK proposal, the EPA preliminary technical analysis and related references, and correspondence is contained in the public record for this ECA process. These materials will be used during discussions at the negotiating meeting. EPA has decided to proceed with the ECA process for ethylene glycol and is providing public notice that the Agency is hereby initiating the procedures for ECA negotiations for the HAP chemical, ethylene glycol. The procedures for ECA negotiations are described at 40 CFR 790.22(b). EPA intends to publish, as appropriate, additional **Federal Register** documents to solicit interested parties and announce public meetings for other HAPs chemicals for which PK proposals were submitted.

The proposed HAPs test rule, as amended on December 24, 1997 (62 FR 67466) (FRL-5742-2), and the ECA negotiations on chemicals included in the proposed rule are separate and parallel activities. While the Agency's objective of obtaining data could be accomplished by either activity, EPA recognizes that the final testing program performed by industry may differ depending on whether it is accomplished under the final HAPs test rule or via the ECA process. During the course of ECA negotiations, additional information may be brought forward that could cause the Agency to re-evaluate the nature of the testing requirements as stated in the proposed HAPs test rule, as amended. This could result in the development of an ECA that would fulfill the Agency's data needs in ways not stated in the proposed HAPs test rule, as amended. It is therefore essential for all interested parties to recognize these differences at the outset and respond accordingly within the framework of these two separate and parallel activities. Comments on the proposed HAPs test rule, as amended, must be submitted under docket control number, OPPTS–42187A, as described in the proposed HAPs test rule published on June 26, 1996, as amended on December 24, 1997, and will be addressed by EPA via the rulemaking process, which is separate and distinct from the ECA process. Participation in the ECA process is described in Units II. through IV. of this document.

Negotiations on developing an ECA for the HAP chemical, ethylene glycol, will focus on the use of PK studies and mechanistic data to help meet testing requirements for ethylene glycol. In addition, discussion will include the adequacy of the available data base to be used for extrapolation to obtain the data needs identified for ethylene glycol in the proposed HAPs test rule, as amended. The objective of the ECA process is to conclude an ECA that will set in place an industry-sponsored testing program that will adequately address EPA's data needs for ethylene glycol.

III. Identification of Interested Parties

EPA is soliciting interested parties to monitor or participate in testing negotiations on an ECA for ethylene glycol. The CMA EG Panel, the submitter of the PK proposal for ethylene glycol, and the member companies of the CMA EG Panel are already considered interested parties and do not need to respond to this document. Additionally, any persons who respond to this document on or before February 11, 1998 will be given the status of interested parties. Interested parties must respond in writing to the address specified in the ''ADDRESSES'' at the beginning of this document. These interested parties will not incur any obligations by being so designated. Negotiations will be conducted in one or more meetings

open to the public. The negotiation time schedule for ethylene glycol will be established at the first negotiation meeting and will not exceed a period of 4 months from the initial meeting. If an ECA is not established in principle within this timeframe and EPA does not choose to extend the negotiation time period, negotiations will be terminated and testing will be required under the final HAPs test rule. If the testing from the ECA does not meet the Agency's needs, EPA reserves the right to enter into rulemaking.

IV. Public Participation in Negotiations

Under EPA regulations, the Agency is required to provide the public with an opportunity to comment on and participate in the development of ECAs. The procedural rule for ECAs (40 CFR part 790) contains provisions to ensure that the views of interested parties are taken into account during the ECA process.

Individuals and groups who respond to this document will have the status of interested parties. All negotiating meetings for the development of this ECA for ethylene glycol will be open to the public and minutes of each meeting will be prepared by EPA and placed in the public docket for this ECA process. The Agency will advise interested parties of meeting dates and make available meeting minutes, testing proposals, background documents, and other materials exchanged at or prepared for negotiating meetings. Where tentative agreement is reached on an acceptable testing program, a draft ECA will be made available for comment by interested parties and, if necessary, EPA will hold a public meeting to discuss any comments that have been received and determine whether revisions to the ECA are appropriate. EPA will not reimburse costs incurred by non-EPA participants in this ECA negotiation process.

ECAs will only be concluded where an agreement can be obtained which is satisfactory to the Agency, manufacturers or processors who are potential test sponsors, and other interested parties, concerning the need for and scope of testing. In the absence of an ECA, EPA reserves the right to proceed with rulemaking.

A. The Agency will not enter into an ECA if either:

1. EPA and affected manufacturers or processors cannot reach an agreement on the provisions of the ECA; or

2. The draft ECA is considered inadequate by other interested parties who have submitted timely written objections to the draft ECA.

B. EPA may reject these objections if the Agency concludes either that:

1. They are not made in good faith;

2. They are untimely;

3. They are not related to the adequacy of the proposed testing program or other features of the agreement that may affect EPA's ability to fulfill the goals and purposes of TSCA; or

4. They are not accompanied by a specific explanation of the grounds on which the draft agreement is considered objectionable.

EPA will prepare an explanation of the basis for each ECA. The explanatory document will summarize the agreement (including the required testing), explain the objectives of the testing, and outline the chemical's use and exposure characteristics. The document, which will also announce the availability of the ECA, will be published in the **Federal Register**.

V. Proposal of Export Notification Requirements for Ethylene glycol

EPA intends to publish a proposed rule in an upcoming **Federal Register** document to require export notification by all persons who export or intend to export ethylene glycol under TSCA section 12(b) upon the successful conclusion of an ECA for ethylene glycol.

VI. Public Record and Electronic Submissions

As described above, ethylene glycol is listed as a chemical that would be subject to testing requirements under the proposed HAPs test rule, as amended. This ECA negotiation process and the proposed rule, as amended, are separate and parallel activities. The official record for this ECA action, including the public version, has been established under docket control number OPPTS–42202B (including comments and data submitted electronically as described below). The official record for this document also includes all material and submissions filed under docket control number OPPTS–42187A, the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number OPPTS–42187B, the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals.

The official record for this document, including the public version, which does not include any information claimed as CBI, has been established for this document under docket control number OPPTS–42202B. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–42202B. Electronic comments on this document may be filed online at many Federal Depository Libraries.

The record contains the following information:

A. **Federal Register** notices/EPA documents pertaining to this notice consisting of:

1. ''Proposed Test Rule for Hazardous Air Pollutants; Proposed Rule'' (61 FR 33178; June 26, 1996).

2. ''Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period'' (62 FR 67466; December 24, 1997).

B. PK proposal materials consisting of:

1. Chemical Manufacturers Association, Ethylene Glycol Panel, ''Proposal for Pharmacokinetic Studies of Ethylene Glycol'' (November 5, 1996).

2. U.S. EPA, ''Preliminary EPA Technical Analysis of Proposed Industry Pharmacokinetics (PK) Strategy for Ethylene Glycol'' and cover letter (August 26, 1997).

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 13, 1998.

Wardner G. Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 98–1357 Filed 1–20–98; 8:45 am]

BILLING CODE 6065–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

January 13, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden

invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 20, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW, Washington, DC 20554 or via internet to: jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at: jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0635.

Title: Amateur Vanity Call Sign Request.

Form No.: FCC 610–V.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents: 80,000.

Estimated Time Per Response: .33 hour.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: $4,000,000.

Total Annual Burden: 26,400 hours.

Needs and Uses: The FCC Form 610–V is used to apply for a vanity (special) call sign in lieu of a systematically issued call sign. This information collection has been revised to eliminate the need for attaching a photocopy of the applicant's current operator/primary station license document, and to add space on the form for the applicant to provide an Internet or e-mail address. The fee information, such as payment type code, quantity and fee due is being deleted from the application because a Fee Remittance Advice (FCC Form 159) is now required to be submitted along with any payment due to the FCC. The respondent costs have been modified due to an adjustment in the regulatory fee structure for Amateur vanity call signs. The Commission will not be collecting the Taxpayer Identification Number (TIN) on the form as previously indicated in the **Federal Register** notice. TIN is also collected on the FCC Form 159 which is required by any payment to the FCC.

The information collected in the application is used by FCC staff to determine eligibility for radio station authorization and to issue a radio station/operator license. Data is also used by Compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1281 Filed 1–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2247]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

January 13, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by February 5, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed by February 17, 1998,

Subject: Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services (CC Docket No. 92–297).

Number of Petitions Filed: 3.

Subject: Amendment of Part 15 of the Commission's Rules to permit operation of biomedical telemetry devices on VHF TV channels 7–13 and on UHF TV channels 14–46 (ET Docket No. 95–177).

Number of Petitions Filed: 2

Subject: Access Charge Reform (CC Docket No. 96–262) Price Cap Performance Review for Local Exchange Carriers (CC Docket No. 94–1) Transport Rate Structure (CC Docket No. 91–213).

Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Florence and Killen, Alabama and Lawrenceburg, Tennessee).

Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations, (Genoa, Mt. Morris, and Oregon, Illinois).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1392 Filed 1–20–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficiency of Assets to Satisfy All Claims of Certain Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC), as receiver for the financial institution specified in **SUPPLEMENTARY INFORMATION**, has determined that the proceeds which can be realized from the liquidation of the assets of the below listed receivership estate are insufficient to wholly satisfy the priority claims of depositors against the receivership estates. Therefore, upon satisfaction of secured claims, depositor claims and claims which have priority over depositors under applicable law, no amount will remain or will be recovered sufficient to allow a dividend, distribution or payment to any creditor of lessor priority, including but not limited to, claims of general creditors. Any such claims are hereby determined to be worthless.

FOR FURTHER INFORMATION CONTACT: Thomas Bolt, Counsel, Legal Division,

FDIC, 550 17th Street, N.W., Room H–11048, Washington, D.C. 20429. Telephone: (202) 736–0168.

SUPPLEMENTARY INFORMATION:

Financial Institution in Receivership Determined to Have Insufficient Assets to Satisfy All Claims

Whitney Bank & Trust—4342 Hamden, Connecticut

Dated: January 14, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–1345 Filed 1–20–98; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 98–N–2]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it has submitted the information collection entitled ''Personal Certification and Disclosure Forms'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number, which is due to expire on January 31, 1998.

DATES: Interested persons may submit comments on or before February 20, 1998.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Housing Finance Board, Washington, D.C. 20503. Address requests for copies of the information collection and supporting documentation to Elaine L. Baker, Secretary to the Board, 202/408–2837, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Program Analyst, Compliance Assistance Division, Office of Policy, 202/408–2872, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

A. Need For and Use of Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) and part 932 of the Finance Board's regulations establish eligibility and reporting requirements and the procedures for electing and appointing Federal Home Loan Bank (FHLBank) directors. *See* 12 U.S.C. 1427; 12 CFR part 932. The information collection contained in the elective and appointive FHLBank director personal certification and disclosure forms and §§ 932.18 and 932.21 of the Finance Board's regulations, is necessary to enable the Finance Board to determine whether prospective and incumbent elective and appointive FHLBank directors satisfy the statutory and regulatory eligibility and reporting requirements. *See* Finance Board forms E–1, E–2, A–1, and A–2; 12 CFR 932.18 (appointive directors), 932.21 (elective directors). Accordingly, Finance Board staff uses the information collection to determine whether respondents meet the statutory and regulatory eligibility requirements. The information collection requires each respondent to complete and submit to the Finance Board for review a personal certification and disclosure form prior to election or appointment and, once elected or appointed, annually during the term of service. Incumbent directors also have a continuing obligation promptly to notify the Finance Board of any known or suspected ineligibility. *See* 12 CFR 932.18(f)(2); 932.21(g)(2).

The OMB number for the information collection is 3069–0002. The OMB clearance for the information collection expires on January 31, 1998.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 286, with one response per respondent. The estimate for the average hours per response is 1.3 hours. The estimate for the total annual hour burden is 376 hours (286 respondents × 1 response/respondent × approximately 1.3 hours). The estimated annualized cost to respondents of the information collection is $35,175.00.

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on November 6, 1997. *See* 62 FR 60093 (Nov. 6, 1997). The 60-day comment period closed on January 5, 1998. The Finance Board received no public comments. Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Finance Board, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted to OMB in writing at the address listed above.

By the Federal Housing Finance Board.

Dated: January 12, 1998.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–1315 Filed 1–20–98; 8:45 am]

BILLING CODE 6725–01–U

FEDERAL MARITIME COMMISSION

[Docket No. 97–18]

APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement (Agreement No. 203/011588) and APL/MOL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011596; Order to Show Cause and Motion To Dismiss Denied

Introduction

The APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011588 (''the Four Party Agreement'') is an agreement for the reciprocal chartering of space aboard vessels operated in the U.S. foreign trades by agreement members.[1] The Four Party Agreement became effective on October 17, 1997. Agreement No. 203–011596, the APL/MOL/HMM Reciprocal Slot Exchange Agreement (''the New Agreement''), is a space charter agreement which is intended to replace the Four Party Agreement.[2]

Under section 10(c)(6) of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. 1709(c)(6), it is unlawful for any conference or group of two or more common carriers to:

[1] The Agreement members are Hyundai Merchant Marine, Ltd. (''Hyundai'' or ''HMM''), American President Lines, Ltd. (''APL''), Mitsui O.S.K. Line, Ltd. (''MOL''), and Orient Overseas Container Line, Inc. (''OOCL'').

[2] The members of the agreement are Hyundai, APL and MOL. Although the New Agreement is intended to replace the Four Party Agreement, the latter will remain in effect until canceled by the parties according to its terms, to permit an orderly transition in the parties' operations.

Allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as otherwise required by the law of the United States or the importing or exporting country * * *.

The New Agreement contains terms, also present in the Four Party Agreement, by which carriage of cargo subject to U.S. cargo preference laws is restricted to the U.S.-flag carrier participant, APL. In its Order to Show Cause served on October 17, 1997, Docket No. 97–18, 62 FR 55260 (October 23, 1997), 27 S.R.R. 1304 (1997) (''Show Cause Order''), the Commission stated that the Four Party Agreement appeared on its face to present a violation of section 10(c)(6). For reasons similar to those stated in the Show Cause Order, it appears that the New Agreement on its face also presents a violation of section 10(c)(6). Therefore, pursuant to section 11 of the 1984 Act, the parties to the New Agreement are ordered to show cause why the New Agreement should not be found to be in violation of the 1984 Act and should not be disapproved, canceled or modified accordingly.

APL filed a Motion to Dismiss Docket No. 97–18, on the grounds, *inter alia*, that ''changed circumstances'' have mooted this proceeding, and requested, in the event that the Commission determined not to dismiss the proceeding, that the time for filing Respondents' opening submissions, then due on December 2, 1997, be extended to 30 days after the Court of Appeals takes final action in *Sea-Land Service, Inc.* v. *FMC*, D.C. Circuit No. 97–1083.[3] Motion of APL to Dismiss the Proceeding (''Motion'') at 1.[4] The Commission's Bureau of Enforcement (''BOE'') filed a reply to the Motion. OOCL filed a Response to the Order to Show Cause. We address both the New Agreement and the Motion and Response in this Order.

Background

This proceeding was instituted pursuant to sections 10(c)(6) and 11, 46 U.S.C. app. 1710, to determine whether the Four Party Agreement should be found to be in violation of the 1984 Act, and be disapproved, canceled or modified accordingly. Citing the Commission's holding in *MSC*, the Commission ordered the parties to the Four Party Agreement to show cause why the Agreement should not be found to violate section 10(c)(6) inasmuch as Article 5.1 of the Four Party Agreement appears to effectively allocate U.S. government shippers of cargo via agreement members, subject to U.S. cargo preference laws, to APL, the sole U.S. carrier member of the Agreement.[5]

A. The New Agreement

The New Agreement was filed with the Commission on November 18, 1997, pursuant to section 5 of the 1984 Act, 46 U.S.C. app. section 1704,[6] and became effective on January 2, 1998.[7] The New Agreement authorizes the parties to charter space on each other's vessels on a reciprocal basis in the trades between ports and points in the U.S. served via U.S. Pacific Coast ports and ports and points in the Far East. The Agreement provides for the reciprocal sale, exchange or use of up to an annualized average of 6,000 TEUs of space per week by Hyundai on vessels operated by APL and MOL, and for use by APL and MOL of 7,000 TEUs of space per week on Hyundai vessels operating in the trade. The parties may also agree on feeder operations, sailing schedules, service frequency, port calls, addition or withdrawal of capacity, and the number, type and size of vessels they will use in the trade. No party may charter or sub-charter space aboard another party's vessel to a third-party carrier without the consent of the party operating the vessel.

Article 5.1 of the New Agreement, ''Limited Grant,'' provides:

Nor shall anything in this Agreement be construed as granting a right on the part of any party to carry aboard the vessel of any other party any cargoes subject to cargo preference laws of the country of registry of such other party's vessel or the country of citizenship of its owner.[8]

Article 5.1 further provides:

If the (preceding) sentence * * * shall be determined to violate U.S. law with respect to U.S. preference cargoes by a court or agency of competent jurisdiction and any stay upon the order of such court or agency giving effect to such determination arising by reason of an appeal of such order shall have ceased to be effective, then the [preceding] sentence * * * shall be deemed severed with respect to U.S. preference cargoes,* * *.[9]

B. APL's Motion to Dismiss Docket No. 97–18

1. The Motion

APL repeatedly points out that the Show Cause Order ''focused'' on the second sentence of Article 5.1 of the Four Party Agreement, *i.e.*, the language quoted above at note 6. Motion at 2, 4. APL describes various ''intervening events'' which purportedly render the Order to Show Cause moot. APL states that, with respect to APL's participation, the Four Party Agreement has never been implemented and will never be implemented because APL intends to withdraw from that Agreement upon effectiveness of the New Agreement. APL also indicates that, in connection with the acquisition of APL by Neptune Orient Lines and the transfer of APL's ODS Agreements and Maritime Security Program (''MSP'') contracts with MarAd to an independent vessel-operating company bareboat chartering the vessels, MarAd withdrew the letter of March 11, 1997 from the MarAd Secretary to APL Vice President Michael Murphy, granting APL a waiver under section 804(b) of the Merchant Marine Act, 1936 (''1936 Act''), 46 U.S.C. app. 1222(b), for APL's use of foreign-flag capacity.[10] Motion at 4–5. In addition,

[3] That case is consolidated with *Military Sealift Command and United States* v. *FMC*, No. 97–1084 and *American President Lines* v. *FMC*, No. 97–1085 which are, like No. 97–1083, petitions for review of the Commission's order in *Military Sealift Command* v. *Sea-Land Service, Inc.*, F.M.C. , *27* S.R.R. 874 (1996) (''*MSC*'').

[4] The procedural schedule in Docket No. 97–18 was postponed by the Secretary on December 1, 1997 until further Commission notice or action on the Motion.

[5] In *MSC*, the Commission determined that a provision whose effect appears to be identical to that of Article 5.1 of the Four Party Agreement and Article 5.1 of the New Agreement constituted an allocation of shippers prohibited under section 10(c)(6). Upon complaint filed by the Military Sealift Command, Department of the Navy (''MSC''), a shipper of U.S. preference cargo, the Commission determined that the provision constituted an allocation of shippers prohibited by the first clause of section 10(c)(6). However, the Commission further determined that the provision was not unlawful because it was required by an order of the Maritime Administration, Department of Transportation (''MarAd'') which constituted ''law of the United States'' within the meaning of the ''except'' clause of section 10(c)(6).

[6] Section 5 provides, in relevant part, that ''(a) true copy of every agreement (with respect to activities subject to the Act as described in section 4) * * * shall be filed with the Commission * * *.'' Notice of the filing of the Agreement was published in the **Federal Register** on December 2, 1997, 62 FR 63716 (December 2, 1997).

[7] Section 6(c), 46 U.S.C. app. section 1705, provides, *inter alia*, that ''(u)nless rejected by the Commission * * *, agreements . . . shall become effective * * * on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever day is later * * *.''

[8] The language quoted above is also used in Article 5.1 of the Four Party Agreement, ''Limited Grant,'' but it is preceded there by the provision that: (n)othing in this Agreement shall be construed as granting a right on the part of any other party to carry aboard the vessels of American President Lines, Ltd. cargoes shipped from or to the U.S. Department of Defense or Agriculture, or any subsidiary agencies thereof, or any other agency of the U.S. Government whose shipments are subject to cargo preference laws of the United States to the extent requiring and reserved for transportation aboard U.S.-flag vessels.

[9] The similar provision for severance of the cargo preference provision upon a final finding of unlawfulness in the Four Party Agreement is more limited.

[10] MarAd's waiver, for the remaining term of APL's ODS contract through December 1997 and for

APL suggests that, as a consequence of the joint Department of Defense (''DOD'')-MarAd Voluntary Intermodal Sealift Agreement (''VISA'') program, ''DOD *itself* now reserves its peacetime cargoes to U.S.-flag vessel operators that are participants in VISA, thus by regulation mandating the same result as the reservation provisions in the commercial agreements * * *.'' Motion at 5. Finally, APL submits that it would be appropriate to await the possibly ''definitive guidance'' of the D.C. Circuit on the issues raised in *MSC*, which ''are relevant to the Show Cause order.'' *Id.* at 6.

APL's request that the proceeding be dismissed focuss on the parties' intention, stated by APL, that the agreement which was the subject of the Show Cause Order will be supplanted by the New Agreement and the narrow scope of the Commission's focus in that order, *i.e.*, the second sentence of Article 5.1, ''which will then have no possible future significance.'' *Id.* at 7. APL recognizes, however, that the New Agreement retains the more general cargo reservation language, but contends that this provision was not identified as a basis of potential violation of section 10(c)(6) in the Show Cause Order. Thus, says APL,

> *if* the Commission should consider this provision to raise section 10(c)(6) issues that require Commission consideration, the appropriate context in which to evaluate those issues—which are necessarily broader than and different from those identified in the Commission's October 22, 1997 Order—would be with respect to an agreement in which that provision has continued effect.

Id. In the event the Commission elects not to dismiss the proceeding, or to institute a new proceeding relating to the New Agreements, APL requests that the time for filing of Respondents' opening submissions be extended to a date 30 days after final court action in *MSC*.

2. BOE's Reply to the Motion

BOE opposes the Motion on the ground that the issues in Docket No. 97–18 are not moot, and the proceeding should not be dismissed, until APL actually withdraws from the Four Party Agreement. BOE does not, however, oppose APL's request that the time for Respondents' initial filing be extended until 30 days after final action by the D.C. Circuit in *MSC*. Although BOE noted that the New Agreement was being considered by the staff, it did not further comment on the validity of the substantive representations of fact or law in the Motion.

C. OOCL's Response to Order to Show Cause

OOCL filed a Response to the Order to Show Cause, stating that it has given notice on December 1, 1997 of its intention to withdraw from the APAC Agreement and ''hence will no longer be a party to (the Four Party) Agreement * * *.'' Response To Order To Show Cause (''Response'') at 1. In its Response, OOCL moves that it be dismissed as a party to this proceeding. In the alternative, OOCL adopts the position of APL that the proceeding should be dismissed, or, in the alternative, if the proceeding is directed to a new agreement, that the time for Respondents' opening submissions be extended to 30 days after issuance of the D.C. Circuit's mandate in *MSC*.

OOCL suggests that the Commission take administrative notice of the filing of a successor agreement to the Four Party Agreement, of which OOCL is not a member. OOCL also joins in APL's representations that subsequent events have rendered the current proceeding moot.

D. The Maritime Administrator's Letter

It is not the FMC's role to decide on the validity of a MarAd order. *MSC*, 27 S.R.R. at 888. In initiating this proceeding, we noted that the Commission did not undertake to review the actions of the Maritime Administrator under his statutory authority, but to determine whether an agreement filed pursuant to the 1984 Act required action by MarAd under a statute which authorizes that agency to command carrier obedience to orders cognizable as ''law of the United States,'' and whether it had so required the action specifically taken by the parties in this instance. We also directed the Commission's Secretary to invite the Acting Administrator to participate *amicus curiae* in this proceeding, which the Secretary did by letter of October 24, 1997.

The Acting Administrator advised the Commission on December 16, 1997, that APL ceased to be a party to an ODS contract as of November 12, 1997, and therefore is no longer subject to section 804 or the waiver and conditions imposed in MarAd's March 11, 1997 letter. The Acting Administrator further advised the Commission that, notwithstanding APL's request that MarAd impose a similar condition on APL's new charter arrangements, MarAd

> Did not * * * consider whether such a condition should be imposed under the various statutes MarAd administers as a result of an October 19, 1993 opinion by the Office of Legal Counsel (OLC) of the Department of Justice. That opinion * * * concluded that even though conditions contained in charter orders approved by MarAd impose legal obligations on the chartering parties, those obligations are not ''otherwise required by law'' for purposes of the second prong of section 10(c)(6), and that MarAd lacks authority to impose such conditions since, in OLC's view, they would violate the first prong of section 10(c)(6). The OLC opinion remains the unified position of the United States. Given this, MarAd does not believe that it should participate at this time as an *amicus* in the pending FMC proceeding.

Finally, the Acting Administrator, noting the filing of the New Agreement and APL's announced intention to withdraw from the Four Party Agreement, suggested that questions relating to the lawfulness of the Four Party Agreement are now moot and that, in the event the FMC decides nevertheless to continue the proceeding, the matter should be held in abeyance pending the decision of the D.C. Circuit on review of *MSC*.

Discussion

A. The New Agreement

The language of Article 5.1 of the New Agreement does not contain the language in the Four Party Agreement which was specifically cited by the Commission in its Show Cause Order. However, it does contain the following more general language which is also in the Four Party Agreement:

> Nor shall anything in this Agreement be construed as granting a right on the part of any party to carry aboard the vessel of any other party any cargoes subject to cargo preference laws of the country of registry of such other party's vessel or the country of citizenship of its owner.

While this language does not refer specifically to U.S.-government agency shippers, its general reference to ''cargo preference laws'' would certainly include those U.S. cargo preference laws which by their terms effectively allocate the Department of Defense, the Department of Agriculture, and other U.S. government departments and agencies to U.S.-flag vessels for all or a major portion of their shipments. Thus it would have the same effect as the more specific language of the Four Party

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the full term of each of APL's nine operating agreements under the Maritime Security Program (''MSP''), included as ''condition D'' that:

> No space on APL's U.S.-flag vessels that are subject to space sharing agreements with any foreign operator shall be utilized for the carriage of cargo reserved for U.S.-flag vessels under any statute, resolution or regulation unless such cargo is carried pursuant to bills of lading or contracts of carriage issued to, or entered into with, the shipper of such cargo by or for a citizen of the United States.

Thus, MarAd was alleged to have required the provision of the Agreement allocating U.S. preference cargo to APL.

Agreement: U.S. government entities which ship cargo via agreement members are allocated to APL.

As we noted in our Show Cause Order concerning the Four Party Agreement, the New Agreement presents issues similar to those decided by the Commission in *MSC.*[11] The VSAs involved in *MSC* required the approval of the Secretary of Transportation for the charter or transfer of a U.S.-flag vessel to a non-citizen under section 9 of the Shipping Act, 1916 (''1916 Act''), 46 U.S.C. app. 808, subject to the broad power to prescribe conditions—violations of which are crimes punishable by fines, imprisonment and vessel forfeiture—given the Secretary in section 41.[12] MarAd's approval of the charters of the U.S.-flag vessels and vessel space to foreign-flag carrier members of the VSAs were conditioned on the exclusion of the foreign-flag participants from use of the vessels to carry U.S. preference cargo.[13] The Commission specifically found that the conditional charter orders issued by MarAd pursuant to sections 9 and 41 of the 1916 Act had the force and effect of law because they were compulsory and the statute provided criminal penalties for noncompliance. *MSC,* 27 S.R.R. at 889.

The Commission's inquiry in *MSC* included the threshold conclusion that MarAd action under the 1916 Act was a prerequisite for the existence of the agreement at issue: the U.S.-flag vessels could not be chartered to the foreign carrier agreement parties without approval. *Id.* at 876. Here, as we noted in the Show Cause Order with respect to the Four Party Agreement, no similar nexus between the New Agreement and the statutory authority of the Maritime Administrator is evident. This case apparently does not involve the 1916 Act authority exercised by MarAd with respect to the space charter agreements at issue in MSC.

Until the November 12, 1997 consummation of its acquisition by Neptune Orient Line (''NOL''), APL operated U.S.-flag vessels under operating-differential subsidy contracts with MarAd pursuant to Title VI and sections 801 and 804 of the 1936 Act, 46 U.S.C. app. 1171 *et seq.* and 1211 and 1222.[14] MarAd's March 11, 1997 letter granted APL's request for a waiver under section 804(b) of 1936 Act for APL to own, operate or charter up to 18 foreign-flag vessels in line haul service between U.S. and foreign ports for the remaining term of APL's Operating Differential Subsidy Agreement (''ODSA''), Contract MA/MSB–417, through December 31, 1997 and for the full term of each of APL's nine operating agreements under the MSP, Contract Nos. MA/MSP–1 through MA/MSP–9, subject to the conditions imposed.[15] During FMC review of the Four Party Agreement, APL suggested that the March 11, 1997 MarAd letter should be considered ''law of the United States'' within the meaning of the ''except clause'' of section 10(c)(6). This argument was dealt with a length in the Show Cause Order. 62 FR 55262–55263, 27 S.R.R. 1306–1308.[16]

Moreover, as MarAd noted in promulgating its final regulations for the MSP, ''[u]nlike the operating differential subsidy * * * program, the MSP has few restrictions on vessels operating in the U.S.-foreign commerce * * *.'' 62 FR 37733 (July 15, 1997). Under the provisions of the 1936 Act, as amended by the Maritime Security Act of 1996, no recourse to the Maritime Administration appears to be required for APL's participation in the Four Party Agreement or the New Agreement.[17]

MarAd's withdrawal of the March 11, 1997 section 804 waiver, which occurred after issuance of our Show Cause Order, would suggest that this argument no longer may be said to apply to APL's operations under the Four Party Agreement or the New Agreement. No colorable argument that the effective allocation of U.S. government shippers of cargo subject to the U.S. cargo preference laws by

[11] The vessel sharing agreements (''VSAs'') involved in *MSC* provided for the use of twelve U.S.-flag vessels owned by a U.S. carrier to be operated on behalf of all of the parties to the agreements, and to replace all U.S.-flag and foreign-flag vessels previously operated by the parties in the covered trade. By chartering space on a U.S.-flag vessel, the foreign carriers gained eligibility to submit bids for military and other government preference cargoes reserved to U.S.-flag vessels. However, the foreign carriers agreed that they would not use any vessels or space chartered from the U.S. carrier for carriage of government preference cargo.

[12] Section 9(c) provides that, with certain exceptions not relevant here, ''a person may not, without the approval of the Secretary of Transportation—

(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel * * * owned by a citizen of the United States * * *.''

46 U.S.C. app. 808(c). The Secretary has delegated to the Maritime Administrator authority to carry out sections 9 and 41 of the 1916 Act. 49 CFR 166(a).

[13] MarAd acted under section 9 on each individual charter of a U.S.-flag vessel and incorporated conditions requiring restriction of U.S. preference cargo to the U.S.-flag carrier member of the agreements in each of the ''charter orders'' approving the arrangement, as required by section 41. MarAd has apparently dispensed with individualized approvals of charters of U.S.-flag vessels like those at issue in *MSC. See* 46 CFR 221.13(a)(1) (except as limited by provisions not relevant here, MarAd ''hereby grants the approval required by [section 9(c) of the 1916 Act] for the * * * Charter * * * to a Noncitizen of an interest in or control of a Documented Vessel owned by a Citizen of the United States * * *.'').

[14] Section 603, 46 U.S.C. app. 1173(a), provides that, upon approval of an application for ODS under section 601, the Secretary of Transportation may enter into a contract with the applicant ''subject to such reasonable terms and conditions * * * as the Secretary * * * shall require to effectuate the purposes and policy * * *'' of the Act. Section 804(a) provides that it is ''unlawful for any contractor receiving an operating-differential subsidy under title VI * * * to own, charter, * * * or operate any foreign-flag vessel which competes with any American-flag service'' on a route deemed essential by the Secretary, except as provided in section 804(b). Section 804(b), 46 U.S.C. app. 1222(b), authorizes the Secretary to waive the prohibition for a specific period of time ''(u)nder special circumstances and for good cause shown * * *.'' The March 11, 1997 MarAd letter states that the Administrator has found ''special circumstances'' and ''good cause'' for granting the waiver and that the waiver granted ''is subject to the * * * conditions and will terminate in the event any of the conditions are not fulfilled * * *.''

[15] The Agreement parties do not represent that APL sought MarAd approval pursuant to section 9 for use of its U.S.-flag vessels in operations under the Agreement. The March 11, 1997 MarAd letter grants authority to APL only under section 804(b) of the 1936 Act, and does not refer to sections 9 and 41 of the 1916 Act of MarAd authority under those provisions.

[16] In any event, as we noted in the Show Cause Order, the Military Security Act of 1996, Pub. L. 104–239, 110 Stat. 3118, substantially amended the 1936 Act, creating the Military Security Fleet Program, 46 U.S.C. app. 1187, *et seq.* It is a condition for including any vessel in the Fleet that the owner or operator of the vessel enter into an operating agreement governed by the section's provisions with the Secretary of Transportation, which will be one-year, renewable contracts. Subsection (c) provides that ''[a] contractor of a vessel included in an operating agreement under this part may operate the vessel in the foreign commerce of the United States without restriction, and shall not be subject to any requirement under'' certain sections of the 1936 Act dealing with record keeping, equitable distribution of contracts among U.S. ports, and discrimination. 46 U.S.C. app. 1187a(c). Section 804 was substantially amended as well: a new subsection 804(f) provides that nothing in section 804(a) will preclude a contractor receiving ODS or MSP assistance from ''entering into time or space charter or other cooperative agreements with respect to foreign-flag vessels * * *.'' 46 U.S.C. app. 1221(f)(5). The new section 804(f) was made effective as to carriers with existing ODS contracts on the date on which such a contractor entered into an MSP contract with MarAd. 46 U.S.C.A. app. 1222, Historical and Statutory Notes. APL entered into operating agreements with MarAd for nine vessels for January 21, 1997.

[17] It thus does not appear to be necessary for a U.S.-flag carrier with an MSP operating agreement to seek a waiver under section 804(b) in order to participate in a space charter or vessel sharing agreement. Nevertheless, on January 17, 1997, APL filed a request with MarAd for a waiver under section 804(b) of the 1936 Act for operation of up to 18 foreign-flag vessels. Notice of its filing was published January 29, 1997. 62 FR 4377 (January 29, 1997). The March 11, 1997 MarAd letter granted APL's request. The waiver provides that APL may ''own, operate or charter'' up to 18 foreign-flag vessels.

Article 5.1 of the New Agreement is ''required by the law of the United States'' as a result of the March 11, 1997 MarAd letter or other MarAd action under the 1936 Act appears to exist.

In discussion with the staff concerning Article 5.1 of the New Agreement, and in its Motion, however, APL advanced the view that the allocation issue was essentially moot as a result of various actions of MarAd and DOD, including significant policy changes by DOD relating particularly to the VISA program. Thus, in the Motion and in discussions concerning the New Agreement, APL has argued that the effect of the VISA program is to authorize or require the allocation provision of the New Agreement. As it noted in *MSC*, the Commission must, ''[u]nder ordinary circumstances, * * * consider the text and any relevant analyses of the proffered law [said to create an exception to the prohibition of section 10(c)(6)], and render a conclusion as to whether the law commanded the actions that otherwise might fall within section 10(c)(6)'s prohibition clause.'' *MSC*, 27 S.R.R. at 888.

MarAd administers the VISA program under authority of section 708 of the Defense Production Act of 1950, as amended, 50 U.S.C. app. 2158. The VISA program provides for agreements entered into between MarAd and the operators of U.S.-flag vessels and establishes a ''prioritized order for utilization of commercial sealift capacity to meet DOD peacetime and contingency requirements * * *.'' 62 FR 6840 (February 13, 1997). The program emphasizes use of U.S.-flag vessel capacity operated by VISA participants or available to VISA participants under VSAs for the carriage of DOD peacetime cargo and assures the availability of U.S.-flag capacity for DOD contingency use. Although the program establishes priorities under which DOD will call upon the operators of U.S-flag vessels to provide capacity, by awarding contracts and booking cargo, neither the MarAd rules for the VISA program itself nor any DOD policy or contract provision thus far called to our attention appears to reserve aggregate DOD peacetime cargo to VISA participants. No prohibition against the use of the vessel capacity of a VISA participant made available to a non-U.S. carrier member of a VSA for carriage of DOD cargo is contained in the regulations promulgated by MarAd. Moreover, those regulations and the VISA program itself relate only to cargo shipped by DOD. Other U.S. government departments and agencies, which are also subject to the U.S. cargo preference laws, are unaffected by the VISA program. These shippers would be allocated to APL by the terms of Article 5.1 of the New Agreement. No requirement for the exclusion of agreement parties other than APL from bidding on DOD or other government-shipped cargo arises from the VISA regulations or other U.S. law, or the DOD contracts under VISA.

The parties apparently recognize that the allocation issues raised by the New Agreement would most appropriately be addressed in a formal proceeding: both APL's Motion and OOCL's Response suggest such a course of action. In view of the possibility that Agreement No. 203–011596 may be merely an interim measure to see the parties through the restructuring of their various alliances, and may be replaced by yet another version of the parties' space sharing arrangement, we find it most appropriate to address these issues in the context of the existing proceeding, Docket No. 97–18, rather than to initiate a new proceeding.

Therefore, the parties to the New Agreement are ordered to show cause why it does not violate section 10(c)(6) for the same reasons which prompted us to institute a proceeding against the Four Party Agreement: A *prima facie* case appears to exist that the provision is unlawful and is not otherwise required by the law of the United States. The parties to the New Agreement are ordered to show cause why Article 5.1 of the New Agreement should not be disapproved, canceled or modified, as part of this proceeding.

B. The Motion and Response

We agree with BOE that dismissal of the Show Cause proceeding with respect to the Four Party Agreement is premature. Termination of this proceeding with respect to the Four Party Agreement may be proper when and if the Four Party Agreement itself is terminated. However, it does not appear at this time that either APL's or OOCL's cessation of operations under the Four Party Agreement will occur simultaneously with the effectiveness of the New Agreement. We may act to modify the proceeding at any time it appears appropriate, with or without further request of the parties.

APL's further suggestion that the Commission delay action on this issue until 30 days after the D.C. Circuit has acted in *MSC* is without merit. This would effectively stay the Commission's determination that the allocation of preference cargo in an agreement permitting the charter of space on U.S.-flag vessels by foreign lines constitutes a violation of section 10(c)(6). The Commission's determination of this legal issue remains in effect, no stay having been entered by the Commission or any court of competent jurisdiction.[18] As we noted in *MSC*, an order by an administrative agency is presumed to be valid until such time as it is overturned by a court of competent jurisdiction. *See, e.g., Citizens to Preserve Overton Park, Inc.* versus *Volpe*, 401 U.S. 402, 415–16 (1971); *Motor Vehicle Manufacturers Association of the United States, Inc.* versus *Ruckelshaus*, 719 F.2d 1159, 1164 (D.C. Cir. 1983).

Accordingly, the appeal of the *MSC* decision provides no basis to permit the effectiveness, without investigation, of allocation language based on U.S. cargo preference laws having the same or similar effects to that found in *MSC* to constitute a violation of section 10(c)(6). Therefore, the Motion is denied with respect to delay of the filing of initial submissions until 30 days after issuance of the decision in *MSC* by the D.C. Circuit. A new procedural schedule for the conduct of this proceeding is established below.

As a result of MarAd's withdrawal of the March 11, 1997 section 804 waiver, no question remains as to whether that letter constitutes ''law of the United States,'' within the meaning of section 10(c)(6), requiring the cargo preference reservation in either of the Agreements. It would therefore appear that no basis exists as a matter of law or of fact at this time for dismissal of the existing proceeding with respect to the Four Party Agreement.

Now therefore, it is ordered, that pursuant to section 11 of the Shipping Act of 1984, American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., and Hyundai Merchant Marine, Ltd. show cause why they should not be found to have violated section 10(c)(6) of the Shipping Act of 1984 by prohibiting specific carriers that are parties to the APL/MOL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011596, from soliciting cargo from a particular shipper or shippers;

It is further ordered, that American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., and Hyundai Merchant Marine, Ltd. show cause why an order should not be issued disapproving, canceling or modifying the APL/MOL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011596;

It is further ordered, that the Motion to Dismiss Docket No. 97–18 of American President Lines, Ltd. is denied;

[18] No stay was requested or suggested as necessary by any party in the context of the *MSC* proceeding.

It is further ordered, that the Motion of Orient Overseas Container Lines, Inc. to be dismissed as a party to Docket No. 97–18 is denied;

It is further ordered, that any person having an interest and desiring to intervene in this proceeding in connection with the APL/MOL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011596, shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered, that affidavits of fact and memoranda of law addressing issues with respect to both the Four Party Agreement and the New Agreement shall be filed by Respondents and any intervenors in support of Respondents no later than February 20, 1998;

It is further ordered, that reply affidavits and memoranda of law addressing issues with respect to both the Four Party Agreement and the New Agreement shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondent no later than March 20, 1998;

It is further ordered, that rebuttal affidavits and memoranda of law addressing issues with respect to both the Four Party Agreement and the New Agreement shall be filed by Respondents and intervenors in support no later than April 3, 1998;

It is further ordered, that, should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case. Any request for oral argument shall be filed no later than April 3, 1998;

It is further ordered, that notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon Respondents;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure, 46 CFR 502.118, as well as being mailed directly to all parties of record;

Finally, it is ordered, that pursuant to the terms of Rule 61 of the Commission's rules of practice and procedure, 46 CFR 502.61, the Order to Show Cause served October 17, 1997 in this proceeding is amended to require that the final decision of the Commission in this proceeding shall be issued by July 3, 1998.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–1291 Filed 1–20–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section--Mary M. McLaughlin--Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

OMB Desk Officer--Alexander T. Hunt--Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860).

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

1. Report title: Government Securities Dealers Reports
Agency form number: FR 2004A, FR 2004B, FR 2004C, FR 2004SI, FR 2004WI
OMB Control number: 7100-0003
Frequency: weekly and on occasion
Reporters: primary dealers in U.S. government securities
Annual reporting hours: 11,817
Estimated average hours per response: 1.0 (FR 2004A, B, C, SI); 0.25 (FR 2004WI)
Number of respondents: 39
Small businesses are not affected.

General description of report: This information collection is voluntary (12. U.S.C. 248(a)(2), 353-359, and 461) and is given confidential treatment (5 U.S.C. 552 (b)(4)).

Abstract: This group of reports is used to collect data on positions, transactions, and financing activity in the government securities market from primary dealers in U.S. government securities. The Federal Reserve uses the data to monitor the condition of the U.S. government securities market in its surveillance of the market and to assist the U.S. Department of the Treasury.

The revisions are effective beginning with the January 28, 1998, report date. On the FR 2004A and FR 2004B a line has been added to report position and transaction volumes with respect to Treasury Inflation-Index Securities. On the FR 2004A and FR 2004B four lines have been added to provide greater detail regarding the dealers' federal agency securities positions and transaction volumes. On the FR 2004C, two columns of matched-book financing transactions have been deleted. The revisions, on a net basis, have no effect on the current annual reporting burden.

The Board of Governors received one comment, from The Bond Market Association, which strongly endorsed the revisions.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Domestic Branch Notification
Agency form number: FR 4001
OMB control number: 7100-0097
Frequency: on occasion
Reporters: state member banks
Annual reporting hours: 201
Estimated average hours per response: 30 minutes for expedited notifications; 1 hour for nonexpedited notifications
Number of respondents: 316 expedited, 43 nonexpedited
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 321) and is not given confidential treatment.

Abstract: The Federal Reserve System requires a state member bank to file a notification whenever it proposes to establish a domestic branch. There is no formal reporting form; banks notify the Federal Reserve by letter prior to making the proposed investment. The Federal Reserve uses the information to fulfill its statutory obligation to obtain public comment on such proposals before acting on them, and to otherwise supervise state member banks.

2. Report title: Investment in Bank Premises Notification
Agency form number: FR 4014
OMB control number: 7100-0139
Frequency: on occasion
Reporters: state member banks
Annual reporting hours: 8
Estimated average hours per response: 30 minutes

Number of respondents: 15
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 371d) and is not given confidential treatment.

Abstract: The Federal Reserve System requires a state member bank to file a notification whenever it proposes to make an investment in bank premises that results in its total bank premises investment exceeding its capital stock and surplus or, if the bank is well capitalized and in good condition, exceeding 150 percent of its capital stock and surplus. There is no formal reporting form; banks notify the Federal Reserve by letter prior to making the proposed investment. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks.

3. Report title: Reports Related to Securities of State Member Banks as Required by Regulation H
Agency form number: N/A
OMB control number: 7100-0091
Frequency: on occasion
Reporters: state member banks
Annual reporting hours: 2,146
Estimated average hours per response: 5.11 hours
Number of respondents: 30
Small businesses are not affected.

General description of report: This information collection is mandatory (15 U.S.C. 78l(i)) and is not given confidential treatment.

Abstract: The Federal Reserve's Regulation H requires certain state member banks to submit information related to their securities to the Board of Governors of the Federal Reserve System on the same forms that bank holding companies and nonbank entities use to submit similar information to the Securities and Exchange Commission. The information is used primarily for public disclosure and is available to the public upon request.

Final approval under OMB delegated authority for the elimination of certain requested information, without extension, from the following reports:

1. Report title: Weekly Report of Assets and Liabilities for Large Banks
Agency form number: FR 2416
OMB control number: 7100-0075
Frequency: weekly
Reporters: U.S. commercial banks
Annual reporting hours: The change is estimated to reduce the annual reporting burden from 46,592 hours to 44,928 hours.
Estimated average hours per response: The change is estimated to reduce the burden per response from 7 hours to 6.75 hours.
Number of respondents: 128
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. §§ 225(a) and 248(a)(2)) and is given confidential treatment (5 U.S.C. § 552(b)(4) and (8)).

Abstract: The Board has eliminated two items from the FR 2416, the large domestic bank series of the three voluntary weekly condition/bank credit reports. The FR 2416 is a detailed balance sheet report that is collected as of each Wednesday from a sample of about 128 large U.S.-chartered commercial banks. All three reports, together with data from other sources, are used to construct weekly estimates of bank credit, sources and uses of bank funds, and a balance sheet for the banking system as a whole. These estimates also are used in constructing the bank credit component of the domestic non-financial debt aggregate monitored by the Federal Open Market Committee.

The Board has eliminated two items, ''Commercial paper outstanding issued by related institutions of the reporting bank, issued through commercial paper brokers and dealers'' (Memorandum item 7.a) and ''Commercial paper outstanding issued by related institutions of the reporting bank, issued directly'' (Memorandum item 7.b). The information collected in these two items is now obtained by the Federal Reserve from another source, eliminating the need to maintain them on the FR 2416. The revisions are effective immediately.

2. Report title: Consolidated Financial Statements for Bank Holding Companies
Agency form numbers: FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9CS
OMB control number: 7100-0128
Frequency: quarterly and semi-annual
Reporters: bank holding companies
Annual reporting hours: The change to the FR Y-9C is estimated to reduce the total annual reporting burden for these reports from 262,818 hours to 261,361.
Estimated average hours per response: ranges from 5 to 1,250 hours
Number of respondents: 7,430
Small businesses are affected.

General description of report: The information collection is mandatory (12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form. Data reported on the FR Y-9C, Schedule HC-H, Column A, requiring information on ''assets past due 30 through 89 days and still accruing'' and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

Abstract: The Board eliminated the reporting requirements of Schedule HC-J on the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C) effective for the fourth quarter of 1997. The FR Y-9C consists of standardized financial statements similar to the commercial bank Report of Condition and Income (FFIEC 031-034; OMB No. 7100-0036). The FR Y-9C consolidated financial statements are currently filed by top-tier bank holding companies with total consolidated assets of $150 million or more and by lower-tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, all multibank bank holding companies with debt outstanding to the general public or engaged in certain nonbank activities, regardless of size, must file the FR Y-9C.

On August 27, 1997, the Board announced in the **Federal Register**[1] modifications to the prudential limits or firewalls that currently apply to bank holding companies engaged in securities underwriting and dealing activities through section 20 subsidiaries; the modifications are effective October 31, 1997. The Board announced that as one of its modifications to the firewalls, it was eliminating the required capital deductions that related to the section 20 subsidiary in determining capital adequacy. The Board stated that ''the capital deductions (and resulting deconsolidation for regulatory capital purposes) are inconsistent with generally accepted accounting principles (GAAP) and have therefore created confusion and imposed costs by requiring bank holding companies to prepare financial statements on two bases.'' Therefore, the Board has granted prompt reporting relief to bank holding companies with section 20 subsidiaries by eliminating Schedule HC-J from the FR Y-9C effective with the December 31, 1997, reporting date.

Board of Governors of the Federal Reserve System, January 15, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–1353 Filed 1–20–98; 8:45 am]

BILLING CODE 6210–01–F

[1] 62 FR 45295 (1997).

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 4, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Michael W. Lowe, Jasper, Georgia; to acquire additional voting shares of Crescent Banking Company, Jasper, Georgia, and thereby indirectly acquire voting shares of Crescent Bank & Trust Company, Jasper, Georgia.

Board of Governors of the Federal Reserve System, January 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1389 Filed 1–20–98; 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 Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. First National Corporation, Orangeburg, South Carolina; to acquire 100 percent of the voting shares of Florence County National Bank (in organization), Florence, South Carolina.

2. Mercantile Bankshares Corporation, Baltimore, Maryland; to acquire 100 percent of the voting shares of Marshall National Bank and Trust Company, Marshall, Virginia.

B. 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 62 percent of the voting shares of Lincoln Bancshares, Inc., Lincolnton, Georgia, and thereby indirectly acquire Farmers State Bank, Lincolnton, Georgia.

Board of Governors of the Federal Reserve System, January 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1388 Filed 1–20–98; 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 4, 1998.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. National City Corporation, Cleveland, Ohio; to acquire Fort Wayne National Life Insurance Company, Phoenix, Arizona, and thereby engage in credit life and disability insurance activities, pursuant to § 225.28(b)(11) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 15, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1387 Filed 1–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, January 26, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded

announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: January 16, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1547 Filed 1–16–98; 3:24 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12–8–97 AND 12–19–97

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
EFTC Corporation, AlliedSignal Inc., AlliedSignal Avionics Inc	98–0684	12/09/97
Chris-Craft Industries, Inc., Barry Diller, Silver King Broadcasting of Maryland, Inc., SKMD	98–0690	12/09/97
David Brown Group, PLC, Ordway Family Voting Trust, Union Pump Company	98–0702	12/09/97
Photronics, Inc., Motorola, Inc., Motorola, Inc	98–0525	12/10/97
ACMA Limited, Access Beyond, Inc., Access Beyond, Inc	98–0572	12/10/97
OMI Corp, Marine Transport Lines, Inc., Marine Transport Lines, Inc	98–0574	12/10/97
The Virginia Insurance Reciprocal, Healthcare Providers Group, Healthcare Providers Group	98–0611	12/10/97
Newcourt Credit Group Inc., Aldersgate Capital Limited, AT&T Capital Corporation	98–0641	12/10/97
ACE Limited, Xerox Corporation, Westchester Specialty Group, Inc	98–0673	12/10/97
Reliance Steel & Aluminum Co., Stephen E. Almond, Phoenix Corporation	98–0680	12/10/97
American United Life Insurance Company, Indianapolis Life Insurance Company, Indianapolis Life Insurance Company	98–0686	12/10/97
Sealaska Corporation, TriQuest Corporation, TriQuest Corporation	98–0782	12/10/97
Standard Motor Products, Inc., Cooper Industries, Inc., Moog Automatives, Inc	97–3447	12/11/97
Proffitt's Inc., Carson Pirie Scott & Co., Carson Pirie Scott & Co	98–0559	12/11/97
ING Groep N.V., Bank Brussels Lambert N.V., Bank Brussels Lambert N.V	98–0603	12/11/97
Central Garden & Pet Company, Herbert R. Axelrod and Evelyn Axelrod, T.F.H. Publications, Inc	98–0612	12/11/07
Tetra Tech, Inc., Halliburton Company, Brown & Root, Inc.; Halliburton NUS Corporation	98–0658	12/11/97
Providence Equity Partners, L.P., Jud L. Sedwick Grandchildrens Trust, FaciliCom International Holdings, L.L.C	98–0666	12/11/97
R.C. Loudermilk, Sr., Ford Motor Company, RentMart to Own, Inc	98–0677	12/11/97
PCD Inc., Siebe plc, Wells Electronics, Inc	98–0681	12/11/97
Schering-Plough Corporation, Zonagen, Inc., Zonagen, Inc	98–0707	12/11/97
MMI Products, LLC, The Burke Group, LLC, The Burke Group, LLC	98–0711	12/11/97
Cargill, Incorporated, Thomas R. Testwuide, Sr., Schreier Malting Company	98–0714	12/11/97
AAR Corp., Aerospatiale Societe Nationale Industrielle, AVSCO Aviation Service Corporation	98–0735	12/11/97
Nationwide Mutual Insurance Company, TIG Holdings, Inc., TIG Countrywide Insurance Company	98–0742	12/11/97
Lhoist S.A. (a French corporation), National Refractories Employee Stock Ownership Trust, National Refractories & Minerals Corporation	98–0744	12/11/97
Joseph Littlejohn & Levy Fund II, LP, George Hofmeister, American Commercial Industries, Inc	98–0746	12/11/97
MBIA Inc., CapMac Holdings, Inc., CapMac Holdings, Inc	98–0752	12/11/97
Warburg, Pincus Ventures, LP, Healthcare Capital Corp., Healthcare Capital Corp	98–0754	12/11/97
Henkel KGaA, John J. Kahl, Jr., Manco, Inc	98–0768	12/11/97
Cypress Merchant Banking Partners, LP, General Host Corporation, General Host Corporation	98–0775	12/11/97
Wingate Partners II, LP, National Spirit Group, Ltd., National Spirit Group, Ltd	98–0780	12/11/97
Nigel Doughty, International Paper Company, International Paper Company	98–0781	12/11/97
Starwood Lodging Trust, Westin Hotels & Resorts Worldwide, Inc., Westin Hotels & Resorts Worldwide, Inc	98–0794	12/11/97
Starwood Lodging Corporation, Westin Hotels & Resorts Worldwide, Inc., Westin Asia Management Company, et. al	98–0795	12/11/97
Marswood Investors, L.P., Starwood Lodging Trust, Starwood Lodging Trust	98–0796	12/11/97
WHWE L.L.C., Starwood Lodging Trust, Starwood Lodging Trust	98–0797	12/11/97
The Southern Company, Unicom Corporation, Commonwealth Edison Company of Indiana, Inc	98–0812	12/11/97
MC Equities, Inc., Consolidaire Enterprises, Inc., Consolidaire Enterprises, Inc	98–00110	12/12/97
Waste Management, Inc., Browning-Ferris Industries, Inc., BFI, Inc.; Browning-Ferris Industries of Illinois, Inc	98–0413	12/12/97
New England Business Service, Inc., CSS Industries, Inc., Rapidforms, Inc	98–0739	12/12/97
Browning-Ferris Industries, Inc., Waste Management, Inc., Waste Management, Inc	98–0415	12/15/97
Pediatric Services of America, Inc., ChoicePoint, Inc., ChoicePoint Services, Inc	98–0547	12/15/97
Central Garden & Pet Company, Mr. William D. Engler, Jr., Kaytee Products Incorporated	98–0654	12/15/97
FPA Medical Management, Inc., New York Life Insurance Company, Avanti Health Systems of Texas, Inc	98–0676	12/15/97
Texas Industries, Inc., Ssangyong Cement Industrial Co., Ltd., Riverside Cement Company	98–0733	12/15/97
Trustmark Insurance Company, Core Source, Inc., CoreSource, Inc	98–0803	12/15/97
Suez-Lyonnaise des Eaux, Northeast Energy Associates, Northeast Energy Associates	98–0823	12/15/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12–8–97 AND 12–19–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
ConAgra, Inc., Hester Industries, Inc., Hester Industries, Inc	98–0825	12/15/97
Suez-Lyonnaise des Eaux, North Jersey Energy Associates, North Jersey Energy Associates	98–0841	12/15/97
FPL Group, Inc., North Jersey Energy Associates, North Jersey Energy Associates	98–0842	12/15/97
The Washington Post Company, Reed International P.L.C., Reed Elsevier p.l.c	98–0845	12/15/97
CUC International, HFS Incorporated, HFS Incorporated	97–2467	12/16/97
American Pacific Corporation, Kerr-McGee Corporation, Kerr-McGee Chemical Corporation	98–0295	12/16/97
Mannesmann AG, Philips Electronics N.V., Phillips Car Systems Holding Company	98–0753	12/16/97
Dean Foods Company, Maplehurst Farms, Inc., Maplehurst Farms, Inc	98–0773	12/16/97
Conmed Corporation, Bristol-Myers Squibb Company, Linvatec Corporation	98–0783	12/16/97
Giant Industries, Inc., PSG Limited Partnership, PSG Limited Partnership	98–0818	12/16/97
FPL Group, Inc., Northeast Energy Associates, Northeast Energy Associates	98–0824	12/16/97
PRIMEDIA Inc., Alexander C. Lange, Pictorial, Inc	98–0829	12/16/97
Bistol-Meyers Squibb Company, Thomas M. Redmond, Redmond Products, Inc.; Redmond Products International	98–0840	12/16/97
The Alpine Group, Inc., PARFINANCE, American Premier Holdings, Inc	98–0846	12/16/97
Antonia Ax:son Johnson, NetEdge Systems, Inc., NetEdge Systems, Inc	98–0849	12/16/97
TCG-Prime Communications, Inc., SBC Communications, Inc., SBC Media Ventures, Inc	98–0851	12/16/97
The Trustees of Princeton University, KMC Telecom Holdings, Inc., KMC Telecom Holdings, Inc	98–0852	12/16/97
Willis Stein & Partners, LP, CUC International Inc., Interval Holdings, Inc.; CUC Vacation Exchange, Inc	98–0915	12/16/97
Latin Communications Group, Inc., American Radio Systems Corporation, American Radio Systems License Corp	97–2055	12/17/97
Newport News Shipbuilding, Inc., Continental Maritime Industries, Inc., Continental Maritime Industries, Inc	98–0600	12/17/97
Le Carbone Larraine S.A. (a French Company), Primus Capital Fund II Limited Partnership, AstroCosmos Metallurgical, Inc	98–0638	12/17/97
BEC Group, Inc., ILC Technology, Inc., ILC Technology, Inc	98–0656	12/17/97
Health Partners, Inc., HPI-Ramsey, Ramsey Clinic Associates	98–0669	12/17/97
Keystone Automotive Industries, Inc., Leon Schigiel, Inteuro Parts Distributors, Inc	98–0693	12/17/97
Leon Schigiel, Keystone Automotive Industries, Inc., Keystone Automotive Industries, Inc	98–0694	12/17/97
Lowell W. Paxson, George S. Flinn, Jr., Flinn Broadcasting Corporation	98–0696	12/17/97
Intrawest Corporation (a Canadian company), David & Roma McCoy, Mammoth Mountain Ski Area	98–0699	12/17/97
Jannock Limited, Code, Hennessy & Simmons II, L.P., Gulf States Manufacturers, L.P., Associated Building	98–0703	12/17/97
N.V. Koninklije Nederlandsche Petroleum Maatschappij, Dixie Pipeline Company, Dixie Pipeline Company	98–0709	12/17/97
R&B Falcon Corporation, Wiley J. Falgout, Falgout Marine, Inc., Falgout Brothers, Inc., Caribe	98–0712	12/17/97
Sheldon G. Adelson, Colorbus, Inc., Colorbus, Inc	98–0779	12/17/97
Bureau of National Affairs, Inc. (The), MBS Trust, The Institute of Management and Administration, Inc	98–0854	12/17/97
Legrand S.A., Stephen A. Orlando, Ortronics, Inc	98–0858	12/17/97
Comfort Systems USA, Inc., Salvatore Fichera, F&G Mechanical Corp	98–0863	12/17/97
International Wireless Communications Holdings, Inc., Radio Movil Digital Americas, Inc., Radio Movil Digital Americas, Inc	98–0870	12/17/97
Telecom Towers, Inc., Arch Communications Group, Inc., The Westlink Company, USA Mobile Communications, Inc. II	98–0871	12/17/97
Cortec Group Fund II, L.P., Raytheon Company, Switchcraft, Inc	98–0879	12/17/97
Leggett & Platt, Incorporated, Darrell C. Steagall, Cumulus Fibres, Inc	98–0899	12/17/97
Commercial Union plc, The Tokio Marine and Fire Insurance Company, Ltd., Houston General Insurance Company	98–0740	12/18/97
SmarTalk TeleServices, Inc., American Express Company, American Express Telecom, Inc	98–0766	12/18/97
Gordon & Morris Investment Partnership, L.P., Gordon S. Lang (a resident of Canada), CCL Industries Inc	98–0801	12/18/97
Great American Management and Investment, Inc., Androck Fund, L.P., FPM, L.P	98–0830	12/18/97
The Clayton & Dubilier Private Equity Fund IV LP, William C. Eacho, III, Atlantic Food Services, Inc	98–0705	12/19/97
Republic Industries, Inc., Ronald M. Salhany, Coastal Cadillac, Inc., and assets of S&D Real Estate	98–0761	12/19/97
Republic Industries, Inc., Richard Roth Dimmitt, Coastal Cadillac, Inc., and assets of S&D Real Estate	98–0762	12/19/97
HFS Incorporated, Jackson Hewill Inc., Jackson Hewitt Inc	98–0776	12/19/97
Micro Focus Group, plc, Dr. S. Bing Yao and Mrs. Lien C. Yao, XDB System, Inc	98–0778	12/19/97
Advanced Lighting Technologies, Inc., Alan J. Ruud, Ruud Lighting, Inc	98–0831	12/19/97
Neff Corp, Bruce E. Richbourg, Richbourg's Sales & Rentals, Inc	98–0838	12/19/97
KKR 1996 Fund, L.P., Phelps Dodge Corporation, Accuride Corporation	98–0855	12/19/97
GSPC Holdings, Inc., Fold-Pak Corporation, Fold-Pak Corporation	98–0860	12/19/97
Hicks, Muse, Tate & Furst Equity Fund III, L.P., Oscar I Corporation, Oscar I Corporation	98–0869	12/19/97
Budget Group, Inc., Cruise America, Inc., Cruise America, Inc	98–0873	12/19/97
Fortis AG S.A. (a Belgian company), The Liberty Corporation, Pierce National Life Insurance Company	98–0875	12/19/97
Fortis AMEV N.V. (a Netherlands company), The Liberty Corporation, Pierce National Life Insurance Company	98–0876	12/19/97
WPG Corporate Development Associates V, L.P., ATC Group Services, Inc., ATC Group Services, Inc	98–0883	12/19/97
Richard D. McCormick, U S West, Inc., U S West, Inc	98–0884	12/19/97
General Electric Company, Richard B. Templer, Trailer Leasing Company, div. of Kellers Systems, Inc	98–0885	12/19/97
TAG Group, S.A., Aviation Methods, Inc., Aviation Methods, Inc	98–0886	12/19/97
Enhance Financial Services Group, Inc., Enhance Financial Services Group, Inc., Singer Asset Finance Company, LLC	98–0889	12/19/97
The Beacon Group III-Focus Value Fund, LP, Intek Information, Inc., Intek Information, Inc	98–0890	12/19/97
Sequa Corporation, AlliedSignal Inc., Bendix-Atlantic Inflator Company	98–0901	12/19/97
NOVA Corporation, MBNA Corporation, MBNA America Bank, NA	98–0904	12/19/97
John N. Irwin, III, James G. DeMello, Acushnet Rubber Company, Inc., Acushnet (Thailand) Ltd	98–0905	12/19/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12–8–97 AND 12–19–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Iowa Farm Bureau Federation, American Equity Investment Life Holdings Company, American Equity Investment Life Holdings Company	98–0906	12/19/97
Sonat Inc., Selim K. Zilkha, Zilkha Energy Company	98–0909	12/19/97
Selim K. Zilkha, Sonat Inc., Sonat Inc	98–0910	12/19/97
J.W. Childs Equity Partners, LP, Universal Hospital Services, Inc., Universal Hospital Services, Inc	98–0911	12/19/97
Enova Corporation, Peter M. Way, WEHCO, Inc	98–0913	12/19/97
Pacific Enterprises, Peter M. Way, WEHCO, Inc	98–0914	12/19/97
AB Volvo (a Swedish company), AB Volvo, Volvo Penta Marine Products LP	98–0916	12/19/97
PNC Bank Corp., Friedman Billings Ramsey Group, Inc., Friedman Billings Ramsey Group, Inc	98–0917	12/19/97
Iowa Farm Bureau Federation, The Mutual Life Assurance Company of Canada, Continental Western Life Insurance Company	98–0919	12/19/97
Lowell W. Paxson, ValueVision International, Inc., VVI Seattle, Inc.; VVILPTV, Inc.; VVI Spokane, Inc	98–0933	12/19/97
Michael Zilkha, Sonat Inc., Sonat Inc	98–0943	12/19/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–1365 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of The Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 12–22–97 AND 12–31–97

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
LucasVarity plc, Varga Participacoes Ltda., Freios Varga, S.A	98–0687	12/22/97
John T. Kim Trust of December 31, 1987, Amkor Technology, Inc., Amkor Technology, Inc	98–0720	12/22/97
David D. Kim Trust of December 31, 1987, Amkor Technology, Inc., Amkor Technology, Inc	98–0721	12/22/97
Susan Y. Kim Trust of December 31, 1987, Amkor Technology, Inc., Amkor Technology, Inc	98–0722	12/22/97
US Airways Group, Inc., Citicorp, Shuttle, Inc. (d/b/a USAir Shuttle, Inc. or US Airways)	98–0757	12/22/97
Republic Industries, Inc., John H. Dobbs, Jr., Springhill Toyota, Inc., et. al	98–0758	12/22/97
Republic Industries, Inc., James K. Dobbs, III, Hoover Toyota, Inc., et. al	98–0759	12/22/97
Republic Industries, Inc., Dobbs Brothers Buick-Pontiac, Inc., Dobbs Brothers Buick-Pontiac, Inc	98–0760	12/22/97
United HealthCare Corporation, Medicode (Delaware), Inc., Medicode, Inc	98–0788	12/22/97
Dasault Systemes SA, Deneb Robotics, Inc., Deneb Robotics, Inc	98–0799	12/22/97
Resource Bancshares Mortgage Group, Inc., Resource Bancshares Corporation, Resource Bancshares Corporation	98–0813	12/22/97
Freedom Communications, Inc., Scholastic Corporation, Scholastic Inc	98–0877	12/22/97
William J. Curtis, Scholastic Corporation, Scholastic Inc	98–0878	12/22/97
Green Equity Investors II, LP, Hollinger, Inc. (a Canadian company), Hollinger International Inc	98–0880	12/22/97
Citizen Utilities Company, The Voting Trust D&E Communications, Inc., D&E Communications, Inc	98–0891	12/22/97
Ford Motor Company, Aldersgate Capital Limited (an English company), AT&T Automotive Services, Inc	98–0895	12/22/97
Citation Corporation, Dycast, Inc., Dycast, Inc	98–0896	12/22/97
RLC Industries Co., RLC Industries Co., R–H Timber Co., LLC	98–0935	12/22/97
John C. Hampton, RLC Industries Co., R–H Timber Co., LLC	98–0936	12/22/97
Foamex International Inc., Hicks, Muse, Tate and Furst Equity Fund II, L.P., Crain Holdings Corp	98–0605	12/23/97
TRW Inc., BDM International Inc., BDM International Inc	98–0710	12/23/97
The AES Corporation, Edison International, Southern California Edison Company	98–0804	12/23/97
NGC Corporation, Edison International, Southern California Edison Company	98–0809	12/23/97
Northern States Power Company, Edison International, Southern California Edison Company	98–0810	12/23/97
Huston Industries, Incorporated, Edison International, Southern California Edison Company	98–0811	12/23/97
University of Pittsburgh Medical Center System, McKeesport Area Health Care Systems, McKeesport Area Health Care Systems	98–0892	12/23/97
Nokia Corporation, Ipsilon Newtorks, Inc., Ipsilon Networks, Inc	98–0952	12/23/97
Worcester City Campus Corporation, Memorial Health Care, Inc., Memorial Health Care, Inc	98–0726	12/24/97
Orbital Sciences Corporation, Ashtech Inc., Ashtech Inc	98–0819	12/24/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 12–22–97 AND 12–31–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
ACME Televison Holdings, LLC, Koplar Communications, Inc., Koplar Communications, Inc	98–0821	12/24/97
Queensway Financial Holdings Limited, Davinder S. Sahni, Paradigm Insurance Company	98–0833	12/24/97
Stichting AdministratiekantoorABN AMRO Holding, Bankers Leasing Association, Inc., Bankers Leasing Association, Inc	98–0865	12/24/97
Fortune Brands, Inc., Michael G. Crisp, Crisp Publications, Inc	98–0868	12/24/97
Heilig-Meyers Company, Reliable Stores, Inc., Reliable Stores, Inc	98–0881	12/24/97
Lennar Corporation, North American Asset Development Corporation, North American Asset Development Corporation	98–0887	12/24/97
Ronald O. Perelman, Thomas Dan Friedkin and Debra L. Friedkin, Gulf States Acceptance Company, LP	98–0888	12/24/97
Bahrain International Bank, Thompson Paper Box Co., Inc., Thompson Paper Box Co., Inc	98–0893	12/24/97
Investec Holdings Limited, Ernst & Company, Ernst & Company	98–0894	12/24/97
Illinois Tool Works, Inc., Reddi-Pac, Inc., Reddi-Pac, Inc	98–0897	12/24/97
United States Filter Corporation, Estate of Ronald E. Janke, Castalloy Corporation and Unified Investments, LLP	98–0920	12/24/97
Genesis Direct, L.P., Lawrence A. Joseph, Select Service & Supply Co., Inc	98–0929	12/24/97
Mr. Roger J. Sippl, Borland International, Inc., Borland International, Inc	98–0931	12/24/97
CUC International Inc., Apollo Investment Fund III, L.P., NRT Incorporated	98–0938	12/24/97
Praxair, Inc., Richard K. Dillard, Whitmore Oxygen Company & Whitmore Chemical Company	98–0939	12/24/97
Thermo Electron Corporation, Edison International, Southern California Edison Company	98–0940	12/24/97
Ashland Inc., Frederick M. Franklin, L.F. Franklin and Sons, Inc.; Valley Asphalt Products	98–0953	12/24/97
CHS Electronics, Inc., Gilbert Dreyfus and Julia Dreyfus, Micro Informatica Corporation	98–0954	12/24/97
Precision Castparts Corp., Schlosser Forge Company, Schlosser Casting Company	98–0955	12/24/97
Country Mutual Insurance Company, Middlesex Mutual Assurance Company, Middlesex Mutual Assurance Company	98–0960	12/24/97
Affiliated Computer Services, Inc., William Blair Capital Partners V, LP, CARA Holdings, Inc	98–0961	12/24/97
DLJ Merchant Banking Partners II, L.P., Mark D. Bawden, The Bawden Corporation	98–0962	12/24/97
N.V. Koninklije Nederlandsche Petroleum Maatschappij, Newco-Joint Venture, Newco-Joint Venture	98–0964	12/24/97
DLJ Merchant Banking Partners II, L.P., Joyce Bawden, The Rawden Corporation	98–0965	12/24/97
Emerson Electronic Co., Lee A. Henningsen, Firetrol, Inc	98–0967	12/24/97
Bayerische Vereinsbank AG, Bayerishe Hypotheken-und Wechsel-Bank AG, Bayerishe Hypotheken-und Weschsel-Bank AG	98–0969	12/24/97
Snyder Communication, Inc., R.A.B. Advertising, Inc. Employee Stock Ownership Plan, Blau Marketing Technologies, Inc	98–0970	12/24/97
Melco, Inc., Michael A. Frost, TechWorks, Inc	98–0971	12/24/97
PRI Automation, Inc., Equipe Technologies, Inc., Equipe Technologies, Inc	98–0972	12/24/97
Retlaw Enterprises, Inc., John D. Pezold, Augusta Family Broadcasting Inc.; Columbus Family	98–0974	12/24/97
Warren A. Hood, Jr., Simpro Holding Corporation, Ltd., Simpro Films Corporation	98–0977	12/24/97
AlliedSignal Inc., Jeffrey J. Steiner, The Fairchild Corporation	98–0979	12/24/97
Kingsway Financial Services, Inc., UCC Corporation, UCC Corporation	98–0980	12/24/97
Frederick W. Smith, FDX Corporation, FDX Corporation	98–0981	12/24/97
Ladbroke Group PLC, Colorado Gaming & Entertainment Co., Colorado Gaming & Entertainment Co	98–0982	12/24/97
Colony Investors II, L.P., Virgin Entertainment Group Limited, Virgin Entertainment Group Limited	98–0991	12/24/97
PPG Industries, Inc., Chrysler Corporation, Chrysler Corporation	98–0992	12/24/97
GP Batteries International Limited, The Gillette Company, Duracell, Inc	98–0994	12/24/97
United States Surgical Corporation, Pfizer Inc., Valleylab, Inc.; Vesta Medical, Inc	98–0995	12/24/97
MBW Investors LLC, The Procter & Gamble Company, Procter & Gamble Company (Duncan Hines Business)	98–0999	12/24/97
Andrew A. Wiederhorn, R.J. Brandes, Belgravia Financial Services, LLC	98–1004	12/24/97
John H. Sykes, Michael M. Gray, McQueen International Limited (a Scottish corporation)	98–1005	12/24/97
Michael M. Gray (a Scottish national), John H. Sykes, Sykes Enterprises, Incorporated	98–1006	12/24/97
Madison Dearborn Capital Partners II, LP, National Wholesale Liquidators of 34th Street, Inc., National Wholesale Liquidators of 34th Street, Inc	98–1010	12/24/97
Applied Graphics Technologies, Inc., Flying Color Graphics, Inc., Flying Color Graphics, Inc	98–1011	12/24/97
Philips Electronics N.V., Credit Lyonnais S.A. (a French corporation), Alpha Library Company, Inc.; Beta Library Co., Inc	98–1014	12/24/97
Northern States Power Company, Mid-Continent Power Company, Inc. (debtor-in-possession), Mid-Continent Power Company, Inc. (debtor-in-possession	98–1020	12/24/97
Liz Claiborne, Inc., Donna Karan International Inc., Donna Karan Studio; The Donna Karan Company	98–1021	12/24/97
ACC Corp., US WATS, Inc., US WATS, Inc	98–0731	12/26/97
General Electric Company, Stewart & Stevenson Services, Inc., Stewart & Stevenson Limited Partnership	98–0148	12/29/97
Donald L. Sturm, SpectraNet International, SpectraNet International	98–0997	12/29/97
Enron Corp., SpectraNet International, SpectraNet International	98–1001	12/29/97
ITT Industries, Inc., Charles H. Kaman, Kaman Sciences Corporation	98–0672	12/30/97
General Electric Company, Industrial Risk Insurers, Industrial Risk Insurers	98–1026	12/30/97
Destriz Gestao e Servicos Sociedade Unipessoal, Mr. Michael Christopherson, GP Companies, Inc	98–0822	12/31/97
Allen E. Paulson, Mr. John C. Waterfall, Elsinore Corporation	98–0835	12/31/97
American International Group, Inc., Newco-Joint Venture, Newco-Joint Venture	98–0951	12/31/97
Jeffrey J. Steiner, AlliedSignal Inc., AlliedSignal Inc	98–0973	12/31/97
Becton, Dickinson and Company, MedPlus, Inc., MedPlus, Inc	98–1015	12/31/97
Enron Corp., Catalytica, Inc., Catalytica Combustion Systems, Inc	98–1019	12/31/97
StorMedia Incorporated, Kubota Corporation (a Japanese corporation), Akashic Memories Corporation	98–1027	12/31/97
Freudenberg & Co. (a German Corporation), Arthur P. Frigo, M. B. Walton, Inc	98–1028	12/31/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 12–22–97 AND 12–31–97—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
UNYS, Inc., Upstate Holding Company, Inc., Upstate Holding Company, Inc	98–1031	12/31/97
Central Grocers Cooperative, Inc., Strack and Van Til Super Market, Inc., Strack and Van Til Super Market, Inc	98–1034	12/31/97
Sanford N. Pensler, Gordon S. Lang, CCL Custom Manufacturing Corp	98–1035	12/31/97
WinStar Communications, Inc., Telesoft Corp., Telesoft Acquisition Corp. II	98–1036	12/31/97
The General Electric Company, p.l.c., Marsh Company, Marsh Company	98–1037	12/31/97
General Electric Company, R.G. Darby, R.G. Darby Company, Inc. and Total Trim, Inc	98–1039	12/31/97
Aurora Equity Partners LP, Sal Cannizzaro, Innovative Lithographers, Inc	98–1041	12/31/97
Patriot American Hospitality Operating Company, CHC International, Inc., CHC International, Inc	98–1043	12/31/97
Ekco Group, Inc., FCP Southeast Investors IV, LP, APP Holding Corporation	98–1051	12/31/97
Mail-Well, Inc., James E. Sowell, Poser Business Forms, Inc	98–1053	12/31/97
Linsalata Capital Partners Fund II, LP, Craig Manchen, Highland Group Industries, LP	98–1056	12/31/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–1366 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 942–3278]

Howard S. Berg; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Russell W. Damtoft, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL. 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been flied with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 13, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Howard S. Berg.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns an efficacy claim made regarding Howard Berg's Mega Reading promoted by respondent. The Commission's complaint charges that respondent, in concert with Tru-Vantage International, L.L.C. and Kevin Trudeau, made a false and unsubstantiated claim that Howard Berg's Mega Reading is successful in teaching anyone, including adults, children and disabled individuals, to significantly increase their reading speed while substantially comprehending and retaining the material.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent this respondent from engaging in similar acts and practices in the future. The proposed order extends to any product or program purported to significantly increase one's reading speed.

Part I of the proposed consent order prohibits the respondent from representing that Howard Berg's Mega Reading, or any substantially similar product, is successful in teaching anyone, including adults, children and disabled individuals, to increase their reading speed above 800 words per minute while substantially comprehending and retaining the material. Part II of the proposed order prohibits the respondent from representing the performance, benefits, or efficacy of any product or program purported to significantly increase one's reading speed, unless the representation is substantiated.

The remaining parts of the proposed consent order require the respondent to maintain promotional and substantiation materials related to the claims covered by the order, to notify the Commission of any changes in his employment, and to file one or more compliance reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and

proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1363 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 942–3278]

Roger J. Callahan; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Russell W. Damtoft, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL 60603, (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 13, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Roger J. Callahan.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns efficacy claims made regarding Dr. Callahan's Addiction Breaking System promoted by respondent. The Commission's complaint charges that respondent, in concert with Mega Systems, Inc., made false and unsubstantiated claims that Dr. Callahan's Addiction Breaking System (1) Reduces an individual's compulsive desire to eat, leading to significant weight loss, (2) reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise, and (3) cures addictions and compulsions, including but not limited to, smoking, eating, and using alcohol or heroin.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. The proposed order extends to any weight loss product or program or any product or program purported to treat addictions or compulsions.

Part I of the proposed consent order prohibits the respondent from representing that Dr. Callahan's Addiction Breaking System, or any substantially similar product or program purported to treat addictions or compulsions, (1) reduces an individual's compulsive desire to eat, leading to significant weight loss, (2) reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise, or (3) cures addictions and compulsions, including but not limited to, smoking, eating, and using alcohol or heroin. Part II of the proposed order prohibits the respondent from representing the performance, benefits, or efficacy of any weight loss product or program or any product or program purported to treat addictions or compulsions, unless the representation is substantiated. Part III of the proposed order requires the respondent to pay fifty thousand dollars into a redress fund.

The remaining parts of the proposed consent order require the respondent to maintain promotional and substantiation materials related to the claims covered by the order, to notify the Commission of any changes in his employment, and to file one or more compliance reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1361 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 942–3278]

Jeanie Eller; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Russell W. Damtoft, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned

consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 13, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Jeanie Eller.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns success claims made regarding Jeanie Eller's Action Reading, a home-study phonetics program, promoted by respondent. The Commission's complaint charges that respondent, in concert with Mega Systems, Inc., made unsubstantiated claims that Jeanie Eller's Action Reading is successful in teaching reading 100% of the time. In fact, the complaint alleges, Jeanie Eller's Action Reading is not successful in teaching reading 100% of the time.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. The proposed order extends to Jeanie Eller Action Reading or any other product or program that provides instruction in any aspect of reading.

Part I of the proposed consent order prohibits the respondent from representing the extent to which individuals who use such product will learn to read or the success rate of individuals who use such product, unless the representation is substantiated.

The remaining parts of the proposed consent order require the respondent to maintain promotional and substantiation materials related to the claims covered by the order, to notify the Commission of any changes in her employment, and to file one or more compliance reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1362 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 942–3278]

Mega Systems International, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Avenue, N.W., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Russell W. Damtoft, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL. 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 13, 1998), on the World Wide Web, at ''http.//www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Mega Systems International, Inc. and Jeffrey Salberg.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertisements, including but not limited to infomercials, for five Mega Systems International products: Eden's Secret Nature's Purifying Product, Sable Hair Farming System, Kevin Trudeau's Mega Memory System, Dr. Callahan's Addiction Breaking System, and Jeanie Eller's Action Reading. This matter also concerns the deceptive format of the infomercials.

The Commission's complaint charges that respondents made false and unsubstantiated claims that Eden's Secret Nature's Purifying Product (1) causes significant weight loss, (2) will prevent or cure illnesses, including but not limited to fatigue, headaches, depression, arthritis, insomnia, immune suppression, and premenstrual syndrome, (3) will cleanse the body of

harmful toxins, and (4) will purify the body's blood supply.

The Commission's complaint also charges that respondents made false and unsubstantiated claims that Sable Hair Farming System (1) will stop, prevent, cure, relieve, reverse or reduce hair loss, (2) will promote the growth of hair where hair has already been lost, and (3) is superior to Rogaine and Minoxidil in stopping, preventing, curing, relieving, reversing or reducing hair loss. In addition, the Commission's complaint charges that respondents made the false claim that scientific studies demonstrate that Sable Hair Farming System is effective in stopping hair loss and promoting hair growth.

The Commission's complaint also charges that respondents made the false and unsubstantiated claim that Kevin Trudeau's Mega Memory System will enable users to achieve a photographic memory, and the unsubstantiated claim that Kevin Trudeau's Mega Memory System is effective in causing adults or children with learning disabilities or attention deficit disorder to substantially improve their memory. In addition, the Commission's complaint charges that respondents made false claims that (1) scientific studies of Kevin Trudeau's Mega Memory System on seventh-grade students demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their academic performance and grades, (2) scientific studies of Kevin Trudeau's Mega Memory System on blind children demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of 95% to 98%, (3) scientific studies of Kevin Trudeau's Mega Memory System on children with IQ's of fifty to sixty demonstrate that Kevin Trudeau's Mega Memory System will improve their recall ability to a level of almost 100%, and (4) scientific studies of Kevin Trudeau's Mega Memory System on children with attention deficit disorder demonstrate that Kevin Trudeau's Mega Memory System will substantially improve their memory.

The Commission's complaint also charges that respondents made false and unsubstantiated claims that Dr. Callahan's Addiction Breaking System (1) reduces an individual's compulsive desire to eat, leading to significant weight loss, (2) reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise, and (3) cures addictions and compulsions, including but not limited to, smoking, eating, and using alcohol or heroin. In addition, the Commission's complaint charges that respondents made the false claim that testimonials with regard to consumers' use of Dr. Callahan's Addiction Breaking System reflect the typical or ordinary experience of members of the public who use the product.

The Commission's complaint also charges that respondents made unsubstantiated claims that Jeanie Eller's Action Reading is successful in teaching reading 100% of the time. Finally, the Commission's complaint charges that respondents deceptively represented that their infomercials were independent television programs and not paid commercial advertising.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. The proposed consent order prohibits the respondents from representing that Eden's Secret Nature's Purifying Product, or any substantially similar product, (1) causes significant weight loss, (2) prevents or cures illnesses, including but not limited to fatigue, headaches, depression, arthritis, insomnia, immune suppression, and premenstrual syndrome, (3) will cleanse the body of harmful toxins, or (4) will purify the body's blood supply.

The proposed consent order also prohibits the respondents from representing that Sable Hair Farming System, or any substantially similar product, (1) will stop, prevent, cure, relieve, reverse or reduce hair loss, (2) will promote the growth of hair where hair has already been lost, or (3) is superior to Rogaine and Minoxidil in stopping, preventing, curing, relieving, reversing or reducing hair loss. In addition, the proposed consent order prohibits respondents from advertising, packaging, labeling, promoting, offering for sale, selling, or distributing any product that is represented as promoting hair growth or preventing hair loss, unless the product is the subject of an approved new drug application for such purpose under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 *et seq*.

The proposed consent order also prohibits the respondents from representing that Kevin Trudeau's Mega Memory System, or any substantially similar product, will enable users to achieve a photographic memory. In addition, the proposed consent order prohibits the respondents from representing that Kevin Trudeau's Mega Memory System, or any substantially similar product, is effective in causing adults or children with learning disabilities or attention deficit disorder to substantially improve their memory, unless, at the time the representation is made, respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

The proposed consent order also prohibits the respondents from representing that Dr. Callahan's Addiction Breaking System, or any substantially similar product or program, (1) reduces an individual's compulsive desire to eat, leading to significant weight loss, (2) reduces an individual's compulsive desire to eat, leading to significant weight loss without the need to diet or exercise, or (3) cures addictions and compulsions, including but not limited to, smoking, eating, and using alcohol or heroin.

The proposed consent order also prohibits the respondents from representing with respect to Jeanie Eller's Action Reading, or any other product or program that provides instruction in any aspect of reading, the extent to which individuals who use such product will learn to read or the success rate of individuals who use such product, unless the representation is substantiated.

The proposed consent order also prohibits the respondents from (1) misrepresenting the existence, contents, validity, results, conclusions or interpretations of any test, study or research, (2) representing the benefits, performance or efficacy of any product or program, unless the representation is substantiated, and (3) representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of the members of the public, unless the representation is substantiated or clearly and prominently qualified.

In addition, the proposed consent order prohibits the respondents from creating, producing, selling or disseminating (1) any advertisement that misrepresents that it is not a paid advertisement, (2) any television commercial or other video advertisement fifteen minutes in length or longer that does not clearly and prominently disclose within the first thirty seconds and immediately before each presentation of ordering instructions that the program is a paid advertisement for the product or service, and (3) any radio commercial or other radio advertisement five minutes in length or longer that does not broadcast clearly an audibly within the first thirty seconds and immediately before each presentation of ordering instructions or

periodically through the program, but no more than approximately ten minutes apart that the program is a paid advertisement for the product or service.

The proposed consent order also requires respondents to pay the Federal Trade Commission $500,000. The funds paid by the respondents shall, in the discretion of the Federal Trade Commission, be used to provide direct redress to consumers. If the Federal Trade Commission determines that consumer redress is impracticable or otherwise unwarranted, any funds not so used shall be paid to the United States Treasury.

The remaining parts of the proposed consent order require the respondents (1) to maintain promotional and substantiation materials related to the claims covered by the order, (2) to deliver a copy of the order to all current and future principals, officers, directors, and managers, and deliver a summary of the order to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, (3) to notify the Commission of any changes in the structure of the proposed corporate respondent, (4) to notify the Commission of any changes in employment of the individual respondent, and (5) to file one or more compliance reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1360 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 942–3278]

Tru-Vantage International, L.L.C.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker or Russell W. Damtoft, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 13, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Tru-Vantage International, L.L.C.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns an efficacy claim made regarding Howard Berg's Mega Reading promoted by respondent. The Commission's complaint charges that respondent, in concert with Howard S. Berg and Kevin Trudeau, made a false and unsubstantiated claim that Howard Berg's Mega Reading is successful in teaching anyone, including adults, children and disabled individuals, to significantly increase their reading speed while substantially comprehending and retaining the material.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. The proposed order extends to any product or program purported to significantly increase one's reading speed.

Part I of the proposed consent order prohibits the respondent from representing that Howard Berg's Mega Reading, or any substantially similar product, is successful in teaching anyone, including adults, children and disabled individuals, to increase their reading speed above 800 words per minute while substantially comprehending and retaining the material. Part II of the proposed order prohibits the respondent from representing the performance, benefits, or efficacy of any product or program purported to significantly increase one's reading speed, unless the representation is substantiated.

The remaining parts of the proposed consent order require the respondent to maintain promotional and substantiation materials related to the claims covered by the order, to provide a copy of the order to designated parties having responsibilities with respect to the subject matter of this order, to notify the Commission of any changes in the company structure, and to file one or more compliance reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1364 Filed 1–20–98; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection; Comment Request Entitled Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Equal Employment Opportunity, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0228).

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0228, ''Nondiscrimination in Federal Financial Assistance Programs.'' This information is needed to ensure that recipients of Federal financial assistance distribute Federal surplus property in a nondiscriminatory manner. A request for public comments was published at 62 FR 59713 on November 4, 1997. No comments were received.

DATES: February 20, 1998.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 18th & F Streets, NW, Washington, DC 20405.

Annual Reporting Burden

Respondents: 55;
Annual responses: 1;
Average hours per response: 16;
Burden hours: 16,200.

FOR FURTHER INFORMATION CONTACT: William Conley, Office of Equal Employment Opportunity, (202) 501–0767.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 18th & F Streets NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 12, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1401 Filed 1–20–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection; Comment Request Entitled Preparation, Submission, and Negotiation of Subcontracting Plans

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0252).

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0252, Preparation, Submission, and Negotiation of Subcontracting Plans. This information collection will ensure that small and small disadvantaged business concerns are afforded the maximum practical opportunity to participate as subcontractors in construction, repair, and alteration or less contracts. A request for public comments was published at 62 FR 55406 on October 24, 1997. No comments were received.

DATES: February 20, 1998.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 18th & F Streets, NW, Washington, DC 20405.

Annual Reporting Burden

Respondents: 1350;
Annual responses: 1;
Average hours per response: 12;
Burden hours: 16,200.

FOR FURTHER INFORMATION CONTACT: Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 18th & F Streets, NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 12, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1402 Filed 1–20–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

Proposed Collection Application/ Permit for Use of Space in Public Buildings and Grounds

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (3090–0044).

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), that it is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0044, ''Application/Permit for Use of Space in Public Buildings and Grounds.'' This GSA form is used by the general public to request the use of public space in Federal buildings for cultural, recreational or educational activities. A copy, sample, or description of any material or item proposed for distribution or display must also accompany the request. A request for public comments was published at 62 FR 59712 on November 4, 1997. No comments were received.

DATES: February 20, 1998.

ADDRESSES: Send comments to Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 18th & F Streets, NW, Washington, DC 20405.

Annual Reporting Burden

Respondents: 8000;
Annual responses: 1;
Average hours per response: 0.05;
Burden hours: 666.

FOR FURTHER INFORMATION CONTACT: Charlene Heeter, Public Buildings Service (202) 208–0214.

Copy of Proposal

A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 18th & F Streets NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 12, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1404 Filed 1–20–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will continue addressing (1) The protection of the rights and welfare of human subjects in research including research subjects with decisional impairments and (2) issues in tissue storage as they relate to genetic information. The meeting is open to the public and opportunities for statements by the public will be provided.

Dates/times	Location
February 5, 1998, 1:00 a.m.–5:00 p.m.; February 6, 1998, 8:00 a.m.–5:00 p.m.	OMNI Los Angeles Hotel & Center, 930 Wilshire Boulevard, Los Angeles, CA 90017.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space.

Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below prior to the meeting as soon as possible. The Chair will reserve time for presentations by persons requesting to speak. The order of speakers will be assigned on a first come, first serve basis. Individuals unable to make oral presentations are encouraged to mail or fax their comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, National Bioethics Advisory Commission.

[FR Doc. 98–1406 Filed 1–20–98; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–09]

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. *Surveillance of Hazardous Substances Emergency Event*—(0923–0008)—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. The primary purpose of this activity, which ATSDR has supported since 1992, is to develop, implement, and maintain a state-based surveillance system for hazardous substances emergency events which can be used to: (1) Describe the distribution of the hazardous substance releases; (2) describe the public health consequences (morbidity, mortality, and evacuations) associated with the events; (3) identify risk factors associated with the public health consequences; and (4) propose strategies to reduce future public health consequences. The study population will consist of all hazardous substance nonpermitted acute releases within the 13 states (Alabama, Colorado, Iowa, Minnesota, Mississippi, Missouri, New York, North Carolina, Oregon, Rhode Island, Texas, Washington, Wisconsin) participating in the surveillance system.

Until this system was developed and implemented, there was no national public health-based surveillance system to coordinate the collation, analysis, and distribution of health data to public health practitioners. It was necessary to establish this national surveillance system which describes the impact of hazardous substances emergencies on the health of the population of the United States. The data collection form will be completed by the state health department HSEES coordinator using information provided by a variety of sources including environmental protection agencies, police, firefighters, emergency response personnel; or researched by the HSEES coordinator including census data, material safety data sheets, and chemical handbooks. There is no cost to respondents.

We are requesting a 3-year extension.

Respondents	Number of respondents	Number of responses/respondent	Avg burden/response (in hrs)	Total burden (in hrs)
State coordinator	13 states	332	1	4,316

2. *Long Term Health Effects of Methyl Parathion in Children*—a Follow-Up Study—New—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. Children were exposed to Methyl Parathion (MP) via illegal indoor residential spraying of MP for pest control in nine states. All of these sprayed areas have been designated as CERCLA sites and placed on the National Priorities List (NPL) for conducting remedial actions. The MP sites consist of contaminated residences and businesses spread over several counties and states, intermingled with other building structures that were never sprayed with MP, making targeted remedial actions more challenging.

This study of children exposed to MP and children not exposed, but matched on age, sex, and race will provide critical public health information for the gap in data regarding the effects of lower dose, sub-acute exposure on neurobehavioral and respiratory development. The study population will consist of children under 6 years of age at the time of exposure (exposed group), whose residences in Ohio and Mississippi were illegally sprayed with MP since 1994, and matched with unexposed children (unexposed group). No data exist regarding low dose, sub-acute exposure to MP in children. The goal of this study is to examine the association between lower dose, sub-acute MP exposure in children, specifically from indoor spraying, and the risk of adversely affecting normal neurobehavioral and respiratory development.

The questionnaire will be administered in person by trained interviewers to the mothers (fathers or other guardians, if the mother is not available) of the exposed and unexposed children. The Pediatric Environmental Neurobehavioral Test Battery (PENTB) will be administered by personnel trained in the neurobehavioral assessment of children at annual intervals for the three study years. Other than the time to participate, there will be no cost to respondents.

Respondent questionnaire	Number of respondents	Number of responses/ respondent	Avg burden/ response (in hrs)	Total annual burden (in hrs)
Parent/Child (general)	537	1	1	537
(PENTB)	537	1	1.25	671
Total				1,208

Dated: January 14, 1998.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1323 Filed 1–20–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 817]

National Institute for Occupational Safety and Health; Childhood Agricultural Safety and Health Research; Notice of Availability of Funds for Fiscal Year 1998

Introduction

The Centers for Disease Control and Prevention (CDC) announces that applications are being accepted for research on childhood agricultural safety and health. Projects are sought to conduct research on risk factors for agricultural injuries associated with child development, social and economic consequences associated with youth workers, and the design and/or evaluation of strategies to prevent childhood agricultural injuries. Findings from these projects are intended to advance the scientific base of knowledge needed to maximize the safety and health of children exposed to agricultural production hazards.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of ''Occupational Safety and Health'' and ''Unintentional Injuries.'' (For ordering a copy of ''Healthy People 2000,'' see the section **Where to Obtain Additional Information**.)

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301(a) (42 U.S.C. 241(a)), and the Occupational Safety and Health Act of 1970, Section 20(a) (29 U.S.C. 669(a)). The applicable program regulation is 42 CFR Part 52.

Eligible Applicants

Eligible applicants include non-profit and for-profit organizations, universities, colleges, research institutions, and other public and private organizations, including State and local governments, and small, minority and/or woman-owned businesses.

Note: Pub. L. 104–65, dated December 19, 1995, states that an organization described in section 501(c)(4) of the IRS Code of 1986, which engages in lobbying activities, shall not be eligible for the receipt of Federal funds constituting an award, a grant, contract, loan, or any other form.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Availability of Funds

About $1,000,000 is available in fiscal year (FY) 1998 to fund approximately 5–6 project grants in three priority research areas: (1) Risk factors for agricultural injuries associated with child development (1–2 awards); (2) social and economic consequences associated with youth workers (2–3 awards); and, (3) the design and/or evaluation of strategies to prevent childhood agricultural injuries (2–3 awards). Awards are anticipated to range from $150,000 to $200,000 in total costs (direct and indirect) per year.

The amount of funding available may vary and is subject to change. Awards are expected to begin on or about September 1, 1998. Awards will be made for a 12-month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the current HHS Appropriations Act expressly prohibits the use of 1998 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. Section 503 of the law provides as follows:

(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Agricultural production, which consistently ranks among the industries with the highest rates of work-related injuries and deaths in the United States, is unique with respect to children and adolescents. Compared to nonagricultural industries, coverage and protections of Federal child labor laws are limited, work by youth under 14 years of age is common, and childhood exposures to work hazards are not confined to working youths. Research is needed to facilitate the appropriate prioritization of efforts to prevent childhood injuries and illnesses associated with agricultural production, and expand the knowledge base for the development and implementation of effective and appropriate intervention strategies.

Federal child labor laws are organized by agricultural and nonagricultural work. Whereas the minimum age for employment in nonagricultural industries is 14 years, there are provisions which allow for agricultural employment of children as young as 10 years of age. Although work declared hazardous by the Secretary of Labor is prohibited for youths less than 18 years of age in nonagricultural industries, in agriculture, it is prohibited for youths less than 16 years of age, and only then for youths formally employed off the family farm. Federal child labor regulations contain a statutory exemption which permits the children of farmers to perform any job at any age on a family farm.

Data on employment of youths less than 15 years of age are not routinely collected or reported. Children less than 15 years of age are known to work, especially in agriculture. In 1996, an estimated 261,000 youths 16–19 years of age were employed in agriculture, accounting for 4 percent of working youths in this age group. It is reported that 81 percent of these agricultural youth workers were wage and salary workers, 11 percent were self-employed, and 7 percent were unpaid family workers. The Bureau of Labor Statistics (BLS) reports 114 agricultural work-related deaths of youths 16–19 years of age for the years 1992–1996, accounting for a disproportionate 15 percent of work-related deaths among this age group during this period. Further, BLS reports 87 agricultural work-related deaths of youth less than 16 years of age during this period, a group for which employment data are not available.

An estimated 2,100 injuries serious enough to require time away from work occurred among working youth 14–19 years of age on farms with at least 11 employees in 1994. Estimates of serious injuries on farms with fewer than 11 employees are not available. A couple of studies have suggested that among youth, work-related injuries in agriculture tend to be more serious than injuries in other industries. Farm machinery, stored grain, power lines, manure pits, ponds, and livestock are among injury hazards in agricultural workplaces.

Children and adolescents may be exposed to agricultural production hazards not only through work activities, but by virtue of living on a farm or ranch, accompanying their parents to work, or visiting farms or ranches. In 1991, an estimated 1.3 million youth less than 20 years of age resided on farms or ranches. Another 800,000 children lived in households of hired farm workers. Data from 1991 through 1993 suggested that 100 children and adolescents die annually from farm injuries, with about 45 percent of the deaths occurring among youth less than 10 years of age. Recent data suggest that about 100,000 children suffer a nonfatal injury associated with agricultural production each year. The monetary and social costs of these injuries are unknown, but they are needed to form and evaluate prevention efforts.

In April 1996, the National Committee for Childhood Agricultural Injury Prevention (NCCAIP) published a National Action Plan toward maximizing the safety and health of all children and adolescents who may be exposed to agricultural hazards. This National Action Plan, which includes 13 objectives and 43 recommended action steps, was based on input from 42 members representing the public and private sector. The National Action Plan calls for funding of research and safety programs by the Federal government, foundations, agribusiness, and other private-sector groups.

Congress allocated FY 1997 and FY 1998 funds to NIOSH to facilitate the implementation of this National Action Plan. This announcement and expected awards are one component in the process of NIOSH implementation of the National Action Plan. This announcement extends, with slight modifications, the research areas in announcement (RFA #725) published in FY 1997.

Research studies which result from this announcement are intended to advance the following objectives in the proposed National Action Plan: establish guidelines for children's and adolescents' work in the industry of agriculture; conduct research on costs, risk factors, and consequences associated with children and adolescents who participate in agricultural work; use systematic evaluation to ensure that educational materials and methods targeted toward childhood agricultural safety and health have demonstrated positive results; influence adult behaviors which affect protection of children and adolescents through the use of incentives and adoption of voluntary safety guidelines; and, provide a protective and supportive environment for children exposed as bystanders to agricultural hazards.

Purpose

NIOSH seeks to maximize the safety and health of children and adolescents exposed to agricultural production

hazards by expanding the knowledge base regarding risk factors for agricultural injuries associated with child development, social and economic consequences associated with youth workers, and the design and/or evaluation of strategies to prevent childhood agricultural injuries. Research may address children directly involved in work tasks and/or other children exposed to agricultural production hazards. The funded research projects should cover a variety of types of agricultural production in different geographical regions (e.g., tomato harvesting in California, blueberry picking in Maine, and cotton harvesting in the South).

Programmatic Interest

The focus of these grants should facilitate progress in maximizing the safety and health of children and adolescents exposed to agricultural hazards. The rationale for the significance of the research and application to the prioritization, development, or implementation of intervention efforts must be developed in the proposal. Proposals are being accepted which focus on one of three research areas: risk factors for agricultural injuries associated with child development, social and economic consequences associated with youth workers, and the design and/or evaluation of strategies to prevent childhood agricultural injuries. Proposals should identify the focus or foci of the research program: risk factors, consequences, and/or interventions; types and geographical distribution of agricultural production which will be addressed, and size and characteristics of child and adolescent populations which can potentially be impacted by research findings.

1. Risk Factors for Agricultural Injuries Associated with Child Development

The intended focus of this research is on non-modifiable risk factors for childhood agricultural injury which are associated with child development. This research is needed to guide the development of age- and developmentally-appropriate guidelines for work and protection of non-working children. Potential research areas follow for illustrative purposes only, and should not be considered boundaries for proposed research questions. Youths who are still maturing may not meet the anthropometric and strength requirements of various agricultural machines, tools, personal protective equipment, and work tasks. Physical maturation and growth may result in unique susceptibilities to physical and chemical work exposures. Cognitive requirements of tasks and safe negotiation of agricultural hazards may exceed cognitive capabilities of children and adolescents. Feelings of invulnerability, lack of perception of risk, and a desire to demonstrate competence and independence may contribute to childhood exposures to agricultural hazards. Fatigue resulting from balancing demands of school and work, the need for intensive work during harvest periods, and inadequate sleep may contribute to injury. Both laboratory- and field-based research are appropriate for this priority area of research.

2. Social and Economic Consequences Associated With Youth Workers

Data on social and economic consequences of injury and disease outcomes are needed to understand the magnitude and scope of the injury problem to allow the appropriate prioritization of prevention efforts. Data on positive as well as negative outcomes of youth's involvement in agriculture are needed to develop a balanced response to protecting children. Examples of research efforts which are appropriate under this priority area include, but are not limited to: studies to estimate the societal and economic costs and consequences associated with childhood agricultural injury; assessments of short-and long-term disability from injuries; assessment of short- and long-term psychosocial outcomes related to children's and adolescents' participation in different types of agricultural work; physical assessments of children and adolescents who have been exposed to agricultural hazards such as agricultural chemicals, organic dusts, toxic gases, nitrates, volatile organic compounds, oils and solvents; and, studies of the impact of noise, vibration, cumulative trauma, and other work-induced health hazards on children and adolescents participating in agricultural work.

3. Design and/or Evaluation of Strategies to Prevent Childhood Agricultural Injuries

Strategies for preventing childhood agricultural injuries include control technology to minimize or remove hazards, regulations which mandate safe working conditions or prohibit particularly dangerous activities by youth, and educational efforts to raise awareness of hazards and change behavior. There are numerous research and prevention activities aimed at increasing awareness of hazards and changing behavior among children and adolescents. The intent of this request for applications is to facilitate research to design and/or evaluate prevention programs which do not rely solely on educating children and adolescents about hazards. Examples of research efforts which are appropriate under this priority area include, but are not limited to: evaluation of mechanisms, such as monetary incentives, to influence positive safety behaviors of farm and ranch owners and operators, parents, caregivers, and manufacturers; planning, implementation, and evaluation of structural and machinery design options to provide a protective environment for children at the farm work site; design, implementation and evaluation of community-based programs, such as community-provided daycare during harvest periods, to enhance the safety and well-being of children who may be exposed as bystanders to agricultural hazards; and, studies to determine the relative effectiveness of education, engineering, voluntary incentives, and mandatory standards on childhood agricultural injury reduction.

The research needs identified in this announcement are consistent with the National Occupational Research Agenda (NORA) developed by NIOSH and partners in the public and private sectors to provide a framework to guide occupational safety and health research in the next decade towards topics which are most pressing and most likely to yield gains to the worker and the nation. The agenda identifies 21 research priorities. Research priorities with specific relevance to this announcement are: traumatic injuries; special populations at risk; control technology and personal protective equipment; intervention effectiveness research; and social and economic consequences of workplace illness and injury. The NORA document is available through the NIOSH Home Page; http://www.cdc.gov/niosh/nora.html.

Potential applicants with questions concerning the acceptability of their proposed work are strongly encouraged to contact the technical information contact listed in this announcement in the section **Where to Obtain Additional Information**.

Reporting Requirements

Progress reports are required annually as part of the continuation application (75 days prior to the start of the next budget period). The annual progress reports must contain information on accomplishments during the previous budget period and plans for each remaining year of the project. Financial status reports (FSR) are required no later

than 90 days after the end of the budget period.

The final performance and financial status reports are required 90 days after the end of the project period. The final performance report should include, at a minimum, a statement of original objectives, a summary of research methodology, a summary of positive and negative findings, and a list of publications resulting from the project. Research papers, project reports, or theses are acceptable items to include in the final report. The final report should stand alone rather than citing the original application. Three copies of reprints of publications prepared under the grant should accompany the report.

Evaluation Criteria

Upon receipt, applications will be reviewed by CDC for completeness and responsiveness. Applications determined to be incomplete or unresponsive to this announcement will be returned to the applicant without further consideration. If the proposed project involves organizations or persons other than those affiliated with the applicant organization, letters of support and/or cooperation must be included.

Applications that are complete and responsive to the announcement will be reviewed by an initial review group and will be determined to be competitive or non-competitive, based on the review criteria relative to other applications received. Applications determined to be non-competitive will be withdrawn from further consideration and the principal investigator/program director and the official signing for the applicant organization will be promptly notified. Applications judged to be competitive will be discussed and assigned a priority score. Following initial review for scientific merit, the applications will receive a secondary review for programmatic importance.

Review criteria for scientific merit are as follows:

1. Technical significance and originality of proposed project.
2. Appropriateness and adequacy of the study design and methodology proposed to carry out the project.
3. Qualifications and research experience of the Principal Investigator and staff, particularly but not exclusively in the area of the proposed project.
4. Availability of resources necessary to perform the project.
5. Documentation of cooperation from collaborators in the project, where applicable.
6. Adequacy of plans to include both sexes and minorities and their subgroups as appropriate for the scientific goals of the project. (Plans for the recruitment and retention of subjects will also be evaluated.)
7. Appropriateness of budget and period of support.
8. Human Subjects—Procedures adequate for the protection of human subjects must be documented. Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and the Initial Review Group has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Review criteria for programmatic importance are as follows:

1. Magnitude of the problem in terms of numbers of youth workers affected.
2. Severity of the injury or disease in the youth population.
3. Usefulness to applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards in agriculture on a national or regional basis.

The following will be considered in making funding decisions:

1. Merit of the proposed project as determined by the initial peer review.
2. Programmatic importance of the project as determined by secondary review.
3. Availability of funds.
4. Program balance among priority areas of this announcement.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Human Subjects

The applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurances must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Women and Racial and Ethnic Minorities

It is the policy of the CDC to ensure that women and racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, and Hispanic or Latino. Applicants shall ensure that women and racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is not feasible, this situation must be explained as part of the application. In conducting the review of applications for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and assigned score. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, Friday, September 15, 1995, pages 47947–47951.

Application Submission and Deadlines

A. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Officer (whose address is reflected in section B, ''Applications''). It should be postmarked no later than March 3, 1998. The letter should identify the announcement number, name of principal investigator, and specify the priority area to be addressed by the proposed project. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and will ensure that each applicant receives timely and relevant information prior to application submission.

B. Applications

Applicants should use Form PHS–398 (OMB Number 0925–0001) and adhere to the ERRATA Instruction Sheet for Form PHS–398 contained in the Grant Application Kit. Please submit an original and five copies on or before April 16, 1998 to: Ron Van Duyne, Grants Management Officer, ATTN: Joanne Wojcik, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, MS E–13, Atlanta, GA 30305.

C. Deadlines

1. Applications shall be considered as meeting a deadline if they are either:

a. Received at the above address on or before the deadline date, or

b. Sent on or before the deadline date to the above address, and received in time for the review process.

Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailings.

2. Applications which do not meet the criteria above are considered late applications and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked your name, address, and telephone number and will need to refer to Announcement 817. You will receive a complete program description, information on application procedures, and application forms. In addition, this announcement is also available through the CDC Home Page on the Internet. The address for the CDC Home Page is (http://www.cdc.gov).

If you have questions after reviewing the contents of all the documents, business management information may be obtained from Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS E–13, Atlanta, GA 30305, telephone (404) 842–6535; fax: (404) 842–6513; Internet: jcw6@cdc.gov.

Programmatic technical assistance may be obtained from Roy M. Fleming, Sc.D., Director Research Grants Program, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Building 1, Room 3053, MS–D30, Atlanta, GA 30333, telephone 404–639–3343; fax 404–639–4616; internet: rmf2@cdc.gov.

Please refer to announcement number 817 when requesting information and submitting an application.

This and other CDC Announcements can be found on the CDC homepage (http://www.cdc.gov) under the ''Funding'' section, as well as on the NIOSH homepage (http://www.cdc.gov/niosh/homepage.html) under ''Funding Opportunities/Extramural Programs.'' For your convenience, you may be able to retrieve a copy of the PHS Form 398 from (http://www.nih.gov/grants/funding/phs398/phs398.html). CDC will not send application kits by facsimile or express mail.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Useful References

The following documents may also provide useful information: National Committee for Childhood Agricultural Injury Prevention. Children and Agriculture: Opportunities for Safety and Health. Marshfield, WI: Marshfield Clinic, 1996.

National Institute for Occupational Safety and Health. National Occupational Research Agenda. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, DHHS (NIOSH) Publication No. 96–115 (http://www.cdc.gov/niosh/nora.html).

Dated: January 14, 1998.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1331 Filed 1–20–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98019]

Fiscal Year 1998 Pfiesteria-Related Illness Surveillance and Prevention

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for cooperative agreements for Pfiesteria-Related Illness Surveillance and Prevention. These cooperative agreements are intended to strengthen and provide interstate uniformity for surveillance programs, epidemiologic and laboratory investigations, prevention and control activities, and identification of exposed cohorts at the State and local levels.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section **Where to Obtain Additional Information**.)

Authority

This program is authorized under section 301(a) and 317 of the Public Health Service Act, (42 U.S.C. 241(a) and 247b), as amended.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds and in which education, library, day care, health care, and early childhood development services are provided to children.

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative

agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the current HHS Appropriations Act expressly prohibits the use of appropriated funds for indirect or grass roots lobbying efforts that are designed to support or defeat legislation pending before State legislatures.

Section 503 of the law provides as follows:

(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Eligible Applicant

Applicants will be limited to the official State public health departments of States having confirmed (i.e., cases meeting the CDC set of exposure criteria and clinical signs and symptoms for Pfiesteria) or suspected cases of Pfiesteria-related illness that are being investigated by State health departments, or those States with coastal waters that have been infected by Pfiesteria or Pfiesteria-like organisms.

The CDC set of exposure criteria and clinical signs and symptoms for Pfiesteria are defined as: Exposure to estuarine water characterized by one of the following: (1) Fish with lesions consistent with *Pfiesteria piscicida* or morphologically related organisms (MRO) toxicity (20 percent of at least 50 fish of one species having lesions); (2) a fish kill with fish having lesions consistent with Pfiesteria or MRO toxicity; or (3) a fish kill involving fish without lesions, in the presence of Pfiesteria or MRO, without an alternative reason for the fish kill. The clinical features include the following signs and symptoms: (1) Memory loss, (2) confusion, (3) acute skin burning (upon direct contact with water), or (4) three or more of the following: a. headaches; b. skin rash; c. eye irritation; d. upper respiratory irritation; e. muscle cramps; f. nausea/vomiting/diarrhea/abdominal cramps.

Availability of Funds

Up to $3.5 million will be available in FY 1998 to fund up to 8 awards. Awards for the initial budget period will be based upon the extent of the problem and are expected to range from approximately $150,000 to $450,000. The awards will be made on or about March 15, 1998, for a 12-month budget period and a project period of up to 5 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of the Pfiesteria-related Surveillance and Prevention Program is to assist State/local public health departments with: (1) Surveillance activities for adverse human health outcomes and exposure to infected waters; (2) epidemiologic studies including objective review of human health outcomes; (3) laboratory investigations; and (4) prevention and control activities.

Program Requirements

Cooperative Activities

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities).

A. Recipient Activities

The following activities should be planned and conducted in collaboration and coordination with CDC by State/local health departments, and, where appropriate, in consultation with:

—Appropriate State and local professional associations;
—Health care providers and institutions serving, diagnosing, or providing treatment and care for persons having Pfiesteria-related symptoms, including laboratories conducting testing;
—Community groups and organizations.
—Universities and health research agencies.

Specific surveillance and prevention activities should:

1. Identify individuals with high risk of exposure to Pfiesteria-infected waters.

2. Conduct investigation of all cases of Pfiesteria-related illnesses meeting the CDC set of exposure conditions and clinical signs and symptoms to determine risk factors for illness and to provide clinical materials for laboratory confirmation.

3. Develop and conduct surveillance activities to identify potential sources of exposure to Pfiesteria or Pfiesteria-like organisms, and provide samples to CDC for additional laboratory analysis.

4. Assess clinical data on persons with Pfiesteria-related illnesses to assist in guiding the development of treatment strategies.

5. Develop and implement appropriate prevention strategies and develop information materials for use by health professionals and the public to aid in prevention and control of Pfiesteria-related illness.

B. CDC Activities

1. Provide consultation and scientific and technical assistance and training, in planning, implementing, and evaluating Pfiesteria exposure cohort studies, surveillance, epidemiologic research, laboratory and prevention activities.

2. Assist in developing a format for reporting surveillance data including case report forms, database, and assistance in establishing and maintaining the reporting system.

3. Bank and conduct laboratory analysis of biological specimens.

4. Participate with States to finalize mutually agreed upon standardized study protocols and, where appropriate, data collection instruments for the projects/studies.

5. Coordinate clinical evaluations and studies to assure comparability of data and therapeutic protocols.

6. Provide or assist in preparing standard data collection forms, questionnaires, etc., as needed in surveillance activities and special epidemiologic investigations.

7. Assist in the evaluation of the overall effectiveness of program operations, including the impact of surveillance data on the development of public policy, and on targeting and evaluating prevention activities.

8. Participate in the analysis of information and data gathered from program activities and facilitate the transfer of information and technology among all States and communities.

Technical Reporting Requirements

An original and two copies of a semiannual progress report must be submitted 30 days after the end of each semiannual period. Final financial and performance reports are due no later than 90 days after the end of the project period. All reports will be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Application Content

Applications must be developed in accordance with PHS Form 5161–1 (OMB Number 0937–0189), information contained in the program announcement and the instructions and format provided below.

1. Abstract

A one-page, single spaced, typed abstract must be submitted with the application. The heading should include the title of the grant program, project title, organization name and address, project director and telephone number. The abstract should briefly summarize the program for which funds are requested, the activities to be undertaken, and the applicants's organization and composition. The abstract should follow application forms and precede the Program Narrative.

2. Program Narrative

The Program Narrative should specifically address all items in the **Program Requirements** section of this announcement. The applicant should provide a description of the planned first year activities, and briefly describe future year objectives and activities. The criteria listed in the **Evaluation Criteria** section will serve as the basis for evaluating the application; therefore, the narrative of the application should address the following.

a. Applicant's understanding of the problem.

b. Applicant's ability to carry out the project.

c. Technical and program personnel capability.

d. Women, Racial and Ethnic Minorities. A description of the proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

e. Budget justification.

f. Human Subjects review: The project involves research on human subjects, and therefore, the applicant must describe and demonstrate that the project has been subject to initial review by an appropriate institutional review committee, and that continuing review will occur. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and Human Subjects Assurance form provided in the application kit.

The Program Narrative section should not exceed 40 double-spaced pages excluding attachments (e.g., resumes, appendices, etc.). Do not include a detailed budget or detailed budget justification as part of the Program Narrative.

An original application and two copies should be submitted. The original and each copy of the application must be submitted unstapled and unbound. All material must be typewritten, double-spaced, with un-reduced type on 8½″ by 11″ paper, with at least 1″ margins, headers and footers, and printed on one side only.

All graphics, maps, overlays, etc., should be in black and white and meet the above criteria.

Omissions or incomplete information may affect the rating of the application.

Evaluation Criteria

Each application will be reviewed and evaluated individually according to the following criteria:

A. Understanding of the Problem—25 Points

Extent to which the applicant understands the purpose and requirements of the program. This includes the extent of the applicant's identification and description of the problem, the realistic presentation of objectives to establish effective surveillance system and prevention programs, and evaluation criteria established to assess surveillance, epidemiologic research, and prevention activities.

B. Ability to Carry Out the Project—25 Points

Degree to which the applicant provides evidence of ability to carry out the proposed project and the extent to which the applicant documents demonstrated capability to achieve the objectives of the proposed program. This may include plans, approaches, and methods to be used in conducting and evaluating surveillance, epidemiologic research, and prevention programs, and may include collaborating with universities or other health research agencies.

C. Technical Approach—20 Points

Degree to which proposed objectives are clearly stated, realistic, measurable, time-phased, and related to the stated purpose of this project. Also, the adequacy of the proposed surveillance, epidemiologic research, and prevention plans to achieve the objectives. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed project. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; and (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits will be documented.

D. Personnel—20 Points

Extent to which professional personnel involved in this project are qualified, including evidence of experience similar to this project.

E. Plans for Administration—10 Points

Adequacy of plans for administering the project.

F. Funding Requirements—(Not Weighted)

Itemized budget for conducting the project, along with justification, is provided and is reasonable.

G. Human Subjects—(Not Weighted)

The extent to which the applicant complies with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects.

Executive Order 12372

Applications are subject to the Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372.

E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the application and receive any necessary instructions on the State process. Since the proposed project will serve more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on the application submitted to CDC, they should forward them to Ron Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 321, Mailstop E–13, Atlanta, Georgia 30305, no later than 60 days after the receipt date of the application.

The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number for this program is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

The applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurances must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the CDC to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exists that inclusion is inappropriate or not reasonable, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, Friday, September 15, 1995, pages 47947–47951 (a copy is included in the application kit).

Application Submission and Deadline

The original and two copies of the application, PHS Form 5161–1 (OMB Number 0937–0189), must be submitted to Ron Van Duyne, Grants Management Officer, Attention: Patrick A. Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Room 321, Atlanta, Georgia 30305, on or before February 23, 1998.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications shall not be considered in the current competition for funding and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked to leave your name, address, and telephone number and will need to refer to NCEH Announcement 98019. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail.

Please refer to announcement number 98019 when requesting information and submitting an application.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Patrick Smith, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–13, Atlanta, Georgia 30305, telephone (404) 842–6803, Internet: phs3@cdc.gov.

Programmatic technical assistance may be obtained from Lawrence E. Posey, Health Studies Branch, Division of Environmental Health, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop F–46, Atlanta, Georgia 30333, telephone (770) 488–7350, Internet: lep1@cdc.gov.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report; Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report; Stock No. 017–001–00473–1) referenced in the **INTRODUCTION** may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is: http://www.cdc.gov.

Dated: January 14, 1998.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1327 Filed 1–20–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0531]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by February 20, 1998.

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

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed

collection of information to OMB for review and clearance.

Exemptions and Variances from the Performance Standard for Electrode Lead Wires and Patient Cables

FDA regulations in part 898 (21 CFR part 898) mandate a performance standard for electrode lead wires and patient cables. The purpose of the performance standard is to prevent electrocution from the use of unprotected electrode lead wires and patient cables with medical devices. To provide maximum flexibility in situations where the electrical accidents can be prevented in other ways, § 898.14 provides that any person subject to the performance standard may submit a petition under 21 CFR 10.30 requesting an exemption or variance from the standard. The petition must demonstrate why compliance with the standard is unnecessary or unfeasible and what alternate means will be used to protect the public health. FDA will use this information to determine whether granting an exemption is in the best interests of the public health. Allowing for exemptions and variances will provide for flexibility while assuring public health protection. Section 898.14 is stayed pending OMB clearance. FDA will announce the effective date of § 898.14 in the **Federal Register**. Anticipated respondents to this collection of information are medical device manufacturers and distributors, and health care facilities.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
10.30	50	1	50	10	500

[1] There are no capital costs or operating maintenance costs associated with this collection of information.

Dated: January 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1294 Filed 1–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0015]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of class II (special controls) devices, subject to certain limitations, that are now exempt from the premarket notification requirements under the Food and Drug Administration Modernization Act of 1997 (the FDAMA). FDA believes that these exemptions will relieve manufacturers from the need to submit premarket notification submissions for these devices and will enable FDA to redirect the resources that would be spent on reviewing such submissions to more significant public health issues. FDA is taking this action in order to meet a requirement of the FDAMA.

DATES: Effective January 21, 1998. Comments on this notice should be submitted within 90 days of publication. The agency will review any comments submitted within the 90-day comment period and will consider whether the list of class II devices that are exempt from the premarket notification requirements should be modified.

ADDRESSES: Submit written comments on this notice to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Pub. L. 94–295)), as amended by the the Safe Medical Devices Act of 1990 (the SMDA (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(I) of the act to a legally marketed device that does not require premarket approval. Unless exempted from premarket notification requirements, persons may not market a new device, under section 510(k), unless they receive a substantial equivalence order from FDA or an order reclassifying the device into class I or class II (section 513(I) of the act).

On November 21, 1997, the President signed into law the FDAMA. Section

206 of the FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of the FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act (generally referred to as a premarket notification or ''510(k)'') to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**.

Section 510(m)(2) of the act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

In considering whether to exempt class II devices from premarket notification, FDA focused on whether premarket notification for the type of device is necessary to provide reasonable assurance of safety and effectiveness of the device. FDA considered the following factors: (1) The device does not have a significant history of false or misleading claims or of risks associated with inherent characteristics of the device, such as device design or materials (when making these determinations, FDA has considered the risks associated with false or misleading claims, and the frequency, persistence, cause or seriousness of the inherent risks of the device); (2) characteristics of the device necessary for its safe and effective performance are well established; (3) changes in the device that could affect safety and effectiveness will either: (a) Be readily detectable by users by visual examination or other means such as routine testing, before causing harm, e.g., testing of a clinical laboratory reagent with positive and negative controls; or (b) not materially increase the risk of injury, incorrect diagnosis, or ineffective treatment; and (4) any changes to the device would not be likely to result in a change in the device's classification.

FDA also considered that even when exempting devices, these devices would still be subject to the limitations on exemptions, as described in section III of this document.

III. Limitations on Exemptions

The exemption from the requirement of premarket notification for a generic type of device listed in this document applies only to those devices that have existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type, or, in the case of in vitro diagnostic devices, for which a misdiagnosis, as a result of using the device, would not be associated with high morbidity or mortality. Accordingly, a class II device listed in this document is not exempt if such device: (1) Has an intended use that is different from the intended use of a legally marketed device in that generic type; e.g., the device is intended for a different medical purpose, or the device is intended for lay use instead of use by health care professionals; or (2) operates using a different fundamental scientific technology than that used by a legally marketed device in that generic type; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using a deoxyribonucleic acid (DNA) probe or nucleic acid hybridization or amplification technology rather than culture or immunoassay technology; or (3) is an in-vitro device: That is intended for use in the diagnosis, monitoring or screening of neoplastic diseases with the exception of immunohistochemical devices; is intended for use in screening or diagnosis of familial and acquired genetic disorders, including inborn errors of metabolism; is intended for measuring an analyte which serves as a surrogate marker for screening, diagnosis, or monitoring life threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction, or to monitor therapy; is intended to assess the risk of cardiovascular diseases; is intended for use in diabetes management; is intended to identify or infer the identity of a microorganism directly from clinical material; is intended for detection of antibodies to microorganisms other than immunoglobulin G (IgG) and IgG assays when the results are not qualitative, or are used to determine immunity, or the assay is intended for use in matrices other than serum or plasma; uses noninvasive testing; is intended for near-patient testing (point of care).

Class II devices incorporating such changes or modifications are not exempt from premarket notification because FDA has determined that premarket notification is necessary to assure the safety and effectiveness of the device.

In addition to the general limitation on exemptions that applies to all class II devices that are described previously, FDA may limit the exemption from premarket notification requirements to certain devices within a generic class. For example, FDA, in section IV of this document, is listing the exemption of the biofeedback device, but limits the exemption to prescription battery powered devices that are indicated for relaxation training and muscle reeducation. All other biofeedback devices are still subject to premarket notification requirements because FDA determined that premarket notification was necessary to provide a reasonable assurance of safety and effectiveness for these devices.

FDA advises, additionally, that an exemption from the requirement of premarket notification does not mean that the device is exempt from any other statutory or regulatory requirements, unless such exemption is explicitly provided by order or regulation. Indeed, FDA's determination that premarket notification was unnecessary to provide a reasonable assurance of safety and effectiveness for devices listed in this document is based, in part, on the assurance of safety and effectiveness that other regulatory controls, such as current good manufacturing practice requirements, provide.

Persons with pending 510(k) submissions for devices that are exempted in this document, subject to the limitations on exemptions, should withdraw their submissions.

IV. List of Class II Devices Exempted

FDA is identifying the following devices as class II devices that, as of the date of publication of this document, are exempt from the requirement to submit a premarket notification under section 510(k) of the act, subject to limitations on exemptions in this document:

TABLE 1.—EXEMPTED CLASS II DEVICES

21 CFR Sections	Name of Devices
862.1440	Lactate dehydrogenase test system
862.1635	Total protein test system
864.6100	Bleeding time device
864.6400	Hematocrit measuring device
864.9160	Blood group substances of nonhuman origin for in vitro diagnostic use
864.9550	Lectins and protectins
864.9575	Environmental chamber for storage of platelet concentrate
864.9600	Potentiating media for in vitro diagnostic use
864.9700	Blood storage refrigerator and blood storage freezer
866.3060	Blastomyces dermatitidis serological reagents
866.3085	Brucella spp. serological reagents
866.3135	Coccidioides immitis serological reagents
866.3165	Cryptococcus neoformans serological reagents
866.3220	Entamoeba histolytica serological reagents
866.3280	Francisella tularensis serological reagents
866.3300	Haemophilus spp. serological reagents
866.3320	Histoplasma capsulatum serological reagents
866.3350	Leptospira spp. serological reagents
866.3415	Pseudomonas spp. serological reagents
866.3460	Rabiesvirus immunofluorescent reagents
866.3550	Salmonella spp. serological reagents
866.3660	Shigella spp. serological reagents
866.3930	Vibrio cholerae serological reagents
866.5040	Albumin immunological test system
866.5210	Ceruloplasmin immunological test system
866.5320	Properdin factor B immunological test system
866.5380	Free secretory component immunological test system
866.5460	Haptoglobin immunological test system
866.5470	Hemoglobin immunological test system
866.5490	Hemopexin immunological test system
876.1620	Urodynamics measurement system
876.1800	Urinev flow or volume measuring system
876.2040	Enuresis alarm
876.4370	Gastroenterlogy-urology evacuator
876.4650	Water jet renal stone dislodger system
876.4680	Uretal stone dislodger
876.4890(b)(1)	Urological table and accessories
876.5250(b)(1)	Urine collector and accessories
880.2200	Liquid crystal forehead temperature strip
880.2920	Clinical mercury thermometer
880.5100	AC-powered adjustable hospital bed
880.5140	Pediatric hospital bed
880.5475	Jet lavage
880.5500	AC-powered patient lift
880.5550	Alternating pressure air flotation mattress
880.6740	Vacuum-powered body fluid suction apparatus
880.6775	Powered patient transfer device
880.6910	Wheeled stretcher
882.5050	Biofeedback device[1]
886.3100	Ophthalmic tantalum clip
886.3130	Ophthalmic conformer
886.3800	Scleral shell
890.1925	Isokinetic testing and evaluation system
890.3500	External assembled lower limb prosthesis
890.3710	Powered communication system
890.3725	Powered environmental control system
890.5160	Air-fluidized bed
890.5170	Powered flotation therapy bed
890.5225	Powered patient rotation bed
890.5720	Water circulating hot or cold pack
890.5740	Powered heating pad
892.1980	Radiologic table

[1] Exemption is limited to prescription battery powered devices that are indicated for relaxation training and muscle reeducation and prescription use.

V. Additional Exemptions

Under section 510(m)(2) of the act, as described previously, interested persons may request that FDA exempt any class II device from the premarket notification requirements. The request should identify the generic type of device by the CFR section number (e.g., 21 CFR 884.1234) and state clearly why the submitter believes the factors described in section II of this document apply, and that premarket notification requirements

are not necessary to provide reasonable assurance of the safety and effectiveness of the device. By February 19, 1998, FDA will provide guidance on how to request such an exemption.

Dated: January 15, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–1485 Filed 1–16–98; 12:00 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Immunology 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). At least one portion of the meeting will be closed to the public.

Name of Committee: Immunology 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 2, 1998, 9:30 a.m. to 6:30 p.m.

Location: Parklawn Bldg., conference rooms D & E, 5600 Fishers Lane, Rockville, MD.

Contact Person: Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12516. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss proposed prescription home use labeling for a unitized bladder cancer tumor marker assay used to aid in the detection of bladder cancer recurrence. Also, the committee will discuss, make recommendations, and vote on a premarket approval application for a free PSA (prostate-specific antigen) assay. The assay is intended to be used in men over the age of 50 with a negative digital rectal examination and a total serum PSA measurement of 4.0 to 10.0 nanograms/milliliter. The free PSA/total PSA ratio aids in the differentiation between benign and malignant prostate disease.

Procedure: On February 2, 1998, from 10 a.m. to 6:30 p.m., the meeting is open to the public. 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 January 29, 1998. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 29, 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.

Closed Committee Deliberations: On February 2, 1998, from 9:30 a.m. to 10 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). FDA staff will present to the committee confidential information regarding present or future issues.

FDA regrets that it was unable to publish this notice 15 days prior to the February 2, 1998, Immunology Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Immunology Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 15, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–1418 Filed 1–15–98; 3:51 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0007]

Draft ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products or Animal Plasma or Serum-Derived Products;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance document entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products or Animal Plasma or Serum-Derived Products.'' The draft guidance document is intended to assist applicants in the preparation of the content and format of the chemistry, manufacturing, and controls (CMC) section and the establishment description section of a biologics license application (BLA), revised Form FDA 356h for human plasma-derived biological products, animal plasma, or serum-derived products. This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives and FDA Modernization Act of 1997, and is intended to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments may be submitted at any time, however, comments should be submitted by April 21, 1998, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of the draft guidance entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products or Animal Plasma or Serum-Derived Products'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests.

The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by FAX by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, 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

FDA is announcing the availability of a draft guidance document entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products or Animal Plasma or Serum-Derived Products.'' The draft guidance provides general information for the CMC and establishment description section of the BLA, Form FDA 356h for human plasma-derived biological products, animal plasma, or serum-derived products.

In the **Federal Register** of July 8, 1997 (62 FR 36558), FDA announced the availability of a new harmonized Form FDA 356h entitled ''Application to Market a New Drug, Biologic, or an Antibiotic for Human Use.'' The new harmonized form is intended to be used by applicants for all drug and biological products. The new harmonized form when fully implemented will allow biological product manufacturers to submit a single application, the BLA, instead of two separate license application submissions, a product license application (PLA) and an establishment license application (ELA).

The draft guidance document represents the agency's current thinking on content and format of the CMC, and establishment description information section of a license application for human plasma-derived biological products, animal plasma, or serum-derived products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this document to be all inclusive and cautions that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

The draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit written comments to the Dockets Management Branch (address above) regarding the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by April 21, 1998, to ensure their adequate consideration in preparation of the final document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests for copies should be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance document by using the World Wide Web (WWW). For WWW access connect to CBER at ''http://www.fda.gov/cber/guidelines.htm.''

Received comments will be considered in determining whether further revision of the draft guidance document is warranted.

Dated: January 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1293 Filed 1–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0261]

Frequently Asked Questions About the New FDA Tobacco Regulations: Draft Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing the availability of a new section to the draft guidance entitled ''Frequently Asked Questions About the New FDA Tobacco Regulations.'' The draft guidance addresses the questions most frequently asked by retailers, consumers and others about the age and photo identification requirements of the final rule restricting the sale of cigarettes and smokeless tobacco to protect children and adolescents. The new section on enforcement procedures addresses questions raised by retailers and others concerning the amount of penalties that FDA intends to seek for third and subsequent violations of the age and identification requirements.

DATES: Submit written comments on the draft guidance by April 21, 1998.

ADDRESSES: The draft guidance entitled ''Frequently Asked Questions About the New FDA Tobacco Regulations,'' and the amendment are available on the Internet at http://www.fda.gov/, or a paper copy may be ordered free of charge by calling 1–888–FDA–4KIDS.

Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary M. Lyda, Office of Policy (HF–11), Food and Drug Administration, 5600 Fishers Lane, rm. 14–101, Rockville, MD 20857, 301–827–3360.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1996 (61 FR 44396), FDA issued a final rule to restrict the sale and distribution of cigarettes and smokeless tobacco in order to protect children and adolescents (21CFR part 897). The final rule covers three general classes of nicotine-containing tobacco products: Cigarettes, loose cigarette tobacco, and smokeless tobacco. The final rule applies to manufacturers, distributors, retailers and importers who make, distribute, sell, and import such products.

Since February 28, 1997, the final rule has prohibited retailers from selling cigarettes, loose cigarette tobacco or smokeless tobacco to persons under the age of 18, and has required retailers to verify the age of customers under the age of 27 by checking an identification (ID) card which contains the bearer's photograph and birth date.

The draft guidance answers questions most frequently asked by retailers, consumers, and others concerning these requirements and the agency's enforcement plans. To ensure that retailers are complying with the requirements, FDA has commissioned State officials to conduct compliance checks, during which adolescents, accompanied by State officials, attempt to purchase cigarettes or smokeless tobacco from retailers. The guidance

states that for a first violation of the age and identification requirements, FDA will issue a letter notifying the retailer that it was out of compliance and informing the retailer that FDA will schedule a followup compliance check. The guidance explains that the second time a retailer is out of compliance FDA will seek civil money penalties in the amount of $250.00.

The new section that FDA is making available addresses questions concerning the amount of penalties that FDA intends to seek for third and subsequent violations of the age and photo ID provisions of the regulation. FDA intends to seek $1,500.00 for a third violation, $5,000.00 for a fourth violation, and $10,000.00 for a fifth violation. The new section provides more information concerning the civil money penalty process under which a retailer may pay the penalty or request a hearing to contest it. Because some of the answers contained in the new section represent FDA's current interpretation of new regulatory requirements, the additions constitute guidance. Therefore, FDA is publishing the new section in draft and is soliciting public comment. FDA will review received comments and, if appropriate, revise the document in response to comments.

The draft guidance does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

Interested persons may, on or before April 21, 1998, submit written comments regarding this draft guidance to the Dockets Management Branch, address above. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 12, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–1344 Filed 1-20-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Biological and Physiological Sciences.

Date: February 23, 1998.

Time: 2 p.m.

Place: NIH, Rockledge 2, Room 4212, Telephone Conference.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 4212, Bethesda, MD 20892, (301) 435–1222.

Name of SEP: Biological and Physiological Sciences.

Date: March 2–3, 1998.

Time: 8 a.m.

Place: Bethesda Marriott Hotel, Bethesda, MD.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 4212, Bethesda, MD 20892, (301) 435–1222.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 14, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1317 Filed 1–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting of the National Advisory Council for Human Genome Research

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council for Human Genome Research, National Human Genome Research Institute, February 12–13, 1998, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD.

This meeting will be open to the public on Thursday, February 12, 8:30 a.m. to approximately 3 p.m., to discuss administrative details or other issues relating to committee activities. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 12, from 3 p.m. to recess, and on February 13, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Elke Jordan, Deputy Director, National Human Genome Research Institute, National Institutes of Health, Building 31, Room 4B09, Bethesda, MD 20892, (301) 496–0844, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jane Ades, (301) 594–0654, two weeks in advance of the meeting.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research)

Dated: January 14, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1321 Filed 1–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Neurological Disorders and Stroke Council of the National Institute of Neurological Disorders and Stroke, February 12–13, 1998, Building 31, Conference Room 6, National Institutes of Health, which was published in the **Federal Register** on December 29, 1997, (62 FR 67645).

The information regarding the date and time for the closed session was incorrect. The Council meeting will be open to the public on February 12 from 8:30 a.m. to approximately 3 p.m. and will be closed on February 12, approximately 3 p.m. to recess and February 13, 8:30 a.m. to adjournment.

Dated: January 13, 1998.

LaVerne Stringfield,

NIH Committee Management Officer.

[FR Doc. 98–1318 Filed 1–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: February 25, 1998.

Time: 8 a.m.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Dr. Paul Sheehy, Scientific Review Administrator, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate one grant application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: January 13, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1319 Filed 1–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: SBIR Topics 59, 61 and 62 (Telephone Conference Call).

Date: February 4, 1998.

Time: 9 a.m.

Place: National Institute of Environmental Health Sciences, East Campus, Building 4401, Rm. 3446, Research Triangle Park, NC 27709.

Contact Person: Mr. David P. Brown, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

Purpose/Agenda: To review and evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Grant applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: January 12, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1320 Filed 1–20–98; 8:45 am]

BILLING CODE 4740–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting of the National Advisory General Medical Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 29–30, 1998, Natcher Building 45, Conference Rooms E1 and E2, Bethesda, MD.

This meeting will be open to the public from 11 a.m. to 6 p.m. on January 29, for the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 29, from 8:30 a.m. to 11 a.m., and also closed on January 30 (8:30 a.m. to adjournment) for the review, discussion, and evaluation of individual grant applications. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AS–43H, Bethesda, MD 20892, telephone: 301–496–7301, FAX 301–402–0224, will provide a summary of the meeting, and a roster of Council members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Dieffenbach in advance of the meeting. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, telephone: 301–594–4499 will provide substantive program information upon request.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]; Special Programs, 93.960)

Dated: January 14, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1322 Filed 1–20–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–71]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork

Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 20, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 8, 1998.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Conveyance (Acquisition) and Disposition Information Collections contained in Handbook 4310.5 entitled ''Property Disposition Handbook, One-to-Four Family Properties''.

Office: Housing.

OMB Approval Number: 2502–0306.

Description of the Need for the Information and Its Proposed Use: These information collections are needed to determine the condition of the property upon conveyance, to determine the results of the repair contracts, and to monitor the contractor's performance in maintaining the properties. The sales contracts will be used as binding contracts between the purchaser and HUD. Respondents are potential contractors, contractors who work for HUD, and potential and actual purchasers of HUD-owned properties.

Form Number: HUD–9516A, 9519, 9519A, 9544, 9548, 9548A, 9548B, 9548C, and 9733.

Respondents: Business or Other For-Profit, Individuals or Households, Not-For-Profit, Institutions, State, Local, or Tribal Government, and the Federal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collections	46,550		Varies		.50		248,570

Total Estimated Burden Hours: 248,570.

Status: Revision.

Contact: Rose Donnelly/Art Orton, HUD, (202) 708–4767, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 8, 1998.

[FR Doc. 98–1299 Filed 1–20–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Deadline for Submitting Completed Applications to Begin Participation in the Tribal Self-Governance Program in Fiscal Year 1999 or Calendar Year 1999

AGENCY: Office of Self-Governance, Office of the Secretary, Interior.

ACTION: Notice of application deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes a March 2, 1998, deadline for tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 1999 or calendar year 1999.

DATES: Completed application packages must be received by the Director, Office of Self-Governance by March 2, 1998.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2542, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, 1849 C Street, NW., Mail Stop 2548, Washington, DC 20240, 202–219–0240.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994 (Pub. L. 103–413), as amended by the Fiscal Year 1997 Omnibus Appropriations Bill (Pub. L. 104–208) the Director, Office of Self-Governance may select up to 50 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into an annual written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in an area and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Agreements for an October 1 to September 30 fiscal year need to be signed and submitted by July 1. Agreements for a January 1 to December 31 fiscal year need to be signed and submitted by October 1.

Background

On February 15, 1995, an interim rule was published in the **Federal Register**

announcing the criteria for tribes to be included in an applicant pool and the establishment of the selection process for tribes/consortia to negotiate agreements pursuant to the Tribal Self-Governance Act of 1994. This interim rule was added to Title 25 of the Code of Federal Regulations at Part 1001 of Chapter VI. While it may be changed by later rulemaking, the Act stipulates that the lack of promulgated regulations will not limit its effect. It should be noted that a proposed rulemaking has been negotiated between tribal and Federal members of a self-governance negotiated rulemaking committee and is currently in the process of being prepared for publication in the **Federal Register** for review and comment.

Purpose of Notice

The interim rules established at 25 CFR parts 1001.1 to 1001.5 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 1999 and calendar year 1999. Applicants should be guided by the requirements in 25 CFR parts 1001.1 to 1001.5 in preparing their applications. Copies of the interim rules published in the **Federal Register** on February 15, 1995, may be obtained from the information contact person identified in this notice.

Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 1999 or calendar year 1999 must respond to this notice, except for those which are (1) currently involved with negotiations with the Department; (2) one of the 64 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice.

The Director's decision on the actual number of tribes that will enter negotiations will be made at a later date. Tribes already in the applicant pool will retain their existing ranking with tribes entering the applicant pool under these rules receiving a lower ranking. Being in the applicant pool will not guarantee that a tribe will actually be provided the opportunity to negotiate in any given year. However, it does mean that a tribe will not be passed over by a tribe with a lower ranking in the applicant pool or by a tribe not in the applicant pool, with the exception of a tribe already in the negotiation process.

For example, if the Department determines that five tribes will be afforded the opportunity to negotiate self-governance agreements for fiscal year 1999 and calendar year 1999, the five tribes with highest rankings would be notified and negotiations would be scheduled. The tribe ranked sixth on the list would then have the highest ranking to negotiate a self-governance agreement for 2000 or might enter negotiations for 1999 if one of the first five tribes discontinued negotiations. In such a case, the tribe that discontinued negotiations would remain in the applicant pool with its original ranking and would be the first to be selected in 1999 for negotiating agreements commencing in 2000.

Dated: January 14, 1998.

William A. Sinclair,

Director, Office of Self-Governance.

[FR Doc. 98–1283 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Tribal Self-Governance Notice of Availability of Self-Governance Negotiation/Planning Grants

AGENCY: Office of Self-Governance, Office of the Secretary, Interior.

ACTION: Notice of grants availability.

SUMMARY: In this notice, the Office of Self-Governance (OSG) announces the availability of fiscal year 1998 negotiation grants (up to 15 grants of no more than $40,000 each) and advance planning grants (up to 5 grants of no more than $40,000 each). The timeframes for application and selection vary with the type of grant and are specified in this announcement.

DATES: Applications must be submitted in accordance with the table below:

Type of grant	Deadline for submitting application
Negotiation	Mar. 31, 1998.
Advance planning	May 1, 1998.

ADDRESSES: Completed applications for grants should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2542, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, 1849 C Street, NW, Mail Stop 2542, Washington, DC 20240, 202–219–0240.

SUPPLEMENTARY INFORMATION: The tribal self-governance program is designed to promote self-determination by allowing tribes to assume more control through negotiated annual funding agreements of programs operated by the Department of the Interior. The Tribal Self-Governance Act of 1994 (Pub. L. 103–413) allows for negotiations to be conducted for programs operated by BIA and for programs operated by other bureaus and offices within the Department that are otherwise available to Indians or when there is a historical, cultural, or geographic connection to an Indian tribe.

The purpose of this notice is to announce the availability of planning and negotiation grants in accordance with the self-governance interim rule published in the **Federal Register** on April 23, 1996. The interim rules were established at 25 CFR 1001.7 to 1001.9 and will be used to govern the application and selection process for tribes/consortia to receive fiscal year 1998 negotiation and planning grants as specified in this notice. Applicants should be guided by the requirements in 25 CFR 1001.7 to 1001.9 in preparing their applications. Copies of the interim rules published in the **Federal Register** on April 23, 1996, may be obtained from the information contact person identified in this notice.

Subject to the discretion of the Director, Office of Self-Governance, the following types of grants are available to tribes/consortia in 1998 with the deadlines as stated below:

(1) *Negotiation Grants:* Up to 15 grants of no more than $40,000 may be made available. Grants to tribes/consortia already receiving advance planning grants shall be limited to $20,000. As announced in today's **Federal Register**, the closing date for submitting completed applications to begin participation in tribal self-governance in fiscal year 1999 or calendar year 1999 is March 2, 1998. Applications requesting to be included in the applicant pool to begin participation in tribal self-governance may be submitted at any time. Tribes/consortia selected from the applicant pool to begin participation in tribal self-governance in fiscal year 1999 or calendar year 1999, may be eligible to receive a negotiation grant. Each selected tribe/consortium will be notified by March 16, 1998, and must submit a written application for a negotiation grant, no later than March 31, 1998, indicating its intention to negotiate an annual funding agreement with any bureau within DOI for 1999.

(2) *Advance Planning Grants:* Up to five grants of no more than $40,000 may be made available. The closing date for submitting applications to receive a grant to plan for future participation in the tribal self-governance program is May 1, 1998. No later than June 1, 1998, each applicant will be notified by letter

from the Director, Office of Self-Governance whether it has been selected to receive an advance planning grant.

In order to provide sufficient time for tribes/consortia to effectively use the planning and negotiation grants, the following target dates have been established for the awarding of grants.

(1) *Negotiation Grants:* Since agreements for the 1998 fiscal year need to be signed and submitted by July 1, 1998, to allow sufficient time to prepare for negotiations, new participating tribes will be selected and awarded negotiation grants by May 1, 1998.

(2) *Advance Planning Grants:* In order to avoid delays in planning activity and future participation in tribal self-governance, advance planning grants will be awarded to tribes/consortia by July 1, 1998.

Submitting Applications

(1) Applications must be submitted in accordance with the interim rule published in the **Federal Register** on April 23, 1996, and by the deadlines identified in this announcement.

(2) Applications may be mailed or hand-delivered.

(3) Applications which are mailed must be postmarked no later than the date given in this notice for the particular type of grant being applied for.

Dated: January 14, 1998.

William A. Sinclair,

Director, Office of Self-Governance.

[FR Doc. 98–1289 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice is published in accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988) and 41 CFR 101–6.1015(b). The Department of the Interior hereby gives notice of a public meeting of the Alaska Land Managers Forum to be held from 8:30 a.m. to noon on Wednesday, January 28, 1998. The meeting will take place in Conference Room 114, 1689 C Street, Anchorage, Alaska. This meeting will be held to receive and discuss work group reports on recreation and tourism. The agenda will also include several briefing items.

FOR FURTHER INFORMATION CONTACT: Ronald B. McCoy at (907) 271–5485 or Sally Rue at (907) 465–4084.

Deborah L. Williams,

Special Assistant to the Secretary for Alaska.

[FR Doc. 98–1300 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–RP–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment, Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit by International Paper Company for Timber Management Practices on its Lands in Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, and North Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: International Paper Company (Applicant) seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). The permit would apply to all of the applicant's land holdings in Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, and North Carolina that contain the federally endangered red-cockaded woodpecker (RCW) (*Picoides borealis*). The applicant has a total of 18 known active clusters in Alabama (2), Georgia (2), South Carolina (9), and Louisiana (5). The applicant wants to eventually transfer its baseline responsibility of 18 RCW clusters to its Southlands Experimental Forest (SEF) in Bainbridge, Georgia where there are currently two active RCW clusters. This ITP would authorize take of the existing 16 RCW groups in Alabama, South Carolina, and Louisiana incidental to timber management activities, plus any clusters in excess of the baseline at SEF.

The Service also announces the availability of an environmental assessment (EA) and Habitat Conservation Plan/Application for Incidental Taking (HCP). Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6). The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances should the Service determine that an ITP will be granted and based upon the submitted HCP. Although not explicitly stated in the HCP, the Service has, since August 1994, announced its intention to honor a ''No Surprises'' Policy for applicants seeking ITPs. Copies of the Service's ''No Surprises'' Policy may be obtained by making a written request to the Regional Office (see **ADDRESSES**). The Service is soliciting public comments and review of the applicability of the ''No Surprises'' Policy to this application and HCP.

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before February 20, 1998.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Brunswick Field Office, 4270 Norwich Street, Brunswick, Georgia 31520. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be processed. Please reference permit number PRT–833203 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Mr. Robert Brooks, Fish and Wildlife Biologist, Brunswick Field Office, (see **ADDRESSES** above), telephone: 912/265–9336.

SUPPLEMENTARY INFORMATION: *Picoides borealis* (or RCW) is a non-migratory species that once was common in the southern Coastal Plain from east Texas to Florida and north to Maryland,

Missouri, and Kentucky. RCWs nest in cavities constructed in living mature (typically > 60 years old) pine trees. The RCW is a cooperative breeder living in groups of one to nine birds with each bird nesting in a cavity; the aggregate of cavity trees is called a cluster. RCWs prefer longleaf pine forests, but it will also utilize loblolly, pond, slash, shortleaf, and even Virginia pines. Without periodic fire to control hardwoods, RCWs will abandon cluster sites. The decline of the RCW has resulted primarily from loss of its mature southern pine habitat from logging and conversion to non-forest and from fire exclusion.

Recovery activities for the RCW are focused on public lands. However, private lands are also important for the RCW in the Service's recovery strategy by: (1) Providing supplement habitat where the federal land base is insufficient to support recovery; (2) establishing and maintaining connection between and within populations on public lands; and/or, (3) providing a supply of juvenile RCWs for translocation into defined recovery populations. Unfortunately, RCWs on private lands have fared poorly because landowners are not inclined to manage their lands for RCW habitat because the bird's presence might impose restrictions on timber harvesting and development. The Service believes the private land RCW clusters that are geographically isolated will eventually cease to exist if private landowners are not encouraged to manage their lands for these birds.

The applicant, International Paper Company, proposes to sustain RCWs on its lands through the creation of a migration bank on its SEF property in Bainbridge, Georgia. This proposed mitigation bank at SEF currently contains 5300 acres of contiguous forests and the applicant proposes to establish and keep 3000 acres of high quality RCW habitat at this site. This would be enough habitat to eventually support about 25–30 RCW groups. Currently there are about 1500 acres of high quality RCW habitat and two RCW groups at SEF. The applicant is proposing translocation, cavity augmentations, and intensive habitat management at the SEF site to increase the RCW population. The applicant currently has 18 known RCW groups on its lands in Louisiana, Alabama, Georgia, and South Carolina, and they will keep their baseline responsibility of 18 RCW groups at the proposed mitigation bank at SEF, with the Service and state concurrence. The Service believes the applicants' extant RCW population will ultimately benefit from this proposed mitigation bank in that a more stable RCW population will be created and the applicant will be better able to intensively manage the RCWs at SEF.

The EA considers the environmental consequences of three alternatives, in addition to the proposed action. The no action alternative may result in loss of habitat and individual groups of *Picoides borealis* due to fragmented habitat, geographic isolation of the groups, and lack of intensive management. The proposed action alternative is issuance of the ITP with mitigation on the applicant's property. To compensate for the proposed taking of RCW groups, the applicant proposes to establish RCW groups on SEF before any taking occurs. The applicant also proposes to sell mitigation credits to third parties seeking incidental take permits for RCW on other private lands should additional groups above baseline be created during the life of the mitigation bank. The third alternative is to issue the ITP and mitigate for the taking of RCW groups on federal, state, or other private lands. The fourth alternative is for the Service to provide financial incentives to the applicant to intensively manage the RCW clusters on their lands.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP will not appreciably reduce the likelihood of survival and recovery of the affected species in the wild.

2. This HCP contains provisions which sufficiently minimize and mitigate the impacts to the extent practicable.

3. Issuance of an ITP would not have significant effects on the human environment in the project area.

4. The proposed take is incidental to an otherwise lawful activity.

5. Adequate funding will be provided to implement the measures proposed in the submitted HCP.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: January 13, 1998.

H. Dale Hall,

Deputy Regional Director.

[FR Doc. 98–1332 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Endangered Species Act Incidental Take Permit for the U.S. Borax Project in Kern County, CA

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: U.S. Borax, Incorporated has applied to the Fish and Wildlife Service for a 50-year incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). In the 1,940-acre project area near the town of Boron, Kern County, California, the Service proposes to issue an incidental take permit and provide assurances to the applicant for the threatened desert tortoise (*Gopherus agassizii*) and the following Federal species of concern: Mojave ground squirrel (*Spermophilus mohavensis*), American badger (*Taxidea taxus*), Le Conte's thrasher (*Toxostoma lecontei*), loggerhead shrike (*Lanius ludovicianus*), burrowing owl (*Athene cunicularia*), desert kit fox (*Vulpes acrotis arsipus*), greenest tiger beetle (*Cicindela tranquebarica viridissima*), Mojave spineflower (*Chorizanthe spinosa*), and sagebrush loeflingia (*Loeflingia squarrosa var. artemisiarum*). The proposed permit would be effective upon issuance for species currently listed under the Act. The permit would become effective for unlisted species included in the permit upon their listing under the Act. This notice opens the comment period on the Environmental Assessment and permit application package, which includes a Habitat Conservation Plan and Implementation Agreement. The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances contained in section V.C.1 of the Implementation Agreement. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments on the Habitat Conservation Plan, Environmental Assessment, and Implementation Agreement should be received on or before February 20, 1998.

ADDRESSES: Comments should be addressed to Diane K. Noda, Field Supervisor, Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Written comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Kirk Waln, Fish and Wildlife Biologist, at the above address; telephone (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Ventura Fish and Wildlife Office at the above referenced address, or by telephone at (805) 644–1766. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background Information

U.S. Borax proposes to enlarge its open pit borate mining operation and expand its overburden disposal piles near the town of Boron in Kern County, California. This site is known to support a population of the threatened desert tortoise and may support populations of Mojave ground squirrel, American badger, Le Conte's thrasher, loggerhead shrike, burrowing owl, desert kit fox, greenest tiger beetle, Mojave spineflower, and sagebrush loeflingia, all Federal species of concern.

Federally listed, threatened, and endangered species are protected pursuant to section 9 of the Act against take; that is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect the species, or attempt to engage in such conduct (16 U.S.C. 1538). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. Although no incidental take authorization is required for listed plant species, impacts to these species must be addressed in the intra-Service consultation required pursuant to section 7(a) of the Act.

The Environmental Assessment considers the environmental consequences of four alternatives: the proposed action, no action, use of existing overburden pile areas, and backfilling. The no action alternative was found to be economically infeasible because U.S. Borax would be required to cease operations before the existing borate ore body was fully removed. The use of existing overburden pile areas was found infeasible because it would result in overburden piles approximately 1,200 feet in elevation above the surrounding landscape and be wholly incompatible with the existing landscape. The backfilling alternative was found infeasible because mineable calcium borate ores underlie the sodium borate ores that are the current focus of mining operations. At this time it is not economically feasible to mine calcium borate ores; however, backfilling of the pit would prevent their later use should economic conditions change. The no action, use of existing overburden pile areas, and backfilling alternatives would result in the loss of significantly less habitat than the preferred alternative. However, none of the mitigation measures under the proposed alternative would occur, including protecting and providing a management endowment for approximately 2,274 acres of high quality creosote bush scrub habitat.

The proposed action would result in the loss of 1,525 acres of disturbed creosote bush scrub habitat and 415 acres of land heavily degraded by past mining activities. This action could directly and indirectly affect the species described above. The Service proposes to issue an incidental take permit to the applicant for the incidental take of desert tortoises, and for the incidental take of other covered species should such authorization be necessary (i.e., should unlisted covered species be listed as threatened or endangered in the future, or should take authorization for plants become necessary). In addition, the applicant seeks Federal assurances that no additional land restrictions or financial compensation would be required for species adequately covered by the Habitat Conservation Plan. To accomplish this, all species covered in the Plan would be included in the incidental take permit on the condition that all permit issuance criteria are met and that the provisions of the Plan and Implementation Agreement are executed.

The proposed Federal action would authorize the incidental take of all desert tortoises within the project area. The Service anticipates that all Mojave ground squirrels, American badgers, burrowing owls, Le Conte's thrashers, loggerhead shrikes, greenest tiger beetles, and all individual Mojave spineflowers and sagebrush loeflingias would be removed or displaced from the project area through implementation of this action. Because habitat loss associated with this action would occur in small increments over many years, individual Mojave ground squirrels, American badgers, burrowing owls, Le Conte's thrashers, and loggerhead shrikes may avoid injury or death by moving to appropriate habitats off-site.

To minimize the effects of the proposed project, the proponent would undertake the following measures: An education program would be presented to all personnel working in the project area; preconstruction surveys by qualified biologists would be conducted and listed species removed from harm's way; a berm would be built to prevent desert tortoises from re-entering the area; vehicular traffic would be restricted to designated routes and a 25-mile-per-hour speed limit enforced; trash would be contained; and no firearms or pets would be permitted on site.

To mitigate the effects of the proposed project, the applicant proposes habitat reclamation and compensation. Following completion of mining, the applicant would reclaim the overburden piles through appropriate grading and revegetation. To mitigate for remaining adverse effects, the proponent would protect approximately 2,274 acres of high quality creosote bush scrub habitat and provide a management endowment for that habitat.

This notice is provided pursuant to section 10(c) of the Endangered Species Act and the regulations of the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act and section 10(a)(1)(B) of the Endangered Species Act. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the covered species. The final permit decision will be made no sooner than 30 days from the date of this notice, notwithstanding a temporary moratorium on issuing permits with ''No Surprises'' assurances.

Dated: January 9, 1998.

Michael J. Spear,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–1333 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a), notice is hereby given that the Gabrielino/Tongva Indians of California Tribal Council, 5450 Slauson Avenue, Suite 151, Culver City, California 90230, has filed a letter of intent to petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on August 14, 1997, and was signed by members of the group's governing body.

This is a notice of receipt of a letter of intent to petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, NW, Washington, D.C. 20240. Phone: (202) 208–3592.

Dated: January 12, 1998.

Hilda A. Manuel,

Deputy Commissioner of Indian Affairs.

[FR Doc. 98–1334 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

Maine Acadian Culture Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) that the Maine Acadian Culture Preservation Commission will meet on Friday, February 6, 1998. The meeting will convene at 7:00 p.m. in the Centre culturel du Mont-Carmet, Lille Village of Grand Isle, Aroostook County, Maine.

The Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (Pub. L. 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine.
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review of October 17 and December 12 summary reports.

2. Speaker: Adrien Berube of the Université de Moncton, Edmundston, New Brunswick, Canada. ''Ten Facts About The History of Madawaska Which Should Be Taken With A Grain Of Salt''.

3. Report of the National Park Service Project Staff.

4. Opportunity for public comment.

5. Proposed agenda, place, and date of the next Commission Meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Paul F. Haertel,

Superintendent, Acadia National Park.

[FR Doc. 98–1340 Filed 1–20–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

[EOIR 121; AG Order No. 2139–98]

Executive Office for Immigration Review; Motion To Reopen: Suspension of Deportation and Cancellation of Removal

AGENCY: Department of Justice, Executive Office for Immigration Review.

ACTION: Notice.

SUMMARY: Pursuant to section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), certain aliens who are nationals of Guatemala, El Salvador, and particular former Soviet bloc countries who have final orders of deportation or removal may file a motion to reopen their cases before the Immigration Court or the Board of Immigration Appeals to apply for suspension of deportation or cancellation of removal. NACARA specifies that the Attorney General shall designate a time period in which such motions to reopen may be filed without regard to the statutory and regulatory time and number restrictions on motions to reopen. This notice designates that the time period for filing such motions will be from January 16, 1998, to September 11, 1998.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION:

Background

Section 203 of the Nicaraguan Adjustment and Central American Relief Act (Pub. L. 105–100; 111 Stat. 2160, 2193) (NACARA), signed into law on November 19, 1997, amended section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Pub. L. 104–208; 110 Stat. 3009–625) (IIRIRA) to provide special rules regarding applications for suspensions of deportation and cancellation of removal by certain aliens. These aliens include Guatemalan, Salvadoran, and particular former Soviet bloc nationals described in section 309(c)(5)(C)(i) of IIRIRA, as amended by section 203 of NACARA.

In addition, NACARA amended section 309 of IIRIRA to allow aliens with final orders of deportation or removal who have become eligible for cancellation of removal or suspension of deportation as a result of the amendments made by section 203 of NACARA to file one motion to reopen

removal or deportation proceedings to apply for such relief, without regard to the time and number limitations on motions to reopen.

NACARA also requires that the Attorney General designate a specific time period for filing motions to reopen for such relief beginning no later than 60 days after the date of enactment of NACARA and extending for a period not to exceed 240 days. *See* section 309(g) of IIRIRA, as amended by section 203(c) of NACARA.

Who Is Eligible To File a Motion To Reopen Under Section 203 of NACARA?

As set forth in section 309(c)(5)(i) of IIRIRA, as amended by section 203 of NACARA, the following people may be eligible to file a motion to reopen to apply for suspension of deportation or cancellation of removal under the special rules of section 203 of NACARA, if they have not been convicted at any time of an aggravated felony:

1. Nationals of El Salvador who:

a. first entered the United States on or before September 19, 1990;

b. registered for ABC benefits or Temporary Protected Status (TPS) on or before October 31, 1991; and

c. were not apprehended after December 19, 1990, at time of entry.

2. Nationals of Guatemala who:

a. first entered the United States on or before October 1, 1990;

b. registered for ABC benefits on or before December 31, 1991; and

c. were not apprehended after December 19, 1990 at time of entry.

3. Nationals of Guatemala or El Salvador who applied for asylum with INS on or before April 1, 1990.

4. Nationals of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia who:

a. entered the United States on or before December 31, 1990;

b. applied for asylum on or before December 31, 1991; and

c. at the time of filing were a national of any of the countries listed above.

5. Spouses and children of a person granted suspension of deportation or cancellation of removal who is described under classes 1–4 above.

6. Unmarried sons and daughters of a parent granted suspension of deportation or cancellation of removal who is defined under classes 1–4 above, if the unmarried son or daughter was 21 years or older at the time the parent was granted suspension of deportation or cancellation of removal. The unmarried sons and daughters must have entered the U.S. on or before October 1, 1990.

Procedures for Reopening

The Attorney General has designated the period from January 16, 1998, until September 11, 1998, for eligible aliens to file a motion to reopen pursuant to NACARA. Eligible aliens may file only one such motion. The front page of the motion and any envelope containing the motion should include the notation ''Special NACARA Motion.'' The fee for motions to reopen (currently $110) will be waived for eligible aliens under section 203 of NACARA.

If an alien has previously filed an application for suspension of deportation or cancellation of removal with the Immigration Judge or the Board of Immigration Appeals, he or she must file a copy of that application or a new application with the motion to reopen. If the motion to reopen is granted and the alien has previously filed an application, the alien will not be required to pay a new filing fee for the suspension/cancellation application

If an alien has not previously filed an application for suspension of deportation or cancellation of removal, the alien must submit a new application with the motion to reopen. Nothing in this notice changes the requirements and procedures in 8 CFR 3.31(b), 103.7(b)(1), and 240.11(f) for paying the application fee for suspension/cancellation after a motion to reopen is granted if such an application was not previously filed. If an alien is required to submit a new application form, the alien should submit an Application for Suspension of Deportation (Form EOIR–40), whether he or she is in deportation or removal proceedings.

Grants of Suspension and Cancellation Under NACARA Not Conditional

Section 304(a)(3) of IIRIRA required that grants of suspension/cancellation be subject to a numerical limitation of 4,000 per fiscal year. Section 240A(e)(3) of the Immigration and Nationality Act, as amended by section 204(a) of NACARA, however, provides that applications for suspension of deportation and cancellation of removal granted pursuant to section 203 of NACARA are not subject to that annual limitation. Therefore, notwithstanding the provisions of 8 CFR 240.21, grants of suspension and cancellation pursuant to section 203 of NACARA shall be made without condition.

Dated: January 15, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–1520 Filed 1–16–98; 2:26 pm]

BILLING CODE 1531–26–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJP)–1152]

Fiscal Year 1998 Program Plan for the Office of Justice Programs

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of availability of Program Plan.

SUMMARY: The Fiscal Year 1998 Program Plan for the Office of Justice Programs is now available on the Internet and in hard copy.

FOR FURTHER INFORMATION CONTACT: The Office of Congressional and Public Affairs, 810 7th St., N.W., Washington, D.C. 20531. Telephone (202) 307–0703. Facsimile (202) 514–5958.

SUPPLEMENTARY INFORMATION: The Assistant Attorney General for the Office of Justice Programs (OJP) is pleased to announce that the OJP Program Plan for Fiscal Year 1998 is now available both on the Internet and in hard copy. This Program Plan details the various programs that OJP funds and supports.

The Program Plan is available from the OJP website at http://www.ojp.usdoj.gov/Plan. Printed copies can be obtained from the address above.

Dated: January 14, 1998.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 98–1316 Filed 1–20–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR 98–1]

Agency Information Collection Activities: Proposed Collection; Comment Request; Student Data Form

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an

opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the proposed reinstatement of the information collection request for the Student Data Form which is completed by students attending courses at OSHA's Training Institute. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before March 23, 1998. The Department of Labor is particularly interested in comments which:

- 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;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–1, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Robert O'Brien, Division of Administration and Training Information, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, IL 60018, telephone (847) 297–4810 (this is not a toll-free number), e-mail to robert.obrien@oti.osha.gov, or send a facsimile message to (847) 297–4874. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Robert O'Brien or Barbara Bielaski at (202) 219–7177, x142. For electronic copies of the Information Collection Request for the Student Data Form, contact OSHA's WebPage on the Internet at http://www.osha.gov under Standards.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Administration (OSHA) Training Institute provides basic, intermediate, and advanced training and education in occupational safety and health for Federal and State compliance officers, agency professional and technical support personnel, employers, employees, organizations representing employees and employers, educators who aid in developing curricula and teaching occupational safety and health courses, and representatives of professional safety and health groups.

Students attending OSHA's Training Institute courses complete the one-page form on the first day of class. The information is used in order to know who to contact in the event of an emergency and to obtain the correct student group information for record keeping and reporting needs. The student group information is also used to ensure that OSHA is collecting tuition from all private sector students as required by OMB Circular A–25 and Part 1949 of Title 29, Code of Federal Regulations.

II. Current Actions

OSHA is planning to reinstate this form. Its approval was inadvertently allowed to lapse.

Type of Review: Reinstatement.

Agency: Occupational Safety and Health Administration.

Title: Student Data Form.

OMB Number: Formerly 1218–0172.

Agency Number: OSHA 182.

Affected Public: Individuals.

Total Respondents: 5500.

Frequency: On occasion.

Total Responses: 5500.

Average Time per Response: 5 minutes.

Estimated Total Burden Hours: 463 hours.

Total Burden Cost (operating/maintaining): $7,662.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 14, 1998.

Zigmas Sadauskas,

Acting Director, Office of Training and Education.

[FR Doc. 98–1328 Filed 1–20–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR 98–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Acrylonitrile

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Acrylonitrile Standard 29 CFR 1910.1045. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice. The Department of labor is particularly interested in comments which:

- evaluate whether the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and

• minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection technique or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by March 23, 1998.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 98–2, U.S. Department of labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Adrian Corsey, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3718, telephone (202) 219–7075. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Barbara Bielaski at (202) 219–8076 or Adrian Corsey at (202) 219–7075. For electronic copies of the Information Collection Request on Acrylonitrile, contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

Background

The Acrylonitrile standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to Acrylonitrile. The Standard requires that employers must establish and maintain a training and compliance program, including exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and the OSHA to determine the effectiveness of the employers' compliance efforts. Also the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Acrylonitrile Standard.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Acrylonitrile 29 CFR 1910.1045.

OMB Number: 1218–0126.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 26.

Frequency: On occasion.

Total Responses: 25,602.

Average Time per Response: Ranges from 5 minutes to maintain records to 1.5 hours for an employee to have a medical exam.

Estimated Total Burden Hours: 6,621.

Total Annualized capital/startup costs: -0-.

Total initial annual costs (operating/maintaining systems or purchasing services): $311,360.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. The comments will become a matter of public record.

Dated: January 13, 1998.

Ray Donnelly,

Acting Deputy Director, Directorate of Health Standards Program.

[FR Doc. 98–1329 Filed 1–20–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Homeless Veterans' Reintegration Project Competitive Grants

AGENCY: Office of the Assistant Secretary for Veterans' Employment and Training, Labor.

ACTION: Notice of availability of funds and solicitation for grant applications for Homeless Veterans Reintegration Projects (SGA 98–01).

SUMMARY: This notice contains all of the necessary information and forms needed to apply for grant funding. All applicants for grant funds should read this notice in its entirety. The U.S. Department of Labor, Veterans' Employment and Training Service (VETS) announces a grant competition for Homeless Veterans Reintegration Projects (HVRP) authorized under the Stewart B. McKinney Homeless Assistance Act. Such projects will assist eligible veterans who are homeless by providing employment, training, supportive and transitional housing assistance. Under this solicitation, VETS expects to award up to twenty grants in FY 1998.

This notice describes the background, the application process, description of program activities, evaluation criteria, and reporting requirements for Solicitation of Grant Applications (SGA) 98–01. VETS anticipates that up to $2.25 million will be available for grant awards under this SGA.

The information and forms contained in the Supplementary Information Section of this announcement constitute the official application package for this Solicitation. In order to receive any amendments to this Solicitation which may be subsequently issued, *all applicants must register their name and address with the Procurement Services Center.* Please send this information as soon as possible, Attention: Grant Officer, to the following address: U.S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Please reference SGA 98–01.

DATES: One (1) ink-signed original, complete grant application (plus three (3) copies of the Technical Proposal and three (3) copies of the Cost Proposal shall be submitted to the U.S. Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m., Eastern Standard Time, February 23, 1998, or be postmarked by the U.S. Postal Service on or before that date. Hand delivered applications must be received by the Procurement Services Center by that time.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Procurement Services Center, Attention: Lisa Harvey, Reference SGA 98–01, Room N–5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, U.S. Department of Labor, Procurement Services Center, telephone (202) 219–6445 [not a toll free number].

SUPPLEMENTARY INFORMATION

Homeless Veterans Reintegration Project Solicitation

I. Purpose

The U.S. Department of Labor (DOL), Veterans' Employment and Training Service (VETS) is requesting grant applications for the provision of employment and training services in accordance with Title VII, Subtitle C, Section 738 of the Stewart B. McKinney Homeless Assistance Act (MHAA), 42 U.S.C. 11448. These instructions contain general program information, requirements and forms for application for funds to operate a Homeless Veterans Reintegration Project (HVRP).

II. Background

The Stewart B. McKinney Homeless Assistance Act of 1987, enacted on July 22, 1987, under Title VII, Subtitle C, Section 738 provides that ''The Secretary shall conduct, directly or

through grant or contract, such programs as the Secretary determines appropriate to *expedite the reintegration of homeless veterans into the labor force*.'' This program was reauthorized under Section 621 of the McKinney Homeless Assistance Amendments Act of 1990 (Public Law 101–645) for an additional three years, i.e., through FY 1993. Under the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590—enacted on November 10, 1992) the Homeless Veterans Reintegration Project was reauthorized through Fiscal Year 1995. However, the program was rescinded in FY 1995. Public Law 104–275, dated October 9, 1996, was amended to reauthorize the program through FY 1998. Public Laws 105–41 and 105–114, enacted in 1997, extend the program through FY 1999.

The Homeless Veterans Reintegration Project was the first nationwide Federal program that focused on placing homeless veterans into jobs. In accordance with the MHAA, the Assistant Secretary for Veterans' Employment and Training (ASVET) is making approximately $2.25 million of the funds available to award grants for HVRPs in selected cities in FY 1998 under this competition. A separate competition for a small number of demonstration grants to operate in rural areas will be announced separately within a short time. Both types of projects, urban and rural, have provided valuable information on approaches that work in the different environments.

III. Application Process

A. Potential Jurisdictions to be Served

Due to the demonstration nature of the Act, the amount of funds available, and the emphasis on establishing or strengthening existing linkage with other recipients of funds under the MHAA, the only potential jurisdictions which will be served through this competition for HVRPs in FY 1998 are the metropolitan areas of the 75 U.S. cities largest in population and the city of San Juan, Puerto Rico. All potential HVRP jurisdictions are listed in Appendix E.

B. Eligible Applicants

Applications for funds will be accepted from State and local public agencies, Private Industry Councils, and nonprofit organizations as follows:

1. Private Industry Councils (PICS) as defined in Title I, Section 102 of the Job Training Partnership Act (JTPA), Public Law 97–300, are eligible applicants, as well as State and local public agencies. ''Local public agency'' refers to any public agency of a general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers. (This typically refers to cities and counties). A State agency may propose in its application to serve one or more of the potential jurisdictions located in its State. This does not preclude a city or county agency from submitting an application to serve its own jurisdiction.

Applicants are encouraged to utilize, through subgrants, experienced public agencies, private nonprofit organizations, and private businesses which have an understanding of the unemployment and homeless problems of veterans, a familiarity with the area to be served, and the capability to effectively provide the necessary services.

2. Also eligible to apply are nonprofit organizations who have operated an HVRP or similar employment and training program for the homeless or veterans; have proven capacity to manage Federal grants; and have or will provide the necessary linkages with other service providers. Nonprofit organizations will be required to submit with their application recent (within one year) financial audit statements that attest to the financial responsibility of the organization.

Entities described in Section 501(c)4 of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this announcement. The Lobbying Disclosure Act of 1995, Public Law No. 104–65, 109 Stat. 691, prohibits the award of federal funds to these entities if they engage in lobbying activities.

C. Funding Levels

The total amount of funds available for this solicitation is $2.25 million. It is anticipated that up to 20 awards will be made under this solicitation. Awards are expected to range from $100,000 to $125,000 with an average of $112,500. The Federal government reserves the right to negotiate the amounts to be awarded under this competition. *Please be advised that requests exceeding this range by 15% or more will be considered non-responsive.*

D. Period of Performance

The period of performance will be for one year from date of award. It is expected that successful applicants will commence program operations under this solicitation on or before March 31, 1998. Actual start dates will be negotiated with each successful applicant.

E. Second Year Option

As stated in Section II of this Part, the Homeless Veterans Reintegration Project was reauthorized by statute through FY 1998 only. Should there be action by Congress to reauthorize HVRP beyond that time and should funds be appropriated for this purpose, a second year option may be considered. The Government does not, however, guarantee an option year for any awardee.

The grantees' performance during the first period of operations will be taken into consideration as follows:

1. By the end of the third quarter, has the grantee achieved at least 60% of the first year total goals for Federal expenditures, enrollments, and placements?

2. Has the grantee met 85% of goals for Federal expenditures, enrollments and placements for the year if planned activity is NOT evenly distributed in each quarter?

All instructions for modifications and announcement of fund availability will be issued at a later date. Please note that the Government does reserve its right to compete any subsequent funds appropriated for this purpose in lieu of an option year.

F. Late Proposals

The grant application package must be received at the designated place by the date and time specified or it will not be considered. Any application received at the Office of Procurement Services at 4:45 pm EST, February 23, 1998, will not be considered unless it is received before the award is made and:

1. it was sent by registered or certified mail not later than the fifth calendar day before February 23, 1998;

2. it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the address indicated; or

3. it was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 pm at the place of mailing two (2) working days, excluding weekends and Federal holidays, prior to February 23, 1998.

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. ''Postmark'' means a printed, stamped or otherwise

placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the Post Office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. ''Postmark'' has the same meaning as defined above. Therefore, applicants should request that the postal clerk place a legible hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Procurement Services Center on the application wrapper or other documentary evidence or receipt maintained by that office. Applications sent by telegram or facsimile (FAX) will *not* be accepted.

G. Submission of Proposal

A cover letter, and an original and three (3) copies of the proposal shall be submitted. The proposal shall consist of two (2) separate and distinct parts:

Part I—Technical Proposal shall consist of a narrative proposal that demonstrates the applicant's knowledge of the need for this particular grant program, its understanding of the services and activities proposed to alleviate the need and its capabilities to accomplish the expected outcomes of the proposed project design. The technical proposal shall consist of a narrative not to exceed fifteen (15) pages double-spaced, typewritten on one side of the paper only. Charts and exhibits are not counted against the page limit. Applicants should be responsive to the Rating Criteria contained in Section VI and address all of the rating factors noted as thoroughly as possible in the narrative. The following format is strongly recommended:

1. Need for the project: the applicant should identify the geographical area to be served and provide an estimate of the number of homeless veterans and their needs, poverty and unemployment rates in the area, and gaps in the local community infrastructure the project would fulfill in addressing the employment and other barriers of the targeted veterans. Include the outlook for job opportunities in the service area.

2. Approach or strategy to increase employment and job retention: The applicant should describe the specific supportive services and employment and training services to be provided under this grant and the sequence or flow of such services. Participant flow charts may be provided. Include a description of the relationship with other employment and training programs such as disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER) program, and programs under the Job Training Partnership Act. Please include a plan for followup of participants who entered employment at age 30 and 90 days and the capacity to assist the Department of Labor in one-year and/or multi-year followup efforts. (See discussion on results in Section V. D.) Please include the chart of proposed performance goals and planned expenditures listed in Appendix D. Although the form itself is not mandatory, the information called for in Appendix D must be provided by the applicant.

3. Linkages with other providers of employment and training services to the homeless and to veterans: Describe the linkages this program will have with other providers of services to veterans and to the homeless outside of the HVRP grant. List the types of services provided by each. Note the type of agreement in place if applicable.

Linkages with the workforce development system [inclusive of JTPA and State Employment Security Agencies (SESAs)] should be delineated. Describe any linkages with Department of Housing and Urban Development (HUD) and Department of Veterans Affairs resources and programs for the homeless. Indicate how the applicant will coordinate with any ''continuum of care'' efforts for the homeless among agencies in the community.

4. Organizational capability in providing required program activities: The applicant's relevant current or prior experience in operating employment and training programs should be delineated. Provide information denoting outcomes of past programs in terms of enrollments and placements. Applicants who have operated an HVRP program, or more recent Homeless Veterans Employment and Training (HVET) program should include final or most recent technical performance reports. (This information is subject to verification by the Veterans' Employment and Training Service.) Provide evidence of key staff capability. Non-profit organizations should submit evidence of satisfactory financial management capability including recent financial and/or audit statements.

5. Proposed housing strategy for homeless veterans: Describe how housing resources for homeless veterans may be obtained or accessed. These resources may be from linkages or sources other than the HVRP grant such as HUD, community housing resources, DVA leasing or other programs. The applicant should explain whether HVRP resources will be used and why this is necessary.

Part II—Cost Proposal shall contain the Standard Form (SF) 424, ''Application for Federal Assistance,'' and the Budget Information Sheet in Appendix B. In addition the budget shall include—on a separate page(s)—a detailed cost break-out of each line item on the Budget Information Sheet. Please label this page or pages the ''Budget Narrative.'' Also to be included in this Part is the Assurance and Certification Page, Appendix C. Copies of all required forms with instructions for completion are provided as appendices to this solicitation. The Catalog of Federal Domestic Assistance number for this program is 17.805, which should be entered on the SF 424, Block 10. Please show leveraged resources/matching funds and/or the value of in-kind contributions in Section B of the Budget Information sheet.

Budget Narrative Information. As an attachment to the Budget Information Sheet, the applicant must provide at a minimum, and on separate sheet(s), the following information:

(a) A breakout of all personnel costs by position, title, salary rates and percent of time of each position to be devoted to the proposed project (including subgrantees);

(b) An explanation and breakout of extraordinary fringe benefit rates and associated charges (i.e., rates exceeding 35% of salaries and wages);

(c) An explanation of the purpose and composition of, and method used to derive the costs of each of the following: travel, equipment, supplies, subgrants/contracts and any other costs. The applicant should include costs of any required travel described in this Solicitation. Mileage charges shall not exceed 31 cents per mile;

(d) Description/specification of and justification for equipment purchases, if any. Tangible, non-expendable, personal property having a useful life of more than one year and a unit acquisition cost of $5,000 or more per unit must be specifically identified: and

(e) Identification of all sources of leveraged or matching funds and an

explanation of the derivation of the value of matching/in-kind Services.

IV. Participant Eligibility

To be eligible for participation under HVRP, an individual must be homeless and a veteran defined as follows:

A. The term ''homeless or homeless individual'' includes persons who lack a fixed, regular, and adequate nighttime residence. It also includes persons whose primary nighttime residence is either a supervised public or private shelter designed to provide temporary living accommodations; an institution that provides a temporary residence for individuals intended to be institutionalized; or a private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. [Reference 42 U.S.C. 11302].

B. The term ''veteran'' means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. [Reference 38 USC 101(2)]

V. Project Summary

A. Program Concept and Emphasis

The HVRP grants under Section 738 of the Stewart B. McKinney Homeless Assistance Act are intended to address dual objectives:

Provide services to assist in reintegrating homeless veterans into the labor force; and stimulate the development of effective service delivery systems that will seek to address the complex problems facing homeless veterans. These programs are designed to be flexible in addressing the universal as well as local or regional problems barring homeless veterans from the workforce. The program in FY 1998 will continue to strengthen the provision of comprehensive services through a case management approach, the attainment of housing resources for veterans entering the labor force, and strategies for employment and retention.

B. Required Features

1. The HVRP has since its inception featured an outreach component consisting of veterans who have experienced homelessness. In recent years this requirement was modified to allow the projects to utilize formerly homeless veterans in other positions where there is direct client contact if outreach was not needed extensively, such as counseling, peer coaching, intake and follow up. This requirement applies to projects funded under this solicitation.

2. Projects will be required to show linkages with other programs and services which provide support to homeless veterans. Coordination with the Disabled Veterans' Outreach Program (DVOP) Specialists in the jurisdiction is particularly encouraged.

3. Projects will be ''employment focused.'' That is, they will be directed towards: (a) increasing the employability of homeless veterans through providing for or arranging for the provision of services which will enable them to work; and (b) matching homeless veterans with potential employers.

C. Scope of Program Design

The HVRP project design should provide or arrange for the following services:

—Outreach, intake, assessment, counseling and employment services. Outreach should, to the degree practical, be provided at shelters, day centers, soup kitchens, and other programs for the homeless. Program staff providing outreach services are to be veterans who have experienced homelessness.

Coordination with veterans'; services programs and organizations such as:

—Disabled Veterans'; Outreach Program (DVOP) Specialists and Local Veterans' Employment Representatives (LVERs) in the State Employment Security/Job Service Agencies (SESAs) or in the newly instituted workforce development system's One-Stop Centers, JTPA Title IV, Part C (IV–C) Veterans' Employment Program
—Department of Veterans' Affairs (DVA) services, including its Health Care for Homeless Veterans, Domiciliary and other programs, including those offering transitional housing
—Veteran service organizations such as The American Legion, Disabled American Veterans, and the Veterans of Foreign Wars, Vietnam Veterans of America, and the American Veterans (AMVETS)

Referral to necessary treatment services, rehabilitative services, and counseling including, but not limited to:

—Alcohol and drug
—Medical
—Post Traumatic Stress Disorder
—Mental Health
—Coordinating with MHAA Title VI programs for health care for the homeless

Referral to housing assistance provided by:

—Local shelters
—Federal Emergency Management Administration (FEMA) food and shelter programs
—Transitional housing programs and single room occupancy housing programs funded under MHAA Title IV
—Permanent housing programs for the handicapped homeless funded under MHAA Title IV
—Department of Veterans' Affairs programs that provide for leasing or sale of acquired homes to homeless providers
—Transitional housing leased by HVRP funds (HVRP funds cannot be used to purchase housing)

Employment and training services such as:

—Basic skills instruction
—Basic literacy instruction
—Remedial education activities
—Job search activities
—Job counseling
—Job preparatory training, including résumé writing and interviewing skills
—Subsidized trial employment (Work Experience)
—On-the-Job Training
—Job placement in unsubsidized employment
—Placement followup services
—Services provided under JTPA Program Titles

D. Results-Oriented Model

Based on past experience of grantees working with this target group, a workable program model evolved which is presented for consideration by prospective applicants. No model is mandatory, and the applicant should design a program that is responsive to local needs, but will carry out the objectives of the HVRP to successfully reintegrate homeless veterans into the workforce.

With the advent of implementing the Government Performance and Results Act (GPRA), Congress and the public are looking for results rather than process. While entering employment is a viable out come, it will be necessary to measure results over a longer term to determine the success of programs. The following program discussion emphasizes that followup is an integral program component.

The first phase of activity consists of the level of outreach that is necessary in the community to reach veterans who are homeless. This may also include establishing contact with other agencies that encounter homeless veterans such as shelters, soup kitchens and other facilities. An assessment should be made of the supportive and social rehabilitation needs of the client and referral may take place to services such as drug or alcohol treatment or

temporary shelter. When the individual is stabilized, the assessment should focus on the employability of the individual and they are enrolled into the program if they would benefit from pre-employment preparation such as résumé writing, job search workshops, related counseling and case management, and initial entry into the job market through temporary jobs, sheltered work environments, or entry into classroom or on-the-job training. Such services should also be noted in an Employability Development Plan so that successful completion of the plan may be monitored by the staff.

Entry into full-time employment or a specific job training program should follow in keeping with the objective of HVRP to bring the participant closer to self-sufficiency. Transitional housing may assist the participant at this stage or even earlier. Job development is a crucial part of the employability process. Wherever possible, DVOP and LVER staff should be utilized for job development and placement activities for veterans who are ready to enter employment *or* who are in need of intensive case management services. Many of these staff have received training in case management at the National Veterans' Training Institution and have as a priority of focus, assisting those most at a disadvantage in the labor market. VETS urges working hand-in-hand with DVOP/LVER staff to achieve economies of resources.

Followup to determine if the veteran is in the same or similar job at the 30 day period after entering employment is required and important in keeping contact with the veterans and so that assistance in keeping the job may be provided. The 90 day followup is fundamental to assessing the results of the program interventions. Grantees should be careful to budget for this activity so that followup can and will occur for those placed at or near the end of the grant period. Such results will be reported in the final technical performance report.

VETS emphasizes in its Strategic Plan to implement GPRA that suitable outcomes involve careers, not just jobs. Successful results are achieved when the veteran is in the same or similar job after one or more years. Towards that end, VETS solicits the cooperation of successful applicants in retaining participant information pertinent to a longitudinal followup survey, i.e., at least for one year after the grant period ends. Retention of records will be reflected in the Special Provisions at time of award.

E. Related HVRP Program Development Activities

1. Community Awareness Activities

In order to promote linkages between the HVRP program and local service providers (and thereby eliminate gaps or duplication in services and enhance provision of assistance to participants), the grantee must provide project orientation and/or service awareness activities that it determines are the most feasible for the types of providers listed below. Project orientation workshops conducted by HVRP grantees have been an effective means of sharing information and revealing the availability of other services; they are encouraged but not mandatory. Rather, the grantee will have the flexibility to attend service provider meetings, seminars, conferences, to outstation staff, to develop individual service contracts, and to involve other agencies in program planning. This list is not exhaustive. The grantee will be responsible for providing appropriate awareness, information sharing, and orientation activities to the following:

a. *Providers of hands-on services to the homeless,* such as shelter and soup-kitchen operators, to make them fully aware of services available to homeless veterans to make them job-ready and place them in jobs.

b. *Federal, State and local entitlement services* such as the Social Security Administration, Department of Veterans' Affairs (DVA), State Employment Security Agencies (SESAs) and their local Job Service offices, One-Stop Centers (which integrate JTPA, labor exchange and other employment and social services), detoxification facilities, etc., to familiarize them with the nature and needs of homeless veterans.

c. *Civic and private sector groups,* and especially veterans' service organizations, to describe homeless veterans and their needs.

2. Stand Down Support

A ''Stand Down'' as it relates to homeless veterans is an event held in a locality usually for three days where services are provided to homeless veterans along with shelter, meals, clothing and medical attention. For the most part this type of event is a volunteer effort which is organized within a community and brings service providers such as the DVA, Disabled Veterans Outreach Program Specialists, Local Veterans' Employment Representatives from the State Employment Service Agencies, veteran service organization, military personnel, civic leaders, and a variety of other interested persons and organizations. Many services are provided on site with referrals also made for continued assistance after the event. This can often be the catalyst that enables the homeless veterans to get back into mainstream society. The Department of Labor has supported replication of this event. Many such exercises have been held throughout the nation. In areas where an HVRP is operating, the grantees are encouraged to participate fully and offer their services for any planned Stand Down event. Towards this end, up to $5,000 of the currently requested HVRP MHAA grant funds may be used to supplement the Stand Down effort where funds are not otherwise available and should be reflected in the budget and budget narrative.

VI. Rating Criteria for Award

Applications will be reviewed by a DOL panel using the point scoring system specified below. Applications will be ranked based on the score assigned by the panel after careful evaluation by each panel member. The ranking will be the primary basis to identify approximately 20 applicants as potential grantees. Although the Government reserves the right to award on the basis of the initial proposal submissions, the Government may establish a competitive range, based upon the proposal evaluation, for the purpose of selecting qualified applicants. The panel's conclusions are advisory in nature and not binding on the Grant Officer. The government reserves the right to ask for clarification or hold discussions, but is not obligated to do so. The Government further reserves the right to select applicants out of rank order if such a selection would, in its opinion, result in the most effective and appropriate combination of funding, demonstration models, and geographical service areas. The Grant Officer's determination for award under SGA 98–01 is the final agency action. The submission of the same proposal from any prior year HVRP or HVET competition does not guarantee an award under this Solicitation.

Panel Review Criteria

1. Need for the Project: 15 points. The applicant shall document the extent of need for this project, as demonstrated by: (1) The potential number or concentration of homeless individuals and homeless veterans in the proposed project area relative to other similar areas of jurisdiction; (2) the high rates of poverty and/or unemployment in the proposed project area as determined by the census or other surveys; and (3) the extent of gaps in the local infrastructure

to effectively address the employment barriers which characterize the target population.

2. Overall Strategy to Increase Employment and Retention: 30 points. The application must include a description of the proposed approach to providing comprehensive employment and training services, including job training, job development, placement and post placement follow up services. The supportive services to be provided as part of the strategy of promoting job readiness and job retention should be indicated. The applicant should identify the local human resources and sources of training to be used for participants. A description of the relationship, if any, with other employment and training program such as SESAs (DVOP and LVER Programs), JTPA IV–C, other JTPA programs, and Workforce Development Boards or entities where in place, should be presented. It should be indicated how the activities will be tailored or responsive to the needs of homeless veterans. A participant flow chart may be used to show the sequence and mix of services. Note: The applicant MUST complete the chart of proposed program outcomes to include participants served, and job retention. (See Appendix D)

3. Quality and Extent of Linkages with Other Providers of Services to the Homeless and to Veterans: 20 points. The application should provide information on the quality and extent of the linkages this program will have with other providers of services to benefit the homeless or veterans in the local community outside of the HVRP grant. For each service, it should be specified who the provider is, the source of funding (if known), and the type of linkages/referral system established or proposed. Describe to the extent possible, how the project would fit into the community's ''continuum of care'' approach to respond to homelessness and any linkages to HUD or DVA programs or resources to benefit the proposed program.

4. Demonstrated Capability in Providing Required Program Services: 20 points. The applicant should describe its relevant prior experience in operating employment and training programs and providing services to participants similar to that which is proposed under this solicitation. Specific outcomes achieved by the applicant should be described in terms of clients placed in jobs, etc. The applicant must also delineate its staff capability and ability to manage the financial aspects of Federal grant programs. Relevant documentation such as financial and/or audit statements should be submitted (required for applicants who are non-profit agencies). Final or most recent technical reports for HVRP, HVET or other relevant programs should be submitted as applicable. The applicant should also address its capacity for timely startup of the program.

5. Quality of Overall Housing Strategy: 15 points. The application should demonstrate how the applicant proposes to obtain or access housing resources for veterans in the program and entering the labor force. This discussion should specify the provisions made to access temporary, transitional, and permanent housing for participants through community resources, HUD, lease, HVRP or other means. HVRP funds may not be used to purchase housing.

Applicants can expect that the cost proposal will be reviewed for allowability, allocability, and reasonableness of costs, but will not be scored.

VII. Post Award Conference

A post-award conference for those awarded FY 1998 HVRP funds is tentatively planned for April or May, 1998. Costs associated with attending this conference for up to three grantee representatives will be allowed as long as they were incurred in accordance with Federal travel regulations. Such costs shall be charged as administrative costs and reflected in the proposed budget. The site of the conference has not yet been determined but will likely be in Washington, DC. Please use Washington, DC for budget planning purposes. The conference will focus on providing information and assistance on reporting, record keeping, and grant requirements, and will also include best practices from past projects.

VIII. Reporting Requirements

The grantee shall submit the reports and documents listed below.

A. Financial Reports

The grantee shall report outlays, program income, and other financial information on a quarterly basis using SF 269A, *Financial Status Report, Short Form.* These forms shall cite the assigned grant number and be submitted to the appropriate State Director for Veterans' Employment and Training (DVET) no later than 30 days after the ending date of each Federal fiscal quarter during the grant period. In addition, a final SF 269 shall be submitted no later than 90 days after the end of the grant period.

B. Program Reports

Grantees shall submit a Quarterly Technical Performance Report 30 days after the end of each Federal fiscal quarter to the DVET which contains the following:

1. a comparison of actual accomplishments to established goals for the reporting period and any findings related to monitoring efforts;

2. reason for slippage if established goals are not met and identification of the corrective action which will be taken to meet the goals, and the timetable for accomplishment of the corrective action.

A final Technical Performance Report will also be required as part of the final report package due 90 days after grant expiration.

C. Summary of Final Report Package

The grantee shall submit 90 days after the grant expiration date the following final report package:

1. Final Financial Status Report.

2. Final Technical Performance Report.

3. Final Narrative Report—Grantees will be required to submit a final narrative report identifying major successes of the program as well as obstacles to success.

IX. Administrative Provisions

A. Limitation on Administrative and Indirect Costs

1. Direct Costs for administration, plus any indirect charges claimed, may not exceed 20 percent of the total amount of the grant.

2. Indirect costs claimed by the applicant shall be based on a federally approved rate. A copy of the negotiated, approved, and signed indirect cost negotiation agreement must be submitted with the application. (Do not submit the State cost allocation plan.)

3. Rates traceable and trackable through the SESA Cost Accounting System represent an acceptable means of allocating costs to DOL and, therefore, can be approved for use in MHAA grants to SESAS.

4. If the applicant does not presently have an approved indirect cost rate, a proposed rate with justification may be submitted. Successful applicants will be required to negotiate an acceptable and allowable rate with the appropriate DOL Regional Office of Cost Determination within 90 days of grant award.

B. Allowable Costs

Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and local government—OMB Circular A–87.

Nonprofit organizations—OMB Circular A–122.

C. Administrative Standards and Provisions

All grants shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

29 CFR Part 95—Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

29 CFR Part 30—Equal Employment Opportunity in Apprenticeship and Training.

29 CFR Part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.

Signed at Washington, D.C., this 14th day of January 1998.

Lawrence J. Kuss,

Grant Officer.

Appendices

Appendix A: Application for Federal Assistance SF Form 424
Appendix B: Budget Information Sheet
Appendix C: Assurances and Certifications Signature Page
Appendix D: Technical Performance Goals Form
Appendix E: List of 75 largest U.S. Cities

BILLING CODE 4510–75–M

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel	$		
2. Fringe Benefits(Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)	$		
9. Indirect Cost(Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)	$		

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution	$		
3. TOTAL Cost Sharing / Match (Rate %)	$		

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

ASSURANCES AND CERTIFICATIONS - SIGNATURE PAGE

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the ASSURANCES AND CERTIFICATIONS contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Assurances - Non-Construction Programs

B. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters and Drug-Free/Tobacco-Free Workplace Requirements.

C. Certification of Release of Information

APPLICANT NAME and LEGAL ADDRESS:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL TITLE

APPLICANT ORGANIZATION DATE SUBMITTED

Please Note: **This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.**

RECOMMENDED FORMAT FOR PLANNED QUARTERLY TECHNICAL PERFORMANCE GOALS

(data entered cumulatively)

Performance Goals

	1ST QTR	2ND QTR	3RD QTR	4TH QTR
Assessments				
Participants Enrolled				
Placed Into Transitional Or Permanent Housing				
Direct Placements Into Unsubsidized Employment				
Assisted Placements Into Unsubsidized Employment				
Combined Placements Into Unsubsidized Employment (Direct & Assisted)				
Cost Per Placement				
Number Retaining Jobs For 30 Days				
Number Retaining Jobs For 90 Days				
Rate of Placement Into Unsubsidized Employment				
Average Hourly Wage At Placement				

Employability Development Services - (As Applicable)

Classroom Training				
On-The-Job Training				
Remedial Education				
Vocational Counseling				
Pre-employment Services				
Occupational Skills Training				
_____				
_____				
_____				
_____				

Planned Expenditures

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr
Total Expenditures	$	$	$	$
Administrative Costs	$	$	$	$
Participant Services*	$	$	$	$

*Services may include training and/or supportive.

HVRP PERFORMANCE GOAL DEFINITIONS

1. Assessments. This process includes addressing the supportive services and employability and training needs of individuals before enrolling them in an HVRP program. Generally, this includes an evaluation and/or measurement of vocational interests and aptitudes, present abilities, previous education and work experience, income requirements, addressing supportive service needs, substance abuse treatment needs, counseling needs, temporary or transitional housing needs, personal circumstances and other related services.

2. Participants Enrolled. A client should be recorded as having been enrolled when an intake form has been completed, and services, referral, or employment has been received through the HVRP program. This should be an unduplicated count over the year: i.e., each participant is recorded only once, regardless of the number of times she or he receives assistance.

3. Placed Into Transitional Or Permanent Housing. A placement into transitional or permanent housing should be recorded when a veteran served by the program upgrades his/her housing situation during the reporting period from shelter/streets to transitional housing or permanent housing or from transitional housing to permanent housing. Placements resulting from referrals by HVRP staff shall be counted. This item is however an unduplicated count over the year, except that a participant may be counted once upon entering transitional housing and again upon obtaining permanent housing.

4. Direct Placements Into Unsubsidized Employment. A direct placement into unsubsidized employment must be a placement made directly by HVRP-funded staff with an established employer who covers all employment costs for 20 or more hours per week at or above the minimum wage. Day labor and other very short-term placements should not be recorded as placements into unsubsidized employment.

5. Assisted Placements Into Unsubsidized Employment. Assisted placements into unsubsidized employment should be recorded where the definition for placement with unsubsidized employment above is met, but the placement was arranged by an agency to which the HVRP referred the homeless veteran, such as a Job Training Partnership Act (JTPA) program.

6. Cost Per Placement. The cost per placement into unsubsidized employment is obtained by dividing the total HVRP funds expended by the total of direct placements plus assisted placements.

7. Number Retaining Job For 30 Days. To be counted as retaining a job for 30 days, continuous employment with one or more employers for at least 30 days must be verified and the definition for either direct placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 30 days as long as the client has been steadily employed for that length of time.

8. Number Retaining Job For 90 Days. To be counted as retaining a job for 90 days, continuous employment with one or more employers for at least 90 days must be verified, and the definition for either placement or assisted placement into unsubsidized employment above is met. This allows clients who have moved into a position with a different employer to be recorded as retaining the job for 90 days as long as the client has been steadily employed for that length of time.

9. Rate of Placement Into Unsubsidized Employment. The rate of placement into unsubsidized employment is obtained by dividing the number placed into unsubsidized employment (HVRP), plus the number of assisted placements into unsubsidized employment by the number of clients enrolled.

10. Average Hourly Wage At Placement. The average hourly wage at placement is the average hourly wage rates at placement of all assisted placements plus direct placements.

11. Employability Development Services. This includes services and activities which will develop or increase the employability of the participant. Generally, this includes vocational counseling, classroom and on-the-job training, pre-employment services (such as job seeking skills and job search workshops), temporary or trial employment, sheltered work environments and other related services and activities. Planned services should assist the participant in addressing specific barriers to employment and finding a job. These activities may be provided by the applicant or by a subgrantee, contractor or another source such as the local Job Partnership Training Act program or the Disabled Veterans'Outreach Program (DVOP) personnel or Local Veterans' Employment Representatives (LVERs). Such services are not mandatory but entries should reflect the services described in the application and the expected number of participants receiving or enrolled in such services during each quarter. Participants may be recorded more than once if they receive more than one service.

12. Total Planned Expenditures. Total funds requested. Identify forecasted expenditures needed for each fiscal quarter.

13. Administrative Costs. Administrative costs shall consist of all direct and indirect costs associated with the supervision and management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors.

14. Participant Services. This cost includes supportive, training, or social rehabilitation services which will assist in stabilizing the participant. This category should reflect all costs other than administrative.

POTENTIAL HVRP JURISDICTIONS - FY 1998

ALABAMA
- Birmingham

ALASKA
- Anchorage

ARIZONA
- Mesa
- Phoenix
- Tucson

CALIFORNIA
- Anaheim
- Fresno
- Long Beach
- Los Angeles
- Oakland
- Riverside
- Sacramento
- San Diego
- San Francisco
- San Jose
- Santa Ana
- Stockton

COLORADO
- Aurora
- Colorado Springs
- Denver

DISTRICT OF COLUMBIA

FLORIDA
- Jacksonville
- Miami
- St. Petersburg
- Tampa

GEORGIA
- Atlanta

HAWAII
- Honolulu

ILLINOIS
- Chicago

INDIANA
- Indianapolis

KANSAS
- Wichita

KENTUCKY
- Lexington-Fayette
- Louisville

LOUISIANA
- Baton Rouge
- New Orleans

MARYLAND
- Baltimore

MASSACHUSETTS
- Boston

MICHIGAN
- Detroit

MINNESOTA
- Minneapolis
- St. Paul

MISSOURI
- Kansas City
- St. Louis

NEBRASKA
- Omaha

NEVADA
- Las Vegas

NEW JERSEY
- Jersey City
- Newark

NEW MEXICO
- Albuquerque

NEW YORK
- Buffalo
- New York

POTENTIAL HVRP JURISDICTIONS - FY 1998

Rochester

NORTH CAROLINA
- Charlotte
- Raleigh

OHIO
- Akron
- Cincinnati
- Cleveland
- Columbus
- Toledo

OKLAHOMA
- Oklahoma City
- Tulsa

OREGON
- Portland

PENNSYLVANIA
- Philadelphia
- Pittsburgh

TENNESSEE
- Memphis
- Nashville/Davidson

TEXAS
- Arlington
- Austin
- Corpus Christi
- Dallas
- El Paso
- Fort Worth
- Houston
- San Antonio

VIRGINIA
- Norfolk
- Virginia Beach

WASHINGTON
- Seattle

WISCONSIN
- Milwaukee

PUERTO RICO
- San Juan

[FR Doc. 98–1330 Filed 1–20–98; 8:45 am]
BILLING CODE 4510–79–C

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, January 22, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to Non Credit Union Status.

2. Request from a Federal Credit Union to Convert to a de novo (new) Federal Mutual Savings Association.

3. Requests from Two (2) Federal Credit Unions to Convert to Community Charters.

4. Request from a Credit Union to Merge and Convert Insurance.

5. Request from a Corporate Federal Credit Union for a Field of Membership Amendment.

6. Amendments to IRPS 94–1. (Chartering Manual), Community Charter, Expansion, Conversion Requirements.

7. NCUA's Year 2000 (Y2K) Contingency Plan.

8. Final Rule: Amendments to Parts 791.5 and 791.6, NCUA's Rules and Regulations, Rules of Board Procedure.

RECESS: 11.15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, January 22, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. One (1) Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (7), and (10).

2. Four (4) Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–1431 Filed 1–15–98; 4:31 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc., et al.; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has permitted the request of Southern Nuclear Operating Company, Inc. (SNC), to withdraw part 2 of its June 13, 1997, application for proposed amendments to Facility Operating License Nos. NPF–2 and NPF–8 for the Joseph M. Farley Nuclear Plant, Units 1 and 2, located in Houston County, Alabama.

The proposed amendments would have revised TS 3.9.13 by extending the completion time allowed for returning one out-of-service penetration room filtration system from 48 hours to 7 days.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on July 16, 1997 (62 FR 38138). However, by letter dated January 7, 1998, SNC withdrew part 2 of the proposed change.

For further details with respect to this action, see the application for amendments dated June 13, 1997, and SNC's letter dated January 7, 1997, which withdrew part 2 of the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Houston-Love Memorial Library, 212 W. Burdenshaw Street, Post Office Box 1369, Dothan, Alabama.

Dated at Rockville, Maryland, this 13th day of January 1998.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1378 Filed 1–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on February 5–7, 1998, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, November 20, 1997 (62 FR 62079).

Thursday, February 5, 1998

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–10:00 a.m.: Development of a Revised Fire Protection Rule (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Energy Institute (NEI), National Fire Protection Association (NFPA), and the Union of Concerned Scientists (UCS) regarding staff actions related to the development of a revised Fire Protection Rule.

10:15 A.M.–12:00 Noon: AP600 Test and Analyses Program and Standard Safety Analysis Report (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Westinghouse regarding the AP600 Test and Analyses Program and the AP600 Standard Safety Analysis Report Chapters 1, 4, 5, 7, 8, 10, 11, 13, 17 and 18.

[Portions of this session may be closed to discuss Westinghouse Proprietary Information related to the Test and Analyses Program.]

1:00 P.M.–2:00 P.M.: Westinghouse Spent Fuel Rack Criticality Analysis Methodology (Open)—The Committee will hear presentations by and hold discussions with representatives of the ACRS staff and Westinghouse regarding Westinghouse's spent fuel rack criticality analysis methodology.

2:00 p.m.–3:00 p.m.: Meeting with Chairman Jackson (Open)—The Committee will meet with Chairman Jackson to discuss items of mutual interest, including NRC Research Program; Use of PRA in the Regulatory Decisionmaking Process (CDF as a Safety Goal, Policy Issues, etc.); Risk Informed, Performance Based Regulation; Proposed Revisions to 10 CFR 50.59; NRC Strategic and Performance Planning; Shutdown and Low Power Rulemaking and Maintenance Rule; and Timeliness and Utility of ACRS Advice (Comments on ACRS/ACNW Survey).

3:15 p.m.–5:15 p.m.: Improvements to the Senior Management Meeting Process (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff

regarding proposed improvements to the Senior Management Meeting Process.

5:15 P.M.–7:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as the ACRS annual report to Congress regarding the NRC Safety Research Program.

Friday, February 6, 1998

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)-The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–9:30 a.m.: Proposed Rulemaking Related to 10 CFR 50.59 (Changes, Tests and Experiments) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed changes to 10 CFR 50.59.

9:30 a.m.–10:15 a.m.: SECY–97–231, Performance Based Inspection Guidance (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding SECY-97–231, and related matters.

10:30 a.m.–11:30 a.m.: Human Performance and Reliability Implementation Plan (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Human Performance and Reliability Implementation Plan and related activities.

11:30 a.m.–12:00 Noon: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

1:00 p.m.–3:00 p.m.: Draft NUREG–1555, ''SRP For Environmental Reviews For Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft NUREG–1555 and related matters.

3:15 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting, and may also discuss the ACRS annual report to Congress regarding the NRC Safety Research Program.

Saturday, February 7, 1998

8:30 a.m.–9:00 a.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, agenda for the planning meeting, and organizational and personnel matters relating to the ACRS.

[Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

9:00 a.m.–9:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports, including the EDO response to the December 12, 1997 ACRS report related to proposed revisions to 10 CFR 50.59 (Changes, Tests and Experiments).

9:15 a.m.–4:00 p.m. (12:00 Noon–1:00 p.m. Lunch): Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting, and may also discuss the ACRS annual report to Congress regarding the NRC Safety Research Program.

4:00 p.m.–4:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 4, 1997 (62 FR 46782). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Gail H. Marcus, Acting Chief of the Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Acting Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Acting Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), to discuss Westinghouse proprietary information per 5 U.S.C. 552b(c)(4), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Dr. Gail H. Marcus, Acting Chief of the Nuclear Reactors Branch (telephone 301/415–7363), between 7:30 A.M. and 4:15 P.M. EST.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Date: January 14, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–1380 Filed 1–20–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22998; 812–10492]

Growth Stock Portfolio, et al.; Notice of Application

January 13, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the ''Act'') from section 15(a) of the Act and rule 18f–2 under the Act and from certain disclosure requirements under the Act.

SUMMARY OF APPLICATION: Applicants request an order that would (i) permit applicants to hire sub-advisers and materially amend sub-advisory agreements without shareholder approval and (ii) grant relief from

certain disclosure requirements regarding advisory fees paid to the sub-advisers.

APPLICANTS: Growth Stock Portfolio (the ''Portfolio''), R. Meeder & Associates, Inc. (''RMA''), and Sector Capital Management, L.L.C. (''Sector,'' together with RMA, the ''Advisers'').

FILING DATES: The application was filed on January 13, 1997. Applicant has agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 9, 1998 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: Growth Stock Portfolio and R. Meeder & Associates, Inc., 6000 Memorial Drive, Dublin, OH 43017; Sector Capital Management, L.L.C., 5350 Poplar Avenue, Suite 490, Memphis, TN 38119.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Flex-Funds and The Flex-Partners, Massachusetts business trusts, are open-end management investment companies registered under the Act (The Flex-Funds and The Flex-Partners are collectively referred to as the ''Trusts''). The Highlands Growth Fund is a series of The Flex-Funds, and the Core Equity Fund is a series of The Flex-Partners (The Highlands Growth Fund and the Core Equity Fund are collectively referred to as the ''Funds''). The Portfolio, a New York business trust, is an open-end management investment company registered under the Act. The Portfolio's securities are not registered under the Securities Act of 1933 and the Portfolio currently does not intend to offer its shares to the public. The Portfolio offers its shares to the Funds through the use of offering documents (''Offering Documents''). Neither the Trusts nor the Funds have an investment adviser because the assets of the Funds are invested in the Portfolio, which has the same investment objectives as the Funds.

2. RMA, an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), acts as investment adviser to the Portfolio. Under an investment advisory contract, RMA (i) provides an investment program within the limitations of the Portfolio's investment policies and restrictions; (ii) furnishes all executive, administrative and clerical services required for the transaction of Portfolio business, other than accounting services and services which are provided by the Portfolio's custodian, transfer agent, independent accountants, and legal counsel; and (iii) provides office space and other facilities and equipment for the management of the affairs of the Portfolio. In addition, RMA invests the Portfolio's cash and may invest the Portfolio's financial futures contracts and related options. For its services, RMA receives a fee from the Portfolio based on the net assets of the Portfolio.

3. Sector, an investment adviser registered under the Advisers Act, serves as investment co-adviser to the Portfolio under an investment co-advisory agreement among the Portfolio, RMA and Sector (the ''Co-advisory Agreement''). RMA recommended to the Portfolio's board of directors (the ''Board'') that Sector be hired as the investment co-adviser to the Portfolio. RMA also has the right to terminate Sector as the investment co-adviser to the Portfolio. The Co-advisory Agreement permits Sector to enter into agreements with one or more sub-advisers (''Sub-advisory Agreements'') to exercise investment discretion over the Portfolio's assets.[1]

4. Under the Co-Advisory Agreement, Sector (i) Reallocates the assets of the Portfolio among the sub-advisers when necessary; (ii) evaluates and selects sub-advisers; (iii) performs internal due diligence on prospective sub-advisers and monitors sub-advisers' performance through quantitative and qualitative analysis; (iv) supervises compliance with the investment objectives and policies of the Portfolio; (v) recommends to the Board whether Sub-advisory Agreements should be renewed, modified, or terminated; and (vi) recommends to the Board the addition of new sub-advisers. The Portfolio currently has seven sub-advisers (the ''Sub-advisers''). The Sub-advisers are responsible for reviewing supervising, and administering the Portfolio's investment program with respect to the portion of the Portfolio's assets assigned to them. As compensation for providing its sub-adviser selection, monitoring and asset allocation services, Sector currently receives a fee from RMA computed as a percentage of RMA's investment advisory fee. Sector pays the Sub-advisers out of this fee.

5. Applicants believe that the allocation of responsibilities between the Advisers benefits the shareholders because of the specialization and efficiency it provides. Applicants request an exemption from section 15(a) of the Act and rule 18f–2 under the Act to permit them to hire Sub-advisers and materially amend Sub-advisory Agreements without shareholder approval. Applicants also request an exemption from various disclosure requirements described below that may require them to disclose the fees paid to each Sub-adviser.[2]

6. Applicants request an exemption to permit the Portfolio and the Trusts to disclose (as a dollar amount and as a percentage of their net assets: (i) aggregate fees paid to RMA and its Affiliated Sub-advisers (as defined below); (ii) aggregate fees paid to Sector and its Affiliated Sub-advisers (as defined below); and (iii) aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (these fees are referred to collectively as, ''Aggregate Fees''). An Affiliated Sub-adviser is any sub-adviser that is an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Portfolio, the Trusts, RMA, or Sector, other than by reason of serving as a sub-adviser of the Portfolio.

[1] Under the Co-advisory Agreement, Sector is authorized to make investment decisions concerning the purchase and sale of specific securities and other instruments.

[2] Applicants also request relief with respect to any other registered open-end management investment company advised by RMA and Sector, or a person controlling, controlled by, or under common control with RMA and a person controlling, controlled by or under common control with Sector (a ''Future Company''), provided that the Future Company operates in substantially the same manner as the Portfolio and complies with the conditions of the requested order.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relative part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Rule 18f–2 provides that any investment advisory contract that is submitted to the shareholders of a series investment company under section 15(a) shall be deemed to be effectively acted upon with respect to any class or series of such company if a majority of the outstanding voting securities of such class or series vote for the approval of the contract.

2. Form N–1A is the registration statement used by open-end investment companies. Items 2, 5(b)(iii), and 16(a)(iii) of Form N–1A require disclosure of the method and amount of the investment adviser's compensation.

3. Form N–14 is the registration form for business combinations involving open-end investment companies. Item 3 of Form N–14 requires the inclusion of a ''table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction.''

4. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''1934 Act''). Item 22(a)(3)(iv) of Schedule 14A requires a proxy statement for a shareholder meeting at which a new fee will be established or an existing fee increased to include a table of the current and pro forma fees. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9), taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

5. Form N–SAR is the semi-annual report filed with the SEC by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-advisers.

6. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the SEC. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

7. Section 6(c) authorizes the Commission to exempt persons or transactions from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

8. Applicants believe that the requested relief meets the above standard. Applicants contend that shareholders expect Sector, under the overall authority of the Portfolio's Board, to take responsibility for overseeing Sub-advisers and recommending their hiring, termination, and replacement. Applicants note that the Portfolio's investment advisory agreement with RMA and the Co-advisory Agreement will continue to be subject to shareholder approval under section 15(a).

9. Applicants also believe that the requested relief will benefit shareholders by enabling the Portfolio and the Funds to operate in a less costly and more efficient manner. Applicants argue that the requested relief will reduce the Funds' expenses because the Funds will not have to prepare and solicit proxies each time a Sub-advisory Agreement is entered into or modified. Applicants also believe that the disclosure of fees that Sector pays to each Sub-adviser would not serve a meaningful purpose since investors will pay Sector to retain and compensate the Sub-advisers.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to following conditions:

1. Before the Portfolio may rely on the order requested in the application, the operation of the Portfolio in the manner described in the application will be approved by a majority of the Portfolio's outstanding voting securities, as defined in the Act, and by the Funds' shareholders in accordance with section 12(d)(1)(E)(iii)(aa) of the Act, or, in the case of a Future Company or Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole shareholder before the offering of the Future Company's or Funds' shares to the public.

2. The Funds' prospectuses, the Portfolio's Offering Documents, and, if applicable, the Portfolio's prospectus will disclose the existence, substance, and effect of any order granted pursuant to this application. In addition, the Portfolio and the Funds will hold themselves out to the public as employing the ''manager of managers'' approach described in the application. The Funds' prospectuses, the Portfolio's Offering Documents, and, if applicable, the Portfolio's Prospectus will prominently disclose that RMA and Sector have ultimate responsibility for the investment performance of the Portfolio due to RMA's responsibility to oversee Sector and Sector's responsibility to oversee Sub-advisers and recommend their hiring, termination, and replacement.

3. The Portfolio and the Funds will disclose the Aggregate Fees in their registration statements.

4. Within 90 days of the hiring of any new Sub-adviser, RMA and Sector will furnish to the holders of the beneficial interests of the Portfolio and the Funds' shareholders all information about the new Sub-adviser or Sub-advisory Agreement that would be included in a proxy statement, except as modified by the order with respect to the disclosure of Aggregate Fees. Such information will include disclosure of the Aggregate Fees and any change in such disclosure caused by the addition of a new Sub-adviser. To meet this obligation, RMA and Sector will provide the holders of the beneficial interests of the Portfolio and the Funds' shareholders, within 90 days of the hiring of a Sub-adviser, with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the 1934 Act. The information statement also will meet the requirements of Item 22 of Schedule 14A under the 1934 Act, except as modified by the order with respect to the disclosure of Aggregate Fees.

5. Sector and the Portfolio will not enter into a Sub-advisory Agreement with any Affiliated Sub-adviser without such agreement, including the compensation to be paid thereunder, being approved by the holders of the beneficial interests of the Portfolio and by the Funds' shareholders in accordance with section 12(d)(1)(E)(iii)(aa) of the Act.

6. At all times, a majority of the Portfolio's Board will not be ''interested persons'' within the meaning of section 2(a)(19) of the Act (''Independent Trustees'') and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

7. When a Sub-adviser change is proposed when the Portfolio has an Affiliated Sub-adviser, the Portfolio's Board, including a majority of the Independent Trustees, will make a separate finding reflected in its minutes, that such change is in the best interest of the Portfolio and its investors and does not involve a conflict of interest from which RMA, Sector, or the Affiliated Sub-adviser derives an inappropriate advantage.

8. RMA will provide general management services to the Portfolio, subject to Portfolio Board review. Sector will, subject to Portfolio Board review and approval, (i) together with RMA, set the Portfolio's overall investment strategies, (ii) select Sub-advisers, (iii) allocate and, when appropriate, reallocate the Portfolio's assets among Sub-advisers, (iv) monitor and evaluate Sub-adviser performances, and (v) supervise Sub-adviser compliance with the Portfolio's investment objective, policies, and restrictions.

9. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be retained to represent the Independent Trustees. The selection of such counsel will be placed within the discretion of the Independent Trustees.

10. Sector will provide the Portfolio's Board no less frequently than quarterly with information about Sector's profitability for each series of the Portfolio relying on the relief requested in the application. Whenever a Sub-adviser is hired or terminated, Sector will provide the Portfolio's Board with information showing the expected impact on Sector's profitability, and quarterly reports will reflect the impact on profitability of the hiring or termination of Sub-advisers during the quarter.

11. No director, trustee, or officer of Sector, RMA, or the Portfolio will own directly or indirectly (other than through a pooled investment vehicle over which such person does not have control) any interest in a Sub-adviser except for: (a) Ownership of interests in RMA or Sector or any entity that controls, is controlled by, or is under common control with RMA or Sector; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-adviser or an entity that controls, is controlled by, or is under common control with a Sub-adviser.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1347 Filed 1–20–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–66]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 26, 1998.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 29099, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Angela Anderson (202) 267–9681 or Tawana Matthews (202) 267–9783 Office of Rulemaking (ARM–1) Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 14, 1998.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29099.

Petitioner: Embry-Riddle Aeronautical University.

Sections of the FAR Affected: 14 CFR 61.55(b)(2), 61.56(c)(1), 61.57 (a) (b) (c) (d), 61.58(a) (1) and (2), and 61.195(e)

Description of Relief Sought: To permit the petitioner to use Level D flight simulators to meet certain flight experience and recency of experience requirements of section 61 for instructor pilots prior to certification of the petitioner's part 142 training center for each appropriate Level D flight simulator program.

[FR Doc. 98–1374 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–67]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Ch. I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket

number involved and must be received on or before February 10, 1998.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address; 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Angela Anderson (202) 267–9681 or Tawana Matthews (202) 267–9783 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 14, 1998.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 29042.
Petitioner: Schwartz Engineering Company.
Sections of the FAR Affected: 14 CFR 25.807(d)(7).
Description of Relief Sought/Disposition: To permit a B757–200 interior arrangement that does not provide 60 feet or less between passenger emergency exits in the side of the fuselage. *Grant, December 18, 1997, Exemption No. 6710.*

Docket No.: 28951.
Petitioner: Imi-Tech Corporation.
Sections of the FAR Affected: 14 CFR 25.853(c).
Description of Relief Sought/Disposition: To permit use of a seat cusion materials that do not comply with the weight loss portion of that requirement. *Grant, December 12, 1997, Exemption No. 6707.*

Docket No.: 28976.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 25.677(b).
Description of Relief Sought/Disposition: To permit the petitioner to provide a clearly visible means to indicate the position of the trim device with respect to its range of adjustment. *Grant, December 12, 1997, Exemption No. 6706.*

Docket No.: 28544.
Petitioner: Learjet Incorporated.
Sections of the FAR Affected: 14 CFR 25.783(h).
Description of Relief Sought/Disposition: Exempts the petitioner from certain passenger entry door emergency exit requirements for the Learjet Model 45 airplane. *Grant, December 29, 1997, Exemption No. 6468A.*

Petition For Exemption

Docket No.: 29100.
Petitioner: Bombardier Inc.
Regulations Affected: 25.571(e)(1).
Description of Petition: To permit exemption for the BD–700–1A10 airplane, from the bird strike provisions of § 25.571(e)(1) to allow compliance with the requirement using bird impact velocity of Vc at sea level or 0.85 Vc at 8,000 feet, whichever is more critical.

Petition For Exemption

Docket No.: 27023.
Petitioner: The Boeing Company.
Regulations Affected: 25.1415(c) and 121.339(c).
Description of Petition: To exempt The Boeing Company from the requirements of 14 CFR 25.1415(c) and 121.339(c), to permit installation of survival equipment separate from slide/rafts on Boeing 757–300 Aircraft.

[FR Doc. 98–1375 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186, Automatic Dependent Surveillance—Broadcast (ADS–B); Meeting

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 186 meeting to be held February 17–18, 1998, starting at 9 a.m. on Tuesday, February 17. 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/Review of Meeting Agenda; (2) Review and Approval of Minutes of the Previous Meetings; (3) Report of Working Group Activities: a. Editorial Committee Report; b. Progress Update on the 1090 MHz MOPS; c. CDTI Working Group Report; d. Collision Avoidance Study Group; (4) Discuss Special Committee 186 Structure; (5) Other Business; (6) Date and Place of Next Meeting.

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. 98–1371 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Bismarck Municipal Airport, Bismarck, North Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bismarck Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 20, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gregory B. Haug, Airport Manager, of the Bismarck Municipal Airport at the following address: Bismarck Municipal Airport, P.O. Box 991, Bismarck, North Dakota 58502.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Bismarck, North Dakota under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Irene R. Porter, Manager, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504, (701) 250–4358. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Bismarck Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 19, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Bismarck, North Dakota was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 21, 1998.

The following is a brief overview of the application.

PFC application number: 98–02–C–00–BIS.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1998.

Proposed charge expiration date: March 31, 2003.

Total estimated PFC revenue: $1,474,422.00.

Brief description of proposed projects:

Impose Only: Rehabilitate Baggage Claim Area.

Impose and Use: Rehabilitate General Aviation Ramp; Terminal Building, ADA Compliance; Relocation of Airway Avenue (Yegen Road); Reconstruct, Extend, and Widen Runway 3/21; PFC Application Preparation; Improve Airfield Service Road; Plans and Specifications for Runway 13/31 and Taxiway A; Rehabilitate Runway 13/31; Rehabilitate Runway 13/31 Lighting; Rehabilitate Taxiway A.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All on demand air taxi/commercial operators, filing FAA Form 1800–31, that enplane fewer than 500 passengers per year and not having their base of operations at Bismarck Municipal Airport and all on demand air taxi/commercial operators, filing FAA Form 1800–31, having their base of operations at Bismarck Municipal Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Bismarck Municipal Airport or City of Bismarck offices.

Issued in Des Plaines, Illinois on January 8, 1998.

Benito De Leon,

Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–1373 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application to Impose and Use a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 20, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Mary Rose Loney, Commissioner, of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip M. Smithmeyer, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018, (847) 294–7335. The application may be revised in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 23, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 25, 1998.

The following is a brief overview of the application.

PFC application number: 98–07–C–00–ORD.

Level of the PFC: $3.00.

Original charge effective date: September 1, 1993.

Revised proposed charge expiration date: July 1, 2005.

Total estimated PFC revenue: $69,189,000.00.

Brief description of proposed projects:

a. Guard Post 2 Site Improvements.

b. Runway 4R/22L Rehabilitation.

c. Runway 4L/22R Rehabilitation.

d. ATS Improvement.

e. Acquisition of 1997 Equipment.

f. Security Enhancements at Former Military Base.

g. Additional School Soundproofing.

h. Upgrade of I/CAD to Windows NT Platform.

i. I/CAD GPS for OCC.

j. ID Badging System Upgrade.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on January 8, 1998.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–1372 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aircraft Portable Megaphones

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on proposed technical standard order (TSO) pertaining to aircraft portable megaphones. The proposed TSO prescribes the minimum performance standards that aircraft portable megaphones must meet to be identified with the marking ''TSO–C137.''

EFFECTIVE DATE: Comments must be received on or before April 24, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C137, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Program and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

Proposed TSO–C137 establishes the basic requirements for the design and performance of aircraft portable megaphones.

This TSO was designed with the intent of being used predominately in transport category air carrier operations. However, the proposed TSO will be suitable for any aircraft application.

The proposed TSO references the SAE AS 4950 ''Design and Performance Criteria for Transport Aircraft Portable megaphones.'' The TSO also references RTCA Document Number DO–160D which sets forth the environmental test standards for articles manufactured under this TSO. Compliance with this TSO is predicated, in part, on meeting the standards set forth in these documents, with the exception of certain requirements in SAE AS 4950. Specifically, this TSO substitutes different data requirements that the manufacturer must have available for FAA review for those that appear in SAE AS 4950.

In addition to marking requirements specified in 14 CFR 21.607(d), each separate component that is easily removable (without hand tools), an interchangeable element, or a separate sub-assembly of the article must be permanently and legibly marked with at least the name of the manufacturer, the manufacturer's part number, and the TSO number. This TSO also permits optional marking to denote aircraft-specific installation limitations on the article. These exceptions to SAE AS 4950 are detailed in Appendix 1 of this TSO.

How to Obtain Copies

A copy of the proposed TSO–C137, may be obtained via Internet (http:/www.faa.gov/avr/air/100home.htm) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT**. Copies of Society of Automotive Engineers, Inc. (SAE) Aerospace Standard (AS) AS 4950 may be purchased from the SAE Inc., Department 331, 400 Commonwealth Drive, Warrendale, PA 15096–0001. Copies of RTCA, Inc. Document No. 160D, ''Environmental Conditions and Test Procedures for Airborne Equipment,'' dated July 29, 1997 may be purchased from the RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Issued in Washington, DC, on January 13, 1998.

Abbas A. Rizvi,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 98–1377 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Emergency Evacuation Slides, Ramps, and Slide/Raft Combinations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on proposed technical standard orders (TSO's) pertaining to emergency evacuation slides, ramps, and slide/raft combinations. The proposed TSO's prescribe the minimum performance standards that emergency evacuation slides, ramps, and slide/raft combinations must meet to be identified with the marking ''TSO–C69c.''

EFFECTIVE DATE: Comments must be received on or before April 24, 1998.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C69c, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Program and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, FAX No. (202) 267–5340.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed

technical standard order may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

Proposed TSO–C69c sets forth the basic requirements for the design and performance of emergency slides, ramps, and slide/raft combinations. The changes to this TSO include the addition of specific revisions to the requirements and tests for beam strength, attachment means, evacuation rate conditions, dark of night usability rate, and hot and cold soak. This revision also adds requirements for testing to ensure particular wind loading directions are added for devices which do not deploy perpendicular to the aircraft center line. In addition, Appendices 2 through 4 were added to include standardized definitions used in the TSO, described data collection procedures, and provide a detailed summary of changes contained in this latest TSO revision, respectively. The TSO has been reformatted. In addition, this revision incorporates two NTSB safety recommendations A–88–106 and A–88–107 which calls for improvements to the construction and placarding of manual inflation handles and disconnect means.

In addition to the requirements of 14 CFR 21.607(d), each separate component that is easily removable (without hand tools), an interchangeable element, or a separate sub-assembly of the article must be permanently and legibly marked with at least the name of the manufacturer, manufacturer's past number, and the TSO number.

How to Obtain Copies

A copy of the proposed TSO–C69c, may be obtained via Internet (http:/www.faa.gov/avr/air100home.htm) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT**. Federal Aviation Administration Standards for Emergency Evacuation Slides, Ramps, and Slide/Raft Combinations may be obtained at the FAA Headquarters in the Aircraft Engineering Division (AIR–120), and all Aircraft Certification Offices (ACO's).

Issued in Washington, DC, on January 13, 1998.

Abbas A. Rizvi,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 98–1376 Filed 1–20–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Commission to Study Capital Budgeting

AGENCY: Advisory Commission to the President of the United States.

ACTION: Notice of meetings.

SUMMARY: The agenda for the next meetings of the Commission to Study Capital Budgeting includes briefings and the hearing of testimony on capital budgeting issues on Friday, January 30. On Saturday morning, January 31, the Commission will review draft materials related to capital budgeting prepared by its staff and then continue discussions on capital budgeting as time permits. Meetings are open to the public. Limited seating capacity is available.

Dates, Times and Places of the Next Commission Meetings

January 30, 1998, 9 a.m. to 5 p.m. Senate Budget Committee Hearing Room, Room 608, Dirksen Senate Office Building, First and C Streets, NE, Washington, DC 20510.

January 31, 1998, 9 a.m. to 1 p.m. White House Conference Center, Truman Room, 726 Jackson Place, NW, Washington, DC 20503.

The Commission is seeking all views on capital budgeting. Interested parties may submit their views to: Barry Anderson, Executive Director, President's Commission to Study Capital Budgeting, Old Executive Office Building (Room 258), Washington, DC 20503. Voice: (202) 395–4630; Fax: (202) 395–6170; E-Mail: capital__budget@oa.eop.gov; Website: To be announced.

FOR FURTHER INFORMATION CONTACT: E. William Dinkelacker, Room 4456, Main Treasury, Washington, DC 20220. Voice: (202) 622–1285; Fax: (202) 622–1294; E-Mail: william.dinkelacker@treas.sprint.com.

E. William Dinkelacker,

Senior Economist/DFO.

[FR Doc. 98–1290 Filed 1–20–98; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

FEDERAL RESERVE SYSTEM

Federal Deposit Insurance Corporation

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, OTS, Board, and FDIC (Agencies) as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on proposed revisions to a continuing information collection, as required by the Paperwork Reduction Act of 1995. In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the Agencies are soliciting comments regarding an information collection concerning certain corporate changes. The information collection is titled: Interagency Bank Merger Act Application. In the case of the OCC, this collection is a part of the Comptroller's Corporate Manual. Additionally, the OCC is making other clarifying changes to the Comptroller's Corporate Manual.

DATES: Written comments should be submitted by March 23, 1998.

ADDRESSES: Direct written comments as follows:

OCC: Communications Division, Office of the Comptroller of the Currency, Third Floor, 250 E Street, SW, Washington, DC 20219; Attention: 1557–0014. Comments also may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to: regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219, between 9 a.m. and 5 p.m., on business

days. Appointments for inspection of comments can be made by calling (202) 874–5043.

OTS: Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, Attention 1550–0016. 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 (202) 906–7755. Comments over 25 pages in length should be sent to Fax (202) 906–6956. Comments will be available for inspection at 1700 G Street, NW, from 9 a.m. until 4 p.m., on business days.

Board: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to the Board's mail room, between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments received may be inspected in Room MP–500 of the Martin Building, between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Steven F. Hanft, FDIC Clearance Officer, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429, (202) 898–3907. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days, between 7 a.m. and 5 p.m. (Fax number (202) 898–3838; Internet address: comments@fdic.gov).

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the collection may be obtained by contacting:

OCC: Jessie Gates, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

OTS: Scott Ciardi, Financial Analyst, Corporate Activities, (202)906–6960, or Frances C. Augello, Senior Counsel, Business Transactions Division, (202)906–6151, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552. Copies of the forms with instructions are available for inspection at 1700 G Street, NW, from 9 a.m. until 4 p.m. on business days or from PubliFax, OTS Fax-on-Demand system, at (202)906–5660.

Board: Mary M. McLaughlin, Chief, Financial Reports Section, (202)452–3829. Telecommunications Device for the Deaf (TDD), users may contact Diane Jenkins (202)452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429, (202) 898–3907.

SUPPLEMENTARY INFORMATION: Proposal to extend for three years with major revision the following currently approved collections of information:

Title: Interagency Bank Merger Act Application.

OCC's Title: Comptroller's Corporate Manual. The specific portions of the Comptroller's Corporate Manual covered by this notice are those that pertain to the Business Combination Application, certain disclosures, and various portions to which the OCC is making clarifying changes.

OMB Number: OCC: 1557–0014.
OTS: 1550–0016.
Board: 7100–0171.
FDIC: 3064–0015.

Form Number: OCC: None.
OTS: 1639 (formerly 1588).
Board: FR 2070.
FDIC: 6220/01 and 6220/07.

Abstract: This submission covers a revision to make uniform among the Agencies the merger application forms for both affiliated and nonaffiliated institutions. The form name is the Interagency Bank Merger Act Application. The Agencies need the information collected to insure that the proposed transactions are permissible under law and regulation and are consistent with safe and sound banking practices. The Agencies are required, for example, under the Bank Merger Act, to consider financial and managerial resources, future prospects, convenience and needs of the community, community reinvestment, and competition.

Some agencies will collect limited supplemental information in certain cases. For example, the OCC and OTS will collect information regarding CRA commitments, the FDIC may require a legal certification of counsel to confirm that the merger agreement is legally sufficient, and all agencies will require additional information on the competitive impact of proposed mergers under separate instructions.

Further, the OCC is correcting its information collection inventory to cover certain disclosures required in the Manual. This is an administrative adjustment, and does not change, in any way, the requirements on national banks. Finally, the OCC is making technical and clarifying changes to various Manual booklets. These changes are not material. The changes are technical in nature and do not change, in any way, the requirements on national banks.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; Businesses or other for-profit.

Number of Respondents: OCC: Nonaffiliate—120; Affiliate—260.
OTS: Nonaffiliate—60; Affiliate—5.
Board: Nonaffiliate—57; Affiliate—79.
FDIC: Nonaffiliate—240; Affiliate—290.

Total Annual Responses: OCC: Nonaffiliate—120; Affiliate—260.
OTS: Nonaffiliate—60; Affiliate—5.
Board: Nonaffiliate—57; Affiliate—79.
FDIC: Nonaffiliate—240; Affiliate—290.

Frequency of Response: On occasion.

Total Annual Burden Hours: OCC: Nonaffiliate—3,600; Affiliate—4,680. Total: 8,280 burden hours.
OTS: Nonaffiliate—1,800; Affiliate—90. Total: 1,890 burden hours.
Board: Nonaffiliate—1,710; Affiliate—1,422. Total: 3,132 burden hours.
FDIC: Nonaffiliate—7,200; Affiliate—5,220. Total: 12,420 burden hours.

General Description of Report: This information collection is mandatory. 12 U.S.C. 1828(c) (OCC, FDIC, and OTS); and 12 U.S.C. 321, 1828(c), and 4804 (Board).

Comments

Comments submitted in response to this notice will be summarized in each Agency's OMB submission. All comments will become a matter of public record. Written comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected, while minimizing burden;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection

techniques or other forms of information technology;

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide the required information; and

(f) The agencies also request specific comment on the format of the application form. Which is preferable: (1) A narrative style form that describes a feature of the merger that may be answered ''not applicable,'' if appropriate; or (2) a yes/no form with boxes to check ''yes'' and ''no,'' followed by a requirement to describe the feature if appropriate?

Dated: January 9, 1998.

Karen Solomon,

Director, Legislative & Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, January 13, 1998.

William W. Wiles,

Secretary of the Board.

Dated at Washington, D.C., this 22d day of December 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: January 9, 1998.

By the Office of Thrift Supervision.

Catherine C. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98–1292 Filed 1–20–98; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Federal Atlas Assurance Company of America

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Surety companies acceptable on Federal Atlas Assurance Company of America.

SUMMARY: (Dept. Circ. 570, 1997 Rev., Supp. No. 6.)

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch, (202) 874–7102.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1997 Revision, on page 35553 to reflect this addition:

Atlas Assurance Company of America. Business address: 600 College Road East, Princeton, NJ 08540. Phone: (609) 275–2600. Underwriting limitation: [b] $34,535,000. Surety licenses: [c] AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. Incorporated in: New York.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.fms.treas.gov/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6887. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048000–00509–8.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6A11, Hyattsville, MD 20782.

Dated: January 7, 1998.

Charles F. Schwan, III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 98–1335 Filed 1–20–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–13

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–13, Election to Treat Certain Revocable Trusts as Part of an Estate.

DATES: Written comments should be received on or before March 23, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election to Treat Certain Revocable Trusts as Part of an Estate.

OMB Number: 1545–1578.

Revenue Procedure Number: Revenue Procedure 98–13.

Abstract: Revenue Procedure 98–13 describes the procedures and requirements for making an election to have certain revocable trusts treated and taxed as part of an estate. The Taxpayer Relief Act of 1997 added section 646 to the Internal Revenue Code to permit the election.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–1284 Filed 1–20–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–15

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–15, Reduced Interest Election for Deferred Estate Tax.

DATES: Written comments should be received on or before March 23, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Reduced Interest Election for Deferred Estate Tax.

OMB Number: 1545–1585.

Revenue Procedure Number: Revenue Procedure 98–15.

Abstract: Revenue Procedure 98–15 provides procedures for making an election under section 503 of the Taxpayer Relief Act of 1997 to reduce the rate of interest on estate taxes deferred under section 6166 of the Internal Revenue Code and to eliminate the deduction for interest paid on the deferred estate taxes.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,600.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 3,300.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–1285 Filed 1–20–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel; Correction

In a notice document published in the **Federal Register** on December 1, 1997 (62 FR 63603), the VA published a summary of precedent opinions of the General Counsel. The document of December 1, failed to include an effective date for VAOPGCPREC 28–97. In a correction document published in the **Federal Register** on December 9, 1997 (62 FR 64910), the effective date for VAOPGCPREC 28–97 was incorrectly stated to be July 24, 1993. The correct effective date is July 24, 1997.

Accordingly, in correction of notice document 97–31329 appearing on page 64910, in the issue of Tuesday, December 9, 1997, the effective date is corrected to read ''Effective Date: July 24, 1997''.

Approved: January 12, 1998.

Thomas O. Gessel,

Director, Office of Regulations Management.

[FR Doc. 98–1313 Filed 1–20–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 63, No. 13
Wednesday, January 21, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document, Environmental Assessment, and Finding of No Significant Impact

Correction

In notice document 98–542 beginning on page 1443 in the issue of Friday, January 9, 1998 make the following corrections:

On page 1443, in the second column:

(a) In the second line, ''Nonprofit'' should read ''Nonpoint''.

(b) Under **SUMMARY**, in the seventh and fifteenth lines ''nonprofit'' should read ''nonpoint''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8738]

RIN 1545-AV43

Tax Treatment of Cafeteria Plans

Correction

In rule document 98–29087, beginning on page 60165, in the issue of Friday, November 7, 1997, make the following corrections:

1. On page 60165, in the third column, in footnote 1, in the last line, ''seciton'' should read ''section''.

2. On page 60166, in the second column, in footnote 5, in the first line, ''§ 1.125.3'' should read ''§ 1.125–3''

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-100841-97]

RIN 1545-AU97

Agreements for Payment of Tax Liability in Installments

Correction

In proposed rule document 97–33790, beginning on page 68241, in the issue of Wednesday, December 31, 1997, in the **DATES** section, ''March 2, 1998'' should read ''March 31, 1998''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[Reg-251502-96]

RIN 1545-AU68

Civil Cause of Action for Certain Unauthorized Collection Actions

Correction

In proposed rule document 97–33791, beginning on page 68242, in the issue of Wednesday, December 31, 1997, in the **DATES** section, ''March 2, 1998'' should read ''March 31, 1998''.

BILLING CODE 1505-01-D

Federal Register

Wednesday
January 21, 1998

Part II

Department of Health and Human Services

Health Resources and Services Administration

Health Education Assistance Loan (HEAL) Program: List of Defaulted Borrowers; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Education Assistance Loan (HEAL) Program: List of Defaulted Borrowers

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA), as required by section 709(c)(1) of the Public Health Service Act (the Act), is publishing this notice of Health Education Assistance Loan (HEAL) borrowers who have defaulted on the repayment of their HEAL loans and are excluded from the Medicare and State health care programs as of July 31, 1997. This listing also can be found on the Internet at http://www.defaulteddocs.dhhs.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857 (written requests only). All media inquiries should be directed to the HRSA Office of Communications at (301) 443–3376. Borrower-specific account information, beyond that included in the notice, will not be released to any person other than the borrower, without the written consent of the borrower.

SUPPLEMENTARY INFORMATION: Section 709(c)(1) of the Act (42 U.S.C. 292h(c)(1)) requires the Department of Health and Human Services (HHS) to compile and publish in the **Federal Register** a list of HEAL borrowers who have defaulted on the repayment of their HEAL loans. This list includes any borrower: (1) Whose HEAL loan has been assigned to HHS; and (2) who, as a result of HEAL default, was excluded from the Medicare and State health care programs as of July 31, 1997. The list does not include any defaulter excluded from the Medicare and State health care programs who, as of July 31, 1997, had provided HHS with satisfactory evidence that he or she had filed for bankruptcy and was making payments under a confirmed plan approved by the bankruptcy court. The list also does not include more than 1,000 defaulters who: (1) Have made satisfactory arrangements with HHS to resolve the default after being advised of their potential exclusion from the Medicare and State health care programs; or (2) as of September 19, 1997, had entered into a Settlement Agreement for repayment of the outstanding HEAL debt that had been approved by HRSA.

If extensive loan collection procedures fail to bring HEAL defaulters into repayment, HHS then is required to exclude these defaulters from receiving reimbursement under the Medicare program (42 U.S.C. 1395ccc). The Office of Inspector General imposes a parallel exclusion under section 1128(b)(14) of the Social Security Act, which requires States to exclude the defaulter from participation in all State health care programs (42 U.S.C. 1320a–7(b)(14)).

The total number of defaulters published in this list should not be compared to the number published in the **Federal Register** on March 15, 1995 (60 FR 14060) since the criteria used to compile the lists are different. This list does not include HEAL defaulters who are in the collection activities preceding the Medicare and State health care programs exclusion. If these defaulters do not enter into repayment, they will be added to the list.

The list that follows at the end of this document states: the defaulter's name, the latest known City and State of residence, the total amount of the HEAL debt, the school last attended for which a HEAL loan was received, the borrower's practice discipline, and the estimated school separation date. This information is listed by State of residence and by practice discipline.

Section 709(c)(2) of the Act directs that the information included in this notice be made available to relevant Federal agencies and to schools, school associations, professional and specialty associations, State licensing boards, hospitals with which listed borrowers may be associated, and other relevant organizations. In accordance with this section of the Act, HHS will provide to these entities, upon written request, the information included in the **Federal Register** notice along with Social Security Account Numbers and last known street addresses of the borrowers listed. Written requests should be submitted to the Director, Division of Student Assistance, at the address indicated above.

Dated: January 7, 1998.

Claude Earl Fox,

Acting Administrator.

LIST OF DEFAULTERS

Name	City	Debt	School	City and state	Sep date
ALABAMA					
CHIROPRACTIC					
Hembree, David W	Fairhope	$54,660	Life Univ	Marietta, GA	12/89
Hembree, Gloria N	Fairhope	43,404	Life Univ	Marietta, GA	03/90
Hopkins, Keith T	Birmingham	13,816	Logan Col of Chiropractic	Chesterfield, MO	09/82
McKenzie, Janell	Birmingham	134,763	Life Univ	Marietta, GA	03/86
Quinley, Timothy E	Bay Minette	25,509	Palmer Col of Chiropractic	Davenport, IA	12/88
DENTISTRY					
Campbell, Larry W	Muscle Shoals	51,025	Loma Linda Univ	Loma Linda, CA	06/85
Haslam Jr, Jeff D	Dothan	166,936	Marquette Univ	Milwaukee, WI	05/85
PODIATRY					
Truelove, Glenda G	Birmingham	66,796	Ohio Col of Podiatric Medicine	Cleveland, OH	05/81
ALASKA					
CHIROPRACTIC					
Horwitz, Robert B	Anchorage	94,756	Palmer Col of Chiropractic	Davenport, IA	06/86
Lavender, Anthony G	Tok	111,194	Logan Col of Chiropractic	Chesterfield, MO	08/86
Lorentzen, Peter E	Eagle River	19,779	Western States Chiropractic Col	Portland, OR	06/89
CLINICAL PSYCHOLOGY					
Valenzuela, Debbie L	Anchorage	81,071	California School of Prof Psych	Alhambra, CA	07/87

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
DENTISTRY					
Lien, Douglas D	Anchorage	206,465	New York Univ	New York, NY	06/85
ARIZONA					
ALLOPATHIC MEDICINE					
Pruitt, Christopher R	Phoenix	36,710	Medical Col of Ohio	Toledo, OH	06/91
CHIROPRACTIC					
Arkfield, Ted A	Phoenix	19,174	Northwestern Col of Chiropractic	Bloomington, MN	04/88
Beam, David E	Phoenix	113,928	Los Angeles Col of Chiropractic	Whittier, CA	06/85
Buchwald-Heilig, Bonnie I	Tucson	39,437	Life Univ	Marietta, GA	09/85
Budd, Carlinda L	Tucson	87,310	Logan Col of Chiropractic	Chesterfield, MO	04/86
Crider, Walter D	Scottsdale	98,809	Western States Chiropractic Col	Portland, OR	08/88
Davis-Wiese, Jacqueline S	Mesa	5,674	Palmer Col of Chiropractic	Davenport, IA	03/86
Derosa Jr, Arthur	Scottsdale	39,179	Life Chiropractic Col—West	San Lorenzo, CA	12/88
Faber, Robert H	Chino Valley	64,794	Parker Col of Chiropractic	Dallas, TX	04/87
Howe, James K	Tempe	51,083	Palmer Col of Chiropractic	Davenport, IA	12/85
Jones, Richard H	Camp Verde	77,666	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/85
Kaltenbach, Robert T	Glendale	106,606	Parker Col of Chiropractic	Dallas, TX	05/89
Keleher, James P	Tucson	104,776	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/89
Kolb, Maryann	Tempe	133,641	Life Univ	Marietta, GA	09/86
Le Gate, Andrew	Winslow	16,259	Palmer Col of Chiropractic—West	San Jose, CA	09/89
Millar, Mark A	Phoenix	64,989	Parker Col of Chiropractic	Dallas, TX	12/87
Reed, Susan A	Phoenix	97,520	Los Angeles Col of Chiropractic	Whittier, CA	12/87
Rich, Kenneth C	Tucson	126,578	Los Angeles Col of Chiropractic	Whittier, CA	04/88
Smith, Sandra M	Phoenix	33,070	Palmer Col of Chiropractic	Davenport, IA	09/84
White, Howard D	Phoenix	62,833	Southern California Col of Chiropractic	Pico Rivera, CA	04/89
DENTISTRY					
Dobrota, Jerry G	Sedona	107,290	Loma Linda Univ	Loma Linda, CA	06/85
Keith, Rosalyn D	Tempe	39,013	Georgetown Univ	Washington, DC	05/87
Ransdell, Kerry L	Tempe	115,690	Washington Univ	St Louis, MO	05/85
Riter, Lester E	Avondale	140,562	Loma Linda Univ	Loma Linda, CA	06/87
OSTEOPATHY					
Smith, Susan M	Scottsdale	92,442	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/85
Taylor, John S	Sierra Vista	213,838	Univ of Health Sci	Kansas City, MO	05/86
Van Patten Jr, Merrill D	Mesa	48,945	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/90
PODIATRY					
Scinta, Mark C	Phoenix	31,716	New York Col of Podiatric Medicine	New York, NY	06/83
PUBLIC HEALTH					
Goudreault, Deborah A	Paradise Valley	7,588	Columbia Univ	New York, NY	05/82
ARKANSAS					
CHIROPRACTIC					
Kirklin, Kenton K	Rector	172,042	Life Univ	Marietta, GA	06/86
Maskell, Gary L	El Dorado	125,090	Life Univ	Marietta, GA	12/86
Mathews, Daniel G	North Little Rock	18,737	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/82
Youde, Rehea L	Elkins	76,605	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
DENTISTRY					
Goodman, William D	Magnolia	16,077	Univ of Tennessee—Memphis	Memphis, TN	06/86
Layman, Kevin W	Fort Smith	127,995	Univ of Missouri—Kansas City	Kansas City, MO	04/85
OPTOMETRY					
Gunn, Nanette Q	Paragould	266,185	Southern Col of Optometry	Memphis, TN	06/86
PHARMACY					
Caldwell, Eric J	Lewisville	18,505	Texas Southern Univ	Houston, TX	05/90
CALIFORNIA					
ALLOPATHIC MEDICINE					
Anderson, Angela J	Torrance	56,068	Creighton Univ	Omaha, NE	12/85
Avelar, Susana	San Francisco	126,218	Medical Col of Wisconsin	Milwaukee, WI	05/90
Balyeat, Lisa E	San Diego	9,375	Univ of Texas Medical Branch—Galveston	Galveston, TX	06/88
Barbala, Patricia J	Fresno	246,502	George Washington Univ	Washington, DC	05/87
Braxton-Davis, Pamela M	San Gabriel	24,255	Howard Univ	Washington, DC	05/87
Coleman, James E	Westminster	26,012	Univ of California—Davis	Davis, CA	06/80
Duncan, Monique	Los Angeles	10,206	Case Western Reserve Univ	Cleveland, OH	08/85
Essey, Robert J	Los Angeles	79,530	Temple Univ	Philadelphia, PA	05/84
Fabrega, Cathye D	Monterey Park	130,274	Georgetown Univ	Washington, DC	05/90
Fletcher, Leonard G	Santa Ana	91,358	Univ of Texas Health Sci Ctr—San Antonio	San Antonio, TX	05/86
Franklin, Janet L	Beverly Hills	12,247	Georgetown Univ	Washington, DC	05/84
Green, Synthia E	Oakland	75,390	Loma Linda Univ	Loma Linda, CA	10/85
Hamilton, Clarence A	Alta Loma	153,902	Meharry Medical Col	Nashville, TN	05/84
Hemingway-Maffeo, Linda M	Larkspur	69,213	Boston Univ Medical Ctr	Boston, MA	05/86
Matalon, Ofer I	Santa Rosa	66,734	Univ of Illinois Medical Ctr	Chicago, IL	06/86
Miller, Bradley G	Beverly Hills	45,514	Univ of Southern California	Los Angeles, CA	06/88

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Moini, Kian	Fountain Valley	4,896	Baylor Col of Medicine	Houston, TX	05/88
Mouton, Marsha E	Oakland	50,401	Univ of Texas Health Sci Ctr	Houston, TX	06/86
Olson, Robert M	Sierra Madre	267,142	Univ of Southern California	Los Angeles, CA	06/84
Perrault, Mark D	Culver City	36,947	Michigan State Univ	East Lansing, MI	03/84
Pinson, Letitia A	San Pedro	8,042	Howard Univ	Washington, DC	06/91
Pote III, William H	Loma Linda	148,299	Loma Linda Univ	Loma Linda, CA	06/86
Ray, Douglas	Hawthorne	274,716	Meharry Medical Col	Nashville, TN	05/86
Schlater, Theodore L	San Francisco	14,910	Univ of California—Irvine	Irvine, CA	06/88
Scott, Barbara J	Northridge	111,581	Texas Tech Univ Health Sci Ctr	Lubbock, TX	06/89
Shaw, Michael G	Inglewood	47,234	Meharry Medical Col	Nashville, TN	05/85
Tolbert Jr, William	Los Feliz	45,521	Howard Univ	Washington, DC	05/86
Townsend, Leo W	Elk Grove	58,492	Meharry Medical Col	Nashville, TN	05/89
Weil, Mitchell A	San Clemente	18,506	Univ of California—Los Angeles	Los Angeles, CA	06/80
Worstell, Craig S	Sunnyvale	118,741	Loma Linda Univ	Loma Linda, CA	05/87
CHIROPRACTIC					
Ahmad, Haifa M	Campbell	90,070	Palmer Col of Chiropractic—West	San Jose, CA	09/88
Alegria, Albert J	South Pasadena	108,464	Southern California Col of Chiropractic—West.	Pico Rivera, CA	01/87
Anderson, Douglas W	Santa Ana	157,700	Los Angeles Col of Chiropractic	Whittier, CA	04/86
Archuleta, Philip A	San Marcos	121,459	Los Angeles Col of Chiropractic	Whittier, CA	12/88
Arishin, Michael W	Los Gatos	37,268	Palmer Col of Chiropractic—West	San Jose, CA	09/85
Arnold, Dorienne M	Sacramento	15,729	Life Chiropractic Col—West	San Lorenzo, CA	12/86
Azgorov, Todor P	Los Angeles	57,186	Southern California Col of Chiropractic	Pico Rivera, CA	12/89
Azzopardi, Thomas J	Salinas	67,363	Logan Col of Chiropractic	Chesterfield, MO	08/85
Bai, Chung H	Glendale	6,868	Southern California Col of Chiropractic	Pico Rivera, CA	05/88
Bain, Lee R	Covina	140,188	Life Univ	Marietta, GA	12/87
Bardsley, Marijane	Fair Oaks	42,991	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Becchetti, Sondra D	Belmont	69,927	Palmer Col of Chiropractic—West	San Jose, CA	03/87
Benedict, Susan E	Malibu	100,166	National Col of Chiropractic	Lombard, IL	06/89
Benkula, Jan K	Hayward	24,727	Life Chiropractic Col—West	San Lorenzo, CA	03/87
Berg, Troy L	Huntington Beach	44,553	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Bochniak, Marie L	Thousand Oaks	48,460	Los Angeles Col of Chiropractic	Whittier, CA	04/88
Bono, John E	San Jose	79,736	Palmer Col of Chiropractic—West	San Jose, CA	06/89
Boron, Steven J	Guerneville	46,836	Palmer Col of Chiropractic—West	San Jose, CA	04/89
Bronk, Brian R	Santa Monica	35,360	Palmer Col of Chiropractic	Davenport, IA	06/84
Burch, Gregory D	Riverside	52,239	Western States Chiropractic Col	Portland, OR	06/84
Burkley, Anton Z	Oakland	100,504	Life Chiropractic Col—West	San Lorenzo, CA	06/88
Caballero, Jorge R	Los Angeles	101,509	Los Angeles Col of Chiropractic	Whittier, CA	04/87
Cappa, Claude L	Modesto	48,365	Palmer Col of Chiropractic	Davenport, IA	06/84
Carr, Wayne S	Healdsburg	98,385	Western States Chiropractic Col	Portland, OR	08/88
Cheney, Julian L	Reseda	2,874	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/83
Choe, Kevin K	Lakewood	10,895	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/91
Christensen, Casey D	Whittier	105,180	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Clifford, Fred W	Riverside	96,346	Palmer Col of Chiropractic	Davenport, IA	12/85
Collier, William F	Santa Rosa	51,668	Life Chiropractic Col—West	San Lorenzo, CA	03/87
Cox, Stewart J	Pleasant Hill	60,040	Palmer Col of Chiropractic	Davenport, IA	12/83
Cresswell, Diane H	Whittier	53,298	Los Angeles Col of Chiropractic	Whittier, CA	04/90
Crocevera-Todd, Carolyn A	Pacific Grove	14,565	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Curtin, Michael M	Fairfax	15,754	National Col of Chiropractic	Lombard, IL	08/88
Dankman, Mark I	Lafayette	90,855	Life Chiropractic Col—West	San Lorenzo, CA	09/88
Davis, Charles G	Glendora	74,117	Los Angeles Col of Chiropractic	Whittier, CA	12/85
DeSantis, Nicholas G	La Mesa	93,408	Southern California Col of Chiropractic	Pico Rivera, CA	12/87
Delsie, Carl	Santa Barbara	143,344	Southern California Col of Chiropractic	Pico Rivera, CA	12/86
Dhaliwal, Emaline K	Moreno Valley	16,970	Los Angeles Col of Chiropractic	Whittier, CA	12/90
Dieter, Lawrence A	Los Osos	121,851	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Difiore Jr, William E	Santa Ana	34,638	Southern California Col of Chiropractic	Pico Rivera, CA	08/86
Dorman Jr, Patrick L	La Jolla	24,885	Texas Chiropractic Col Foundation	Pasadena, TX	12/85
Duff, Richard A	San Rafael	71,535	Palmer Col of Chiropractic	Davenport, IA	10/89
Dvorak, Rosalie J	Moreno Valley	92,533	Los Angeles Col of Chiropractic	Whittier, CA	12/85
Dykeman, Peter J	Torrance	60,501	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Early, Lawrence	San Diego	94,414	Los Angeles Col of Chiropractic	Whittier, CA	04/87
Eckel, David E	Lancaster	87,366	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Eli, Desiree D	Capitola	34,852	Life Chiropractic Col—West	San Lorenzo, CA	09/89
Ellis, Carl E	Escondido	125,283	Palmer Col of Chiropractic—West	San Jose, CA	12/89
Emmerson, Ronald E	Merced	59,996	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/89
Etcheverry, John C	San Jose	13,196	Los Angeles Col of Chiropractic	Whittier, CA	12/88
Fickel, Theodore E	Santa Barbara	70,394	Los Angeles Col of Chiropractic	Whittier, CA	12/82
Fishkin, William H	San Francisco	13,037	Life Chiropractic Col—West	San Lorenzo, CA	03/87
Fitzpatrick, Patrick J	Hesperia	80,619	Los Angeles Col of Chiropractic	Whittier, CA	12/87
Flores, Otto O	Santa Ana	50,495	Southern California Col of Chiropractic	Pico Rivera, CA	08/88
Florez, Stephen D	Bassett	41,116	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/89
Fridrick, Tim P	North Hollywood	50,086	Southern California Col of Chiropractic	Pico Rivera, CA	04/88
Gallagher, Tamara G	Chino	32,516	Los Angeles Col of Chiropractic	Whittier, CA	12/84
Garza, John J	Thousand Oaks	99,421	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Garza, Rudolph P	San Jose	66,472	Life Chiropractic Col—West	San Lorenzo, CA	12/85
Gearhart, Cindy L	Lakewood	35,774	Los Angeles Col of Chiropractic	Whittier, CA	04/90
Gilberti, Benedict V	Carlsbad	14,782	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/87
Given, Vaughn M	Mission Viejo	31,730	Southern California Col of Chiropractic	Pico Rivera, CA	10/85
Glum, Gary L	Los Angeles	127,255	Los Angeles Col of Chiropractic	Whittier, CA	04/84
Green, Sheldon S	Sherman Oaks	51,354	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/85
Gregory, Todd A	Santa Maria	23,446	Life Chiropractic Col—West	San Lorenzo, CA	09/89

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Grubstein, Alan P	Rancho Cucamonga	115,645	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/87
Hafner, Diane H	Atherton	25,913	Palmer Col of Chiropractic—West	San Jose, CA	12/86
Hahn, Peter S	Placentia	16,500	Los Angeles Col of Chiropractic	Whittier, CA	12/89
Haines, Donna J	Arcata	46,629	National Col of Chiropractic	Lombard, IL	08/88
Halle, Thomas C	Los Angeles	63,909	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/86
Hamilton, Aaron J	Huntington Beach	20,266	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/82
Hatfield, Brian L	Santa Monica	34,828	Life Chiropractic Col—West	San Lorenzo, CA	03/88
Hempsey, William C	Sherman Oaks	24,144	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/83
Hermosillo, Francisco J	Tarzana	116,591	Southern California Col of Chiropractic	Pico Rivera, CA	04/87
Hernandez, Orestes M	Los Angeles	47,362	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/88
Hileman, Kent A	Hollister	22,888	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Holsinger, Matthew W	San Mateo	74,986	Life Chiropractic Col—West	San Lorenzo, CA	06/90
Holt, Kenneth G	Sun City	55,636	Southern California Col of Chiropractic	Pico Rivera, CA	12/88
Hopstock, Richard M	Hacienda Heights	86,261	Los Angeles Col of Chiropractic	Whittier, CA	12/85
Hosler, John R	Hollister	33,712	Palmer Col of Chiropractic—West	San Jose, CA	12/84
Howard, Marty B	Newark	19,409	Life Chiropractic Col—West	San Lorenzo, CA	12/86
Huerta, Debra	Oakland	36,651	Life Chiropractic Col—West	San Lorenzo, CA	12/88
Hughes Jr, Joseph R	San Diego	45,684	Southern California Col of Chiropractic	Pico Rivera, CA	12/90
Hungerford, Richard D	San Leandro	29,189	Life Chiropractic Col—West	San Lorenzo, CA	09/86
Inskeep, Norman D	San Jose	148,182	Palmer Col of Chiropractic—West	San Jose, CA	09/86
Jette, Steven A	Petaluma	9,477	Western States Chiropractic Col	Portland, OR	12/83
Johnson, Eric D	Victorville	106,826	Palmer Col of Chiropractic—West	San Jose, CA	03/90
Johnson, Randall G	Los Angeles	87,319	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/86
Johnson, Shelia A	Los Angeles	117,196	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/86
Kahan, Robert M	Mission Viejo	25,539	Los Angeles Col of Chiropractic	Whittier, CA	04/84
Kelly, Mark S	Chino	25,452	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/86
Kessler, Michael J	Vallejo	91,249	Palmer Col of Chiropractic—West	San Jose, CA	03/86
Koukeh-Sackett, F M	Redlands	56,627	Palmer Col of Chiropractic	Davenport, IA	06/86
Lacy, Sharon J	Guerneville	89,397	Logan Col of Chiropractic	Chesterfield, MO	04/88
Lamb, Robert D	Sebastopol	35,974	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Lampman, Chuck D	Sylmar	114,859	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Landemare, Henry M	Moss Beach	107,964	Life Chiropractic Col—West	San Lorenzo, CA	06/85
Laughter, James S	San Diego	42,483	Western States Chiropractic Col	Portland, OR	03/85
Leeds, Robert W	Redwood City	89,968	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Lewis, Edward L	Auburn	118,723	Palmer Col of Chiropractic—West	San Jose, CA	06/89
Locke, Peggy J	Santa Barbara	107,350	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/89
Lodwig, Michael J	Walnut Creek	17,389	Palmer Col of Chiropractic—West	San Jose, CA	10/89
Lowry, Paulette M	Richmond	73,470	Life Chiropractic Col—West	San Lorenzo, CA	03/88
Lowy-Berry, Christie L	Glendora	40,259	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/88
Lunceford, Glenn W	Norco	16,375	Life Chiropractic Col—West	San Lorenzo, CA	06/86
Manfre, Vincent S	North Hollywood	86,387	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/89
Mark, Jeffrey	Berkeley	103,137	Los Angeles Col of Chiropractic	Whittier, CA	04/87
Martin, Diana J	Los Gatos	26,686	Palmer Col of Chiropractic—West	San Jose, CA	03/86
Maynard, Jennifer E	Diamond Bar	69,211	Southern California Col of Chiropractic	Pico Rivera, CA	12/88
Mays-Good, Kathryn M	Tarzana	74,537	Parker Col of Chiropractic	Dallas, TX	05/88
McGee, Billie J	Simi Valley	35,730	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/84
McLaughlin, Robert M	Somerset	50,615	Palmer Col of Chiropractic—West	San Jose, CA	12/89
Melville, Carl J	Crestline	112,531	Los Angeles Col of Chiropractic	Whittier, CA	12/89
Miller, Brad T	Costa Mesa	20,662	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/90
Miller, David E	Clyde	31,729	Life Chiropractic Col—West	San Lorenzo, CA	12/89
Molina, Robert	West Covina	59,992	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/87
Monahan, Michael L	Carlsbad	46,406	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Moore, Dennis J	Costa Mesa	145,268	Los Angeles Col of Chiropractic	Whittier, CA	04/86
Moore, Wesley B	San Jose	46,311	Life Chiropractic Col—West	San Lorenzo, CA	12/84
Mullins, Marilyn E	Placentia	58,346	Los Angeles Col of Chiropractic	Whittier, CA	04/84
Murphy, Marc A	Rancho Santa Marga	60,257	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/83
Navai, Mehdi N	Alhambra	72,415	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/88
Nelson, Robert A	Suisun City	85,572	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/88
Nicholls, Hilary J	Carmel Valley	33,302	Logan Col of Chiropractic	Chesterfield, MO	08/85
Norie, John B	Desert Hot Springs	95,301	Palmer Col of Chiropractic—West	San Jose, CA	06/87
Norville, Michael T	Costa Mesa	64,702	Southern California Col of Chiropractic	Pico Rivera, CA	12/90
Oberstein, Lawrence B	Santa Rosa	35,798	Life Chiropractic Col—West	San Lorenzo, CA	12/84
Pallas, James M	Temecula	79,612	Los Angeles Col of Chiropractic	Whittier, CA	04/86
Palmer, Becky A	Fallbrook	85,644	Life Univ	Marietta, GA	03/86
Pardo, Fernando A	Ontario	16,436	Logan Col of Chiropractic	Chesterfield, MO	12/90
Parker, Brian T	Sylmar	28,948	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/88
Pellerin, Stephen P	Oakhurst	70,624	Southern California Col of Chiropractic	Pico Rivera, CA	01/86
Perez, Jesus V	Pomona	92,132	Cleveland Chiropractic Col (CA)	Los Angeles, CA	07/84
Pfeiffer, Arlene H	Lakewood	6,672	Los Angeles Col of Chiropractic	Whittier, CA	04/83
Pham, Greg N	Fountain Valley	79,913	Southern California Col of Chiropractic	Pico Rivera, CA	12/89
Pham, Nghi D	Fountain Valley	64,415	Palmer Col of Chiropractic—West	San Jose, CA	08/89
Podry, Robert J	La Canada	71,450	Southern California Col of Chiropractic	Pico Rivera, CA	08/86
Radetic, Peter M	Pleasant Hill	41,648	Life Chiropractic Col—West	San Lorenzo, CA	06/86
Rahn, Roger S	Woodland Hills	96,560	Los Angeles Col of Chiropractic	Whittier, CA	04/88
Rayas-Felix, Magdalena	Los Angeles	20,723	Los Angeles Col of Chiropractic	Whittier, CA	04/88
Redd, Timothy J	San Dimas	150,583	Southern California Col of Chiropractic	Pico Rivera, CA	04/87
Reed, Robert W	Highland	64,380	Southern California Col of Chiropractic	Pico Rivera, CA	12/86
Reynolds, Bob R	Bakersfield	57,868	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Richardson, Justin W	Northridge	12,700	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/83
Rios, Emanuel J	Pasadena	61,335	Southern California Col of Chiropractic	Pico Rivera, CA	08/88
Rockmael, Allan M	San Francisco	99,021	Life Chiropractic Col—West	San Lorenzo, CA	09/88

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Rodriguez, Consuelo A	Alhambra	41,863	Cleveland Chiropractic Col (CA)	Los Angeles, CA	09/84
Rodriguez, Humberto J	La Mirada	84,076	Los Angeles Col of Chiropractic	Whittier, CA	04/87
Rosenfeld, Jeffre B	Los Angeles	44,386	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/86
Royal, Don C	Corona Del Mar	34,214	National Col of Chiropractic	Lombard, IL	12/82
Ruiz, Henry S	Palmdale	172,194	Southern California Col of Chiropractic	Pico Rivera, CA	08/86
Sargent, John F	Lawndale	84,999	Southern California Col of Chiropractic	Pico Rivera, CA	08/86
Schleicher, Kyle S	Santa Monica	21,577	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/90
Schow, Kenneth M	Glendale	38,027	Los Angeles Col of Chiropractic	Whittier, CA	12/82
Serratos, Ernesto	Crestline	70,989	Los Angeles Col of Chiropractic	Whittier, CA	12/88
Shanesfelter III, Charles D	San Francisco	29,476	Southern California Col of Chiropractic	Pico Rivera, CA	12/89
Shapiro, Michael S	Newhall	64,865	Los Angeles Col of Chiropractic	Whittier, CA	04/85
Shouka, Mohammed N	Colton	25,946	Los Angeles Col of Chiropractic	Whittier, CA	12/88
Simon, Greg L	Murrieta	46,736	Southern California Col of Chiropractic	Pico Rivera, CA	09/86
Simon, Michelle R	Thousand Oaks	48,931	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/88
Smith, Carl A	Garden Grove	150,981	Los Angeles Col of Chiropractic	Whittier, CA	12/87
Smith, Jessica	Downey	95,459	Los Angeles Col of Chiropractic	Whittier, CA	12/83
Snavely, Danny H	San Juan Capistrano	73,500	Los Angeles Col of Chiropractic	Whittier, CA	04/86
Snodgrass, Clifton R	San Diego	34,180	Los Angeles Col of Chiropractic	Whittier, CA	12/83
Sohrab, Neda	Costa Mesa	54,215	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/89
Stalker, James W	Pleasanton	23,481	Logan Col of Chiropractic	Chesterfield, MO	05/83
Stasko, Edward G	Huntington Beach	36,597	Palmer Col of Chiropractic	Davenport, IA	06/84
Stewart, Jeannine L	Newport Beach	19,780	Los Angeles Col of Chiropractic	Whittier, CA	04/84
Stone, Steven D	San Leandro	15,402	Life Chiropractic Col—West	San Lorenzo, CA	12/90
Studer, Jonathan V	San Jose	48,553	Palmer Col of Chiropractic—West	San Jose, CA	12/86
Styler, Richard L	San Diego	12,099	Palmer Col of Chiropractic—West	San Jose, CA	09/89
Sullivan, Joseph C	Burbank	70,289	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Sutton, Brian L	Mission Viejo	65,594	Southern California Col of Chiropractic	Pico Rivera, CA	04/86
Thompson, James D	Fair Oaks	138,622	Palmer Col of Chiropractic—West	San Jose, CA	03/87
Thornton, James G	Nevada City	4,529	Logan Col of Chiropractic	Chesterfield, MO	01/83
Van Gorder, Kurt F	Temecula	70,904	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Vardanian, Michael A	Fullerton	56,720	Los Angeles Col of Chiropractic	Whittier, CA	04/85
Vassallo-Richmond, Deborah D	Pleasanton	113,507	Life Chiropractic Col—West	San Lorenzo, CA	06/88
Vessels, Steven L	Loma Linda	63,211	Los Angeles Col of Chiropractic	Whittier, CA	04/83
Walls-Fenwick, Jan D	San Bernardino	103,501	Southern California Col of Chiropractic	Pico Rivera, CA	04/88
Walsh, Richard J	Ventura	28,293	Life Chiropractic Col—West	San Lorenzo, CA	12/86
Wanke, Glenn P	Fullerton	118,036	Los Angeles Col of Chiropractic	Whittier, CA	04/87
Weiss, Gwenn M	Cupertino	30,936	Palmer Col of Chiropractic—West	San Jose, CA	09/86
Westing, Denise D	Alameda	36,071	Life Chiropractic Col—West	San Lorenzo, CA	12/87
White, Judith U	Costa Mesa	20,960	Southern California Col of Chiropractic	Pico Rivera, CA	01/85
Whittlesey, James B	Novato	30,218	Life Chiropractic Col—West	San Lorenzo, CA	09/86
Wies, David L	Westlake Village	87,101	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/86
Williams, Duane A	Livermore	56,998	Palmer Col of Chiropractic	Davenport, IA	09/84
Worth, Kelly G	Santa Ana	53,954	Los Angeles Col of Chiropractic	Whittier, CA	12/87
Zeitsoff-Mahar, Deborah L	Aptos	18,082	Palmer Col of Chiropractic—West	San Jose, CA	06/84
CLINICAL PSYCHOLOGY					
Abendan, Marilou S	Berkeley	55,271	California School of Prof Psych	Alameda, CA	06/87
Armstrong, Phyllis M	Los Angeles	26,974	California School of Prof Psych	Alhambra, CA	05/90
Boulware, Susan L	Fairfax	71,882	California School of Prof Psych	Alameda, CA	07/86
Buckwalter, John G	Redondo Beach	90,877	Fuller Theological Seminary	Pasadena, CA	12/86
Cobrin, Bettina B	Venice	135,023	California School of Prof Psych	Alhambra, CA	07/87
Larson, Leslie A	Pasadena	55,594	California School of Prof Psych	Alhambra, CA	05/89
Lataille, Edward P	San Diego	123,396	California School of Prof Psych	San Diego, CA	05/87
Macgregorwhite, Charles W	San Jose	43,752	Pacific Graduate School of Psych	Palo Alto, CA	06/94
McGregor, Floyd A	Hawthorne	53,916	California School of Prof Psych	Alhambra, CA	07/87
McMahon, Kathleen E	El Monte	31,804	California School of Prof Psych	Alhambra, CA	05/90
Pust, Keith W	Lake Elsinore	44,275	Biola Univ	La Mirada, CA	05/86
Safir, Paula B	La Jolla	153,796	California School of Prof Psych	San Diego, CA	02/87
Smukler, Evie L	Los Angeles	23,150	California School of Prof Psych	Alhambra, CA	07/87
Stanford, Jeanne A	Santa Barbara	14,072	California School of Prof Psych	Alhambra, CA	07/87
Stevenson, Teresa M	Los Angeles	12,251	California School of Prof Psych	Alhambra, CA	07/87
DENTISTRY					
Brinker, Richard B	Port Hueneme	94,599	Univ of Pittsburgh	Pittsburgh, PA	06/84
Brodie, Douglas K	San Diego	193,170	Loma Linda Univ	Loma Linda, CA	10/87
Brunson, Gregory H	Del Mar	125,295	Univ of Texas Health Sci Ctr	Houston, TX	05/88
Calhoun, Michael W	Palm Springs	171,846	Univ of Southern California	Los Angeles, CA	05/86
Ching, Clayton V	Anaheim	46,698	Univ of Southern California	Los Angeles, CA	05/85
Christensen, Heidi L	Redlands	49,772	Univ of Detroit Mercy	Detroit, MI	06/83
Chung, John J	Rosemead	147,560	Univ of Southern California	Los Angeles, CA	05/93
Comer, Michael J	Sacramento	41,621	Washington Univ	St Louis, MO	05/89
Cutts, David P	Temecula	52,543	Loma Linda Univ	Loma Linda, CA	06/83
Dangerfield, Alan N	Santa Clara	163,006	Georgetown Univ	Washington, DC	05/83
Done, Byron H	Walnut Creek	155,402	Univ of Southern California	Los Angeles, CA	05/87
Drabinsky, Gerald S	Los Angeles	122,373	Indiana Univ—Indianapolis	Bloomington, IN	12/91
Eslao, Caesar G	Carson	78,576	Univ of Southern California	Los Angeles, CA	05/90
Formaker, James W	West Hollywood	45,271	Univ of Southern California	Los Angeles, CA	05/86
Frier, James W	Jackson	24,914	Georgetown Univ	Washington, DC	05/83
Gabriel, Tony D	Glendale	49,673	Marquette Univ	Milwaukee, WI	05/84
Garcia, Gilberto G	Long Beach	143,653	Univ of The Pacific	San Francisco, CA	06/89
Gonzales, Edward J	Los Angeles	231,586	Boston Univ Medical Ctr	Boston, MA	05/88
Gray, Scott D	Hemet	75,458	Univ of The Pacific	San Francisco, CA	06/88

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Hall, Barry S	Milpitas	201,728	Univ of Southern California	Los Angeles, CA	05/87
Hill, David L	San Jose	17,719	Tufts Univ	Boston, MA	06/86
Hoehn, James D	Thousand Oaks	99,387	Loma Linda Univ	Loma Linda, CA	06/85
Kelly, Andrew W	Los Angeles	54,614	Howard Univ	Washington, DC	05/83
Kent, Donald E	Oakland	183,003	Univ of Southern California	Los Angeles, CA	05/85
Kurts, Tedd R	Sunnyvale	40,721	Loma Linda Univ	Loma Linda, CA	06/86
Lim, Jhang H	Fresno	108,641	Univ of Southern California	Los Angeles, CA	05/84
Luckey, John M	Victorville	107,957	Loma Linda Univ	Loma Linda, CA	06/81
Marth-Hudson, Tedie L	San Marino	15,551	Univ of Southern California	Los Angeles, CA	06/82
Memmott, Dana B	Signal Hill	11,266	Univ of Southern California	Los Angeles, CA	05/84
Nelson, Dorothy S	San Diego	76,448	Georgetown Univ	Washington, DC	05/87
Price, Steven V	Los Angeles	4,377	Univ of California—Los Angeles	Los Angeles, CA	06/84
Ramirez, Ralph	El Monte	17,770	Univ of Southern California	Los Angeles, CA	05/85
Rocha, Mark W	Riverside	146,543	Loma Linda Univ	Loma Linda, CA	06/87
Santucci, Gerald M	Sacramento	35,928	Univ of Southern California	Los Angeles, CA	05/83
Shaw, Michael P	Pleasanton	136,915	Marquette Univ	Milwaukee, WI	05/83
Shepperd, Gordon L	Ceres	83,361	Univ of Southern California	Los Angeles, CA	05/88
Shin, Hui-Yong	Los Angeles	72,245	Univ of Southern California	Los Angeles, CA	05/89
Shoeleh, Hossien M	Costa Mesa	42,574	Univ of Oklahoma Health Sci Ctr	Oklahoma City, OK	06/91
Swen, John M	Orangevale	49,340	Loma Linda Univ	Loma Linda, CA	06/86
Taylor, Tamra R	San Clemente	48,949	Loma Linda Univ	Loma Linda, CA	06/84
Thompson, Florian	Los Angeles	250,482	Boston Univ Medical Ctr	Boston, MA	05/88
Tracy, James M	Campbell	57,154	Georgetown Univ	Washington, DC	05/79
Vazagov, Zachial A	Sierra Madre	236,663	Tufts Univ	Boston, MA	05/88
OPTOMETRY					
Glick, Stanley B	Pasadena	5,054	New England Col of Optometry	Boston, MA	11/81
Mast, Barry C	Camarillo	42,254	Southern Col of Optometry	Memphis, TN	06/84
McWhinnie Jr, Clarence E	Los Angeles	10,708	Southern California Col of Optometry	Fullerton, CA	06/83
OSTEOPATHY					
Breedlove, David L	Long Beach	12,110	Michigan State Univ	East Lansing, MI	06/83
Cline, Sherri L	Sylmar	7,299	Univ of North Texas Health Sci Ctr	Fort Worth, TX	05/88
Marshall, William E	Burbank	177,546	Western Univ of Health Sci	Pomona, CA	06/87
Mitchell, Ralph A	Alta Loma	111,850	Western Univ of Health Sci	Pomona, CA	06/91
PHARMACY					
Abe, Gregory N	Tujunga	30,606	Univ of Southern California	Los Angeles, CA	05/88
Degroot, Ruth I	Modesto	10,794	Univ of The Pacific	Stockton, CA	04/91
Dharma-Haynes, Geetha A	Beverly Hills	25,502	Univ of Southern California	Los Angeles, CA	05/90
Frick, Deborah M	Anaheim	27,190	Univ of Southern California	Los Angeles, CA	05/89
Iqal, Robert S	Claremont	13,652	Mercer Univ	Atlanta, GA	06/83
PODIATRY					
Barry, Patrick G	San Diego	3,293	New York Col of Podiatric Medicine	New York, NY	06/83
Berquist, Andrew O	Foster City	126,776	California Col of Podiatric Medicine	San Francisco, CA	05/86
Featherstone, John J	San Bruno	47,571	California Col of Podiatric Medicine	San Francisco, CA	05/93
Hitchcock, Philip R	Dunsmuir	137,320	California Col of Podiatric Medicine	San Francisco, CA	05/81
Landrum, Keith	Redondo Beach	85,027	Dr William School Col of Podiatric Medicine	Chicago, IL	05/81
Lentell, Brian M	Clovis	47,865	California Col of Podiatric Medicine	San Francisco, CA	05/84
London, Eliyahu	Irvine	256,772	California Col of Podiatric Medicine	San Francisco, CA	06/86
Palmer, Donna C	Garden Grove	68,398	California Col of Podiatric Medicine	San Francisco, CA	05/83
Pope, David K	Downey	178,368	California Col of Podiatric Medicine	San Francisco, CA	05/85
Scott, Thamos	Oakland	59,864	California Col of Podiatric Medicine	San Francisco, CA	05/87
Wilkes, Craig A	Corona	241,442	California Col of Podiatric Medicine	San Francisco, CA	06/86
Williams, David L	Pasadena	37,489	Dr William School Col of Podiatric Medicine	Chicago, IL	05/84
Zolfaghri, Behrooz	Danville	57,225	California Col of Podiatric Medicine	San Francisco, CA	05/86
PUBLIC HEALTH					
Williams, Pamela A	Buena Park	5,746	Loma Linda Univ	Loma Linda, CA	06/83
COLORADO					
ALLOPATHIC MEDICINE					
Roberts, Charles C	Denver	66,583	Univ of Colorado Health Sci Ctr	Denver, CO	05/85
Stirgus, Kent L	Colorado Springs	59,417	Univ of Colorado Health Sci Ctr	Denver, CO	05/88
CHIROPRACTIC					
Cunningham, Marvin D	Colorado Springs	25,024	Palmer Col of Chiropractic—West	San Jose, CA	06/86
Day, Donald M	Thornton	60,029	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/83
Downs-Reason, Cynthia L	Woodland Park	42,501	Southern California Col of Chiropractic	Pico Rivera, CA	08/88
Langolf, Daniel L	Lakewood	56,909	Palmer Col of Chiropractic	Davenport, IA	06/86
Michals, Robert H	Aurora	57,050	Palmer Col of Chiropractic	Davenport, IA	09/84
Ohrdorf, Ronald T	Colorado Springs	135,045	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Peterson, Gregory W	Littleton	27,219	Northwestern Col of Chiropractic	Bloomington, MN	04/85
Plaster, Michael A	Lakewood	46,318	Parker Col of Chiropractic	Dallas, TX	12/87
Schmidt, Jeffrey J	Silverthorne	43,292	Western States Chiropractic Col	Portland, OR	12/88
Stjernholm, Darwin L	Denver	82,442	Los Angeles Col of Chiropractic	Whittier, CA	12/88
Stokka, Wayne M	Littleton	24,528	Northwestern Col of Chiropractic	Bloomington, MN	04/89
Williams, Danny C	Broomfield	4,367	Palmer Col of Chiropractic	Davenport, IA	03/90
Young, Larry N	Florence	35,357	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/85
DENTISTRY					
Haviland, Philip F	Aurora	21,463	Oral Roberts Univ	Tulsa, OK	05/87

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Lack, Ray E	Arvada	61,125	Univ of Colorado Health Sci Ctr	Denver, CO	05/86
Thompson, Jerrold A	Lakewood	12,580	Univ of Colorado Health Sci Ctr	Denver, CO	05/83
OPTOMETRY					
Cooley, Stephen L	Denver	23,760	Pacific Univ	Forest Grove, OR	05/84
PHARMACY					
Espinosa, Sylvia L	Colorado Springs	12,223	Univ of Southern California	Los Angeles, CA	05/89
PODIATRY					
Otteman, Timothy J	Arvada	97,958	Dr William School Col of Podiatric Medicine	Chicago, IL	05/83
CONNECTICUT					
ALLOPATHIC MEDICINE					
Cooper, Charles	Stratford	20,615	Univ of Miami	Miami, FL	06/83
CHIROPRACTIC					
Anderson, Mark G	Sandy Hook	78,990	Life Univ	Marietta, GA	06/86
Davis, Patricia M	Stamford	56,941	New York Chiropractic Col	Seneca Falls, NY	04/88
Dellavolpe, Michael A	Wolcott	118,864	National Col of Chiropractic	Lombard, IL	08/86
Dunlop, Daniel W	New Hartford	103,947	New York Chiropractic Col	Seneca Falls, NY	04/87
Fiore, Dominick	Bridgeport	99,649	New York Chiropractic Col	Seneca Falls, NY	12/86
Spielmann, Michael A	Vernon Rockville	27,357	National Col of Chiropractic	Lombard, IL	12/89
DENTISTRY					
Urling, Wendell P	Cheshire	161,644	Temple Univ	Philadelphia, PA	05/83
DELAWARE					
PHARMACY					
Stanley, Carolyn	Wilmington	78,974	Temple Univ	Philadelphia, PA	06/86
DISTRICT OF COLUMBIA					
ALLOPATHIC MEDICINE					
McAllister, Amazair	Washington	4,344	Howard Univ	Washington, DC	05/83
Smith, Horatio L	Washington	11,800	Morehouse School of Medicine	Atlanta, GA	05/90
DENTISTRY					
Beck, Mark L	Washington	65,840	Howard Univ	Washington, DC	05/87
Bess-Blythe, Valerie D	Washington	45,481	Howard Univ	Washington, DC	05/84
Caldwell, Robert J	Washington	13,131	Howard Univ	Washington, DC	05/86
Harris, Conrad W	Washington	88,352	Howard Univ	Washington, DC	05/85
Jones, Sherman P	Washington	98,090	Howard Univ	Washington, DC	05/89
King, James H	Washington	29,987	Howard Univ	Washington, DC	05/90
Leggett, Gilbert H	Washington	32,718	Howard Univ	Washington, DC	05/88
Pettaway, Reginald	Washington	41,051	Howard Univ	Washington, DC	05/89
Sims, Michael A	Washington	32,595	Georgetown Univ	Washington, DC	05/83
Smith, Daniel J	Washington	13,553	Howard Univ	Washington, DC	05/84
Smith, Vasco A	Washington	173,816	Meharry Medical Col	Nashville, TN	05/84
Whitaker, Aaron T	Washington	49,302	Howard Univ	Washington, DC	05/84
PODIATRY					
Stroman, Samuel D	Washington	22,035	Ohio Col of Podiatric Medicine	Cleveland, OH	05/91
FLORIDA					
ALLOPATHIC MEDICINE					
Birt, Carol M	Fort Myers	147,169	George Washington Univ	Washington, DC	05/86
D'Amico, James M	New Port Richey	128,596	Washington Univ	St Louis, MO	05/88
Lentol, Lawrence A	Boca Raton	211,751	Ponce School of Medicine	Ponce, PR	06/86
Rose, Stefan	Miami	70,708	Univ of Miami	Miami, FL	05/85
CHIROPRACTIC					
Adray, Allie A	Largo	157,334	Life Univ	Marietta, GA	03/87
Bahrs, John G	Gainesville	164,328	Life Univ	Marietta, GA	06/87
Baker III, James W	Jacksonville	79,903	Life Univ	Marietta, GA	12/86
Barner, Russell J	Tampa	187,510	Life Univ	Marietta, GA	12/86
Boshes, Perri D	Boca Raton	22,645	Life Univ	Marietta, GA	12/84
Brundell, Edmund D	Plant City	139,696	Life Univ	Marietta, GA	06/87
Buskirk, Dayna E	Gainesville	64,207	Life Univ	Marietta, GA	03/87
Campanale, Paul R	Jacksonville	31,554	New York Chiropractic Col	Seneca Falls, NY	04/84
Carageorge, Dawn C	Tampa	39,424	Life Univ	Marietta, GA	06/89
Carrancejie, Monica	Tampa	101,298	Life Univ	Marietta, GA	12/86
Catalfo, Christopher L	Orlando	29,102	Life Univ	Marietta, GA	09/90
Cowan, Robert F	Pensacola	34,265	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/83
Diesen, James D	Jacksonville	79,555	Logan Col of Chiropractic	Chesterfield, MO	04/88
Etienne, Ivan J	Miami	18,253	National Col of Chiropractic	Lombard, IL	05/83
Fabricant, Michael J	Davie	73,317	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/84
Falowski, Frances	Fort Lauderdale	136,060	Life Univ	Marietta, GA	09/85
Fine, Mitchell L	Coral Springs	14,851	Life Univ	Marietta, GA	12/83
Fountain, Rodney E	Pensacola	164,436	Texas Chiropractic Col Foundation	Pasadena, TX	05/84

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Gasso, Joaquin A	Miami	210,017	Life Univ	Marietta, GA	12/85
Ghigna-Bogdanffy, Mary L	Deland	64,323	New York Chiropractic Col	Seneca Falls, NY	04/84
Greene, Silas R	Panama City	22,742	Life Univ	Marietta, GA	06/84
Greenwald, Lewis A	Miami	8,439	Life Univ	Marietta, GA	06/90
Guy, Geoffrey C	Safety Harbor	23,517	Life Univ	Marietta, GA	06/83
Halley, James E	Port Richey	118,856	Cleveland Chiropractic Col (MO)	Kansas City, MO	08/87
Hardwick, James F	Maitland	124,840	Life Univ	Marietta, GA	12/86
Hoblit, John W	Saint Petersburg	73,834	Life Univ	Marietta, GA	09/83
Holzer, Richard M	Boca Raton	50,055	Life Univ	Marietta, GA	12/84
Jennings, Peggy J	Gainesville	49,122	Texas Chiropractic Col Foundation	Pasadena, TX	05/84
Kogut, Dennis W	Miami	37,562	Life Univ	Marietta, GA	03/84
Levin, Nancy E	Palm Beach Gardens	58,658	Life Univ	Marietta, GA	09/84
Levine, Jeffrey D	Orlando	51,620	Life Univ	Marietta, GA	09/85
Machara, Katherine L	Enterprise	158,888	Life Univ	Marietta, GA	12/86
Mane, Walter J	Miami	119,173	Logan Col of Chiropractic	Chesterfield, MO	04/85
McElhinney, Thomas E	Saint Augustine	100,526	Life Univ	Marietta, GA	03/89
Meunier, Edward J	Fort Lauderdale	189,492	Life Univ	Marietta, GA	08/85
Moyal, William R	Miami Beach	135,470	Life Univ	Marietta, GA	06/85
Renzulli, Michael J	Destin	32,800	Life Univ	Marietta, GA	06/90
Robinson, Bruce K	Jupiter	110,958	Life Univ	Marietta, GA	06/86
Rodriguez, Frank	Longwood	103,637	Los Angeles Col of Chiropractic	Whittier, CA	12/85
Siverling, Gerald D	Brandon	48,787	Texas Chiropractic Col Foundation	Pasadena, TX	05/83
Spivey, Douglas V	Cape Coral	72,263	Life Univ	Marietta, GA	12/86
Street, James F	Davie	68,051	Logan Col of Chiropractic	Chesterfield, MO	05/89
Taylor, Brett M	Royal Palm Beach	61,111	Southern California Col of Chiropractic	Pico Rivera, CA	09/86
Thiel, Margaret A	Cape Coral	74,110	Life Univ	Marietta, GA	09/88
Thomas, Bruce L	Saint Petersburg	107,673	Life Univ	Marietta, GA	03/89
Tsiotsias, Aftemios G	Hollywood	9,724	Life Univ	Marietta, GA	06/86
Walker, Duane T	Jacksonville	106,648	Life Univ	Marietta, GA	09/86
Walters, Clark C	Dunedin	68,287	Life Univ	Marietta, GA	06/85
Whipkey, Douglas G	Jensen Beach	51,357	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/89
Zulovitz, Mark J	Vero Beach	71,514	Life Univ	Marietta, GA	12/86
CLINICAL PSYCHOLOGY					
Hall, Pamela A	Fort Lauderdale	116,751	Florida Institute of Technology	Melbourne, FL	06/87
DENTISTRY					
Bruyning, Edwin F	Miami	157,528	Tufts Univ	Boston, MA	06/89
Coello-Chavarri, Carlos A	Boca Raton	239,149	Washington Univ	St Louis, MO	05/89
Garcia, Jose E	Lake Mary	46,755	Ohio State Univ	Columbus, OH	06/87
Gerlecz, Steven M	Lynn Haven	40,767	Univ of Missouri—Kansas City	Kansas City, MO	04/85
Ho, Tram B	Saint Petersburg	11,102	Virginia Commonwealth Univ	Richmond, VA	05/93
Jacome Jr, Robert A	Pinellas Park	237,562	Univ of Oklahoma Health Sci Ctr	Oklahoma City, OK	06/88
Kaiser-Coello, Karen K	Boca Raton	65,864	Washington Univ	St Louis, MO	05/86
Mandracchia, Philip A	Palm Beach Gardens	11,555	New York Univ	New York, NY	06/82
McClure, Brian C	Stuart	6,406	Univ of Florida	Gainesville, FL	05/89
Oppenheimer, Jahn H	Saint Petersburg	201,168	Marquette Univ	Milwaukee, WI	05/89
OSTEOPATHY					
Andronico, Kenneth C	Fort Myers	61,191	Univ of Osteo Medicine & Health Sc	Des Moines, IA	06/84
Austin, Jerry	Dania	84,148	Nova Southeastern Univ	North Miami Beach	06/89
Beers, Richard H	Winter Park	13,318	Univ of Health Sci	Kansas City, MO	05/85
PHARMACY					
Copeland, Kathryn K	Saint Petersburg	24,026	Univ of Florida	Gainesville, FL	03/80
Spogen III, Frederick C	Cocoa Beach	10,246	Massachusetts Col of Pharmacy	Boston, MA	06/82
PODIATRY					
Delgado, Jorge A	Miami	36,506	Barry Univ	Miami Shores, FL	12/90
Dyer, William D	Hollywood	136,850	Dr William School Col of Podiatric Medicine	Chicago, IL	05/85
Quirke, Clement	Venice	44,864	New York Col of Podiatric Medicine	New York, NY	06/85
PUBLIC HEALTH					
Paveza, Gregory J	Tampa	144,948	Univ of Illinois Medical Ctr	Chicago, IL	06/85
GEORGIA					
ALLOPATHIC MEDICINE					
Bowen-Hay, Winston B	Norcross	119,913	Morehouse School of Medicine	Atlanta, GA	05/91
Brown, Darren W	Doraville	4,345	Wright State Univ	Dayton, OH	06/86
Carroll, Otto S	Atlanta	193,398	Oral Roberts Univ	Tulsa, OK	05/86
Daniel, Felton J	Gainesville	30,093	Medical Col of Georgia	Augusta, GA	06/83
Grant, Patricia E	Decatur	20,626	Morehouse School of Medicine	Atlanta, GA	05/92
Harper, Jennifer M	Atlanta	271,758	Morehouse School of Medicine	Atlanta, GA	06/85
Isaacs, Rolin W	Atlanta	71,724	Morehouse School of Medicine	Atlanta, GA	06/85
Majeed, Ishaq H	Atlanta	108,003	Morehouse School of Medicine	Atlanta, GA	05/87
Millon, Jeffrey M	Lithonia	54,346	Meharry Medical Col	Nashville, TN	08/85
CHIROPRACTIC					
Ackermann, Anne E	Marietta	64,503	Life Univ	Marietta, GA	09/84
Ackermann, Brian J	Marietta	62,944	Life Univ	Marietta, GA	09/84
Ali, Abdirazak A	College Park	28,821	Life Univ	Marietta, GA	06/90
Bailey, Darrell E	Woodstock	25,906	Life Univ	Marietta, GA	03/89

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Barner Jr, Robert W	Marietta	63,602	Life Univ	Marietta, GA	12/83
Bell, Clayton E	Riverdale	139,859	Life Univ	Marietta, GA	09/87
Berman, David H	Marietta	149,800	Life Univ	Marietta, GA	03/87
Bernius, Gregory L	Peachtree City	84,671	Palmer Col of Chiropractic	Davenport, IA	06/88
Billstrom, Richard L	Marietta	108,276	Life Univ	Marietta, GA	12/86
Bishop Jr, William B	Cartersville	27,574	Life Univ	Marietta, GA	06/88
Bleyaert, Lamont J	Woodstock	67,989	Life Univ	Marietta, GA	09/85
Bohr, Corinne E	Alpharetta	75,635	Life Univ	Marietta, GA	06/86
Breazeale, Michael E	Marietta	148,614	Life Univ	Marietta, GA	03/87
Brooks, William B	Chamblee	69,805	Life Univ	Marietta, GA	03/84
Brown, Wilbur E	Dunwoody	13,928	Palmer Col of Chiropractic	Davenport, IA	06/84
Budsock, Leonard A	Acworth	133,925	Life Univ	Marietta, GA	12/86
Byrd, Ricardau E	Atlanta	32,905	Life Univ	Marietta, GA	09/82
Cassan, Steven S	Canton	36,154	Life Univ	Marietta, GA	03/85
Catalfo, Tim L	Alpharetta	96,523	Life Univ	Marietta, GA	09/88
Cavaliere, Frances C	Marietta	99,358	Life Univ	Marietta, GA	09/84
Cicala, Carmine J	Marietta	101,988	Life Univ	Marietta, GA	03/87
Clark, Richard E	Folkston	102,789	Life Univ	Marietta, GA	03/85
Clay, Cassius C	Acworth	36,706	Life Univ	Marietta, GA	06/83
Collins, William S	Atlanta	41,393	Life Univ	Marietta, GA	12/82
Crawford, Franklin R	Austell	70,423	Life Univ	Marietta, GA	12/84
Crosswhite, Larry K	Oakwood	164,152	Life Univ	Marietta, GA	09/86
Culver, Toni Y	College Park	72,782	Life Univ	Marietta, GA	06/85
Dannels, Douglas G	Douglasville	61,376	Life Univ	Marietta, GA	03/85
Darnell, John E	Monroe	11,662	Palmer Col of Chiropractic	Davenport, IA	06/86
Denker, Beth A	Atlanta	72,812	Northwestern Col of Chiropractic	Bloomington, MN	04/89
Deopp, William N	Lilburn	55,925	Life Univ	Marietta, GA	06/85
Downes, John W	Kennesaw	136,306	Life Univ	Marietta, GA	09/86
Earley, Kenneth S	Lawrenceville	70,833	Life Univ	Marietta, GA	12/87
Elkins, Richard E	Roswell	38,304	Life Univ	Marietta, GA	06/89
Fisher, Michael J	Smyrna	36,782	Life Univ	Marietta, GA	03/89
Frigard, Scott N	Marietta	59,552	Life Chiropractic Col—West	San Lorenzo, CA	10/86
Gardner, Lester	Jesup	38,007	Palmer Col of Chiropractic	Davenport, IA	06/87
Gay, Warner A	Marietta	38,767	Life Univ	Marietta, GA	03/83
Gill, Joseph C	Fayetteville	161,148	Life Univ	Marietta, GA	03/87
Haezebrouck, Joseph V	Acworth	16,743	Life Univ	Marietta, GA	12/82
Hall, John L	Cartersville	148,562	Life Univ	Marietta, GA	06/87
Herman, Patricia K	Atlanta	14,065	Palmer Col of Chiropractic	Davenport, IA	12/85
Hopfner-Kozel, Noreen V	Powder Springs	6,060	Life Univ	Marietta, GA	06/90
Horsley, Ronald G	Kennesaw	45,579	Life Univ	Marietta, GA	06/85
Hoyt, John A	Atlanta	4,551	Life Univ	Marietta, GA	03/88
Hughes, Charles E	Atlanta	176,861	Life Univ	Marietta, GA	03/87
Jackson, Jerry J	Marietta	54,937	Life Univ	Marietta, GA	12/88
Judd, Ronald K	Jasper	87,599	Life Univ	Marietta, GA	03/84
Justice, James L	Lawrenceville	171,489	Life Univ	Marietta, GA	06/85
Kay-Gelfond, Alicia E	Atlanta	52,656	Life Univ	Marietta, GA	06/84
Klejnot, Timothy A	Marietta	93,753	Life Univ	Marietta, GA	06/89
Klubenspies, John J	Grayson	102,790	Life Univ	Marietta, GA	09/86
Knight, Ronald G	Peachtree City	118,000	Life Univ	Marietta, GA	06/86
Knol-Vandenbil, Jennifer S	Kennesaw	55,572	Life Univ	Marietta, GA	06/86
Kolarik, Thomas H	Snellville	71,422	Life Univ	Marietta, GA	09/84
Kyle, George G	Lawrenceville	65,901	Life Univ	Marietta, GA	03/83
Lancaster, Barry D	Marietta	75,764	Life Univ	Marietta, GA	12/86
Lee, Carole A	Acworth	27,660	Life Univ	Marietta, GA	12/83
Lister, Rufus G	Marietta	53,617	Life Univ	Marietta, GA	06/88
Lundquist, Glenn A	Douglasville	132,273	Life Univ	Marietta, GA	12/86
Marsh, Jeffrey C	Marietta	113,383	Life Univ	Marietta, GA	06/89
Martin Jr, John W	Canton	103,613	Life Univ	Marietta, GA	09/86
Massengale, Gregory L	Marietta	115,982	Life Univ	Marietta, GA	03/86
Mayles, Sandra M	Dalton	89,565	Life Univ	Marietta, GA	12/83
Mercks, James L	Marietta	161,118	Life Univ	Marietta, GA	03/86
Moeckel, Timothy	Sandy Springs	68,856	Life Univ	Marietta, GA	09/85
Mosley, James C	Columbus	47,361	Northwestern Col of Chiropractic	Bloomington, MN	08/85
Nadel, Glenn R	Marietta	73,476	Life Univ	Marietta, GA	04/89
Nicholson Jr, James E	Powder Springs	123,835	Life Univ	Marietta, GA	04/85
Owens, James R	Atlanta	19,657	Life Univ	Marietta, GA	03/92
Powell Jr, Thomas R	Marietta	126,917	Life Univ	Marietta, GA	12/86
Rawlins, Joel J	Douglas	127,958	Life Univ	Marietta, GA	09/86
Rowland, Jimmy H	Centerville	78,055	Life Univ	Marietta, GA	12/86
Rutkowski, Morris E	Marietta	111,521	Life Univ	Marietta, GA	12/85
Siminski, Larry T	Atlanta	145,459	Life Univ	Marietta, GA	06/88
Small, Tammie J	Smyrna	83,741	Life Univ	Marietta, GA	09/89
Spears, Roseann	Kennesaw	173,272	Life Univ	Marietta, GA	09/86
Thomas, Gordon A	Atlanta	81,718	Life Univ	Marietta, GA	09/85
Troutman Jr, William D	Atlanta	60,533	Life Univ	Marietta, GA	10/83
Troutman Sr, William D	Atlanta	33,935	Life Univ	Marietta, GA	01/83
Tucker, Ronald C	Atlanta	28,360	Life Chiropractic Col—West	San Lorenzo, CA	06/87
Tutt, Gwendolyn M	Roswell	76,124	Life Univ	Marietta, GA	06/83
Warrick, Wayne D	Kennesaw	78,658	Life Univ	Marietta, GA	03/87
Wooling, Leonard C	Marietta	157,986	Life Univ	Marietta, GA	03/85
DENTISTRY					
Brown, Geoffrey G	Decatur	11,590	Meharry Medical Col	Nashville, TN	05/85

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Comer, Barry L	Decatur	123,169	Emory Univ	Atlanta, GA	05/84
Comer, Julia R	Stone Mountain	145,205	Emory Univ	Atlanta, GA	05/86
Hall, John E	Atlanta	92,678	Meharry Medical Col	Nashville, TN	05/82
Hammock, Mark A	Decatur	50,202	Howard Univ	Washington, DC	05/89
Hauptle-Reder, Mary E	Marietta	179,461	Loyola Univ of Chicago	Chicago, IL	05/84
McLeod, Herbert W	Lawrenceville	7,461	Medical Col of Georgia	Augusta, GA	06/90
Thomas Sr, Robert B	Macon	174,887	Meharry Medical Col	Nashville, TN	05/82
Woods, Daemon S	Albany	38,827	Fairleigh Dickinson Univ	Teaneck, NJ	05/90
OPTOMETRY					
Pfab, Mary	Atlanta	82,837	Southern Col of Optometry	Memphis, TN	06/85
PHARMACY					
Edeh, Onyemaechi A	Atlanta	68,778	Mercer Univ	Atlanta, GA	06/83
Lawrence, Doris J	Austell	30,493	Mercer Univ	Atlanta, GA	05/85
Perry, Audrey J	Atlanta	10,991	Mercer Univ	Atlanta, GA	06/88
PODIATRY					
McConner, Sadie B	Marietta	74,120	Ohio Col of Podiatric Medicine	Cleveland, OH	05/89
VETERINARY MEDICINE					
Friedlander, Michael A	Roswell	25,844	Tuskegee Univ	Tuskegee, AL	05/90
HAWAII					
ALLOPATHIC MEDICINE					
McKinney, Laurence T	Hilo	34,367	Allegheny Univ of The Health Sci	Philadelphia, PA	06/80
CHIROPRACTIC					
Johanning, Jeanine	Hana	23,982	Logan Col of Chiropractic	Chesterfield, MO	08/86
DENTISTRY					
Riter, Cecil F	Honolulu	163,896	Loma Linda Univ	Loma Linda, CA	06/85
OSTEOPATHY					
Majauskas, Rikantas P	Waimea	297,112	Univ of Health Sci	Kansas City, MO	05/85
IDAHO					
CHIROPRACTIC					
Buckles, Bobby R	Boise	78,897	Western States Chiropractic Col	Portland, OR	06/87
Butterfield-Richards, Cathy	Boise	38,358	Palmer Col of Chiropractic—West	San Jose, CA	06/87
Gott, George M	Boise	83,072	Palmer Col of Chiropractic	Davenport, IA	09/84
Herem, Larry A	Burley	89,360	Palmer Col of Chiropractic	Davenport, IA	06/85
Hollander, Roxanne	Sandpoint	44,082	Palmer Col of Chiropractic—West	San Jose, CA	03/90
Williams, Joseph F	Salmon	19,043	Palmer Col of Chiropractic—West	San Jose, CA	12/84
Young, Kerry V	Idaho Falls	67,335	Logan Col of Chiropractic	Chesterfield, MO	12/87
CLINICAL PSYCHOLOGY					
Furgason, Margaret A	St Maries	57,127	California School of Prof Psych	San Diego, CA	06/84
DENTISTRY					
Collier, George R	Sandpoint	117,876	Georgetown Univ	Washington, DC	05/83
ILLINOIS					
ALLOPATHIC MEDICINE					
Beckett, James E	Des Plaines	74,321	Allegheny Univ of The Health Sci	Philadelphia, PA	06/81
Bukingolts, Sol	Niles	42,737	Finch Univ of Health Sci	North Chicago, IL	06/88
Cezar, Mahdi	Morton Grove	22,475	Meharry Medical Col	Nashville, TN	05/90
Davis, Helen N	Chicago	173,475	Meharry Medical Col	Nashville, TN	05/86
Dickens, Charles L	Schaumburg	136,295	Meharry Medical Col	Nashville, TN	05/89
Kizaire, Danielle C	Chicago	15,671	Loyola Univ of Chicago	Maywood, IL	06/84
McDaniel, Ronnie L	Evanston	98,349	Univ of Pennsylvania	Philadelphia, PA	06/87
Moore, Lornold W	Chicago	62,599	Univ of Medicine & Dent of New Jersey	Newark, NJ	05/86
Munoz, Luis R	Chicago	304,093	Medical Col of Wisconsin	Milwaukee, WI	05/86
Pate, Michael D	Des Plaines	47,330	Indiana Univ—Purdue Univ Indianapo	Bloomington, IN	05/85
Reese, Elaine M	Blue Island	41,108	Univ of Illinois Medical Ctr	Chicago, IL	06/84
Sajna, Lynne	Evanston	97,451	Univ of Illinois Medical Ctr	Chicago, IL	06/85
Thompson, Anthony W	Chicago	48,394	Rush Univ	Chicago, IL	01/86
West, Clifton B	Chicago	283,734	Meharry Medical Col	Nashville, TN	05/85
Wilson, Evelyn	Chicago	92,598	Morehouse School of Medicine	Atlanta, GA	06/85
CHIROPRACTIC					
Abbett, Michael E	Granite City	62,447	Logan Col of Chiropractic	Chesterfield, MO	08/85
Cienkus, Regina M	Berwyn	17,645	National Col of Chiropractic	Lombard, IL	08/86
Cully Jr, Milton A	Cary	56,378	Palmer Col of Chiropractic	Davenport, IA	06/87
Davis, Keith A	Chicago	58,913	National Col of Chiropractic	Lombard, IL	04/87
Dehn, Donald C	Rockford	35,170	National Col of Chiropractic	Lombard, IL	05/83
Demetry, Donald J	Forest Park	22,812	National Col of Chiropractic	Lombard, IL	04/82
Gauthier III, George W	Wheaton	18,530	National Col of Chiropractic	Lombard, IL	08/89
Jordan, James R	Olympia Fields	65,346	National Col of Chiropractic	Lombard, IL	08/83
Kaminsky, Arthur L	Long Grove	76,269	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/90

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Keyes-Gross, Charles A	Calumet City	33,776	Cleveland Chiropractic Col (MO)	Kansas City, MO	08/82
Mash, Harold J	Chicago	167,666	Palmer Col of Chiropractic	Davenport, IA	10/87
Naddaf, Jamileh K	Newton	138,572	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
O'Neil-McKinney, Jeanette M	Chicago	41,474	National Col of Chiropractic	Lombard, IL	12/83
Patterson, Farris	Maywood	24,537	National Col of Chiropractic	Lombard, IL	04/84
Powell, Randy	Marion	63,977	Logan Col of Chiropractic	Chesterfield, MO	12/87
Sandburg, Donald D	Barrington	99,132	National Col of Chiropractic	Lombard, IL	04/87
Smith, Gary D	Libertyville	109,661	Logan Col of Chiropractic	Chesterfield, MO	08/85
Stratton, Mark W	Du Quoin	79,005	Logan Col of Chiropractic	Chesterfield, MO	12/85
Sutanto, Sugeng	Downers Grove	87,198	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Swanson, Timothy D	Chicago	68,777	National Col of Chiropractic	Lombard, IL	05/91
Thurston, Gregory D	Algonquin	96,523	Texas Chiropractic Col Foundation	Pasadena, TX	12/84
Varnas, Paul G	Chicago	20,450	National Col of Chiropractic	Lombard, IL	09/83
Vernon, Earl M	Waukegan	8,450	Palmer Col of Chiropractic	Davenport, IA	06/91
DENTISTRY					
Azarpira, Mohammad H	Chicago	89,507	Loyola Univ of Chicago	Chicago, IL	05/87
Baldare, David R	Chicago	76,292	Loyola Univ of Chicago	Chicago, IL	05/88
Bock, Jerome V	Inverness	252,286	Marquette Univ	Milwaukee, WI	05/88
Bybee, William D	East Moline	15,384	Univ of Texas Health Sci Ctr	Houston, TX	05/88
Covek, Robert J	Grayslake	2,457	Loyola Univ of Chicago	Chicago, IL	05/86
Herron, Devere J	Chicago	87,284	Howard Univ	Washington, DC	05/85
Kashani, Mortaza	Hillside	44,557	Marquette Univ	Milwaukee, WI	05/91
McClellan, Manulita	Chicago	168,184	Marquette Univ	Milwaukee, WI	05/88
Ras, Russell T	Countryside	181,640	Marquette Univ	Milwaukee, WI	05/86
Resendiz, Mario G	Chicago	11,459	Univ of Illinois Medical Ctr	Chicago, IL	06/86
Salmon Jr, Thomas J	Downers Grove	148,813	Washington Univ	St Louis, MO	05/90
Salmon, Kevin M	Palos Heights	88,678	Loyola Univ of Chicago	Chicago, IL	05/91
Somlar, Steven C	Chicago	59,810	Loyola Univ of Chicago	Chicago, IL	04/90
Tucker, Darold B	South Holland	97,392	Howard Univ	Washington, DC	05/83
OPTOMETRY					
Bourboukas, Nick K	Chicago	7,529	Illinois Col of Optometry	Chicago, IL	05/87
PHARMACY					
Afrane, Barima A	Bolingbrook	11,528	Univ of Southern California	Los Angeles, CA	05/86
PODIATRY					
Amudoaghan, Walnette C	Oak Park	193,388	Ohio Col of Podiatric Medicine	Cleveland, OH	05/85
Beck III, Welby S	Chicago	209,626	Dr William School Col of Podiatric	Chicago, IL	05/86
Collins, Henry L	Chicago	115,025	Dr William School Col of Podiatric Medicine	Chicago, IL	05/87
Lawson, Margaret B	Winnetka	76,629	Dr William School Col of Podiatric Medicine	Chicago, IL	05/81
Leonas, Theodore S	Lockport	19,393	Dr William School Col of Podiatric Medicine	Chicago, IL	05/80
INDIANA					
CHIROPRACTIC					
Maxfield-Brown, Bobbi L	Evansville	114,494	Logan Col of Chiropractic	Chesterfield, MO	12/86
Peters, Ronald S	Fishers	12,016	Logan Col of Chiropractic	Chesterfield, MO	12/90
Valvo, Carl L	Kouts	121,137	National Col of Chiropractic	Lombard, IL	08/85
Valvo, Nila L	Kouts	5,732	National Col of Chiropractic	Lombard, IL	12/82
DENTISTRY					
Arch, Joseph A	Indianapolis	7,225	Indiana Univ—Indianapolis	Bloomington, IN	05/85
Burnett, Kevin M	South Bend	76,232	Univ of Detroit Mercy	Detroit, MI	05/83
Hampton, Duane E	Seymour	121,113	Univ of Louisville	Louisville, KY	05/86
Price, David G	Valparaiso	107,969	Loyola Univ of Chicago	Chicago, IL	05/90
IOWA					
CHIROPRACTIC					
Beeck, Allen A	Akron	37,682	Northwestern Col of Chiropractic	Bloomington, MN	08/89
Crawford, James B	Dubuque	56,990	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/87
Heese, Kit L	Carroll	50,042	Logan Col of Chiropractic	Chesterfield, MO	12/86
Woiwood, David V	West Des Moines	89,849	Palmer Col of Chiropractic	Davenport, IA	06/85
DENTISTRY					
Dye, Ralph M	Des Moines	118,833	Loma Linda Univ	Loma Linda, CA	06/86
KANSAS					
ALLOPATHIC MEDICINE					
Harding, Phyllis D	Dodge City	80,026	Univ of Cincinnati	Cincinnati, OH	06/84
CHIROPRACTIC					
Brown, Dale A	Olathe	110,690	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Cody, Ronald J	Wichita	155,538	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/86
O'Leary, Molly M	Shawnee Mission	101,576	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/87
Petty, Michael D	Olathe	120,465	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Strozier, Mark C	Mission	111,395	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/89
Wheeler, Randy R	Haysville	116,809	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/86
White, Michael M	Overland Park	27,484	Cleveland Chiropractic Col (MO)	Kansas City, MO	04/82
Wilson, Eileen T	Prairie Village	62,268	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/86

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Woody, Larry L	Olathe	15,913	Cleveland Chiropractic Col (MO)	Kansas City, MO	08/83
DENTISTRY					
Donigan, William T	Osage City	15,351	Univ of Illinois Medical Ctr	Chicago, IL	06/83
Fobbs-Pippens, Michel	Atchison	7,405	Howard Univ	Washington, DC	05/84
Hansen, Kenneth A	Abilene	149,934	Univ of Missouri—Kansas City	Kansas City, MO	04/86
OSTEOPATHY					
Neis-Whinery, Ramona	Kansas City	238,062	Univ of Health Sci	Kansas City, MO	05/86
KENTUCKY					
CHIROPRACTIC					
Dreweck, Daniel N	Bowling Green	40,975	Palmer Col of Chiropractic	Davenport, IA	06/86
Jewett, Charles D	Versailles	66,617	Palmer Col of Chiropractic	Davenport, IA	12/89
DENTISTRY					
Bentley, Bobetta	Louisville	2,428	Univ of Louisville	Louisville, KY	05/88
OPTOMETRY					
Watkins, Thomas W	Hickman	49,920	Southern Col of Optometry	Memphis, TN	05/90
LOUISIANA					
ALLOPATHIC MEDICINE					
Burt, Eric S	Monroe	6,041	Louisiana State Univ Medical Ctr—Shreveport.	Shreveport, LA	05/89
Chin, Richard J	Metairie	7,183	Louisiana State Univ Medical Ctr—New Orleans.	New Orleans, LA	08/93
Watford, Eric L	Gonzales	133,596	Meharry Medical Col	Nashville, TN	05/84
CHIROPRACTIC					
Carter, Karen L	Ponchatoula	40,152	Logan Col of Chiropractic	Chesterfield, MO	09/85
Miller, Kevin D	Eunice	96,872	Western States Chiropractic Col	Portland, OR	12/88
DENTISTRY					
Langford-Ramkelawan, Cynthia M	Rosepine	208,530	Marquette Univ	Milwaukee, WI	05/88
PODIATRY					
Jordan, Joyce M	New Orleans	234,225	Ohio Col of Podiatric Medicine	Cleveland, OH	05/83
PUBLIC HEALTH					
Roohani, Maurine F	New Orleans	43,094	Tulane Univ	New Orleans, LA	05/88
MAINE					
ALLOPATHIC MEDICINE					
Burke, Kenneth P	Augusta	98,095	Georgetown Univ	Washington, DC	05/85
PODIATRY					
Cormier, Pamela J	Bangor	202,010	Dr William School Col of Podiatric Medicine	Chicago, IL	05/85
MARYLAND					
ALLOPATHIC MEDICINE					
Crarey, Patrick E	Hyattsville	78,066	Georgetown Univ	Washington, DC	05/83
Hill, James	Baltimore	150,782	Meharry Medical Col	Nashville, TN	05/88
Hill, Leo D	Baltimore	70,316	Temple Univ	Philadelphia, PA	06/89
Lynch, Ray A	Columbia	28,108	Howard Univ	Washington, DC	05/89
Richardson, Gravney A	Upper Marlboro	104,952	Morehouse School of Medicine	Atlanta, GA	05/88
Young, Howard Y	Baltimore	111,692	Albany Medical Col	Albany, NY	05/89
CHIROPRACTIC					
Gordon, Robert K	Snow Hill	74,191	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/87
Jacobs, Virginia L	Silver Spring	150,786	Los Angeles Col of Chiropractic	Whittier, CA	04/86
Vogelmann, Christopher S	Kensington	95,455	Logan Col of Chiropractic	Chesterfield, MO	04/87
DENTISTRY					
Benson, Fred F	Silver Spring	28,245	Howard Univ	Washington, DC	05/86
Burke, Melanie	Baltimore	53,033	Univ of Medicine & Dent of New Jersey	Newark, NJ	05/91
Chorbajian, James P	Bowie	51,450	Georgetown Univ	Washington, DC	06/81
Day-Tall, Deborah A	Waldorf	24,367	Creighton Univ	Omaha, NE	05/85
De La Cruz, Maureen	Bethesda	116,924	Georgetown Univ	Washington, DC	05/84
Johnson, Mark A	Greenbelt	18,152	Howard Univ	Washington, DC	05/88
Kee, Vallerie B	Frederick	80,793	Howard Univ	Washington, DC	05/87
Lindsey, Glenda L	Baltimore	61,484	Howard Univ	Washington, DC	05/86
Press, Zachary D	Randallstown	77,695	Univ of Maryland—Baltimore	Baltimore, MD	05/85
Richardson, Joseph M	Silver Spring	210,464	Howard Univ	Washington, DC	05/87
Saffold, Michael D	Adelphi	14,383	Univ of Maryland—Baltimore	Baltimore, MD	05/87
Schott, Alan J	Baltimore	55,425	Temple Univ	Philadelphia, PA	12/87
Thomas, Lindwall A	Silver Spring	16,396	Howard Univ	Washington, DC	05/91
Weston, Danly P	Fort Washington	83,509	Howard Univ	Washington, DC	05/86

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
OPTOMETRY					
Bell, Philip J	Lexington Park	7,591	Pennsylvania Col of Optometry	Philadelphia, PA	05/89
OSTEOPATHY					
Waltman, Bonnie J	Columbia	23,031	Philadelphia Col of Osteo Medicine	Philadelphia, PA	06/86
PHARMACY					
Burgess, Deborah M	Salisbury	10,784	Temple Univ	Philadelphia, PA	05/85
Clark, Jimothy	Baltimore	12,393	Ohio State Univ	Columbus, OH	06/87
Conerly, Rex A	Greenbelt	36,112	Howard Univ	Washington, DC	05/86
PODIATRY					
Rosenberg, Robert	Gaithersburg	165,277	Barry Univ	Miami Shores, FL	05/89
MASSACHUSETTS					
ALLOPATHIC MEDICINE					
Bledsoe, Ralph C	Northfield	23,963	Brown Univ	Providence, RI	05/88
Cyrus, Pamela A	Arlington	23,142	Marshall Univ	Huntington, WV	05/88
Daley, William L	Mattapan	92,777	Boston Univ Medical Ctr	Boston, MA	06/83
Gillard, Stephen C	Dedham	33,582	Georgetown Univ	Washington, DC	05/90
Karagounis, Vasilios A	Boston	30,517	Boston Univ Medical Ctr	Boston, MA	05/88
Rucks, Andrew C	Springfield	194,312	Meharry Medical Col	Nashville, TN	05/85
Saint-Louis, Josephus H	West Roxbury	108,743	Univ of Minnesota	Minneapolis, MN	06/87
CHIROPRACTIC					
Bruce, Ronald H	Byfield	11,654	Los Angeles Col of Chiropractic	Whittier, CA	08/87
Cotter, Paul B	Waltham	44,370	Palmer Col of Chiropractic	Davenport, IA	06/88
Crandell, Robyn G	Amherst	28,081	Northwestern Col of Chiropractic	Bloomington, MN	06/91
Hughes, Allan D	Worcester	122,946	Palmer Col of Chiropractic	Davenport, IA	03/89
LeConte, Isabelle	Cambridge	14,611	Los Angeles Col of Chiropractic	Whittier, CA	08/86
McLaughlin, Paul J	Andover	12,484	Texas Chiropractic Col Foundation	Pasadena, TX	05/83
Viloria-Else, Jenifer A	Marshfield	86,403	Southern California Col of Chiropractic	Pico Rivera, CA	08/87
Watson, Susan L	Chelmsford	114,111	Palmer Col of Chiropractic	Davenport, IA	06/86
DENTISTRY					
Blase, Richard M	West Boylston	134,493	Univ of Missouri—Kansas City	Kansas City, MO	05/87
Culbertson, William J	Quincy	33,572	Boston Univ Medical Ctr	Boston, MA	05/82
Dooley, Paul J	Canton	29,392	Boston Univ Medical Ctr	Boston, MA	05/90
Gallery, Melissa	Nahant	193,839	Tufts Univ	Boston, MA	05/87
Gearin Jr, Timothy J	Chicopee	152,634	Tufts Univ	Boston, MA	02/88
Jones, Margaret K	Pembroke	259,294	Boston Univ Medical Ctr	Boston, MA	05/86
Solimini Jr, Anthony G	Boston	60,043	Boston Univ Medical Ctr	Boston, MA	06/88
PODIATRY					
Llewellyn, Allan	North Attleboro	43,781	New York Col of Podiatric Medicine	New York, NY	06/84
PUBLIC HEALTH					
Caraballo-Wesley, Elizabeth	Boston	16,261	Boston Univ Medical Ctr	Boston, MA	05/85
Cronin Jr, Denis P	Medford	28,024	Columbia Univ	New York, NY	05/86
Mikols, Ann M	Swampscott	39,235	Boston Univ Medical Ctr	Boston, MA	05/85
MICHIGAN					
ALLOPATHIC MEDICINE					
Anderson, Denise	Detroit	152,639	Meharry Medical Col	Nashville, TN	05/88
Braswell, James	Detroit	195,295	Meharry Medical Col	Nashville, TN	05/88
Buahin, Kwame G	Southfield	21,352	Columbia Univ	New York, NY	05/89
Caro, Joseph E	East Lansing	68,224	Medical Col of Wisconsin	Milwaukee, WI	09/84
Eichler, John A	Saline	129,112	Univ of Pittsburgh	Pittsburgh, PA	06/87
Eiland, Gazandra J	East Lansing	2,948	Univ of Michigan	Ann Arbor, MI	05/91
Gordon Jr, Sigismund W	Southfield	115,740	Meharry Medical Col	Nashville, TN	05/88
Johnson, Anthony	Detroit	29,125	Meharry Medical Col	Nashville, TN	05/89
Little, Carlton E	Detroit	103,407	Medical Col of Ohio	Toledo, OH	06/89
Lucas, Jo-Ann	Detroit	181,764	Meharry Medical Col	Nashville, TN	05/87
Novetsky, Jerry J	Southfield	42,699	Wayne State Univ	Detroit, MI	06/85
Segesta, Michael	Eastpointe	25,640	Mayo Medical School	Rochester, MN	05/88
Williams, Marvin L	Detroit	244,524	Meharry Medical Col	Nashville, TN	05/86
CHIROPRACTIC					
Aiello, Michael P	Waterford	47,678	Life Univ	Marietta, GA	09/88
Allen, David F	Madison Heights	51,108	National Col of Chiropractic	Lombard, IL	12/85
Carpenter, Richard P	Saginaw	98,103	Life Univ	Marietta, GA	03/86
Chapman, Michelle A	Clinton Township	32,237	Palmer Col of Chiropractic	Davenport, IA	10/87
Clark, Daniel S	Troy	45,438	Palmer Col of Chiropractic	Davenport, IA	06/85
Cordes, John C	Farmington Hills	59,245	Logan Col of Chiropractic	Chesterfield, MO	08/85
Dunn, Karen S	Ferndale	36,462	Palmer Col of Chiropractic	Davenport, IA	06/85
Faber, Dana A	Remus	47,208	Parker Col of Chiropractic	Dallas, TX	08/87
Flateau, Jacqueline	Romulus	16,795	Life Univ	Marietta, GA	06/89
Forte, Sandra L	Detroit	23,488	National Col of Chiropractic	Lombard, IL	08/85
Freeland, George D	Sparta	76,424	Palmer Col of Chiropractic	Davenport, IA	03/90
Gladden, Marc B	Ironwood	133,647	Palmer Col of Chiropractic	Davenport, IA	03/89
Gress, Raymond C	Sparta	16,065	Life Univ	Marietta, GA	09/83

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Hassinger, Royann M	Ortonville	45,999	National Col of Chiropractic	Lombard, IL	12/85
Hudson, Donald L	Saint Johns	98,555	Palmer Col of Chiropractic	Davenport, IA	12/88
Hush, George G	Rose City	59,008	Life Univ	Marietta, GA	12/86
Kay, John F	Westland	96,869	Life Univ	Marietta, GA	06/86
Keen-Centofanti, Judith R	Clifford	59,359	New York Chiropractic Col	Seneca Falls, NY	12/88
Lavengood, Daniel J	Grand Rapids	137,016	Life Univ	Marietta, GA	03/87
Lee, Jeffrey K	Dearborn	46,042	National Col of Chiropractic	Lombard, IL	08/88
Migdalewicz, Alan L	Ferndale	32,828	Palmer Col of Chiropractic	Davenport, IA	12/87
Nelson, Roger W	Waterford	38,774	Palmer Col of Chiropractic	Davenport, IA	12/86
Pierce, Douglas E	Hopkins	11,895	Parker Col of Chiropractic	Dallas, TX	04/86
Richardson, Neil J	Cedar Springs	63,543	Palmer Col of Chiropractic	Davenport, IA	03/87
Roshy, Gary L	Ludington	160,444	Palmer Col of Chiropractic	Davenport, IA	10/86
Schwarz, Bernard C	Center Line	21,810	Palmer Col of Chiropractic	Davenport, IA	12/83
Williams, Ronald G	Wyoming	53,215	National Col of Chiropractic	Lombard, IL	12/87
Wilson, Soni Y	Detroit	60,206	Logan Col of Chiropractic	Chesterfield, MO	08/88
Zonder, Stuart R	Ann Arbor	95,024	Life Univ	Marietta, GA	12/85
DENTISTRY					
Bertin, Michael W	Birmingham	45,862	Univ of Detroit Mercy	Detroit, MI	05/89
Bonds, Frederick R	Mount Pleasant	152,347	Univ of Detroit Mercy	Detroit, MI	05/83
Fermin, Reydante G	West Bloomfield	143,659	Marquette Univ	Milwaukee, WI	05/91
Griggs, Deborah L	Saint Clair Shores	120,748	Univ of Detroit Mercy	Detroit, MI	05/85
Hearns, Ben J	Highland Park	47,789	Meharry Medical Col	Nashville, TN	05/85
Holyway, Craig T	Detroit	113,679	Washington Univ	St Louis, MO	05/91
Murphy, Kevin V	Fraser	51,719	Univ of Detroit Mercy	Detroit, MI	04/81
Okros, Michael J	Warren	294,555	Marquette Univ	Milwaukee, WI	05/85
Rashid, Paul L	Mason	159,035	Boston Univ Medical Ctr	Boston, MA	05/89
Russell, Bobby D	Saint Joseph	69,396	Loyola Univ of Chicago	Chicago, IL	05/88
Senior, Duane A	Detroit	205,476	Meharry Medical Col	Nashville, TN	05/85
OSTEOPATHY					
Brent, Gloria J	Detroit	50,659	Michigan State Univ	East Lansing, MI	06/86
Cohn, Mitchell A	Haslett	226,026	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/86
Johnson, Joseph R	Grosse Pointe	133,600	Univ of Health Sci	Kansas City, MO	05/94
Ross, Guy A	Ferndale	20,353	Michigan State Univ	East Lansing, MI	06/90
Wisk, Duane F	Grosse Pointe	46,609	Michigan State Univ	East Lansing, MI	06/82
York, Steven R	Whitmore Lake	126,243	Univ of Health Sci	Kansas City, MO	05/88
PHARMACY					
Lowe, Stephanie M	Detroit	34,542	Mercer Univ	Atlanta, GA	06/89
PODIATRY					
Baxendale, Robert C	Clinton Township	38,548	Pennsylvania Col of Podiatric Medicine	Philadelphia, PA	06/82
Dakis, Stephen N	Birmingham	28,575	Ohio Col of Podiatric Medicine	Cleveland, OH	05/87
Hofner, Mark L	Dearborn Heights	178,690	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/88
Thomas, Valerie E	Detroit	94,903	Ohio Col of Podiatric Medicine	Cleveland, OH	05/89
Villier, Carlton S	Bad Axe	260,832	Ohio Col of Podiatric Medicine	Cleveland, OH	05/84
MINNESOTA					
ALLOPATHIC MEDICINE					
Hoskins-Akale, Denise S	Cottage Grove	252,969	Medical Col of Wisconsin	Milwaukee, WI	02/85
Plater, Daniel H	Stillwater	122,301	Univ of Southern California	Los Angeles, CA	06/88
CHIROPRACTIC					
Keller, William D	White Bear Lake	112,549	Northwestern Col of Chiropractic	Bloomington, MN	12/88
Kronbeck, Gary M	Little Falls	8,311	Northwestern Col of Chiropractic	Bloomington, MN	04/89
Shelton, Robert J	Rosemount	13,847	Northwestern Col of Chiropractic	Bloomington, MN	04/87
Triden, Thomas A	Maple Grove	26,032	Northwestern Col of Chiropractic	Bloomington, MN	08/86
Wahl, David G	Montgomery	84,032	Northwestern Col of Chiropractic	Bloomington, MN	12/88
DENTISTRY					
Hulitt, Mary	Saint Paul	155,669	Univ of Missouri—Kansas City	Kansas City, MO	04/86
Wilbur, Raymond C	Northfield	223,929	Marquette Univ	Milwaukee, WI	05/87
MISSISSIPPI					
ALLOPATHIC MEDICINE					
Harper, Tracy E	Gulfport	33,108	Meharry Medical Col	Nashville, TN	05/92
Moore, Angela A	Holly Springs	122,699	Meharry Medical Col	Nashville, TN	05/88
CHIROPRACTIC					
Durdin, James M	Tupelo	169,395	Life Univ	Marietta, GA	06/86
Gratta, James A	Laurel	11,412	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
McCutcheon, Philip E	Pascagoula	73,315	National Col of Chiropractic	Lombard, IL	10/87
Twigg, Jonathan W	Bay Saint Louis	120,867	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Veal, Paul E	Columbus	2,289	Life Univ	Marietta, GA	06/86
DENTISTRY					
Coleman, James T	New Albany	31,235	Univ of Mississippi Medical Ctr	Jackson, MS	05/84
Smith, Ellison B	Jackson	31,596	Howard Univ	Washington, DC	05/90

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
MISSOURI					
ALLOPATHIC MEDICINE					
Sanders, Thomas	Kansas City	172,955	Meharry Medical Col	Nashville, TN	05/89
CHIROPRACTIC					
Barger, Paul L	Saint Louis	84,678	Logan Col of Chiropractic	Chesterfield, MO	04/88
Bement, Stephen A	Saint Louis	43,480	Logan Col of Chiropractic	Chesterfield, MO	08/87
Bottorff, Douglas J	Kansas City	136,398	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/87
Boyer, Arthur G	Saint Louis	54,246	Logan Col of Chiropractic	Chesterfield, MO	04/83
Bright, Gale D	Kansas City	78,795	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/89
Brown, Harry E	Kansas City	51,009	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/85
Colley, Rodney E	Kansas City	64,637	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/87
Elliott, Joseph E	Macon	92,573	Logan Col of Chiropractic	Chesterfield, MO	04/84
Erwin, Herbert F	Belle	107,457	Logan Col of Chiropractic	Chesterfield, MO	04/86
Faris, Dana A	Independence	113,922	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/89
Giarratano, David J	Jefferson City	75,086	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
Gibson, Stephen L	Cape Girardeau	33,417	Logan Col of Chiropractic	Chesterfield, MO	09/84
Hotz, Michael K	Kansas City	163,212	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/85
Johnston, John D	Belton	101,113	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Jordan, Jeffrey E	Kearney	51,879	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/90
Kessinger IV, Andrew J	Mansfield	41,956	Logan Col of Chiropractic	Chesterfield, MO	07/86
Lyon, Richard F	Kansas City	75,912	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/83
Marvin, Allen L	Kansas City	45,113	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/89
Nean-Christy, Linda K	Liberty	97,065	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/89
O'Dell, Mark K	Independence	71,049	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/88
Owen, Gary L	Bloomfield	50,244	Logan Col of Chiropractic	Chesterfield, MO	12/86
Peterson, Michael S	Carthage	6,854	Logan Col of Chiropractic	Chesterfield, MO	04/86
Porter, Robert A	Saint Louis	48,222	Logan Col of Chiropractic	Chesterfield, MO	04/86
Price, Arthur R	Kansas City	164,133	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/85
Rice, Sterling T	Kansas City	94,417	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/85
Robertson, Dana L	Columbia	4,299	Logan Col of Chiropractic	Chesterfield, MO	01/83
Smith, Charles A	Kansas City	65,235	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/87
Smith, Rhonda L	Kansas City	116,056	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/87
Swope, Karl A	Rolla	126,701	Los Angeles Col of Chiropractic	Whittier, CA	04/85
Talley, Michael S	Belton	39,500	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/83
Taylor, David G	Blue Springs	21,914	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/87
Towers, Timothy J	Saint Louis	11,714	Logan Col of Chiropractic	Chesterfield, MO	09/85
Warner, Nathan G	Houston	47,220	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/90
Wilbert, Leonard B	Saint Louis	89,632	Logan Col of Chiropractic	Chesterfield, MO	12/87
Wright, Lynnea S	Kansas City	59,372	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/86
DENTISTRY					
Dugger, Lisa M	Kansas City	31,934	Washington Univ	St Louis, MO	05/88
Eimers, Jerry L	Maryville	48,896	Univ of Missouri—Kansas City	Kansas City, MO	05/83
Fuller, Marilyn C	Saint Louis	32,250	Howard Univ	Washington, DC	05/85
Fulton, Alma R	Affton	102,667	Washington Univ	St Louis, MO	05/89
Nelson, Howard D	Kansas City	95,257	Univ of Missouri—Kansas City	Kansas City, MO	04/86
Nickell, Scott B	Fenton	183,501	Washington Univ	St Louis, MO	05/89
Vorbeck, Teresa M	Saint Louis	165,572	Washington Univ	St Louis, MO	05/88
HEALTH ADMINISTRATION					
White, Kevin G	Saint Louis	9,972	St Louis Univ	St Louis, MO	05/89
OSTEOPATHY					
Seedorff, Linda	Lawson	90,865	Univ of Health Sci	Kansas City, MO	05/88
MONTANA					
CHIROPRACTIC					
Landes, David A	Deer Lodge	83,758	Life Chiropractic Col—West	San Lorenzo, CA	09/87
NEVADA					
ALLOPATHIC MEDICINE					
Bradley, Bruce S	Las Vegas	24,528	Wright State Univ	Dayton, OH	06/87
Carter, Catherine C	Las Vegas	135,924	Medical Col of Pennsylvania	Philadelphia, PA	05/89
CHIROPRACTIC					
Akin, Kathy L	Las Vegas	30,007	National Col of Chiropractic	Lombard, IL	08/86
Hults, Ivagene P	Las Vegas	78,504	Los Angeles Col of Chiropractic	Whittier, CA	12/86
Morgan, Glenn R	Las Vegas	74,579	Parker Col of Chiropractic	Dallas, TX	09/89
Murphy, Richard T	Boulder City	68,499	Palmer Col of Chiropractic	Davenport, IA	10/87
Nugent, Richard E	Las Vegas	139,025	Cleveland Chiropractic Col (MO)	Kansas City, MO	08/85
NEW HAMPSHIRE					
CHIROPRACTIC					
Prevost, George E	Nashua	9,361	New York Chiropractic Col	Seneca Falls, NY	12/88
PODIATRY					
Pachomski, Michael P	Nashua	189,261	Dr William School Col of Podiatric Medicine	Chicago, IL	05/87

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
NEW JERSEY					
ALLOPATHIC MEDICINE					
Brown, James E	East Orange	40,914	Univ of Medicine & Dent of New Jersey	Newark, NJ	05/89
Vargas-Bird, Irma M	Belleville	93,451	Universidad Central Del Caribe	Bayamon, PR	05/88
CHIROPRACTIC					
Alexander, Stephen K	Passaic	64,782	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/83
Allen, Richard L	Morristown	107,985	Life Univ	Marietta, GA	03/86
Brodsky, Barbara L	River Edge	7,966	Life Chiropractic Col—West	San Lorenzo, CA	12/84
Bucher, Gilles R	Fort Lee	49,176	New York Chiropractic Col	Seneca Falls, NY	08/88
Capilli, Michael A	Oceanport	30,070	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/87
Cornely, Michael P	Merchantville	71,700	Palmer Col of Chiropractic	Davenport, IA	12/87
Edmunds, John D	Manahawkin	155,415	Life Univ	Marietta, GA	03/86
Elia, Harry R	Woodcliff Lake	15,836	New York Chiropractic Col	Seneca Falls, NY	04/83
Gearity, Katherine A	North Bergen	64,803	New York Chiropractic Col	Seneca Falls, NY	04/87
Gloshinski, Laura E	South Orange	62,785	Life Univ	Marietta, GA	03/86
Guerriero, Lu Ann M	Morganville	123,586	New York Chiropractic Col	Seneca Falls, NY	04/86
Hermida, Mario D	Bergenfield	20,282	Palmer Col of Chiropractic	Davenport, IA	03/90
Hetherington, Jane	Mountainside	63,325	Life Chiropractic Col—West	San Lorenzo, CA	09/87
Ittner, William F	Seaside Park	53,271	Life Univ	Marietta, GA	06/86
Kane, Richard A	Somerset	150,348	New York Chiropractic Col	Seneca Falls, NY	04/85
Luongo, Mary Ann	Bayonne	16,930	New York Chiropractic Col	Seneca Falls, NY	12/84
Miller, Harry M	Linwood	11,983	Life Univ	Marietta, GA	09/90
Morrow, Lu A	Marlton	46,153	New York Chiropractic Col	Seneca Falls, NY	04/88
Murphy, Richard N	North Bergen	122,326	New York Chiropractic Col	Seneca Falls, NY	12/86
Nahai, John M	Sayreville	144,099	Life Chiropractic Col—West	San Lorenzo, CA	12/85
Romanski, Michael M	Spring Lake	29,471	Life Univ	Marietta, GA	03/89
Ronan, Patrick	Bloomfield	67,349	Palmer Col of Chiropractic	Davenport, IA	06/86
Ruane, Joseph T	Little Silver	33,758	Life Univ	Marietta, GA	12/82
Russell, Robert J	Camden	7,748	Life Univ	Marietta, GA	03/89
Ruta, Eugenio	Livingston	35,822	Life Univ	Marietta, GA	06/88
Siegel, Roy F	Somerville	88,454	Logan Col of Chiropractic	Chesterfield, MO	08/86
Verbaro, Dennis S	Chester	104,275	New York Chiropractic Col	Seneca Falls, NY	04/87
Viggiano, Christopher M	Long Valley	73,426	Palmer Col of Chiropractic	Davenport, IA	09/88
Weimmer, Frederick J	Lakehurst	25,182	Palmer Col of Chiropractic	Davenport, IA	03/85
Werrell, Sandra M	Mount Laurel	39,571	National Col of Chiropractic	Lombard, IL	08/85
Woods, Dolores	Orange	16,345	Life Univ	Marietta, GA	06/91
DENTISTRY					
Castillo, Steven A	Jersey City	157,239	New York Univ	New York, NY	06/87
Ernst, David J	East Brunswick	18,612	New York Univ	New York, NY	06/83
Johnson, Kevin D	Hackensack	48,643	Howard Univ	Washington, DC	05/89
McDonough, Lawrence P	Rumson	238,762	New York Univ	New York, NY	06/86
Newsome, Dorita	Livingston	26,366	Univ of Medicine & Dent of New Jersey	Newark, NJ	06/83
Oakes, Craig	East Windsor	58,516	Tufts Univ	Boston, MA	05/90
Ramirez, Nydia	Dumont	135,191	Fairleigh Dickinson Univ	Teaneck, NJ	05/87
Rojowski, Ravenna F	Teaneck	80,136	Fairleigh Dickinson Univ	Teaneck, NJ	05/84
Spaights, Lauren R	Newark	146,120	Marquette Univ	Milwaukee, WI	05/89
Velu, Gita	Jersey City	84,704	Univ of Pennsylvania	Philadelphia, PA	05/92
Wilson, Orin M	Lakewood	17,019	Univ of Medicine & Dent of New Jer	Newark, NJ	06/84
OSTEOPATHY					
Claire, James F	Voorhees	212,144	Univ of Medicine & Dent of New Jer	Newark, NJ	05/86
Kelly, Robert B	Old Bridge	63,474	Univ of Medicine & Dent of New Jer	Newark, NJ	05/86
PHARMACY					
Ahmed, Azza A	Bloomfield	14,787	Long Island Univ	Brookville, NY	10/88
Akunne, Festus O	Dayton	19,514	Long Island Univ	Brookville, NY	06/89
Bennett, Elizabeth C	Teaneck	14,677	Mercer Univ	Atlanta, GA	06/86
Jenewari, Elsie N	Sewell	8,309	Creighton Univ	Omaha, NE	08/83
Onyekaba, Ebere N	Maplewood	23,041	Long Island Univ	Brookville, NY	06/86
PODIATRY					
Brooks, Michena	Jersey City	130,828	New York Col of Podiatric Medicine	New York, NY	06/86
Neumunz, Gregory D	Teaneck	47,090	New York Col of Podiatric Medicine	New York, NY	06/87
Oliver, John A	Linden	172,283	New York Col of Podiatric Medicine	New York, NY	06/88
Turner, Demi M	Newark	167,165	New York Col of Podiatric Medicine	New York, NY	06/85
Urbanek, Michelle M	Flemington	70,456	Pennsylvania Col of Podiatric Medicine	Philadelphia, PA	06/84
NEW MEXICO					
ALLOPATHIC MEDICINE					
Sanchez, Ishmael B	La Luz	48,419	Univ of New Mexico	Albuquerque, NM	05/84
Szalanski, David L	Hobbs	99,974	Allegheny Univ of The Health Sci	Philadelphia, PA	06/86
CHIROPRACTIC					
Nelson, Christopher G	Albuquerque	147,276	Life Univ	Marietta, GA	03/87
NEW YORK					
ALLOPATHIC MEDICINE					
Bryant Jr, Edward O	Yonkers	155,431	Meharry Medical Col	Nashville, TN	05/84

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Jacoby, Avi	Forest Hills	199,392	Allegheny Univ of The Health Sci	Philadelphia, PA	06/84
Pikoris, Bernadette	Brooklyn	174,610	New York Medical Col	Valhalla, NY	06/90
Ponder III, Alvin F	Brooklyn	60,792	Howard Univ	Washington, DC	05/87
Powell, Craig	Bronx	99,756	Wright State Univ	Dayton, OH	11/85
Salazar, Marielena	New York	171,409	Tufts Univ	Boston, MA	05/88
Soto, Lucy	Throggs Neck	152,073	Medical Col of Wisconsin	Milwaukee, WI	05/86
Williams, Karol	Brooklyn	164,167	Finch Univ of Health Sci	North Chicago, IL	06/81
CHIROPRACTIC					
Ambrosio, Joseph A	New York	7,986	New York Chiropractic Col	Seneca Falls, NY	04/84
Anticola, Margaret M	Depew	92,085	Life Univ	Marietta, GA	06/86
Bee, Christopher R	Lake Grove	37,874	New York Chiropractic Col	Seneca Falls, NY	04/87
Bitet, Scott M	Westbury	25,639	Life Univ	Marietta, GA	06/86
Brea, Anthony F	Roslyn	34,830	New York Chiropractic Col	Seneca Falls, NY	12/82
Burdett, Denis P	Riverdale	149,074	Life Univ	Marietta, GA	03/86
Casella, Angela	Bronx	14,803	New York Chiropractic Col	Seneca Falls, NY	12/89
Cozolino, Clifford J	Pelham	77,227	New York Chiropractic Col	Seneca Falls, NY	12/88
Dayanzadeh, Mehran	Flushing	102,200	New York Chiropractic Col	Seneca Falls, NY	12/87
Emerson, Edwin A	Selden	119,885	New York Chiropractic Col	Seneca Falls, NY	04/88
Failla, Robert J	Staten Island	27,738	New York Chiropractic Col	Seneca Falls, NY	12/83
Farewell, Howard C	Garnerville	17,292	New York Chiropractic Col	Seneca Falls, NY	04/84
Ganden, Richard S	Olean	5,584	Logan Col of Chiropractic	Chesterfield, MO	09/83
Gervasi, Cirina M	Long Beach	95,272	New York Chiropractic Col	Seneca Falls, NY	12/87
Gray, Albert L	Woodmere	11,311	New York Chiropractic Col	Seneca Falls, NY	12/90
Hassiotti, Leone L	Middle Village	68,448	New York Chiropractic Col	Seneca Falls, NY	12/86
Holloway, Jill B	Elmont	9,268	Life Univ	Marietta, GA	03/83
Hughes, Jill A	Saint James	11,371	Logan Col of Chiropractic	Chesterfield, MO	08/88
Joergens Jr, Donald W	Staten Island	18,494	New York Chiropractic Col	Seneca Falls, NY	12/89
Johnson, Timothy H	Depew	22,642	Life Univ	Marietta, GA	09/83
Johnston, Mary M	Baldwin	93,775	New York Chiropractic Col	Seneca Falls, NY	04/88
Kiss, Kathleen M	Shirley	84,692	New York Chiropractic Col	Seneca Falls, NY	04/87
Kle, James P	Flushing	70,189	Life Univ	Marietta, GA	12/84
Leung, Leo S	Woodside	51,757	New York Chiropractic Col	Seneca Falls, NY	04/90
Linacre, William J	Poughkeepsie	62,000	New York Chiropractic Col	Seneca Falls, NY	12/87
Luca, Robert P	Brooklyn	58,199	Life Univ	Marietta, GA	12/86
McCabe, Peter T	Carmel	40,162	Life Univ	Marietta, GA	09/84
McCormack, Wayne C	Liberty	45,469	New York Chiropractic Col	Seneca Falls, NY	04/85
Medori, John	Garden City	35,060	New York Chiropractic Col	Seneca Falls, NY	12/86
Moretti, Jeffrey S	Poughkeepsie	114,203	New York Chiropractic Col	Seneca Falls, NY	04/89
Nebiosini, Richard A	Port Jefferson	54,173	Palmer Col of Chiropractic	Davenport, IA	06/86
Obadia, Eric S	Greenlawn	59,036	New York Chiropractic Col	Seneca Falls, NY	04/86
Renz, Howard W	Long Island City	25,530	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/83
Scampole, James J	Farmington	73,658	Life Univ	Marietta, GA	09/85
Schack, Richard N	Flushing	119,726	New York Chiropractic Col	Seneca Falls, NY	12/87
Seymour, Gary S	Newburgh	35,909	Life Univ	Marietta, GA	06/83
Shear, David S	Staten Island	66,001	New York Chiropractic Col	Seneca Falls, NY	04/85
Smith, Gertrude M	New York	90,039	Life Univ	Marietta, GA	12/84
Wheatley, William J	Washingtonville	53,123	New York Chiropractic Col	Seneca Falls, NY	12/88
Wilson, Anthony R	Newburgh	16,412	New York Chiropractic Col	Seneca Falls, NY	12/91
Yurick, Richard	Astoria	51,206	New York Chiropractic Col	Seneca Falls, NY	04/87
CLINICAL PSYCHOLOGY					
Bernard, Theresa J	Ossining	85,112	Univ of Denver	Denver, CO	08/87
Britt, Esther C	New York	152,041	Adelphi Univ	Garden City, NY	05/88
Knight, Patricia A	Sayville	54,703	Adelphi Univ	Garden City, NY	05/89
DENTISTRY					
Agata, Richard C	Brooklyn	137,413	Temple Univ	Philadelphia, PA	05/84
Baisch, Joan D	Smithtown	45,986	Washington Univ	St Louis, MO	05/86
Betelman, Genady	Brooklyn	128,562	Washington Univ	St Louis, MO	05/90
Bettis, Gail M	Rosedale	46,446	Fairleigh Dickinson Univ	Teaneck, NJ	05/87
Boldt, Harrison	Chappaqua	175,627	New York Univ	New York, NY	06/87
Gregory, Edward S	Roosevelt	83,714	Fairleigh Dickinson Univ	Teaneck, NJ	05/89
Guldan, Michael T	Chestertown	154,628	Marquette Univ	Milwaukee, WI	05/86
Han, Sok	Woodside	107,847	Univ of Southern California	Los Angeles, CA	05/86
Kim, Tae Joon	Flushing	50,212	New York Univ	New York, NY	06/92
Kupetz, Scott R	Hopewell Junction	133,678	Fairleigh Dickinson Univ	Teaneck, NJ	05/88
Lawrence, Herbert U	Huntington	27,017	Boston Univ Medical Ctr	Boston, MA	05/85
Massoud, Yehia A	New York	61,508	New York Univ	New York, NY	06/85
Nowroozi, Sohrab	New York	159,804	New York Univ	New York, NY	06/92
Perez, Hector L	Bronx	68,629	New York Univ	New York, NY	10/91
Perez, Nelson	Brooklyn	14,097	New York Univ	New York, NY	06/86
Popa, Dragos B	New York	169,130	New York Univ	New York, NY	06/85
Schroder, Anthony M	Middletown	35,154	New York Univ	New York, NY	06/84
Schwartz, Eric G	Long Beach	149,798	Boston Univ Medical Ctr	Boston, MA	06/89
Slavin, Timothy	Floral Park	106,518	Fairleigh Dickinson Univ	Teaneck, NJ	05/88
Solliday, Michael P	Brooklyn	23,798	Georgetown Univ	Washington, DC	05/87
Stone, Grace M	Brooklyn	230,471	Meharry Medical Col	Nashville, TN	05/85
Underwood Jr, Paul D	Yonkers	55,134	Temple Univ	Philadelphia, PA	05/87
Xiradakis, Maria	Brooklyn	50,001	New York Univ	New York, NY	06/90
Yeates, Terrance C	Brooklyn	55,777	Howard Univ	Washington, DC	05/85

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
HEALTH ADMINISTRATION					
Jansson, Susanne E	Westhampton Bch	31,924	Washington Univ	St Louis, MO	05/86
OSTEOPATHY					
Baltazar, Rodney	Jamaica	155,722	Univ of Osteo Medicine & Health Sci	Des Moines, IA	05/91
Bennett, Bonnie A	Point Lookout	250,574	Western Univ of Health Sci	Pomona, CA	06/86
Durojaye, Ojebode A	Brooklyn	32,944	New York Col of Osteo Medicine	Old Westbury, NY	06/93
Mihalakis, Georgia	Bronx	117,509	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/85
Steinke, Charles T	Richmond Hill	256,639	Univ of Health Sci	Kansas City, MO	05/86
PHARMACY					
Glover, Cheryl M	Brooklyn	53,527	Long Island Univ	Brookville, NY	06/87
Gonzalez, Nilda I	Brooklyn	4,701	Long Island Univ	Brookville, NY	06/90
Ibeh, Fidelis A	Brooklyn	16,884	Long Island Univ	Brookville, NY	01/89
PODIATRY					
Aiello-Bayer, Lisa A	Katonah	67,242	New York Col of Podiatric Medicine	New York, NY	06/89
Carthen, Michael	Brooklyn	148,948	New York Col of Podiatric Medicine	New York, NY	06/91
Dosunmu, Benzena V	Brooklyn	22,655	New York Col of Podiatric Medicine	New York, NY	06/84
Earle, John E	Jamaica	40,064	New York Col of Podiatric Medicine	New York, NY	06/92
Elbayar, Nader K	Port Washington	51,427	New York Col of Podiatric Medicine	New York, NY	06/91
Francis, Vincent J	East Meadow	69,414	Dr William School Col of Podiatric	Chicago, IL	05/88
Kirk, Marshall S	Staten Island	100,287	New York Col of Podiatric Medicine	New York, NY	06/89
Kustich, Susan K	New York	120,466	New York Col of Podiatric Medicine	New York, NY	06/89
Lee, George W	Brooklyn	103,769	New York Col of Podiatric Medicine	New York, NY	06/88
Markinson, Andrea B	Valley Stream	54,381	New York Col of Podiatric Medicine	New York, NY	06/85
Melendez, Angelina	Bronx	200,204	New York Col of Podiatric Medicine	New York, NY	06/89
Nelson, Mark J	Flushing	191,893	New York Col of Podiatric Medicine	New York, NY	06/85
Paul, Fitzpatrick	Brooklyn	96,397	New York Col of Podiatric Medicine	New York, NY	06/85
Perkins, Terence M	Bronx	119,961	New York Col of Podiatric Medicine	New York, NY	06/89
Porter, Jacqueline R	Brooklyn	40,444	New York Col of Podiatric Medicine	New York, NY	06/83
Sheahan, Michael D	Staten Island	52,950	New York Col of Podiatric Medicine	New York, NY	06/82
Soleye, Babatunde	Hartsdale	10,570	New York Col of Podiatric Medicine	New York, NY	06/80
Teusink, Scott H	Staten Island	220,664	New York Col of Podiatric Medicine	New York, NY	06/88
Zawada, Stanley J	Halesite	137,598	New York Col of Podiatric Medicine	New York, NY	06/84
NORTH CAROLINA					
ALLOPATHIC MEDICINE					
Manchester, Kevin E	Charlotte	26,243	Univ of Nevada—Reno	Reno, NV	05/89
Mebane, Karen E	Burlington	64,297	Meharry Medical Col	Nashville, TN	05/94
CHIROPRACTIC					
Ackley, Brainard L	Kitty Hawk	74,153	Life Univ	Marietta, GA	09/87
Brown, James R	Durham	24,523	National Col of Chiropractic	Lombard, IL	12/82
Coronado Jr, Rudolph K	Pembroke	62,697	Parker Col of Chiropractic	Dallas, TX	01/89
Cox, Harold D	Tryon	161,564	Palmer Col of Chiropractic—West	San Jose, CA	03/87
Cox, Janet L	Tryon	96,190	Los Angeles Col of Chiropractic	Whittier, CA	04/88
Hall, Scott W	Winston-Salem	119,958	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/86
Kerr, Thomas H	Charlotte	41,150	Palmer Col of Chiropractic	Davenport, IA	12/84
Lyons, Kathryn R	Raleigh	81,758	National Col of Chiropractic	Lombard, IL	08/86
Mayle, Robert C	Chapel Hill	57,975	Northwestern Col of Chiropractic	Bloomington, MN	12/89
Meredith, David G	Wilmington	50,958	Palmer Col of Chiropractic	Davenport, IA	06/88
Monical, William J	Charlotte	60,355	Life Univ	Marietta, GA	09/88
Reischman, Grace A	Charlotte	22,351	Logan Col of Chiropractic	Chesterfield, MO	01/86
Reischman, Timothy J	Charlotte	10,071	Logan Col of Chiropractic	Chesterfield, MO	08/85
Willis, Adam C	Charlotte	8,739	Palmer Col of Chiropractic	Davenport, IA	02/92
CLINICAL PSYCHOLOGY					
Romeo, Allen J	Statesville	48,219	California School of Prof Psych	Alameda, CA	06/89
DENTISTRY					
Pearson, Haywood L	Gastonia	171,268	Meharry Medical Col	Nashville, TN	05/83
PHARMACY					
Williams, Kenneth	Durham	8,414	Long Island Univ	Brookville, NY	06/90
PODIATRY					
Bolduc, David G	Greensboro	151,714	New York Col of Podiatric Medicine	New York, NY	06/88
Todorov, Todor	Jacksonville	29,319	Dr William School Col of Podiatric	Chicago, IL	05/81
OHIO					
ALLOPATHIC MEDICINE					
Bates, Leo C	Xenia	19,450	Wright State Univ	Dayton, OH	10/86
Evans, Catharine L	Columbus	46,658	Medical Col of Ohio	Toledo, OH	06/89
Flood, Wanda G	Canton	41,159	Howard Univ	Washington, DC	05/86
Heintzelman, Kurt W	Canfield	115,143	Ohio State Univ	Columbus, OH	06/88
McKnight, Timothy J	Akron	90,293	Tufts Univ	Boston, MA	06/89
Pate, Valerie J	Cleveland	95,205	Wright State Univ	Dayton, OH	06/84
Rozier, Frederick N	Columbus	62,933	Medical Col of Wisconsin	Milwaukee, WI	08/82
Shook, Scott L	Columbus	82,452	Wright State Univ	Dayton, OH	06/88

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
CHIROPRACTIC					
Bowers, Thomas E	Wilmot	93,747	National Col of Chiropractic	Lombard, IL	12/86
Campana, Thomas M	Cleveland	75,729	Palmer Col of Chiropractic	Davenport, IA	09/85
Drotar, Christopher J	Northwood	76,636	Palmer Col of Chiropractic	Davenport, IA	03/85
Hetzel, William A	Peebles	155,587	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
Howard Jr, Daniel L	Milford	38,197	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/90
McClain, Donald W	Cleveland	39,792	Logan Col of Chiropractic	Chesterfield, MO	12/88
Millns, Mark C	Toledo	37,900	Palmer Col of Chiropractic	Davenport, IA	09/84
Nagode, Dale A	Parma Heights	3,911	Life Chiropractic Col—West	San Lorenzo, CA	06/85
Oetzel, Stephen L	Wilmington	43,513	Palmer Col of Chiropractic	Davenport, IA	06/86
Schumacher, Douglas E	Dayton	99,502	Life Univ	Marietta, GA	12/86
CLINICAL PSYCHOLOGY					
Shields, Judith I	Canton	104,992	California School of Prof Psych	San Diego, CA	05/89
DENTISTRY					
Ball, John W	Cleveland	10,521	Case Western Reserve Univ	Cleveland, OH	05/85
Bohonek, Stanislav	Cleveland	78,154	Case Western Reserve Univ	Cleveland, OH	05/87
Brightman, Brenda B	Cleveland	90,894	Case Western Reserve Univ	Cleveland, OH	05/88
Costaras, Bill C	Parma	28,762	Case Western Reserve Univ	Cleveland, OH	05/87
Easley, Wayland A	Cleveland	106,249	Case Western Reserve Univ	Cleveland, OH	05/90
Gross-Johnson, Bonnie J	Columbus	42,223	Case Western Reserve Univ	Cleveland, OH	05/86
Jordan, Martin E	Cleveland	6,271	Howard Univ	Washington, DC	05/90
Lawson, Gerald M	Cincinnati	100,516	Meharry Medical Col	Nashville, TN	05/82
Mack Jr, William E	Brookfield	212,899	Case Western Reserve Univ	Cleveland, OH	05/87
Meade, Madeline M	Parma	24,643	Case Western Reserve Univ	Cleveland, OH	05/88
Obester, David A	Columbus	163,632	Ohio State Univ	Columbus, OH	06/86
Slack, Craig A	Columbus	19,727	Ohio State Univ	Columbus, OH	06/87
Stiggers, Donald	Cleveland	5,183	Case Western Reserve Univ	Cleveland, OH	05/90
Zaun, Timothy M	Lakewood	60,177	Case Western Reserve Univ	Cleveland, OH	12/86
PHARMACY					
Howard, Willard	Dayton	37,249	Howard Univ	Washington, DC	05/85
PODIATRY					
Chestang, Leo A	Cleveland	157,434	Ohio Col of Podiatric Medicine	Cleveland, OH	05/84
Day, Clara Ruth E	Cleveland	163,775	Ohio Col of Podiatric Medicine	Cleveland, OH	05/88
Erkard Jr, James T	Kent	40,106	Ohio Col of Podiatric Medicine	Cleveland, OH	05/82
Gorisse, Guy R	Richmond Heights	204,420	Ohio Col of Podiatric Medicine	Cleveland, OH	05/86
Graham, Dale A	Mineral Ridge	162,170	Ohio Col of Podiatric Medicine	Cleveland, OH	05/88
Minton, Wayne E	Cleveland	265,660	Ohio Col of Podiatric Medicine	Cleveland, OH	06/88
Otto, David E	Willoughby	258,042	Ohio Col of Podiatric Medicine	Cleveland, OH	05/85
Rodgers, Larry A	Cleveland	229,544	Ohio Col of Podiatric Medicine	Cleveland, OH	05/86
Salem, Atiyeh A	Lakewood	89,410	Ohio Col of Podiatric Medicine	Cleveland, OH	05/81
Siggers, Ralph A	Berea	218,900	Ohio Col of Podiatric Medicine	Cleveland, OH	06/87
OKLAHOMA					
CHIROPRACTIC					
Atwell, Sandra L	Shawnee	148,923	Life Univ	Marietta, GA	03/86
Bundrick, Doyle D	Edmond	20,984	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/89
Cleere, Carrol E	Tulsa	79,864	Palmer Col of Chiropractic	Davenport, IA	06/85
Guinn, Michael L	Ponca City	120,409	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
Harms, Eugene G	Ada	61,044	Life Univ	Marietta, GA	10/82
Harvey, Robert L	Tulsa	101,752	Parker Col of Chiropractic	Dallas, TX	04/88
Headley, Patricia D	Tonkawa	55,681	Palmer Col of Chiropractic	Davenport, IA	10/86
Jackson, John D	Jenks	81,474	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/86
Maker, James A	Oklahoma City	20,788	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/84
Owens, Gregory A	Claremore	76,213	Cleveland Chiropractic Col (MO)	Kansas City, MO	12/86
Schrag, Glenn P	Guthrie	133,318	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/86
Wallace, Owen	Oklahoma City	15,195	Life Univ	Marietta, GA	09/84
DENTISTRY					
Goodwin, Mark A	Tulsa	121,418	Oral Roberts Univ	Tulsa, OK	05/85
Shoeleh, Vicki P	Washington	113,664	Oral Roberts Univ	Tulsa, OK	06/89
Steffen, Michael R	Tulsa	84,979	Washington Univ	St Louis, MO	03/85
Streight, John A	Ponca City	85,454	Univ of Oklahoma Health Sci Ctr	Oklahoma City, OK	06/85
OSTEOPATHY					
Miller, Susan M	Tulsa	58,381	Oklahoma State Univ	Tulsa, OK	05/85
PUBLIC HEALTH					
Welden, Charles R	Tulsa	17,478	Univ of Oklahoma Health Sci Ctr	Oklahoma City, OK	05/86
OREGON					
CHIROPRACTIC					
Aver, Reva B	Portland	126,125	Western States Chiropractic Col	Portland, OR	12/86
Donavon, Gregory	Portland	31,206	Western States Chiropractic Col	Portland, OR	03/87
Hundagen, Joyce M	Portland	42,148	Western States Chiropractic Col	Portland, OR	06/87
Kendrick, John C	Hillsboro	59,078	Western States Chiropractic Col	Portland, OR	12/84
Marshall, David L	Portland	46,555	Western States Chiropractic Col	Portland, OR	06/86
Murakami, Robert M	Milwaukie	16,885	Northwestern Col of Chiropractic	Bloomington, MN	08/86

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Riordan, Kenneth P	Grants Pass	116,882	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/88
Spatrisano, Bonnie L	Bend	98,093	Cleveland Chiropractic Col (CA)	Los Angeles, CA	08/85
Van Olphen, Anneka M	Ashland	95,453	Life Chiropractic Col—West	San Lorenzo, CA	06/86
Van Parys, Leslie R	Portland	9,649	Northwestern Col of Chiropractic	Bloomington, MN	04/87
Warner, Brent J	Portland	72,937	Western States Chiropractic Col	Portland, OR	06/85
West, Weldon C	Portland	85,497	Western States Chiropractic Col	Portland, OR	06/86
DENTISTRY					
Cooney, Carey E	Eugene	41,649	Oregon Health Sci Univ	Portland, OR	06/90
OPTOMETRY					
Clunes, Lindsay C	Corvallis	80,720	Pacific Univ	Forest Grove, OR	05/87
PENNSYLVANIA					
ALLOPATHIC MEDICINE					
Carazo, Andres R	Philadelphia	87,659	Tulane Univ	New Orleans, LA	06/87
Davenport, Lorenzo N	Philadelphia	93,191	Temple Univ	Philadelphia, PA	05/85
Guidotti, Janice L	Philadelphia	58,702	Allegheny Univ of The Health Sci	Philadelphia, PA	06/86
Harris, John D	Philadelphia	16,659	Allegheny Univ of The Health Sci	Philadelphia, PA	06/88
Howard-Jackson, Leslie A	Philadelphia	70,114	Temple Univ	Philadelphia, PA	06/88
Johnson, Howard D	Bridgeville	11,010	Penn State Univ	Hershey, PA	05/90
Mobley, Derrick K	Philadelphia	119,507	Medical Col of Pennsylvania	Philadelphia, PA	05/86
Monk, Melcher F	Philadelphia	7,109	Univ of Illinois Medical Ctr	Chicago, IL	06/89
Peterson, Kirby K	Philadelphia	57,936	Univ of Illinois Medical Ctr	Chicago, IL	06/89
CHIROPRACTIC					
Brown, Paul W	Philadelphia	108,629	New York Chiropractic Col	Seneca Falls, NY	12/85
Goldblatt, Aaron J	Danboro	44,925	Life Univ	Marietta, GA	12/86
Horgash, John S	Horsham	62,620	National Col of Chiropractic	Lombard, IL	04/87
Lees, Corey R	Harrisburg	106,168	Palmer Col of Chiropractic—West	San Jose, CA	03/89
Miller, John W	Pittsburgh	68,281	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/87
Mistretta, John P	Hermitage	53,024	Palmer Col of Chiropractic	Davenport, IA	03/88
Norpel, Joseph W	Havertown	90,888	Life Univ	Marietta, GA	12/85
Roebuck, James N	North Wales	74,304	Logan Col of Chiropractic	Chesterfield, MO	08/85
Ross, Roger A	Havertown	57,600	Logan Col of Chiropractic	Chesterfield, MO	08/85
Storer, John W	Camp Hill	50,967	Logan Col of Chiropractic	Chesterfield, MO	04/86
Trodden, Scott A	New Castle	29,579	Parker Col of Chiropractic	Dallas, TX	09/91
Wachter, John P	Ingomar	70,924	Palmer Col of Chiropractic	Davenport, IA	09/84
Waite, William C	Pittsburgh	31,120	Texas Chiropractic Col Foundation	Pasadena, TX	05/82
Wakefield, William C	Oakmont	2,734	Palmer Col of Chiropractic	Davenport, IA	06/85
Waldman, Andrew D	Pittsburgh	30,327	Palmer Col of Chiropractic	Davenport, IA	03/88
Wiegand, Paul J	Danville	32,045	Los Angeles Col of Chiropractic	Whittier, CA	04/84
CLINICAL PSYCHOLOGY					
Block, Robbyn K	Pittsburgh	86,882	California School of Prof Psych	Alhambra, CA	07/88
Morris, Russell D	Philadelphia	42,190	Adelphi Univ	Garden City, NY	05/88
Pepe, Patricia	Houston	58,586	California School of Prof Psych	Fresno, CA	06/88
DENTISTRY					
Alston-Davis, Diedra A	Pine Forge	88,481	Meharry Medical Col	Nashville, TN	05/83
Barksdale, Gregory A	Philadelphia	24,146	Howard Univ	Washington, DC	05/80
Barnhart, Jerome M	McClellandtown	75,748	Univ of Pittsburgh	Pittsburgh, PA	06/88
Berger, David L	Wampum	45,376	Univ of Pittsburgh	Pittsburgh, PA	06/88
Burne Jr, James P	Scranton	8,880	Georgetown Univ	Washington, DC	05/89
Chacker, Laurence G	Philadelphia	31,223	Univ of Pennsylvania	Philadelphia, PA	05/85
Ditroia, Frederick	Warrington	76,801	Temple Univ	Philadelphia, PA	06/87
Faucher, Dennis L	Bradford	83,260	Univ of Texas Health Sci Ctr	Houston, TX	06/84
Gordon, Wanda C	Philadelphia	47,728	Univ of Pennsylvania	Philadelphia, PA	05/86
Hannon, Dennis	Warren	60,826	Loyola Univ of Chicago	Chicago, IL	05/85
Hoppes-Goroshko, Elaine M	Tamaqua	82,135	Temple Univ	Philadelphia, PA	12/86
Jakavick, William L	Brookhaven	42,717	Temple Univ	Philadelphia, PA	05/84
Jerrett, David P	Pittsburgh	144,242	Univ of Pittsburgh	Pittsburgh, PA	05/84
Loughead, Thomas R	Pittsburgh	101,630	Univ of Pittsburgh	Pittsburgh, PA	07/89
Mancini, James D	Mckees Rocks	60,672	Univ of Pittsburgh	Pittsburgh, PA	08/86
Miller, Alan K	Monroeville	4,155	Temple Univ	Philadelphia, PA	05/82
Mitchell, Albert B	Philadelphia	67,439	Howard Univ	Washington, DC	05/87
Pikur, Mark M	Pittsburgh	156,874	Univ of Pittsburgh	Pittsburgh, PA	06/87
Powell, Carlton F	Elkins Park	45,641	Meharry Medical Col	Nashville, TN	05/88
Province, Susan L	Scottdale	9,437	Univ of Pittsburgh	Pittsburgh, PA	06/86
Scarpa Jr, Peter D	Philadelphia	8,631	Georgetown Univ	Washington, DC	05/88
Shaw, Linda J	Gladwyne	14,171	Temple Univ	Philadelphia, PA	05/87
Singh, Ravindra	Allentown	65,631	Tufts Univ	Boston, MA	06/94
Tanski-Yudichak, Connie A	Larksville	96,767	Temple Univ	Philadelphia, PA	06/89
Wasilko, Thomas J	Elizabeth	15,054	Georgetown Univ	Washington, DC	05/82
Yudichak, John M	Larksville	139,625	Temple Univ	Philadelphia, PA	12/87
OSTEOPATHY					
Brenneis, Gerard	Sharon	84,650	Kirksville Col of Osteo Medicine	Kirksville, MO	06/87
Brown, Sheila V	Pittsburgh	21,262	Philadelphia Col of Osteo Medicine	Philadelphia, PA	06/90
Johnson, Lucinda	Blue Bell	16,824	Philadelphia Col of Osteo Medicine	Philadelphia, PA	06/90
PHARMACY					
Abanzukwe, Joy I	Philadelphia	22,450	Philadelphia Col of Pharmacy & Sci	Philadelphia, PA	09/87

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Angel, Marilyn W	Greensburg	13,987	Univ of Pittsburgh	Pittsburgh, PA	05/87
Vogel, Joseph M	Enon Valley	49,816	Duquesne Univ	Pittsburgh, PA	05/87
PODIATRY					
Anderson, Gwendolyn	Philadelphia	25,282	Pennsylvania Col of Podiatric Medicine	Philadelphia, PA	06/87
Bailey, Cynthia	Philadelphia	165,340	New York Col of Podiatric Medicine	New York, NY	06/89
Danczak, Michael E	Pottstown	36,548	Ohio Col of Podiatric Medicine	Cleveland, OH	05/84
Rosolowicz, Catherine A	Pottstown	9,748	Ohio Col of Podiatric Medicine	Cleveland, OH	05/84
Ward, William F	Norristown	12,537	Pennsylvania Col of Podiatric Medi	Philadelphia, PA	06/89
PUBLIC HEALTH					
Lamothe, Lissa	Philadelphia	19,688	Tulane Univ	New Orleans, LA	08/89
VETERINARY MEDICINE					
Giles, Beverly A	Philadelphia	10,513	Univ of Pennsylvania	Philadelphia, PA	05/88
PUERTO RICO					
OPTOMETRY					
Capo Fernandez, Yolanda C	San Juan	52,185	Inter American Univ of PR	San Juan, PR	05/85
Morales-Ruiz, Oscar	Bayamon	149,026	Inter American Univ of PR	San Juan, PR	05/87
Rivera, Axel E	San Juan	89,270	Inter American Univ of PR	San Juan, PR	05/89
RHODE ISLAND					
HEALTH ADMINISTRATION					
Tiemo, Vincent D	Providence	11,933	Xavier Univ (OH)	Cincinnati, OH	05/88
OSTEOPATHY					
Berry, Linda R	Johnston	219,380	Univ of New England	Biddeford, ME	06/86
SOUTH CAROLINA					
ALLOPATHIC MEDICINE					
O'Connor, Brian K	Charleston	103,702	Georgetown Univ	Washington, DC	05/85
CHIROPRACTIC					
Badia, Raymond	Gaffney	107,488	Life Univ	Marietta, GA	06/84
Cuddington, Timothy J	Orangeburg	39,259	Life Univ	Marietta, GA	12/85
Garrett, Alex C	Mauldin	74,389	Life Univ	Marietta, GA	03/87
Taber, Stuart M	Columbia	94,312	Life Univ	Marietta, GA	12/84
DENTISTRY					
Dixson, David R	Barnwell	249,635	Meharry Medical Col	Nashville, TN	05/86
Wilson, Debra D	Rock Hill	70,256	Univ of Maryland—Baltimore	Baltimore, MD	05/84
PODIATRY					
Salley Jr, Hezekiah	Smoaks	157,074	Ohio Col of Podiatric Medicine	Cleveland, OH	05/83
TENNESSEE					
ALLOPATHIC MEDICINE					
Baker, Donnie W	Nashville	119,373	Meharry Medical Col	Nashville, TN	05/88
Collins, James E	Nashville	162,578	Meharry Medical Col	Nashville, TN	05/87
Johnson, James E	Nashville	191,525	Meharry Medical Col	Nashville, TN	05/86
Smith, Larry W	Nashville	123,098	Meharry Medical Col	Nashville, TN	05/86
Wimbish, Ronald P	Nashville	203,389	Meharry Medical Col	Nashville, TN	05/87
CHIROPRACTIC					
Collins Jr, Cecil E	Bluff City	69,093	Life Univ	Marietta, GA	06/85
Pierce, Ronald D	Lebanon	92,538	Logan Col of Chiropractic	Chesterfield, MO	08/86
Reid, Henry L	Dayton	70,364	Life Univ	Marietta, GA	06/88
CLINICAL PSYCHOLOGY					
King, Wanda M	Bolivar	40,897	Wright State Univ	Dayton, OH	08/86
Mouzon, Laquetta O	Savannah	19,123	Allegheny Univ of The Health Sci	Philadelphia, PA	06/88
DENTISTRY					
Branch, Joerald D	Bartlett	221,993	Meharry Medical Col	Nashville, TN	05/89
Coggins, Cheryl R	Hixson	127,745	Meharry Medical Col	Nashville, TN	05/87
Davis, Edward L	Memphis	6,519	Meharry Medical Col	Nashville, TN	05/83
Lima, Ruth O	Nashville	131,234	Marquette Univ	Milwaukee, WI	05/92
Payne, Paul B	Antioch	139,747	Meharry Medical Col	Nashville, TN	05/85
Woodard, Yvette A	Nashville	50,591	Howard Univ	Washington, DC	05/90
PHARMACY					
Haile Selassie, Hapte	Madison	27,228	Mercer Univ	Atlanta, GA	06/87
TEXAS					
ALLOPATHIC MEDICINE					
Adkins, Margo M	Leander	111,704	Univ of Miami	Miami, FL	05/88
Barrera, Adrian V	Laredo	13,926	Univ of Texas Southwestern Medical	Dallas, TX	06/94

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Berry, James E	Stafford	20,771	Univ of Texas Medical Branch—Galve	Galveston, TX	05/86
Brown, William C	Houston	8,295	Univ of Texas Southwestern Medical	Dallas, TX	06/87
Cooper, April D	Houston	84,407	Univ of Illinois Medical Ctr	Chicago, IL	06/89
Ellis, Cynthia E	Austin	140,433	Meharry Medical Col	Nashville, TN	05/85
Green Jr, Kenneth W	Hurst	71,354	Univ of Texas Medical Branch—Galve	Galveston, TX	05/86
Kerr, Bryant A	Corpus Christi	6,996	Univ of Louisville	Louisville, KY	05/86
Lewis, Michael L	Houston	48,214	Univ of Texas Medical Branch—Galve	Galveston, TX	05/89
Moseley, Clarence D	Houston	30,944	Univ of Texas Medical Branch—Galve	Galveston, TX	05/87
Roybal-Hazen, Maria E	Mcallen	35,428	Michigan State Univ	East Lansing, MI	06/89
Schulz, Eric H	Spring	6,050	Univ of Texas Health Sci Ctr	Houston, TX	06/88
Zavala, Alfonso G	Houston	235,390	Meharry Medical Col	Nashville, TN	05/87
CHIROPRACTIC					
Alshouse-Ellis, Luanne S	Terrell	63,412	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
Bailey, John L	Channelview	87,260	Texas Chiropractic Col Foundation	Pasadena, TX	12/89
Baker Jr, Grisby	Houston	95,996	Texas Chiropractic Col Foundation	Pasadena, TX	12/84
Barnett, Brian D	Webster	106,984	Texas Chiropractic Col Foundation	Pasadena, TX	04/87
Blount, Steve A	De Soto	10,234	Palmer Col of Chiropractic	Davenport, IA	02/91
Bonner, Michael W	Houston	74,508	Texas Chiropractic Col Foundation	Pasadena, TX	04/91
Broadwell-Drew, Teri A	Carrollton	128,900	Parker Col of Chiropractic	Dallas, TX	05/89
Brown, Darla J	Highlands	57,353	Texas Chiropractic Col Foundation	Pasadena, TX	12/90
Broze, Rory A	Marble Falls	77,216	Texas Chiropractic Col Foundation	Pasadena, TX	05/84
Dean, J C	Dickinson	76,867	Texas Chiropractic Col Foundation	Pasadena, TX	12/86
Dickey, Jerry P	Richardson	99,360	Parker Col of Chiropractic	Dallas, TX	09/88
Dodd, Daniel J	Texas City	22,107	Texas Chiropractic Col Foundation	Pasadena, TX	05/82
Durham, Ricky L	Houston	133,881	Texas Chiropractic Col Foundation	Pasadena, TX	08/86
Dyess, Stephen J	Deer Park	143,890	Texas Chiropractic Col Foundation	Pasadena, TX	04/87
Eastman, Donald W	Mesquite	70,375	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Eaves, Donald G	Houston	113,778	Texas Chiropractic Col Foundation	Pasadena, TX	12/87
Ellis, Robert W	Terrell	66,261	Cleveland Chiropractic Col (MO)	Kansas City, MO	01/86
Glenn, Michael C	Austin	141,353	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Goebel, Michael L	Cleveland	78,978	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Hales, Joyce M	Richmond	41,337	Texas Chiropractic Col Foundation	Pasadena, TX	05/83
Harding III, James W	Austin	25,557	Western States Chiropractic Col	Portland, OR	03/89
Hendricks, Craig B	Tyler	37,074	Palmer Col of Chiropractic	Davenport, IA	03/85
Herrington, Tommy L	Pasadena	39,621	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Hill, Michael J	Houston	29,287	Texas Chiropractic Col Foundation	Pasadena, TX	04/84
Kennedy, Michael D	Conroe	132,013	Texas Chiropractic Col Foundation	Pasadena, TX	12/87
Kermani, Aspen D	Houston	116,024	Palmer Col of Chiropractic	Davenport, IA	12/85
Kratt, Thomas W	Nacogdoches	33,034	Texas Chiropractic Col Foundation	Pasadena, TX	12/87
Lawson, Mary E	Laredo	18,456	Northwestern Col of Chiropractic	Bloomington, MN	04/85
Manning-Pinotti, Katherine	Houston	142,691	Texas Chiropractic Col Foundation	Pasadena, TX	12/86
Martin, David Z	Floydada	121,782	Life Univ	Marietta, GA	12/86
Matthews, Paul E	Fort Worth	81,690	Cleveland Chiropractic Col (MO)	Kansas City, MO	08/83
McReynolds, Pamela J	Irving	32,598	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/84
Metcalf, Roy L	Arlington	146,044	Life Univ	Marietta, GA	12/87
Montanari, Arthur M	La Porte	101,478	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Moses, Michael J	Humble	56,285	Texas Chiropractic Col Foundation	Pasadena, TX	12/85
Munson, Herbert M	Houston	57,153	Texas Chiropractic Col Foundation	Pasadena, TX	12/86
Negash, Omer I	Houston	21,408	Texas Chiropractic Col Foundation	Pasadena, TX	05/89
Nicosia, Michael L	Portland	77,893	Texas Chiropractic Col Foundation	Pasadena, TX	04/90
Oliver, Monte B	Lindale	59,276	Parker Col of Chiropractic	Dallas, TX	08/87
Pearce, Clark H	Grand Prairie	132,483	Parker Col of Chiropractic	Dallas, TX	01/89
Pinotti, Jeffrey H	Houston	98,321	Texas Chiropractic Col Foundation	Pasadena, TX	08/86
Quadlander, Michael E	New Braunfels	71,167	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Real, Vernon D	Pasadena	135,836	Texas Chiropractic Col Foundation	Pasadena, TX	12/88
Reynolds-Beaver, Charlotte	Robstown	100,453	Texas Chiropractic Col Foundation	Pasadena, TX	04/86
Rhine, Cecil T	Longview	96,255	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Roberson, Harvey	Houston	44,914	Texas Chiropractic Col Foundation	Pasadena, TX	12/89
Robinson, Glenn R	Dallas	93,360	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/88
Rodriguez, Jesus A	El Paso	163,956	Texas Chiropractic Col Foundation	Pasadena, TX	04/86
Romeieh, Barbara C	South Padre Island	113,642	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/85
Rowe, Roger L	Longview	112,599	Texas Chiropractic Col Foundation	Pasadena, TX	08/86
Sanchez, Gerald L	Houston	47,762	Texas Chiropractic Col Foundation	Pasadena, TX	04/88
Schalk, Ronald R	Corpus Christi	25,427	Texas Chiropractic Col Foundation	Pasadena, TX	05/82
Shaver, Dennis D	Kerrville	37,809	Texas Chiropractic Col Foundation	Pasadena, TX	12/85
Skidmore, Clyde E	Stafford	67,074	Life Univ	Marietta, GA	12/83
Smith, Cecil P	Garland	26,369	Parker Col of Chiropractic	Dallas, TX	04/86
Smith, Dennis M	Houston	68,849	Texas Chiropractic Col Foundation	Pasadena, TX	05/84
Sprecher, Kyle O	Webster	93,340	Texas Chiropractic Col Foundation	Pasadena, TX	12/86
Stewart, Mikel T	Dallas	48,527	Parker Col of Chiropractic	Dallas, TX	09/91
Stratso, Nicholas	Pilot Point	98,125	Palmer Col of Chiropractic	Davenport, IA	03/87
Truong, Thao V	Houston	15,072	Texas Chiropractic Col Foundation	Pasadena, TX	12/88
Tucker, James A	Arlington	12,181	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/83
Unruh, Steve L	Baytown	96,289	Life Univ	Marietta, GA	12/87
Wellington, James G	Kingwood	37,926	Texas Chiropractic Col Foundation	Pasadena, TX	05/82
Wheeler, Wesley D	Houston	77,812	Texas Chiropractic Col Foundation	Pasadena, TX	12/88
Whitaker, Gary W	Houston	25,012	Texas Chiropractic Col Foundation	Pasadena, TX	05/82
Wilson, Robert D	Angleton	147,892	Texas Chiropractic Col Foundation	Pasadena, TX	06/87
DENTISTRY					
Bartley, Emily J	Houston	36,798	Meharry Medical Col	Nashville, TN	05/91

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Broadus, Reginald H	Fort Worth	75,723	Meharry Medical Col	Nashville, TN	05/85
Burns-Toole, Peggy L	San Antonio	104,265	Meharry Medical Col	Nashville, TN	05/86
Jones, Brady J	Dallas	225,392	Meharry Medical Col	Nashville, TN	05/85
Sadien, Habib	Houston	35,810	Loyola Univ of Chicago	Chicago, IL	05/93
Wood Jr, Cecil N	Duncanville	134,524	Univ of Oklahoma Health Sci Ctr	Oklahoma City, OK	06/83
OPTOMETRY					
Harrison, Nancy A	Katy	91,164	New England Col of Optometry	Boston, MA	03/85
OSTEOPATHY					
Abdal-Alim, Khalid B	Houston	35,280	Univ of Osteo Medicine & Health Sci	Des Moines, IA	06/91
PHARMACY					
Boboye, Cyril O	Arlington	13,631	Creighton Univ	Omaha, NE	08/85
Dudley, Raynold R	Houston	35,677	Creighton Univ	Omaha, NE	08/84
PODIATRY					
Bethea-Owens, Carroll R	Dallas	67,976	Ohio Col of Podiatric Medicine	Cleveland, OH	05/85
Rose, Myrtle F	Dallas	157,893	Ohio Col of Podiatric Medicine	Cleveland, OH	06/87
Updyke, John G	Houston	126,917	California Col of Podiatric Medicine	San Francisco, CA	05/81
UTAH					
CHIROPRACTIC					
Applegate, Kirk A	Salt Lake City	103,336	Los Angeles Col of Chiropractic	Whittier, CA	12/85
Bowman, Jeffrey S	Salt Lake City	14,859	Palmer Col of Chiropractic	Davenport, IA	09/83
Hockersmith, Kevin W	Clearfield	121,930	Cleveland Chiropractic Col (MO)	Kansas City, MO	05/89
Schwontkowski, Donna L	Salt Lake City	16,659	National Col of Chiropractic	Lombard, IL	12/90
Turner, Nancy A	Salt Lake City	19,827	Life Chiropractic Col-West	San Lorenzo, CA	12/85
PODIATRY					
Tindall, Michael A	Magna	85,034	California Col of Podiatric Medicine	San Francisco, CA	05/88
VIRGINIA					
ALLOPATHIC MEDICINE					
Asamoah-Mensah, Nana Y	Herndon	14,476	George Washington Univ	Washington, DC	05/90
Dempster-Pierce, Alexandra	Aldie	32,238	Univ of Miami	Miami, FL	05/87
Jones, Edward O	Roanoke	62,835	Meharry Medical Col	Nashville, TN	05/94
Scott, Rosemary C	Saluda	167,915	Meharry Medical Col	Nashville, TN	05/87
Tanwi, Lyndon B	Richmond	77,481	Univ of Texas Health Sci Ctr—San Antonio	San Antonio, TX	06/86
CHIROPRACTIC					
Boley, Glenn E	Richmond	68,134	National Col of Chiropractic	Lombard, IL	04/88
Dotti, John T	Yorktown	109,602	Texas Chiropractic Col Foundation	Pasadena, TX	05/83
Ganther, Timothy G	Virginia Beach	68,381	Logan Col of Chiropractic	Chesterfield, MO	08/86
Hogan, Dennis P	Manassas	15,233	Logan Col of Chiropractic	Chesterfield, MO	08/89
Jackson, Zona G	Freeman	25,729	Logan Col of Chiropractic	Chesterfield, MO	08/88
Kessler, Edward	Virginia Beach	60,192	Life Univ	Marietta, GA	12/83
Kilmer, David R	Thaxton	51,098	Los Angeles Col of Chiropractic	Whittier, CA	12/85
Panza III, Ernest P	Williamsburg	18,446	Life Univ	Marietta, GA	03/91
Vosburgh, Stephen E	Sterling	145,822	Life Univ	Marietta, GA	01/85
DENTISTRY					
Bukowski, Todd M	Annandale	29,616	SUNY Buffalo	Buffalo, NY	06/89
Miles, Ethel M	Charlottesville	24,469	Virginia Commonwealth Univ	Richmond, VA	05/86
Miller, Jay P	Arlington	6,417	Georgetown Univ	Washington, DC	05/90
Nicholas, Robert K	Richmond	30,224	Virginia Commonwealth Univ	Richmond, VA	05/87
Patterson, Roosevelt	Emporia	127,455	Meharry Medical Col	Nashville, TN	12/88
OSTEOPATHY					
Jones, James M	Chesterfield	14,372	Philadelphia Col of Osteo Medicine	Philadelphia, PA	06/94
PHARMACY					
Bean, Rhonda L	Alexandria	6,135	Xavier Univ (LA)	New Orleans, LA	05/88
PODIATRY					
Dew, John L	Norfolk	92,024	Ohio Col of Podiatric Medicine	Cleveland, OH	06/90
McMillion, Doddjerry J	Richmond	52,731	Pennsylvania Col of Podiatric Medicine	Philadelphia, PA	05/92
WASHINGTON					
ALLOPATHIC MEDICINE					
Smalley, Katherine J	Seattle	27,562	Medical Col of Wisconsin	Milwaukee, WI	05/91
CHIROPRACTIC					
Botefuhr Jr, Carl R	Bainbridge Island	76,186	Cleveland Chiropractic Col (CA)	Los Angeles, CA	04/89
Chinn, Gregory W	Seattle	113,479	Life Univ	Marietta, GA	12/89
Dreyer, Frank J	Spokane	18,136	Palmer Col of Chiropractic	Davenport, IA	09/84
Fox, Richard T	Arlington	25,336	Cleveland Chiropractic Col (CA)	Los Angeles, CA	12/83
Legg, William C	Clarkston	81,410	Western States Chiropractic Col	Portland, OR	12/83
Marschall, Skye K	Seattle	114,326	Texas Chiropractic Col Foundation	Pasadena, TX	12/83
Reehl, Michelle D	Sumner	9,349	Palmer Col of Chiropractic	Davenport, IA	06/82

LIST OF DEFAULTERS—Continued

Name	City	Debt	School	City and state	Sep date
Scovel, Michael E	Everett	126,783	Palmer Col of Chiropractic—West	San Jose, CA	12/88
Scovel, Roshelle R	Sedro Woolley	18,749	Palmer Col of Chiropractic—West	San Jose, CA	12/90
Tyrrell, Michael D	Spokane	177,235	Life Univ	Marietta, GA	06/86
Walters, Jerome P	Olympia	43,668	Palmer Col of Chiropractic	Davenport, IA	12/83
Zipfel, Anthony R	Republic	45,070	Los Angeles Col of Chiropractic	Whittier, CA	04/88
PODIATRY					
Morrison, John T	Port Orchard	46,464	Ohio Col of Podiatric Medicine	Cleveland, OH	05/83
WEST VIRGINIA					
ALLOPATHIC MEDICINE					
Marshall, John T	Philippi	88,705	Marshall Univ	Huntington, WV	06/86
CHIROPRACTIC					
Henshaw, Clifford D	Huntington	70,612	Life Univ	Marietta, GA	03/88
WISCONSIN					
ALLOPATHIC MEDICINE					
Kushner, Brad D	Whitewater	149,877	Finch Univ of Health Sci	North Chicago, IL	10/87
CHIROPRACTIC					
Haines, Arthur A	River Falls	79,034	Northwestern Col of Chiropractic	Bloomington, MN	12/90
Hansen, Timothy J	Pewaukee	21,488	Parker Col of Chiropractic	Dallas, TX	12/86
Hultine, Lynn R	Milwaukee	63,285	Logan Col of Chiropractic	Chesterfield, MO	08/90
Radandt, Mark H	Franksville	99,796	Palmer Col of Chiropractic	Davenport, IA	06/84
DENTISTRY					
Jones, Harold A	Milwaukee	223,170	Marquette Univ	Milwaukee, WI	05/89
Moon, Craig W	Milwaukee	87,192	Marquette Univ	Milwaukee, WI	05/88
Sanderson, Scott F	Stoughton	186,673	Marquette Univ	Milwaukee, WI	05/89
WYOMING					
CHIROPRACTIC					
Kilgore, Charles C	Torrington	93,786	Cleveland Chiropractic Col (MO)	Kansas City, MO	09/85
FOREIGN COUNTRY					
CHIROPRACTIC					
Blewitt, Daniel A	England	80,620	Los Angeles Col of Chiropractic	Whittier, CA	04/89
Conway, John A	Hungary	90,734	Logan Col of Chiropractic	Chesterfield, MO	04/88
Dippie, John M	Australia	50,492	Palmer Col of Chiropractic	Davenport, IA	03/90
McRoberts, Lynne S	Canada	39,020	Los Angeles Col of Chiropractic	Whittier, CA	12/91
Morris, Clifford H	Netherlands	56,606	National Col of Chiropractic	Lombard, IL	12/88
Neira, Alejandro I	Spain	65,011	Palmer Col of Chiropractic	Davenport, IA	10/86
Rice, Greg W	Italy	30,823	Palmer Col of Chiropractic—West	San Jose, CA	03/84
Torkelsen, Scott S	Denmark	41,112	Palmer Col of Chiropractic	Davenport, IA	10/86
DENTISTRY					
Cummins, David F	Barbados	52,051	Howard Univ	Washington, DC	05/85
Nielsen, David D	Cameroun	156,632	Loma Linda Univ	Loma Linda, CA	06/89
Smith-Papademetriou, Catherine	Cyprus	133,761	Washington Univ	St Louis, MO	05/89
PHARMACY					
Zantout, Randa	Lebanon	72,374	Univ of Southern California	Los Angeles, CA	05/85

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Part III

Department of Housing and Urban Development

24 CFR Part 3500

Amendments to Real Estate Settlement Procedures Act Regulation (Regulation X)—Escrow Accounting Procedures; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–4079–F–02]

RIN 2502–AG75

Amendments to Real Estate Settlement Procedures Act Regulation (Regulation X)—Escrow Accounting Procedures

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Housing and Urban Development is revising Regulation X, which implements the Real Estate Settlement Procedures Act of 1974 (RESPA). This rule addresses problems that were raised in applying escrow accounting requirements under Regulation X. The first problem, designated as ''Annual vs. Installment Disbursements,'' involves whether disbursements from mortgage escrow accounts must be made on an annual or installment basis when the payee offers a choice. To address this problem, this rule maintains the current requirements under Regulation X, but clarifies them.

The second problem, designated as ''Payment Shock,'' involves the proper accounting method to calculate escrow payments where the servicer anticipates that disbursements for items such as property taxes will increase substantially in the second year of the escrow account and where ''payment shock''—the consumer's experiencing of a substantial rise in escrow payments—will result. The Department has chosen to address this matter by recommending (but not mandating) a best practice for servicers: a voluntary agreement to accept overpayments. A consumer disclosure format has been provided to disclose this information. This rule contains a new provision covering procedures for voluntary overpayments.

The Department has determined not to adopt two other changes that were proposed. The Department will continue to require the single-item listing of escrow deposits on the HUD–1 or HUD–1A. Also, the Department is not revising the requirements for listing a lead-based paint inspection or risk assessment on the Good Faith Estimate (GFE) format and HUD–1 and HUD–1A, but is clarifying the instructions for these formats.

EFFECTIVE DATE: February 20, 1998.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 9146, or Rebecca J. Holtz, Director, RESPA/ILS Division, telephone (202) 708–4560; or, for legal questions, Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Room 9262, telephone (202) 708–1550, or Grant Mitchell, Senior Attorney for RESPA, telephone (202) 708–1552 (these are not toll-free telephone numbers). For hearing-and speech-impaired persons, these telephone numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at (800) 877–8339 (toll-free). The address for these persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

SUPPLEMENTARY INFORMATION:

I. Background

The Department's 1994–1995 escrow accounting rules [1] included significant new requirements for servicers maintaining an estimated 35 million mortgage escrow accounts for American homeowners. These rules, promulgated under the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601–2617), as amendments to Regulation X (24 CFR part 3500), limited the amounts that servicers may hold in escrow accounts by establishing new uniform accounting and disbursement requirements and by requiring meaningful disclosure to each homeowner at the account's inception and annually thereafter.

The 1994–1995 escrow rules represented a notable achievement. As a result of the escrow rules, the amounts in homeowners' escrow accounts have been reduced substantially. At the time the rules were promulgated, the Department estimated that homeowners would save as much as $1.5 billion by virtue of the new rules. This savings is now being used by homeowners for down payments, to keep and maintain homes, or to fill other needs.

Because the 1994–1995 escrow rules implemented new accounting requirements, they required major changes by mortgage servicers. As the rule's requirements were applied to individual accounts, members of Congress, local government officials, industry representatives, and homeowners brought to the Department's attention certain problems concerning the 1994–1995 rules. In this final rule, the Department is clarifying the rules and identifying ''best practices'' [2] of mortgage servicers in an effort to resolve two of these problems.

As detailed below, the first problem, designated as ''Annual vs. Installment Disbursements,'' is whether disbursements from mortgage escrow accounts should be made on an annual or installment basis if the payee offers a choice. In some cases, a switch from installment to annual disbursements, required under certain circumstances under the rule, resulted in servicers requiring greater payments to escrow accounts for some borrowers and adverse tax consequences for some borrowers. The second problem, designated as ''Payment Shock,'' was asserted to occur when borrowers were required to make significantly increased payments into their escrow accounts when disbursements for items such as property taxes would increase substantially in the second year of the escrow account and the rule did not allow servicers to require escrowing for the next year's payments. The Department also became aware of two additional concerns involving the disclosure of amounts required for escrow using single-item accounting and involving the possible need for a new disclosure of lead-based paint inspection fees.

All of these matters led the Department to issue a proposed rule on September 3, 1996 (61 FR 46511) to seek public comment on these issues. In the

[1] The Department issued several escrow rules during 1994–1995. On October 26, 1994 (59 FR 53890), the Department published a final rule implementing sections 6(g) and 10 of RESPA and changes to RESPA made in section 942 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990). Because of the magnitude of the change brought about by this rule, soon after its publication it became evident that further clarification of the rule was needed. The Department issued a February 15, 1995 rule (60 FR 8812) that modified and clarified the October 1994 rule and delayed its effective date until May 24, 1995. The Department issued further rules to clarify and correct the October 1994 rule on December 19, 1994 (50 FR 65442); March 1, 1995 (60 FR 11194); and May 9, 1995 (60 FR 24734), and published a notice of software availability on April 4, 1995 (60 FR 16985). These rules are referred to in this preamble collectively as the 1994–1995 escrow rules.

The Department's RESPA regulations were streamlined on March 26, 1996 (61 FR 13232) to comply with the President's regulatory reform initiatives. On September 3, 1996 (61 FR 46510), the Department published a correction to 24 CFR 3500.17. The Department published further revisions to Regulation X on September 24, 1996 (61 FR 50208) and November 15, 1996 (61 FR 58472).

[2] Generally, the Department has characterized ''best practices'' in other programs as those practices that are in accordance with a law's purposes, that are widely replicable, that show creativity in addressing a problem or problems, and that have a significant positive impact on those whom they are intended to serve. The Department identifies best practices operating successfully in the marketplace that support the regulatory principles involved in order to encourage their use. For example, the Department has identified best practices in furtherance of its responsibilities under the Fair Housing Act (42 U.S.C. 3601 *et seq.*).

proposed rule, the Department offered a variety of approaches to address these matters in the most economical and efficient way. The Department recognized that the rules were new and industry and consumer adjustments were underway. Consequently, the choices included keeping the requirements the same, but clarifying them, or doing nothing.

In the Department's proposal, the Secretary pointed out that any amendments to the rule must further the following three principles:

(1) Reduce the cost of homeownership by ensuring that funds are not held in escrow accounts in excess of the amounts that are necessary to pay expenses for the mortgaged property and allowed by law;

(2) Establish reasonable, uniform practices for escrow accounting; and

(3) Provide servicers with clear, specific guidance on the requirements of section 10 of the Real Estate Settlement Procedures Act of 1974 (RESPA), which governs escrow accounting procedures.

Following receipt of comments under the proposed rule, as detailed below, the Department determined that many of the initial problems in implementing the escrow rules were being resolved as the industry and the public adjusted to the new requirements. Specifically with respect to the choice of annual vs. installment disbursements, consumers' accounts that had been changed as a result of the implementation of the rule had stabilized and had not been changed again. However, there remains a need for the Department to clarify and elucidate current requirements in this final rule.

With regard to the ''payment shock'' problem, the Department determined, based on the comments, that extensive additional regulatory changes are not required and could prove detrimental to consumers. Instead, the Department determined that this problem would be better resolved by identifying and sharing best practices of servicers. In this context, servicers should, as a best practice, provide a simple notice to consumers to allow them voluntarily to increase their payments to their accounts. A new provision in 24 CFR 3500.17(f)(2)(iii) sets forth procedures if voluntary overpayment agreements are obtained.

The Department also determined not to adopt other changes to the Good Faith Estimate (GFE), HUD–1, and HUD–1A that were proposed to address the other matters raised in the proposed rule. Based on the comments received, the Department determined that new requirements on these subjects were not necessary. Current disclosure requirements are generally useful and sufficient; more significant changes at this time could serve to confuse matters while the market is still adjusting to the relatively new rules. Moreover, the Department has recently issued a new settlement booklet for consumers entitled ''Buying Your Home, Settlement Costs and Helpful Information,'' published on June 11, 1997 (62 FR 31982), which includes guidance on lead inspections during the homebuying process. To complement these new materials, the Department is making one minor clarification to the instructions for the HUD–1 regarding lead-based paint disclosures.

In sum, the regulatory record, described in detail below, makes very clear that this subject involves complex matters that in many cases are better resolved by allowing time for accounting systems and consumers alike to adjust. In this final rule, the Department continues to protect homeowners by maintaining escrow accounting requirements and limits without change. At the same time, in the interest of reducing homeownership costs, establishing uniform practices, and providing clear specific guidance, the rule makes modest clarifications to ensure that servicers do not unnecessarily incur additional costs that would ultimately be passed on to American homeowners.

In applying the significant protections under RESPA—including the limits on the amounts in mortgage escrow accounts—the Department is mindful that it must carry out RESPA's important requirements in a manner that is true to RESPA's consumer protection purposes. These purposes include ensuring that consumers are protected from unnecessarily high costs that may come from abusive practices by servicers.

This preamble continues with a background discussion of the legal requirements under section 10 of RESPA and the Department's prior rulemakings. Following the background discussion, the preamble discusses the issues addressed in the proposed rule and details the many comments received on the proposed rule. These comments informed the Department and shaped today's rule. Finally, the preamble discusses this final rule.

II. Legal Context

Section 10 of RESPA (12 U.S.C. 2609) establishes the statutory limits on the amounts that mortgage servicers or lenders may require a borrower to deposit into an escrow account if the mortgage documents require one or the servicer chooses to establish one.[3] RESPA does not require the use of escrow accounts. Section 10(a)(1) of RESPA does prohibit a servicer, at the time the escrow account is created, from requiring the borrower to make a payment to the escrow account in excess of the maximum amounts calculated in accordance with the statute. These maximum amounts are calculated by analyzing how much money will be needed to cover expected disbursements, such as taxes and insurance, ''beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of the first full installment payment under the mortgage'' relating to the mortgaged property, plus a cushion no greater than one-sixth of the estimated total annual disbursements from the account (one-sixth cushion). Section 10(a)(2) prohibits the lender, over the rest of the life of the escrow account, from requiring the borrower to make payments to the escrow account that exceed one-twelfth of the total annual escrow disbursements that the lender reasonably anticipates paying from the escrow account during the year, plus the amount necessary to maintain a one-sixth cushion. Section 10 does not require that the servicer collect the maximums allowed under the statute; the servicer may always collect less and is not required to collect any cushion at all.

Section 10 and section 6(g) of RESPA (12 U.S.C. 2605(g)) govern the timing of disbursements from escrow accounts. In choosing a disbursement date, section 10 requires that the servicer follow ''normal lending practices of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice.'' Section 6(g) requires servicers to ''make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.''

[3] As stated in footnote 1 to the preamble to the Department's September 3, 1996 proposed rule on escrow accounting (61 FR 46511, 46511 n.1), at times RESPA uses the term ''lender'' and at other times it uses the term ''servicer.'' A lender creates a loan obligation, but may or may not service the loan. As in the proposed rule, within this final rule the Department uses the term ''servicer'' to include the lender when the lender performs the servicing function.

III. Explanation of Problems Addressed in September 3, 1996 Proposed Rule and Proposed Solutions

On September 3, 1996 (61 FR 46511), the Department published a proposed rule, primarily to address three problems in implementing the 1994–1995 escrow rules. These problems, explained below, were designated as:

- Annual vs. Installment Disbursements;
- Payment Shock; and
- Single-item Analysis with Aggregate Adjustment.

In addition, the Department proposed revising the GFE format and HUD–1 and HUD–1A to refer specifically to a lead-based paint inspection or risk assessment.

A. Annual vs. Installment Disbursements Problem

1. Explanation of the Annual vs. Installment Disbursements Problem

The first problem that the proposed rule addressed involved the servicers' disbursements from mortgage escrow accounts if the payee (i.e., the entity to which escrow disbursements are paid, such as a taxing jurisdiction) offers a choice of disbursements on an annual or installment basis. Sometimes payees offer a discount to the borrower if disbursements are made on an annual basis. These discounts are commonly offered by taxing jurisdictions, which may offer a discount for annual payments of property taxes.

The Department's regulation at 24 CFR 3500.17(k)(1) has provided, ''In calculating the disbursement date, the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.'' See also §§ 3500.17(b) (definition of ''disbursement date''); 3500.17(c)(2) and (c)(3); and 3500.17(d)(1)(i)(A) and (2)(i)(A). The preamble to the October 1994 final rule explained, ''Unless there is a discount to the borrower for early payments, the regulation does not allow servicers to pay installment payments on an annual or other prepayment basis.'' 59 FR 53893. The preamble explained that this approach is consistent with the Department's intention that the regulations generally favor installment disbursements, because in many cases they result in lower up-front payments (closing costs). The Department also sought for servicers to take advantage of discounts that would benefit borrowers.

In response to further questions on this issue, however, the Department indicated in its February 1995 final rule clarifying the escrow rules that the October 1994 rule's focus had been to address ''a practice, previously engaged in by some servicers, of collecting and paying a full-year's taxes in advance, although they were billed on an installment basis.'' 59 FR 8813. In the preamble to a May 1995 further clarification to the rules, the Department stated that ''servicers were permitted (but not required) to make disbursements on an annual basis if a discount were available.'' The preamble to the May 1995 rule explained:

> [T]he Department received a number of questions regarding circumstances in which the payee offered an option of either installment payments or a one-time payment with a discount. The preamble to the October 26, 1994, and February 15, 1995, rules indicated that when a choice was available, servicers should make disbursements on an installment basis, rather than an annual basis; however, servicers were permitted (but not required) to make disbursements on an annual basis if a discount were available. Once the choice of payment basis is made, the disbursement date chosen for that basis depends on discount and penalty dates. Section 3500.17(k) states that ''[i]n calculating the disbursement date, the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.'' This provision is consistent with the rule, which is designed to avoid excessive upfront payments and balances in escrow accounts and, therefore, favors installment payments, unless there are penalties or discounts that make annual payments advantageous for the consumer. Also, after settlement a servicer and borrower are not prevented by this rule from mutually agreeing, on an individual case basis, to a different payment basis (installment or annual) or disbursement date.
>
> 60 FR 24734.

In the preamble to the September 3, 1996 proposed rule, the Department indicated that the rule text and the preamble language may have created confusion. As explained in the preamble to the proposed rule, some mortgage servicers have interpreted the rule to require that a servicer, when offered an option of making a disbursement from the escrow account in installments or in an annual disbursement with a discount, must choose the lump sum annual disbursement with a discount, no matter how small the discount is, even if the borrower and the servicer would otherwise agree to forego the discount and have the escrow account computed for disbursements on an installment basis. On the other hand, other servicers have interpreted the Department's rule, in light of preamble language, to require installments when available and allow, but not require, annual disbursement at the servicer's discretion when a discount is offered for annual disbursement.

As indicated in the preamble to the proposed rule, some borrowers were affected by the changes brought about by the 1994–1995 escrow rules. Concerns raised to the Department regarding the annual vs. installment disbursements problem came from borrowers and members of Congress who were concerned about the effect of the 1994–1995 escrow rules on their constituents.

As explained in the preamble to the proposed rule, the choice of disbursement methods has consequences for borrowers, including increasing or decreasing the amounts required to be deposited into the escrow account at closing. In general, disbursements from an escrow account in installments work to the borrower's benefit, because, on average, they result in lower up-front payments to establish the account (i.e., lower closing costs). Footnote 2 of the proposed rule (61 FR 46512) explained:

> The choice of installment, rather than annual, disbursements often results in substantial reductions in up-front cash requirements for the buyer. For example, if two equal installments could be paid 6 months apart instead of paying the entire bill on one of the installment dates, then homebuyers who close on their loans less than 6 months before the date on which the entire bill would otherwise have been due could come to settlement with 6 months less in tax deposits to the escrow account. This results from the accrued taxes being a half-year's taxes less for those homebuyers. Assuming closings are evenly distributed throughout the year, households with the option of two equal installment payments 6 months apart, will, on average, be able to reduce the average up-front cash required at settlement by 3-months' worth of taxes. In general, as the number of installments grows, so does the average up-front savings.

The disbursement method may also have income tax ramifications for the consumer, depending on the timing of disbursements for deductible items.

The preamble to the proposed rule explained that after publication of the 1994–1995 escrow rules, many servicers that had been disbursing in installments switched to annual disbursements if discounts were available. There were many consequences of the switch that have been described to the Department, mostly affecting borrowers, and other consequences that the Department speculates may have resulted. After the Department issued the escrow rule, some borrowers may have been required by their servicers to make up substantial shortages in their escrow accounts (generally in increased monthly payments over a year), which arose

when taxes were switched from installment disbursements to one annual lump sum disbursement.

The preamble to the proposed rule also noted other adverse consequences that might have arisen from the 1994–1995 escrow rules. For example, some borrowers whose servicers switched from annual to installment disbursements may have lost a significant portion of their income tax deductions for property taxes in the year in which the switch was made and may have been unhappy with that consequence. Some taxing jurisdictions may have faced an unexpected temporary shortfall in receipts of property taxes as a result of servicers changing from annual to installment disbursements.

The preamble to the proposed rule also noted that although some borrowers may have been adversely affected by a change in disbursement method, many others likely benefited, perhaps unknowingly, from such a change. For example, a change from installment to annual disbursements to take advantage of a discount lowered the total tax burden for many homeowners. Similarly, a change from annual to installment disbursements resulted in lower escrow payments and, possibly, refunds or credits for many homeowners. Finally, for many borrowers, the Department's rules apparently have not resulted in any change to the disbursement method for their escrow accounts.

2. Alternatives Proposed to Address Annual vs. Installment Disbursements Problem

In response to the Annual vs. Installment Disbursements problem, the Department proposed alternative ways of revising the escrow rules, including requiring that disclosures be given to borrowers so that they could make informed choices as to how their accounts were to be set up and maintained and require servicers to follow those preferences. At the same time, the Department recognized that providing borrowers choices may impose additional burdens and costs on servicers, which are frequently passed on to borrowers. Thus, the proposed rule also highlighted approaches that had been proposed by industry representatives. The Department sought comments on all approaches and also asked a number of questions that were designed to help the Department make decisions among alternatives for the final rule.

a. Consumer Choice. The first alternative contained in the proposed rule, Consumer Choice, distinguished between new loans and existing loans. Under this alternative, for new loans (loans that settled on or after the effective date of a final rule), servicers would be required to give borrowers the choice of making disbursements of property taxes on an installment or on an annual basis, when those options are offered by the taxing jurisdiction. The Department's proposal did not address the choice between installments and annual disbursements for other escrow items, because the question has only been raised to the Department in the context of property taxes. The preamble indicated that the Department would consider addressing other escrow items, depending on comments received.[4]

This alternative would have required servicers, at some time before settlement, to provide a disclosure, in the format of Appendix F in the proposed rule, to borrowers whose property taxes will be paid from an escrow account and whose taxing jurisdictions offer the choice between disbursements on an installment or an annual basis. The proposed format indicated some of the advantages and disadvantages to the borrower of installment and annual disbursements and asked the borrower to make a choice between the methods. The preamble explained that if the borrower did not make a choice, the servicer would be required to make installment disbursements of property taxes. As discussed below, this alternative also would have provided that once the consumer had made a choice (or installments were required because the consumer did not make a choice), the servicer and subsequent servicers would be prohibited from changing the method of disbursement for property taxes without the borrower's prior written consent, as long as the taxing jurisdiction continued to offer a choice.

For existing loans (loans that were settled prior to the effective date of a final rule), this alternative would have prohibited the servicer and subsequent servicers from changing the method of disbursement for property taxes without the borrower's prior written consent where the taxing jurisdiction offers a choice between installments and annual disbursements. In addition, no later than the first escrow analysis for such escrow accounts performed after the effective date of a final rule, servicers would be required to offer borrowers, in writing, an opportunity to switch from one method of disbursement for property taxes to another.

b. Servicer Flexibility. Under the second alternative presented in the proposed rule, the Department would have revised the rule to provide that a servicer must make disbursements by a date that avoids a penalty, but the servicer is otherwise free to make disbursements on such date as complies with normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice. As discussed below, under this alternative, once the servicer had made a choice of the disbursement method, the servicer and subsequent servicers would have been prohibited from changing the method of disbursement without the borrower's prior written consent, as long as the payee continued to offer a choice.

c. Keep, But Clarify, Current Requirements. The third alternative offered in the proposed rule was that the Department would revise the rule to keep, but clarify the current requirements. Under this alternative, the regulations would have been revised to provide that servicers must make disbursements from escrow accounts on an installment basis, if payees offer that option as an alternative to annual disbursements. If a payee offers the option of installment disbursements or a discount for annual disbursements, however, the servicer may, at the servicer's discretion (but is not required by RESPA to), make annual disbursements, in order to take advantage of the discount for the borrower; the Department encourages (but does not require) servicers to follow the preference of the borrower. If the payee offers the option of installment disbursements or annual disbursements with no discount, the servicer must make installment disbursements.

d. Prohibition Against Switching Disbursement Methods Without Borrower's Consent. Each of the alternatives proposed—Consumer Choice; Servicer Flexibility; and Keep, But Clarify, Current Requirements—provided that once a disbursement method has been selected in accordance with the requirements of the alternative, servicers would be prohibited from switching disbursement methods without the borrower's consent. This would mean that even if one servicer acquires servicing from another servicer, the second servicer would be required to apply the same disbursement method as the first servicer, as long as that

[4] The preamble to the proposed rule noted that if the servicer is given a choice between installment or annual disbursements for other escrow items (such as property or hazard insurance), the Department's rule would require the servicer to make disbursements by a date that avoids a penalty, but the servicer would otherwise be free to make disbursements on such date as complies with normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice.

option is offered by the payee, unless the borrower consents to changing disbursement methods.

The preamble to the proposed rule explained that the reason for this approach was that many loans shifted disbursement dates as a result of the 1994–1995 escrow rules. The Department was seeking to develop an approach with the minimum negative impact for borrowers, servicers, and third parties, such as taxing jurisdictions.

The preamble to the proposed rule explained the adverse consequences, discussed above, that can occur when borrowers' disbursement methods are switched. The preamble to the proposed rule explained that the approach of prohibiting a servicer from switching disbursement methods without the borrower's consent, including requiring a servicer to use the disbursement method used by the former servicer when there is a transfer of servicing, would not mean that the borrower would have to consent to a transfer of servicing or would have veto authority over such a transfer. However, this approach would mean that a borrower would have to consent to a change in the disbursement method, including a change proposed by a subsequent servicer. The Department sought comments on whether this policy would adversely affect the value, and the efficiency of the transfer, of servicing rights.

B. Payment Shock Problem

1. Explanation of Payment Shock Problem

The second problem that the proposed rule addressed involved cases in which the originator or servicer[5] anticipates that disbursements for escrow items such as property taxes will increase substantially in the second year of the escrow account. A substantial increase in property taxes in the second year often occurs in cases of new construction. In many jurisdictions, the taxes the locality charges for the first year are based on the assessed value of the unimproved property, while for the second year the taxes are based on the improved value. A substantial increase in payments may also occur when a tax disbursement that would normally appear on the projection for the coming year is paid prior to the borrower's first regular payment, i.e., these regularly occurring taxes do not appear in the projection. Reassessments after a property is sold may also cause a substantial second year increase.

The preamble to the proposed rule explained that, consistent with section 10 of RESPA, the Department's regulations have specified the maximum amount that a servicer may legally require borrowers to deposit in escrow accounts at the creation of the escrow account and during the life of the escrow account. The Department's regulations prescribe that in conducting an escrow account analysis, the servicer considers only the disbursements that are expected to come due during the next 12-month period. See §§ 3500.17(b) (definition of ''escrow account computation year'') and 3500.17(c) (limits on payments to escrow accounts). While the servicer can take into account expected changes to disbursements over the 12-month period,[6] even if the servicer knows that disbursements from an escrow account will substantially increase at a time more than 12 months in the future, the servicer cannot, when preparing the initial escrow account statement, calculate the borrower's payments to cover the expected increases beyond that 12-month period.

However, the Department's existing regulations (§ 3500.17(f)(1)(ii)) allow the servicer to conduct escrow account analyses at other times during the escrow computation year, which can result in changes to what the borrower must deposit in the escrow account. Some servicers conduct escrow account analyses when bills for escrow items increase.

Since the Department's current escrow rule provides for calculating escrow payments based on the projection of escrow disbursements for a 12-month period, when escrow items increase substantially after the initial 12-month period, the result is likely to be a substantial increase in a borrower's monthly payments for the second year and/or a lump sum payment, not only to reflect the higher disbursements, but to make up a shortage in the escrow account.[7] While the originator or servicer could alert the borrower at closing that an increase will occur, if that is not done, the borrower may be unpleasantly surprised by the increase. The preamble to the proposed rule explained that this situation could result in several problems. While disclosures received at closing show low payment amounts throughout the first year, the escrow payment will substantially increase for the second year, or even during the first year if a short-year statement is issued at the point when the higher disbursement shows up in the 12-month projection.[8] Some borrowers may be unable to meet the increased escrow payments and paying off the shortage will raise payments even more. A customer relations issue may be created for servicers who have to explain to borrowers why the payment is increased so much.

As indicated in the preamble to the proposed rule, the concerns raised to the Department regarding payment shock came largely from industry representatives who told the Department that they have had to respond to numerous borrower inquiries

[5] Three originators/servicers criticized the Department's proposed rule because it identified the ''servicer'' as the person who would be in a position to determine whether the bills paid out of the escrow account will increase substantially after the first year. These commenters indicated that it is the originator (loan officer, processor, settlement agent) who communicates with borrowers prior to closing, not the servicer, and that it should be the originators who would be in the position of determining at closing whether payments will substantially increase, not the servicer. The Department intended to use the terms interchangeably and explained in footnote 1 of the proposed rule (61 FR 46511) that the term ''servicer'' included the lender when the lender performs the servicing functions. The Department intended that the term ''servicer'' also would include the originator in this context.

[6] The preamble to the proposed rule (61 FR 46511, 46516 n.7) explained that the Department's current regulations address the issue of estimating disbursement amounts for the 12-month computation year:

> To conduct an escrow account analysis, the servicer shall estimate the amount of escrow account items to be disbursed. If the servicer knows the charge for an escrow item in the next computation year, then the servicer shall use that amount in estimating disbursement amounts. If the charge is unknown to the servicer, the servicer may base the estimate on the preceding year's charge as modified by an amount not exceeding the most recent year's change in the national Consumer Price Index for all urban consumers (CPI, all items). In cases of unassessed new construction, the servicer may base an estimate on the assessment of comparable residential property in the market area.

24 CFR 3500.17(c)(7).

[7] The preamble to the proposed rule explained that an increase in the monthly payment can be broken down into two components. Any time an escrow account disbursement increases, it will have the effect of raising the monthly borrower escrow payment by approximately one-twelfth of that increase. In addition, the projection for the coming year shows what the target balance (accruals plus the cushion) should be at the beginning of the coming year. To the extent that expected disbursements in the second year exceed what they were in the first, the beginning target balance for the second year may be in excess of the actual balance at the end of the first year. If so, then there is a shortage to be made up as well. If the 12-month approach is taken to eliminate the shortage, then monthly payments will also rise by approximately one-twelfth of the shortage. If a cushion is used, the payment increases will be slightly higher, until the cushion is built up.

[8] The Department's regulations at 24 CFR 3500.17(f)(1) (i) and (ii) provide that, aside from conducting an escrow account analysis when an escrow account is established and at completion of the escrow account computation year, a servicer may conduct an escrow account analysis at other times. The escrow account analyses conducted at other times result in short-year statements.

and complaints about increases in escrow payments to reflect higher disbursements and payments to make up shortages. Mortgage servicers had indicated that they wanted to avoid any payment change in subsequent years by collecting more money in the first year of servicing.

2. Alternatives Proposed to Address Payment Shock Problem

The proposed rule offered three rulemaking alternatives, some of which contained variations within the alternative, to address the payment shock problem. The purpose of the alternatives was to develop a consumer-friendly way to avoid the payment shock surprise for the borrower, who may not be prepared to make the higher payments to his or her escrow account that would result from a substantial increase in the amounts needed for disbursements from the account. At the same time, the proposals sought to minimize the burden on the industry.

a. Consumer Choice. The first alternative contained in the proposed rule, Consumer Choice, would have provided that when the servicer expected that the bills disbursed from the escrow account would increase substantially after the first year, the servicer would provide to the borrower, at some time prior to closing, a written disclosure. The proposed format for the disclosure was set forth in Appendix G to the proposed rule. The borrower would make a choice from several accounting options for his or her account on a format that would indicate, under each option: (1) the amount due at closing; (2) the monthly escrow payments in the first, second, and third years; and (3) the corresponding surpluses anticipated at the end of the first year.[9]

The proposed rule explained that the borrower would, therefore, have the opportunity to make a voluntary choice to limit payment changes in the second year of the escrow account. As would be explained on the disclosure format, if the borrower did not make a choice, the accounting method would ''default'' to the method prescribed under the current regulations (which may result in substantially increased payments in the second year). This alternative, as proposed, contained the additional restriction that once an escrow accounting method was selected by choice or default, that method could not be changed without the consent of the borrower, even if the servicing rights were transferred to another servicer.

The preamble to the proposed rule explained that, under this alternative, the following accounting methods (illustrated in ''The Payment Shock Problem,'' Appendix H–1 to the proposed rule) would be presented to the borrower for his or her selection:

Method A. Analysis of the account using the accounting method required under the current rule, which results in a shortage at the end of the first year and higher payments in the second year.

Method B. Analysis of the account using an accounting method that:

—Requires an initial deposit of $0 into the escrow account at closing;
—Requires a monthly payment in the first year equal to one-twelfth of the estimated total annual disbursements from the escrow account for the second year; and
—Causes surpluses or smaller shortages at the end of the first year, which causes escrow payments to increase in the second year by an amount less than under Method A or not at all.

Method C. Analysis of the account using an alternative accounting method that:

—Requires an initial deposit into the escrow account at closing greater than the initial deposits required under Method B;
—Requires the same monthly payment during the first year as under Method B, which is greater than under Method A;
—Generates month-end balances such that the lowest month-end balance for the first year equals one-sixth of the estimated total annual disbursements for the second year (the initial deposit is not considered in finding the lowest month-end balance);
—Generates even larger balances at the end of the first year than under Method B, eliminating shortages and increasing surpluses that must be returned to the borrower; and
—Causes no increase in escrow payments in the second year.

The preamble to the proposed rule noted that if the consumer were to select Methods B or C, the amounts held in escrow could be greater than allowed under section 10 of RESPA. In order to permit these options, the Secretary would invoke his exemption authority under section 19(a) of RESPA (12 U.S.C. 2617).

b. Make No Change. The second alternative in the proposed rule was to continue the current requirements for escrow analysis, even when the servicer expected that the bills disbursed from the escrow account would increase substantially after the first year. This alternative would not prevent payment shock in all instances. However, under this alternative, servicers could continue to disclose voluntarily the problem to borrowers and borrowers could make voluntary overpayments to escrow accounts. Servicers could also calculate short-year statements. Thus, even if no change were made to the regulations, some methods would continue to be available, although not required, to alleviate the payment shock problem.

c. Mandate First Year Overpayment. Under the third alternative in the proposed rule, Mandate First Year Overpayment, the Department would have provided that when the servicer expected that the bills disbursed from the escrow account would increase substantially after the first year, the servicer would be required to establish the escrow account under a procedure that had the characteristics described under Consumer Choice, Method C, above (illustrated in ''The Payment Shock Problem,'' Appendix H–2 to the proposed rule). The preamble to the proposed rule explained that this approach would result in requiring amounts held in escrow to be greater than allowed under section 10 of RESPA. The Secretary could, however, mandate the use of this escrow accounting method pursuant to his exemption authority under section 19(a) of RESPA (12 U.S.C. 2617).

C. Single-Item Analysis With Aggregate Adjustment Problem

1. Explanation of Single-Item Analysis With Aggregate Adjustment Problem

A third problem that the proposed rule addressed was the means of disclosure on the HUD–1 and HUD–1A settlement forms of amounts required for deposit at settlement in the escrow account. The 1994–1995 escrow rules established aggregate accounting (i.e., analyzing the escrow account as a whole) as the uniform nationwide standard escrow accounting method to be used to compute borrowers' escrow accounts. In establishing this standard, the rules supplanted single-item accounting, the accounting method that had been used at settlement up until that time to compute required escrow account balances. Historically, under single-item accounting, the reserve amount for each escrow account item on the HUD–1 or HUD–1A in the 1000 series was computed for the borrower and listed separately. Either zero, one, or two months worth of payments for

[9] The preamble to the proposed rule noted that whether disbursements from escrow accounts would be made on an annual or installment basis and whether there were a discount for annual disbursement would affect the numbers to be filled in and, potentially, the number of calculations on the Escrow Accounting Method Selection Format.

each escrow item was set forth on the HUD–1 or HUD–1A in the 1000 series as necessary to establish the escrow account.

When the Department was developing the 1994–1995 escrow rules, Federal Reserve Board staff indicated that even if aggregate accounting were used it also needed a single-item amount for private mortgage insurance (PMI) reserves in order to make annual percentage rate (APR) calculations under the Truth in Lending Act (TILA). For this reason, and in an effort to avoid altering the basic format of the HUD–1 or HUD–1A in the 1994–1995 escrow rules, the Department required that an aggregate adjustment (either zero or a negative number) be made after all of the individual items were listed separately in the 1000 series, so that the total amount for escrow account items conformed to the aggregate accounting method. Before the 1994–1995 escrow rules, Section L of the HUD–1 and HUD–1A only showed positive numbers, that is, payments that were being allocated to various settlement costs. After publication of the 1994–1995 escrow rules, the Department received complaints that the itemization of the reserve amounts with an aggregate adjustment was confusing and the information was not useful to borrowers. Settlement agents and others indicated that individual itemization of reserves in the 1000 series imposed an additional paperwork and explanation burden, when the only relevant number for calculations is the total deposited.

2. Revision Proposed to Address Single-Item Analysis With Aggregate Adjustment Problem

In response to the Single-Item Analysis with Aggregate Adjustment problem the Department proposed to make more flexible the requirements for the provision of information to consumers. In the proposed rule, the Department proposed that to relieve confusion it would no longer require the single-item listing of escrow deposits or reserves on the HUD–1 or HUD–1A. The rule would create a new option in the instructions for the 1000 series of these forms to reflect the aggregate amounts to be deposited. As proposed, the settlement agent could also have continued to itemize the 1000-series reserves, at the settlement agent's discretion. If the charges were not itemized, an asterisk (*) would have had to be placed next to each item in the 1000 series for which a reserve was taken. The amount collected would have been described as ''Aggregate Escrow Deposit for Items Marked (*) Above'' on a line at the end of the 1000 series. In the discussion ''Clarifications of Existing Rule'' in Part VI of the preamble to the proposed rule, the Department had clarified that entries on the GFE may be based on single-item analysis, with a maximum 1-month cushion. The proposed rule also clarified that the use of the estimating method remained available after the end of the phase-in period (October 24, 1997).

D. Lead-Based Paint Disclosure Issue

1. Explanation of Lead-Based Paint Disclosure Issue

The proposed rule also addressed a concern that consumers should get information about their right to arrange for a timely paint inspection or risk assessment for the presence of lead-based paint or lead-based paint hazards before becoming obligated under a sales contract. The preamble to the proposed rule explained that a prospective purchaser generally has 10 days to conduct such a lead-based paint evaluation of the property. A prospective purchaser, however, may waive in writing the opportunity to conduct this evaluation. The proposed rule addressed ways that consumers could receive this information in addition to existing disclosure requirements.

2. Revision Proposed to Address Lead-Based Paint Disclosure Issue

In response to the Lead-based Paint Disclosure issue, the Department proposed to require additional information to be provided to the consumer on the GFE and the HUD–1 or HUD–1A. The Department proposed to add information to the GFE format to help make purchasers of pre-1978 residential dwellings aware that, pursuant to 42 U.S.C. 4852d (implemented by the Department in regulations published on March 6, 1996, 61 FR 9064), purchasers have the right to arrange for a paint inspection or risk assessment for the presence of lead-based paint or lead-based paint hazards before becoming obligated under a sales contract. The Department proposed to add language to the GFE format (Appendix C to part 3500) specifically to refer to a lead-based paint inspection or risk assessment and designate a separate line in the 1300 series of the HUD–1 and HUD–1A for lead-based paint inspections or assessments and to revise the instructions for completing the HUD–1 and HUD–1A accordingly. The preamble to the proposed rule indicated that the Department anticipated that a more detailed explanation of purchasers' rights in this regard would be contained in the next revision of the HUD Settlement Costs booklet. See section 5 of RESPA (12 U.S.C. 2604); 24 CFR 3500.6.

IV. Overview of Public Comments

A. Description of the Commenters

The Department received a total of 141 comments on the proposed rule. Of the 141 comments, some were duplicates. Thus, the Department places the number of different comments received at 134.[10] The Department analyzed all the comments in detail and gave them careful consideration.

One-hundred two of the comments came from originators/servicers.[11] Fourteen comments came from trade associations. Four came from individual consumers, three from tax service providers, two from members of Congress, four from financial software companies, one from a state lending agency, one from a mortgage insurer, one from a builder, and two from persons whose professional interest in the rule could not be determined.

B. What Commenters Commented On

The Annual vs. Installment Disbursements problem attracted the most comments. One-hundred twenty-eight commenters, including all but one of the trade associations and all but two of the originators/servicers, commented on this issue. The Payment Shock Problem received the second highest number of comments, with one-hundred

[10] Seven comments were identical letters submitted by various officials of the same mortgage corporation; they were counted as one comment. Two other comments were substantially similar letters submitted by different offices of the same bank and mortgage lending subsidiary; they also were counted as one comment, but minor variations between the two were considered.

Twenty-one comments were duplicate comments submitted by various originators and servicers, including the United States Department of Agriculture. One bank and trust submitted nearly identical comments as the Mortgage Bankers of America (MBA), while the Oregon Bankers Association submitted nearly identical comments as the American Bankers Association (ABA). The Mortgage Bankers Association of Minnesota adopted with one small addition the comments of Norwest. Since these comments were submitted by separate entities, they are all counted as separate comments.

One commenter simply summarized the proposed rule without taking a position on any of the proposals.

[11] In some cases, the precise nature of the business was not clear from the comment. Moreover, it did not appear that the comments differed markedly depending on the precise nature of the business. For example, it did not appear that the comments from retail lenders differed markedly from those from mortgage brokers, or that the comments from one type of retail lender differed from those or other types of retail lenders. Thus, all businesses that originate, service, and/or broker loans are designated as ''originators/servicers'' in this preamble.

sixteen commenters, including ninety-six originators/servicers and all but two of the trade associations. The Single-Item Analysis With Aggregate Adjustment problem also attracted a significant number of comments, seventy-eight in all, including sixty-five originators/servicers and ten trade associations. Only seventeen commenters, twelve originators/servicers and five trade associations, commented on the additional proposed change concerning lead-based paint.

C. Overview of Positions

The overwhelming majority of originators, servicers and mortgage brokers opposed those options for the first two issues that were designed to provide borrowers more choices, citing the costs and burdens of such an approach. Three commenters, including Norwest, criticized those options as being inconsistent with the principles the Department had articulated, asserting that the Consumer Choice options would increase the cost of homeownership. In contrast, the few consumers and members of Congress who commented on the first issue supported Consumer Choice approaches; these commenters did not comment on the Payment Shock problem.

On the Single-Item Analysis With Aggregate Adjustment problem, more commenters supported the proposed change than opposed it. Opinion was nearly evenly divided on the additional proposed change concerning lead-based paint.

Nine commenters, including the American Bankers Association (ABA), commented that no changes should be made at this time and instead, the Department should wait several years before considering further changes to Regulation X, at least until the changes made under the 1994–1995 escrow rules are fully implemented. (Those provisions took effect May 24, 1995 but provided for a three-year phase in for existing escrow accounts which expires October 27, 1997.)

The reasons given by the ABA, which were echoed by the Oregon Bankers Association, for not making any changes to the rule were that the rule would alter the escrow accounting systems at the very time the Department's new rules are bring fully implemented, causing major problems and an excessive burden for banks and other mortgage servicers. The New York Credit Union League agreed, emphasizing the costly changes that are already being made as a result of that earlier rule.

A bank holding company, in terms echoed by other originators and servicers, commented that there was no need to change the rules now as those borrowers with existing accounts have already benefited from or suffered the consequences of the 1994–1995 escrow rules and have subsequently adjusted to the changes and many of the problems created by that rule are over. Thus, it would be premature to make further changes, and doing so may only again create the same sort of initial problems that were created by the 1994–1995 escrow rules. GE Capital recommended waiting at least two years before revisiting the need for any changes. Another servicer and originator recommended waiting 24 to 36 months before making further changes. A bank compliance officer and a bank holding company also recommended against changes being made at this time.

Several other commenters recommended that the Department hold off action on specific portions of the rule. Those comments are analyzed separately under the portion of the preamble discussing that aspect of the rule.

In contrast, many commenters emphasized the importance of making changes to address their particular issues of concern, particularly the Payment Shock problem. These comments are summarized under the particular issues discussed later in this summary.

V. Annual vs. Installment Disbursements Problem—Comments Received, Approach Adopted in Today's Final Rule, Basis for Approach Adopted, Basis for Rejecting Alternative Approaches, Clarifications

A. Comments Received

Through the comments received on the proposed rule, the Department gained a better understanding of the Annual vs. Installment Disbursements problem. The Department learned more about how servicers have been addressing the problem of setting the appropriate disbursement date when given a choice of annual or installment disbursements. The comments received indicated that practices have not been uniform and that in some cases, originators/servicers have been using creative approaches to meeting consumer's needs. Five originators/servicers and two tax services indicated that they were disbursing in installments unless a discount was offered for annual disbursements that the servicer thought was a large enough discount to be in the borrower's interest, in which case the disbursements were made annually; one trade association indicated this was the approach of most of its members as well. One savings and loan indicated that its practice was to accommodate individual borrowers by switching people who complain to whichever method they prefer.

Other originators/servicers are using practices that do not provide as much flexibility for the consumer. In many cases, the originators/servicers indicated that they believed such practices were compelled by the existing RESPA regulations. For example, thirteen originators/servicers indicated that when such a choice is offered, they currently disburse in installments unless a discount is offered for annual disbursements, in which case they always disburse annually regardless of how insignificant the discount may be. Two originators/servicers and one tax service indicated that if no discount is offered for annual disbursements but a service fee is charged for installment disbursements, they disburse annually, no matter how insignificant the service fee may be.

A few commenters noted that in many jurisdictions, the installment option is only available for individuals, not servicers. Other commenters noted special rules that apply in particular States, such as Wisconsin, where the practice is to pay taxes in the year levied, even though they do not have to be paid until the following year, and Maryland, where a law provides that first time homebuyers may choose between annual and installment disbursements with a consumer disclosure highlighting differences between the two methods.

The Department also learned more about the discounts obtained by servicers for borrowers, e.g., how large the discounts are and when disbursements must be made in order to receive the discounts. Commenters estimated the size of the discounts to range from around 1–5 percent of the property tax bill, with only two commenters indicating that discounts ranged up to 10 percent, and only one commenter indicating they tended to be less than one percent. Several commenters—three consumers, two members of Congress, two originators/servicers, one trade association—expressed the view that discounts are small and not in the borrower's interest to disburse in order to collect them. Two originators/servicers expressed the opposite view that discounts tended to be large and in the borrower's interest to obtain. The Department notes that, under reasonable assumptions,[12] a

[12] The assumptions are that if, for example, the entire tax bill is paid on January 1, the discount

Continued

discount of 1 percent of the annual tax bill converts to approximately a 4 percent annualized return; a 5 percent discount converts to approximately a 23 percent annualized return.

Several commenters commented on the extent of the problem. Two consumers from New York asserted that borrowers whose servicers switched from installments to annual disbursements were adversely impacted. One, a senior citizen, explained that she and her husband were required by their servicer either to make a lump sum payment of almost $1,500 with a monthly increase of over $150 or no lump sum payment but a monthly increase of over $200, to obtain a discount of only 1 percent. Another reported that his mortgage payment was increased over $100 for a mere $8 discount for annual tax payments.

Other commenters, however, challenged the Department's perspective that the issue of Annual vs. Installment Disbursements was a problem in need of fixing. Some questioned the Department's evidence that there was a problem. One bank expressed doubt about how many borrowers were actually affected, and to what extent, by the 1994–1995 escrow rules, indicating that the impact of the rule change had already been absorbed. Four originators/servicers, including Citicorp and First American Real Estate Tax Service, Inc., a large tax service, specifically asserted that there was no current problem. Citicorp asserted that there were few problems with the existing rule for borrowers or industry and that it was premature to change the 1994–1995 escrow rules until there was more experience operating under it. Citicorp recommended waiting until 1998 to make further changes. Ten commenters in the origination and servicing industry, including NationsBank and GE Capital, as well as the Mortgage Bankers Association (MBA), also asserted that the impact of the 1994–1995 escrow rules had already been absorbed, and any impacts on consumers with existing loans had already taken place.

Most of the commenters commented on one or more of the specific alternative proposals for addressing the problem.[13] The overwhelming majority of originators, servicers, and mortgage brokers opposed Consumer Choice; there was some division of opinion on what alternative approach to take. A modified version of the ''Keep But Clarify Current Requirements'' alternative garnered the most consistent support; the modification was that the restriction on servicers switching disbursement methods when servicing is transferred be eliminated. Opinion was fairly evenly divided on the merits of the ''Servicer Flexibility'' alternative.

1. Comments on Consumer Choice Alternative

Only seven commenters supported Consumer Choice. The California Association of Realtors (CAR) specifically supported applying the Consumer Choice option to new loans as well as existing loans. CAR commented that the benefits would outweigh the marginal costs and that it favored approaches that provide consumers with as much information as possible and the opportunity, when fully informed, to make choices about the servicing of their loans and the related impound/escrow accounting. The CAR added that if the consumer failed to make a choice, disbursements should be made on an installment basis.

Two comments from elected officials, one from Representative Peter King of New York and one joint letter from Senator Alphonse D'Amato, Representative King, and Representative Dan Frisa also endorsed the Consumer Choice approach, focusing on its application to existing loans. Both letters expressed deep concern for homeowners who were negatively impacted when servicers switched disbursement methods and urged the Department to allow homeowners to have the choice to return to their prior disbursement method. Representative King's letter stated that consumers, not financial institutions, will be able to determine which method of tax payment is best for them and that allowing such a choice would further the goals of RESPA. Senator D'Amato's letter stated that ideally homeowners should be given the option to return to their previous disbursement methods with the excess of any escrow accounts returned and, at a minimum, their servicers must inquire as to the homeowners' preference.

Four homeowners in New York advocated allowing homeowners to have the right to decide whether they wish to forego a discount for annual disbursements and instead have their taxes disbursed in installments. All focused on the benefits of applying Consumer Choice to existing loans, complaining that they were left with a shortage in their account and suffered severe financial hardship trying to make up the shortage when their servicers switched disbursement methods.

In addition, one federal credit union's comments gave tepid support to the Consumer Choice option if it were limited to new loans. The credit union indicated that offering the choice to new loans would only entail the burden of preparing and explaining the form. It indicated, however, that for existing loans Consumer Choice would be costly in terms of staff, time, and the mailing of the selection format, and would be confusing to borrowers. The credit union also indicated that since borrowers could refinance anyway, there was no apparent need to offer existing borrowers a choice.

In contrast, 107 commenters opposed the adoption of Consumer Choice (91 originators/servicers, 11 trade associations, 3 tax services, 2 financial software companies, and 1 person whose professional interest was not known). Only one commenter, a credit union, appeared to limit its opposition to the Consumer Choice alternative to its application to existing loans. All of the other commenters appeared to oppose the application of Consumer Choice regardless of whether it extended to both new and existing loans, or only to new loans.

Most commenters did not separate out their objections to Consumer Choice as it would apply to new loans as opposed to existing loans. Whether the commenters separated out their objections or not did not affect the objections raised. Accordingly, all objections are discussed together below,

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applies to the entire bill. Otherwise, half of the bill is due on January 1 and half is due on July 1.

[13] In contrast, one commenter, a Wisconsin bank holding company, seemed to question the Department's legal authority to propose any solution to the problem. The commenter asserted that the Department can prohibit over-escrowing and pre-accrual or other servicer practices ''that require borrowers to have more than the amount of the projected property tax plus the permissible cushion in the escrow account before the tax lien attaches, but it was not the purpose of Congress that RESPA limit a lender's right to keep mortgaged property free of liens, and the authority of the Department to interpret RESPA so as to do so is questionable.'' The commenter criticized any proposal that would establish detailed rules regarding when servicer may disburse funds to pay property taxes after the tax lien has attached to the property.

This objection seems to raise an issue that was settled in the May 1995 rule, which elevated cash flow over lien priority. The Department has clear legal authority to address the matter of disbursements, as part of the Secretary's rulemaking authority pursuant to section 19(a) of RESPA (12 U.S.C. 2617) to interpret RESPA, including section 10 and section 6(g). Section 10(a) requires that disbursements be made in accordance with prudent lending practice. Section 10(a)(2) prohibits lenders from requiring consumers to deposit in escrow accounts more than one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are ''reasonably anticipated'' to be paid on dates during the ensuing twelve months plus a cushion. Section 6(g) requires that disbursements be made as payments become due. By promulgating a rule to address the Annual vs. Installments Disbursement problem, the Department would be acting appropriately under one or more of these statutory provisions.

with an indication, as applicable, if an objection was raised specifically in one context as opposed to another.

The most common objections made by commenters were:

1. It would cause miscellaneous or general increases in costs and/or administrative burdens, such as costs and burdens relating to originating or servicing (64 commenters—60 originators/servicers, 3 trade associations, 1 tax service).

2. They were concerned about the specific costs and burdens of consumer disclosure, including producing and mailing disclosures, soliciting preferences, processing disclosures, tracking selection, and maintaining information on selection (50 commenters—45 originators/servicers, 4 trade associations, 1 financial software company) or opposed the addition of a new disclosure in general (8 commenters—6 originators/servicers, 1 financial software company, 1 person of unknown professional interest).

3. It would require more customer service to explain choices and answer questions for consumers, which would raise costs, workload, and require more staff (46 commenters—41 originators/servicers, 4 trade associations, 1 financial software company).

4. The cost would be passed on to consumers (44 commenters—35 originators/servicers, 6 trade associations, 2 tax services, 1 financial software company).

5. They did not want to make the system and programming changes, acquire the new software, or incur the expense of additional programming that would be needed (38 commenters—32 originators/servicers, 3 trade associations, 2 financial software companies, 1 tax service).

6. It would cause consumer confusion and consumers would not be able to make an educated choice (30 commenters—25 originators/servicers, 3 trade associations, 1 financial software company, 1 person of unknown professional interest).

7. They did not want to have to maintain two, or possibly many more, different disbursement systems for every taxing jurisdiction where they service loans (24 commenters—18 originators/servicers, 5 trade associations, 1 tax service).

8. It would lead to more errors and could result in missed payments and interest and penalties (24 commenters—21 originators/servicers, 1 trade association, 1 tax service, 1 financial software company).

9. It would create hardship for taxing authorities (18 commenters), such as increased administrative costs/burden and workload due to lack of uniformity and similar factors (12 originators/servicers), unexpected shortfalls in tax receipts (8 commenters—7 originators/servicers, 1 trade association), and unspecified or miscellaneous difficulties (2 originators/servicers).

10. It would require additional training of staff (8 commenters—7 originators/servicers, 1 trade association) or require additional staff and/or staff time for processing (13 commenters—12 originators/servicers, 1 trade association).

11. It would result in impossibilities and impracticalities (15 commenters) including that computer and other systems could not handle Consumer Choice (6 commenters—5 originators/servicers, 1 trade association).

12. It would increase the need for manual processing or interfere with technological advances (12 commenters—10 originators/servicers, 1 tax service, 1 financial software company).

13. It would be less efficient (11 commenters—10 originators/servicers, 1 trade association).

14. It would result in a loss of uniformity (10 commenters—9 originators/servicers, 1 trade association).

In addition, several commenters indicated that several aspects of the Consumer Choice alternative in the proposed rule were unclear and required further clarification. For example, eight originators/servicers and a trade association indicated that the proposed rule was not sufficiently clear about what would happen if the customer did not return the format or how a servicer should document that a borrower made no selection. Several commenters recommended that if the Department were to proceed with Consumer Choice, it should make variations of one type or another from the way in which it was proposed.

In its proposed rule, the Department asked Question 4, which was designed to learn more about the potential impact on servicers of requiring them to provide borrowers with a one-time choice at closing as opposed to allowing borrowers to switch disbursement methods during the life of the loan. The answers received to this question substantially overlapped with the comments discussed above regarding the benefits and disadvantages of Consumer Choice.

Twenty-eight commenters (24 originators/servicers, 3 trade associations, 1 tax service) explicitly indicated in their responses to this question that not even a one-time choice should be provided to consumers, but that if the Department chose the Consumer Choice alternative anyway, it should be limited to a one-time choice. This view was implicit in the comments of several others. Among the drawbacks cited for providing more than a one-time choice were the following:

1. It would increase the burden if servicers needed to make constant changes (nine commenters—eight originators/servicers, one trade association).

2. It would result in higher costs (eight commenters—seven originators/servicers, one tax service).

3. It would lead to more errors, confusion, uncertainty and/or noncompliance (seven commenters—five originators/servicers, one trade association).

4. It would be impossible, impractical, or unfair (five originators/servicers).

In its proposed rule, the Department also asked three related questions (Questions 2, 5, and 11) that were designed to elicit responses as to whether, in general, the approach in the final rule should make a distinction between loans that settle before the effective date of a final rule and loans that settle on or after the effective date. While the Department posed the questions so as to be applicable regardless of which alternative was selected, virtually all who answered the questions did so in the context of applying Consumer Choice. The answers received to these questions substantially overlapped each other, as well as overlapping with the comments received on Consumer Choice, and thus are discussed together here.

Fourteen commenters—twelve originators/servicers and two trade associations—emphasized the drawbacks to applying new rules to existing loans, as opposed to only applying it to new loans. The drawbacks to applying consumer choice to all loans included: (1) it would be more costly/burdensome to apply to all (eight commenters); (2) it may result in shortages (two commenters); and (3) it would cause more confusion, disruption, and/or chance for error (two commenters).

In contrast, 13 commenters—11 originators/servicers, 1 trade association, and 1 financial software company—emphasized the drawbacks to trying to apply new rules only to new loans, thereby requiring maintaining separate rules for a portion of their portfolio. These commenters either supported or leaned toward uniform treatment of all loans, some with mixed feelings about the significant burdens it would impose to apply a change to existing loans. The drawbacks cited

included: (1) the need for uniformity and consistency (five commenters); (2) it would be costly and burdensome to distinguish (four commenters); (3) it would result in more borrower confusion or dissatisfaction (three commenters); (4) taxing authorities could not gauge the number and amount of tax payments (two commenters); and (5) more errors would result.

Finally, in the proposed rule the Department asked Question 10, which was designed to elicit comments on whether the Department should apply a Consumer Choice approach to other escrow items for which a choice between installments and annual disbursements may be offered. No commenter gave a clear answer that supported applying a consumer's choice to other escrow items. In contrast, 27 commenters (23 originators/servicers and 3 trade associations) opposed extending a consumer's choice to other escrow items. The reasons given for opposing such an approach included the following:

1. Additional costs and burdens would result (e.g., insurance companies impose a service charge for installment payments and this would be passed on to consumer) (19 commenters—17 originators/servicers, 2 trade associations).

2. There would be no benefit to consumers (e.g., taxes are the largest item so the savings from installments will be negligible) (10 commenters—9 originators/servicers and 1 trade association).

3. More errors, customer dissatisfaction, and customer confusion would result (six commenters—five originators/servicers and one trade association).

2. Comments on Servicer Flexibility Alternative

Twenty-five commenters—18 originators/servicers, 5 trade associations, 1 tax service, and 1 financial software company—supported Servicer Flexibility. Eight of these commenters (seven originators/servicers and one financial software company) who otherwise supported Servicer Flexibility, however, did not support the aspect of Servicer Flexibility that would have included restrictions on changing disbursement methods when servicing rights were transferred. Indeed, two of these originators/servicers made a special point of indicating that they would not support Servicer Flexibility if it included that element.

The most common reasons for supporting Servicer Flexibility included:

1. It would be flexible (six commenters—three originators/servicers, three trade associations).

2. It would be easy to administer and cause little disruption (five commenters—two originators/servicers, two trade associations, one financial software company).

3. It would not be costly (four originators/servicers).

4. The lender/servicer is likely to do what is in the consumer's interest anyway; Servicer Flexibility would allow servicers to accommodate borrowers (four commenters—two originators/servicers, two trade associations).

In contrast, 19 commenters—14 originators/servicers, 4 trade associations, and 1 tax service—opposed Servicer Flexibility. The reasons for opposing Servicer Flexibility included:

1. It would not create a system that is uniform, standardized, consistent, or certain; there would still be no clarity (12 commenters—9 originators/servicers, 2 trade associations, 1 tax service).

2. The restriction on changing disbursement methods when there is a transfer of servicing or reasons related thereto was objectionable (five commenters—three originators/servicers, one trade association, one tax service).

3. Increased costs would result (five commenters—four originators/servicers, one trade association).

4. It might not result in the best method for consumers (two originators/servicers, one trade association) and litigation would result (two originators/servicers).

In addition, one federal credit union suggested that the Department adopt a variation on Servicer Flexibility under which the servicer should notify the borrower when the disbursement method is being changed, changing should be limited to when it benefits the borrower (such as taking advantage of a sufficient discount), and the annual statement could be used to inform the borrower of the method used.

3. Comments on Keep, But Clarify, Current Requirements Alternative

Sixty-five commenters—58 originators/servicers, 4 trade associations, 1 tax service, 1 financial software company, and 1 State lending agency—supported the Keep, But Clarify, Current Requirements alternative. Six other commenters (two originators/servicers, three trade associations, and one tax service) indicated it was their second choice. Forty-eight of the commenters who otherwise supported Keep, But Clarify, Current Requirements as either their first or second choice (46 originators/servicers, 1 trade association, and 1 State lending agency), did not support the aspect of this alternative that would include restrictions on changing disbursement methods when servicing rights were transferred. Indeed, 30 of these commenters specifically emphasized their objection to this aspect of this alternative in discussing the support they otherwise would give to it.

The reasons given by those who supported Keep, But Clarify, Current Requirements as their first choice were substantially the same as the reasons given by the three originators/servicers who indicated it was their second choice. The most common reasons of both groups of commenters included:

1. It would be good for consumers for miscellaneous or unspecified reasons (26 commenters—24 originators/servicers, 1 State lending agency, 1 financial software company) or because it would be flexible and allow accommodating customers (8 commenters—5 originators/servicers, 3 trade associations).

2. It would cause little disruption, would not be burdensome, would not require much change, and would be efficient (11 commenters—8 originators/servicers, 2 trade associations, 1 State lending agency).

3. It would not be costly and any costs associated with it would be within an acceptable range (eight commenters—six originators/servicers, two trade associations).

4. It would be a balanced, sensible, practical compromise (six commenters—five originators/servicers, one trade association)

5. It was favored but no specific reason was given (20 commenters—17 originators/servicers, 2 trade associations, 1 tax service).

In contrast, eight originators/servicers and two trade associations opposed Keep, But Clarify, Current Requirements. The most common reasons given for opposing it included the following:

1. It would not standardize the industry (two originators/servicers).

2. It would be unclear, vague, and not specific (two originators/servicers).

3. It would be bad for consumers (e.g., consumer dissatisfaction, confusion, disruption, loss of tax deduction) (two originators/servicers, one trade association).

4. It would be objectionable because of the restriction on switching disbursement methods when there is a transfer of servicing (two commenters—

one originator/servicer, one trade association).

Several commenters recommended variations on Keep, But Clarify, Current Requirements such as requiring installments unless there is a discount for annual disbursements, in which case making annual disbursements mandatory to get the discount instead of optional for servicer. Other commenters encouraged the Department to consider other approaches, such as making no changes at all to address this problem.

4. Comments on Proposed Rule Provision Prohibiting Switching Disbursement Methods Without Borrower's Consent

Only seven commenters supported, in any context, prohibiting a servicer or transferor servicer from changing the disbursement method, as long as a choice exists, without the borrower's prior written consent. Two appeared to support it as a general proposition regardless of the alternative selected. One was Senator D'Amato, who asserted that changes without the borrower's approval ''have been the primary culprit in the unfair treatment which mortgage lenders have imposed on the homeowners of Long Island, chiefly by requiring hundreds of dollars per month from homeowners in escrow payments in order to take advantage of minuscule discounts through the payment of local taxes on an annual basis.'' The other was a federal savings bank, which gave no specific reasons other than suggesting it would be less complicated to do so.

One servicer indicated that if Servicer Flexibility were adopted, it would be logical to prohibit subsequent servicers from changing the disbursement method without the borrower's written consent. This commenter stated that it understands the need to get the borrower's consent before changing the method of tax disbursements when servicing is transferred.

Were the Department to adopt the alternative of Keep, But Clarify, Current Requirements, three commenters supported the restriction. America's Community Bankers (ACB) supported the restriction, so long as the disbursement method continues to be offered by the taxing authority. A large bank with a mortgage lending subsidiary endorsed allowing servicers and subsequent servicers to change the disbursement method only to bring the escrow account into compliance with RESPA under a revised interpretation by the Department. One other servicer commented that requiring the same disbursement date when servicing is transferred is beneficial in that it protects against payment shock for borrowers.

In contrast, 71 commenters opposed the restriction. Fifty-seven of those who opposed it (including 21 originators/servicers submitting the same form letter) discussed their opposition as a general objection applicable to whichever of the three alternatives for addressing the Annual vs. Installment Disbursements problem might be adopted. These 57 included 51 originators/servicers, 4 trade associations, a State lending agency, and a financial software company. Fourteen expressed their opposition in connection with one or more of the specific alternative solutions proposed, but none of these commenters either stated or suggested that the proposal would be acceptable in the context of a different alternative being adopted. Since the objections were consistent regardless of whether expressed in connection with one or all alternatives, all the comments on this issue are discussed in this section. One servicer specifically said that it opposed all the alternatives presented in the proposed rule because of this common feature.

The arguments against including the restriction in the final rule primarily focused on the way in which such a restriction would impair the value of servicing rights and the costs and administrative burdens associated with the restriction. Many of the arguments against the restriction overlapped each other. The most common reasons given included that:

1. It would result in a variety of miscellaneous administrative burdens (35 commenters—34 originators/servicers and 1 trade association).

2. It would increase costs for servicers, such as system and processing changes including computer system changes and the burden on the due diligence process (14 commenters—12 originators/servicers and 2 trade associations) and would increase costs to consumers (6 commenters—4 originators/servicers and 2 trade associations).

3. The restriction would impair the value of servicing rights (13 commenters—10 originators/servicers, 2 trade associations, 1 State lending agency), such as by creating inefficiency and increased cost (3 originators/servicers, 1 trade association).

4. As the restriction applies to the Keep, But Clarify, Current Requirements alternative, it would be a new requirement, rather than a clarification of an existing requirement (seven commenters—six originators/servicers and one trade association).

5. It would result in a variety of practical difficulties or impossibilities (six commenters—five originators/servicers and one trade association).

6. It would reduce the number of sales and transfers of servicing rights (five commenters—four originators/servicers and one trade association).

7. No problem exists that needs to be fixed by such a restriction (five originators/servicers).

In addition, three commenters (two originators/servicers, one trade association) indicated their belief that the Department would lack legal authority to mandate such a restriction. Three originators/servicers requested that the Department clarify certain points pertaining to this restriction.

Six commenters proposed variations on the restriction. Three commenters supported limiting the ability of the acquiring servicer to change the disbursement method to particular types of situations. One federal credit union indicated that it supported restricting a servicer acquiring servicing rights from changing disbursement methods unless the change would benefit the borrower, but gave no details on how to apply such a standard. The Georgia Housing and Finance Administration favored limiting servicers from making changes to the disbursements method to situations involving transfers of servicing, borrower hardships, taxing authority changes, system conversion, and other major organizational changes. GE Capital asked the Department to allow a change in disbursement dates or methods after a transfer of servicing if the dates are incorrect or the methodology is not available to the new servicer. Three mortgage companies suggested that servicers should simply include in the letter notifying the consumer of a transfer of servicing what disbursement method will be used, prior to making the change.

B. Approach Adopted in Today's Final Rule

Having carefully analyzed the comments received, the Department has decided to adopt, with modifications, the Keep, But Clarify, Current Requirements alternative. The Department is revising the rule to provide that servicers must make timely payments, that is, on or before the deadline to avoid a penalty, and advance funds as necessary, so long as the borrower's payment is not more than 30 days overdue. The rule also provides special requirements for property taxes when the taxing jurisdiction offers the servicer a choice between annual disbursements with a discount and installment disbursements. In such

cases, if the taxing jurisdiction neither offers a discount for disbursements on a lump sum annual basis nor imposes any additional charge or fee for installment disbursements, the servicer must make disbursements on an installment basis, unless the servicer and borrower agree otherwise. If, however, the taxing jurisdiction offers a discount for disbursements on a lump sum annual basis or imposes any additional charge or fee for installment disbursements, the servicer may, at the servicer's discretion (but is not required by RESPA to), make lump sum annual disbursements, as long as such method of disbursement complies with the requirements of § 3500.17 (k)(1) and (k)(2) of this rule. HUD encourages, but does not require, the servicer to follow the preference of the borrower, if such preference is known to the servicer.

This final rule also incorporates into the regulations a provision that the servicer and borrower may mutually agree, on an individual case basis, to a different disbursement basis (installment or annual) or disbursement dates, than the rule would otherwise require. This provision is consistent with, but more expansive than, the statement contained in the discussion in the preamble to the Department's May 9, 1995 rule (60 FR 24734), which indicated that such agreements were allowed after settlement only. At the time the preamble to the May 1995 rule was written, the Department felt that the concern for borrower coercion was so great as to make it necessary to limit agreements concerning disbursement dates to the period after settlement, when the likelihood of coercion was reduced. The Department understands, however, that allowing such agreements only after settlement discourages them, since it is more burdensome to change the disbursement basis or date after settlement than to set up the account from the start in a way that is mutually agreeable to the borrower and servicer.

This final rule emphasizes that these agreements must be completely voluntary and that neither loan approval nor any term of the loan may be conditioned on the borrower's agreeing to a different disbursement basis or disbursement date for property taxes. The rule does, however, allow such agreements to be made prior to settlement, thereby avoiding the need to make postsettlement changes in the disbursement basis or dates when such an agreement is reached before settlement. This rule also clarifies that whatever the borrower and servicer agree to must avoid a penalty, comply with normal lending practice of the lender and local custom, and constitute prudent lending practice. This new provision provides flexibility. It allows the parties to agree, for example, to annual disbursements of property taxes even if there is no discount where an installment option is offered.

This final rule departs from Keep, But Clarify, Current Requirements as articulated in the proposed rule in that, under this final rule, the only specific requirements for choosing between annual and installment disbursements pertain to property taxes, not other escrow items. The reason the Department distinguishes property taxes from other escrow items is that the concerns that have been raised to the Department on the Annual vs. Installment Disbursement issue have been limited to property taxes. For most consumers, property taxes are much larger than hazard insurance and other escrow items.

This final rule also departs from Keep, But Clarify, Current Requirements as articulated in the proposed rule in that, for the reasons discussed in Part V(D)(3) of this preamble below, it does not adopt the restriction in the proposed rule that a servicer and subsequent servicers would be prohibited from changing the method of disbursement without the borrower's prior written consent, as long as a choice continues to exist in the taxing jurisdiction.

Finally, the final rule adds a definition of ''penalty'' to the definitions in § 3500.17. This definition clarifies that a penalty means a late charge imposed for paying after the disbursement is due. It does not include any additional charge or fee associated with choosing installment disbursements as opposed to annual disbursements or for choosing one installment plan over another. In comments on the proposed rule, four originators/servicers and one tax service commented that the proposed rule had been unclear whether a service fee levied on installment disbursements is regarded as a penalty. These commenters took the position that the servicers may or must use annual disbursements to avoid a penalty (service charge, interest payment, or other fee) for paying in installments, not just to take advantage of a discount available for annual disbursements. One of these commenters questioned whether the existence of a service charge for installment disbursements makes an annual disbursement plan without such a service charge the equivalent of a discount.

Notwithstanding these comments, the Department believes the better approach is not to regard a service charge, interest payment, or other fee associated with choosing installment disbursements as opposed to annual disbursements as a penalty to be avoided. Rather, if a service charge, interest payment, or other fee is imposed for choosing installment disbursements as opposed to annual disbursements, the ability to avoid them by paying annually creates, in essence, a discount for annual disbursements. With respect to disbursements for property taxes, once the choice is viewed as between annual disbursements at a discount and installment disbursements, in accordance with this rule, the servicer may, but is not required by RESPA to,[14] pay annually. Thus, for property taxes, the servicer may choose to disburse the property taxes in installments and incur the service charge, interest payment, or other fee associated with choosing installment disbursements, or may avoid them by disbursing annually. The servicer is encouraged, but not required, to follow the preference of the borrower.[15]

Stated in other terms, for property taxes, the servicer should add up the total payments associated with disbursing annually and compare that amount to the total payments associated with disbursing in installments. In making those calculations, the servicer should take into account any applicable discounts or service charges. If the total amount associated with disbursing property taxes annually is greater than or equal to the total amount associated with disbursing in installments, the servicer must disburse the property taxes in installments, except when the servicer and borrower mutually agree otherwise. If, however, the total amount for disbursing the property taxes in installments is greater than the total amount for disbursing them annually, the servicer may, but is not required by RESPA to, disburse them annually. The servicer is encouraged, but not required, to follow the preference of the borrower.

C. Basis for Approach Adopted

The preamble to the proposed rule indicated that the Department believed the advantage of Keep, But Clarify, Current Requirements would be that, like Servicer Flexibility, it would provide flexibility to servicers. It would also allow servicers to accommodate borrowers with a particular preference.

[14] The caveat, ''by RESPA,'' is designed to allow for the possibility that State law could require annual disbursements.

[15] For other escrow items, the servicer may disburse annually or in installments, so long as the method avoids a penalty and the disbursement basis and disbursement date complies with the normal lending practice of the lender and local custom, and constitutes prudent lending practice.

To the extent that the Department thought Keep, But Clarify, Current Requirements had a potential drawback, it was that it would not guarantee that servicers would accommodate the preferences of individual borrowers, providing less choice for borrowers.

The comments received served to confirm the Department's belief that Keep, But Clarify, Current Requirements, with some modifications, is a workable solution to this problem. Commenters noted many positive reasons for choosing this alternative. The Department is persuaded that, on balance, it is the best approach for meeting consumers' needs and balancing those against the valid concerns of the industry. Such an approach will cause the least disruption and burden and will be the least costly approach, yet it is sufficiently flexible to accommodate the preferences of individual consumers.

By clarifying the regulations in a way that allows more flexibility for servicers and consumers, the Department intends to encourage more servicers to adopt the types of best practices that some servicers are already using that ensure flexibility for consumers. These best practices to address the Annual vs. Installment Disbursements problem include:

- Disbursing property taxes in installments unless a discount is offered for annual disbursements that the servicer, based on its best business judgment, believes is a large enough discount to be in the borrower's interest, in which case the servicer makes disbursements annually.
- Accommodating individual borrowers by switching borrowers who complain to whichever method they prefer for the disbursement of property taxes.

These two practices are examples of the types of best practices that some originators/servicers in the industry are using today, even without a Government requirement. The Department would encourage servicers to adopt these practices so that they will become more widespread.

In contrast, the Department intends to discourage practices that do not provide as much flexibility for the consumer. These include:

- If a choice between annual disbursements with a discount or installment disbursements is offered, always disbursing annually regardless of how insignificant the discount may be and despite the consumer's stated preference for installment disbursements.
- If a choice between annual disbursements or installment disbursements with an additional charge or fee for installment disbursements is offered, always disbursing annually regardless of how insignificant the charge or fee for installment disbursements may be and despite the consumer's stated preference for installment disbursements.

The Department intends that the revisions made in this final rule clarify that these two inflexible practices were not, and are not, compelled by the Department; the Department does not in any way mandate such practices. The Department encourages servicers to use practices that are more consumer friendly.

D. Basis for Rejecting Alternative Approaches

1. Rejection of Consumer Choice Alternative

The preamble to the proposed rule indicated that this approach would provide the greatest flexibility to the borrower. However, the Department also noted that it could impose higher costs on servicers. The Department observed that servicers would likely need two different disbursement systems to reflect the disbursement preferences of borrowers.

While the Department believes that it would have legal authority to impose Consumer Choice as part of the Secretary's rulemaking authority, it has decided not to do so. The Department is persuaded that the types of costs and burdens associated with such an approach are unwarranted at this time. The cost of implementing Consumer Choice with respect to disbursing property taxes on an installment or annual basis would be substantial according to most of the comments received on this issue. New software and operating procedures would have to be developed for originators and all those involved in servicing. Some efficiencies would be lost as multiple processes were employed for making disbursements to taxing authorities, when only one process had been followed before.

Additionally, the Department gathered information from members of the servicing industry on the cost of the Consumer Choice alternative. The Department believes that the cost per account subject to Consumer Choice would be significant, even under a very simple system subject to the following assumptions: (1) a choice would only be permitted at origination with no provisions for the consumer to opt to change the disbursement method later and (2) little in terms of disclosure to the consumer would be provided other than notifying the consumer that a one-time choice at origination was permitted. To the extent that the disclosure required more information or the consumer could opt to change the disbursement method during the life of the loan, the costs would be greater.

The additional costs of consumer choice could be justified if there were commensurate benefits to consumers. But the vast majority of consumer complaints concerning the disbursement method arose out of the transition associated with the 1994–1995 escrow rules. These were one-time, as opposed to ongoing, problems. Complaints about this problem have recently become rare.

Given that the transition associated with the 1994–1995 escrow rules is almost complete and that this transition has been the source of essentially all the complaints concerning the Annual vs. Installment Disbursements problem, the Department believes that only a small percentage of consumers would benefit from the Consumer Choice alternative. It is not anticipated that the benefits to the few who would choose a basis other than what the servicer would choose under the rule would exceed the costs associated with that option. Since it is consumers who would probably bear the additional costs of providing choice, the Department does not believe it is in the consumers' overall best interest to require consumer choice.

The Department was also influenced by the lack of consensus among the commenters on the technical details of the Consumer Choice alternative. The Department asked several specific questions about how to implement such an option in the way least disruptive to the industry. The answers received further reflected the uncertainties and disruptions that would be created by imposing the Consumer Choice alternative and helped convince the Department that such an approach is not feasible. Since the Department is not adopting the Consumer Choice alternative in this final rule, the responses received to a number of the questions raised in the proposed rule do not merit detailed discussion, but a brief summary of the comments in response to these questions is provided below to convey the divergent opinions on this subject.

1. The Department asked Question 7, which was designed to elicit comments on when the appropriate time would be for the originator or servicer to provide the borrower the disclosure, if the Consumer Choice alternative were to be adopted. The commenters were fairly evenly divided on whether the disclosure should be provided and the

selection made before closing but after underwriting or before underwriting. Thirteen commenters simply indicated sometime before closing, whereas 12 commenters indicated it would have to be before underwriting. Seven commenters specifically indicated that the selection would affect underwriting, whereas three commenters specifically indicated that the selection should not affect underwriting.

2. The Department asked Question 8, which was designed to elicit comments about whether the Department should prescribe a disclosure format if an approach were adopted in which the borrower's preference for installments or annual disbursements were controlling. There was general agreement that the Department should prescribe the format (20 commenters supporting prescribing it, with only 4 opposed). However, there was disagreement over what the disclosure should say. Six commenters supported the disclosure the Department had proposed, if one was to be mandated. Seven commenters, however, said it was too confusing and/or unclear. Four criticized it for containing too much information or being overwhelming whereas, two criticized it for not including enough information.

3. The Department asked Question 9, which inquired what period of time would be needed for servicers to be able to implement the Consumer Choice alternative. Four commenters said it could be implemented in less than 12 months, 9 commenters indicated 12 months or more, 2 commenters said 18 to 24 months, and 4 commenters estimated it would take 24 months.

2. Rejection of Servicer Flexibility Alternative

The preamble to the proposed rule explained that the Department perceived this alternative as being the least intrusive regulatory approach for the Department to take and providing the greatest flexibility to servicers, while leaving servicers free to accommodate borrowers with a particular preference, as long as the borrowers' preferences were in accordance with the normal lending practice of the lender and local custom and constituted prudent lending practice. The Department noted that the disadvantage of this alternative is that it would not guarantee that servicers would accommodate the preferences of individual borrowers and, therefore, it provided less choice for borrowers.

The Department has decided not to adopt the Servicer Flexibility alternative. Most commenters did not favor such an approach. The Department decided that there is no reason to adopt this approach and that it would not necessarily be best for the consumer.

3. Rejection of Prohibiting Switching Disbursement Methods Without Borrower's Consent

While the Department would have legal authority to impose a restriction against switching disbursement methods without the borrower's consent as part of the Secretary's rulemaking authority, it has decided not to do so. The types of costs and burdens associated with such a restriction are unwarranted. Therefore, this final rule does not contain this restriction as part of the approach adopted.

E. Clarifications

In issuing this final rule, the Department wishes to address several questions from commenters that will clarify the rule.

1. Selecting From Among Various Installment Plans Offered

Several commenters requested clarification of the servicer's obligations when a taxing authority offers several different installment plans. In such circumstances, the Department encourages the servicer to use the installment plan that results in the lowest closing costs for the consumer. However, the servicer is free to make disbursements according to any installment plan offered by the taxing jurisdiction so long as the selection complies with the normal lending practice of the lender and local custom, and the installment plan selected constitutes prudent lending practice. The servicer may also make disbursements according to any installment plan offered by the taxing jurisdiction to which the servicer and borrower may mutually agree, on an individual case basis.

2. The Size of the Discount Does Not Matter

One mortgage company commented that the Department should make the application of the Keep, But Clarify, Current Requirements approach more consistent by establishing a guideline on when to switch to annual disbursements to take advantage of a discount. One tax service indicated that when the payee offers a choice between installments and annual disbursements at a discount, the Department should either require maximum discounts be taken or set a threshold and require the servicer to disburse to obtain any maximum discount meeting or exceeding that minimum.

In its proposed rule, the Department asked Question 6, which specifically solicited comments on whether the size of an available discount should matter and, if so, how. Fifteen commenters—11 originators/servicers, 1 trade association, 2 tax services, and 1 financial software company—indicated that the size of the discount should make a difference under the rule in some fashion. Eight commenters indicated that the rule should provide that if the discount offered meets a Department-determined threshold, the servicer must disburse annually to obtain the discount. Three commenters indicated that the rule should provide that the servicer is free to decide if the discount is large enough to make it worthwhile to make disbursements in such a way as to collect the discount.

Among those who favored making the size of the discount matter under the rule, there was no agreement on the best approach to setting the discount threshold that would trigger application of one rule or another. Five commenters opposed tying the discount threshold to a market rate, while only one supported this approach. Five commenters favored, but two commenters opposed, a ''reasonable servicer'' standard. One large tax service commented that not just the size of the discount, but several other factors, affect the value of the discount to the consumer, such as the rate of interest (if any) paid on escrow accounts, market interest rates, and the borrower's income tax rate.

In contrast, 16 commenters—15 originators/servicers and 1 trade association—indicated that the size of the discount should not make a difference under the rule. These commenters indicated that such consideration would present an additional burden and cost to calculate the size of the discount and that discounts are beneficial to the consumer regardless of the size.

The Department has not adopted the approach of making the size of the discount a determinative factor in which disbursement method the servicer should use. There is no apparent way to arrive at a reasonable and acceptable guideline. Rather, the Department's approach in this rule allows latitude to the servicer, while encouraging the servicer to follow the preference of the borrower.

3. Application of Rule to Other Escrow Items

Two originators/servicers commented that this rule should clarify that the Department's policy of favoring installments only applies to taxes, not other escrow items such as hazard

insurance. One of these commenters added that this rule should clarify: (1) that servicers should disburse mortgage insurance payments monthly or annually; and (2) that hazard insurance payments should be disbursed annually or as billed by the insurer, and if discounts are available for annual disbursements it should be disbursed annually.

Under this final rule, the only specific requirements for choosing between annual and installment disbursements pertain to property taxes, not other escrow items such as hazard insurance. For escrow items other than property taxes, if a payee offers a servicer a choice between installment or annual disbursements, the servicer is required to make disbursements by a date that avoids a penalty. The servicer, however, is otherwise free to make disbursements on such disbursement basis (annual or installments) and disbursement date as complies with the normal lending practice of the lender and local custom, provided that the selection of each such basis and date constitutes prudent lending practice. The reason for distinguishing property taxes from other escrow items is explained in Part V(B) of this preamble, above.

4. No Preemption of State Law on Installment Option

Two commenters requested clarification of whether RESPA preempts State law in such a way as to require that States offer an installment payments option to servicers, or if they currently only offer that option to individual borrowers. The answer to that question is that RESPA does not so preempt State law. Whether taxing jurisdictions should make an installment option available to servicers is a matter of State law, not RESPA.

5. Disbursing Annually Instead of in Installments When There is no Discount if a Choice is Offered

One commenter, a Wisconsin bank holding company, raised a concern regarding escrow accounts in Wisconsin, stating that servicers should be able to make tax disbursements in an annual disbursement rather than installments, if a choice is offered, even if there is no discount for annual disbursements. The commenter represented that this was partly to protect the servicer's lien, which becomes effective on the first of the year in which the taxes are billed, and partly to give the borrower the benefit of tax deductions for the current year. The commenter explained that in Wisconsin, taxes are billed in November and can be paid in two installments in the following January and July. In addition, State law requires the servicer to issue a joint check to the borrower and the taxing authority by December 20, or give the borrower three options: (1) Pay in full by December 31 if the tax bill is received by December 20, (2) pay the full tax when due (January and July installments), or (3) issue a joint check to the borrower and taxing authority by December 20. If the servicer offers the three options, the servicer is required to follow the borrower's preference.

The commenter asserted that for the Department effectively to prohibit the December payment would conflict with the Department's prior guidance set forth in the preamble to the February 15, 1995 rule (60 FR 8813, second column), which specifically allowed the practice. The commenter further argued that a substantial change in interpretation would undercut servicers who relied on the Department's prior advice, would force servicers to disregard State law, and would negatively impact on borrowers' tax deductions.

In response to this and other comments, this final rule adds a provision to the regulations (§ 3500.17(k)(4)) specifying that a servicer and borrower may mutually agree, on an individual case basis, to a different disbursement basis (installment or annual) or disbursement date than that which would otherwise be prescribed under the regulations. This addition should address the commenter's concern and allow the servicer to comply with Wisconsin law.

VI. Payment Shock—Comments Received, Approach Adopted in This Final Rule, Basis for Approach Adopted, Basis for Rejecting Alternatives

A. Comments Received

Through the comments received on the proposed rule, the Department gained a better understanding of the payment shock problem. A few commenters pointed out that there could be other causes of payment shock aside from those that the Department had described in the preamble to the proposed rule. Citicorp pointed out that payment shock can also be caused by rate adjustments to Adjustable Rate Mortgages (ARMs), special tax assessments, and additional insurance coverage selected by borrowers after closing.

The Department also learned more about how servicers have been addressing the problem of payment shock. Eight originators/servicers indicated that their practice is to notify borrowers ahead of time and provide an opportunity to make voluntary payments ahead of schedule to avoid payment shock. Seven originators/servicers indicated that they offer consumers extended repayment plans, even beyond those required under RESPA, to make up shortages that result from payment shock. Nine originators/servicers indicated that they use short-year statements to minimize payment shock, a practice that also is useful. Two originators/servicers indicated that they simply notify borrowers ahead of time that payment shock may occur but do not explain how to avoid it.

The Department solicited comments to gauge the extent of the payment shock problem. Four originators/servicers and one home builder specifically commented that they agreed with the Department's assessment that payment shock is a very significant problem that needs to be addressed. One commenter estimated that roughly 50 percent of its customers experience payment shock because 30 percent of its loans are for new construction on which taxes are initially assessed on unimproved property and then reassessed for the improvements; an additional 20 percent of its loans have prepaid taxes.

The view that payment shock was a problem was implicit in the comments of several others, such as a servicer who indicated that the current regulations do not work because of difficult situations with borrowers that arise when payment shock occurs. Every commenter who stated a reason for opposing the Make No Change alternative indicated that they opposed the alternative because it would not address the payment shock problem and/or ignored that a problem exists. There were 13 commenters who made such a statement—10 originators/servicers (including 1 of the 4 mentioned above), 1 trade association, 1 tax service, and the home builder mentioned above.

Countrywide commented that payment shock is the most serious problem caused by the existing escrow accounting regulations because it leads to delinquency, hurts borrowers' credit, and may result in people losing their homes. NationsBank commented that it results in an inability to make additional payments in the second year, increases the possibility of delinquent payments, and accelerated collection proceedings, and causes consumers to lose confidence in their lending institutions. Two other originators/servicers agreed with Countrywide's assessment that the situation leads to a significant number of defaults and foreclosures. Two commenters commented that when payment shock

occurs, borrowers unfairly blame their lenders and/or their builders and closing agents. Two commenters commented that when it happens, lenders are left having to carry shortages, sometimes for 24 to 48 months, and that this puts the lenders at risk. Countrywide indicated that it is a particularly perilous situation when two or more risk factors are present in a transaction (a condition known as ''layered risk''), such as when payment shock is combined with an upward adjustment in the ARM rate.

In contrast, seven originators/servicers questioned whether payment shock was really a problem in need of fixing. A bank with a mortgage lending subsidiary commented that while many consumers fail to plan for payment shock, they are not really surprised by it and feel that the problem has nothing to do with the servicer. A rural bank commented that it is really a consumer education problem, a problem that will happen regardless of whether there is an escrow account or not. A bank holding company commented that it is not a significant problem, while a federal credit union indicated it was a very infrequent problem. One servicer requested that the Department wait until the transition period expires on the 1994–1995 escrow rules before making any further changes. Citicorp also questioned whether it is a real and on-going problem and suggested waiting until 1998 to consider new requirements.

1. Comments on Consumer Choice

Only one commenter, the California Association of Realtors (CAR), supported Consumer Choice. As with the Annual vs. Installment Disbursements problem, the CAR commented that it favored approaches that provide consumers with as much information as possible and the opportunity, when fully informed, to make choices about the servicing of their loans and the related impound/escrow accounting.

In contrast, 81 commenters opposed the adoption of Consumer Choice—66 originators/servicers, 10 trade associations, 1 tax service, 2 financial software companies, 1 builder, and 1 person of unknown professional interest. The most common reasons given included:

1. It would result in miscellaneous costs and/or administrative burdens (e.g., would increase cost of servicing or be a burden on closing, would create operational problems, would be complicated) (53 commenters—46 originators/servicers, 5 trade associations, 1 financial software company, 1 builder).

2. It would be impractical (36 commenters), for reasons such as servicers will not have or would find it difficult to get or estimate the information needed to calculate the disclosure (30 commenters—28 originators/servicers, 2 financial software companies).

3. It would necessitate more customer service to explain choices and answer questions for consumers (28 commenters—26 originators/servicers, 2 trade associations).

4. Consumer Choice would require system and programming changes and new software or additional programming (23 commenters—19 originators/servicers, 4 trade associations). Two large lenders indicated that if Consumer Choice were selected they would need in excess of 18 to 24 months from the issuance of the final rule to reprogram their computers and develop new forms and procedures.

5. The specific costs and burdens of consumer disclosure, including producing and mailing disclosures, soliciting preferences, processing disclosures, tracking selections, and maintaining information on selection should be avoided (19 commenters—12 originators/servicers, 6 trade associations, 2 financial software companies) or objections to adding a new disclosure in general (5 commenters—4 originators/servicers, 1 builder).

6. The additional cost would be passed on to consumers (21 commenters—16 originators/servicers, 3 trade associations, 1 financial software company, 1 builder).

7. It would create consumer confusion, consumers would not be able to make an educated selection, and it would impose a burden on consumers to have to make such a choice (17 commenters—11 originators/servicers, 4 trade associations, 1 financial software company, 1 builder).

8. There is no need for it (14 commenters) for reasons such that no consumer benefit or no significant consumer benefit would result (10 commenters—6 originators/servicers, 4 trade associations).

9. It would necessitate multiple sets of closing documents to accommodate possible choices or otherwise interfere with the correct preparation of closing documents (eight commenters—five originators/servicers, one trade association, one financial software company, one builder).

10. Additional training of staff would be required (eight commenters—six originators/servicers, two trade associations).

Several commenters commented specifically about the proposed prohibition against servicers switching accounting methods without the borrower's consent, which was one element of the Consumer Choice alternative. Only one commenter, GE Capital, indicated that it supported restricting changes to accounting methods when there is a transfer of servicing. GE Capital's support, however, was conditioned on the selection of the accounting method being limited to a one-time choice at closing, the selection being limited to situations involving new construction, and the regulations being clarified to provide that payments (as opposed to methodology) could be changed in the event of unanticipated changes to escrow items.

In contrast, seven commenters, including six originators/servicers and one trade association, opposed the aspect of Consumer Choice prohibiting servicers from switching escrow accounting methods. The reasons given included the following: (1) It would chill or burden sales of servicing rights (three originators/servicers, one trade association); (2) it would pose an administrative burden (two originators/servicers); and (3) it would impair value of servicing rights (two originators/servicers).

In the proposed rule, the Department asked Question 2, which was designed to elicit commenters' views on how to define a substantial increase in disbursements from an escrow account, and how mortgage servicers could go about determining whether bills paid out of escrow accounts were expected to increase substantially after the first year. Virtually all of the commenters that responded to this question focused on whether a 50 percent increase was an appropriate threshold for defining a substantial increase, as proposed.

Four commenters—three originators/servicers and one trade association—supported using 50 percent as a threshold. One bank holding company indicated that 50 percent was an appropriate threshold but that the payment shock problem should only be addressed in situations involving new construction. Most gave no reason for why they believed 50 percent was an appropriate threshold, other than that it seemed to be a reasonable approach. The National Association of Federal Credit Unions (NAFCU) indicated that the approach would avoid confusion.

In contrast, 21 commenters—17 originators/servicers, 2 trade associations, 1 financial software

company, and 1 builder—opposed using 50 percent as a threshold. Many of these commenters indicated that the Department should not set any threshold for when an increase would be considered substantial, yet no commenters favored offering alternatives to borrowers whose escrow payments were not expected to increase substantially after the first year, and 16 commenters (14 originators/servicers, 2 trade associations) specifically opposed such an idea. The reasons for opposing using 50 percent as a threshold and/or opposing any Department-established threshold were similar. They included:

1. Servicers would not be able to estimate if the expected increase was within the threshold (seven comments—six originators/servicers, one trade association).

2. Even less than a 50 percent increase could be a problem for borrowers (five commenters—three originators/servicers, one financial software company, one builder).

3. It would be burdensome and/or costly to calculate if the expected increase would meet the threshold (five commenters—four originators/servicers, one trade association).

4. Servicers should be given more flexibility (two originators/servicers).

The Department also asked Questions 2 and 7, which were designed to elicit responses as to whether, if the Consumer Choice alternative were adopted, the final rule should limit a borrower's opportunity to switch escrow accounting methods. Sixteen commenters (14 originators/servicers, 1 trade association, 1 financial software company) indicated that they opposed allowing even a one-time choice to be provided to consumers, but that if the Department chose the Consumer Choice alternative anyway, it should be limited to a one-time choice, for reasons such as the additional burdens and costs more opportunities to switch would create. Several other commenters that were less clear in their dislike of the Consumer Choice alternative, nonetheless took clear positions against offering more than a one-time choice.

In contrast, only three commenters advised against having different systems for different borrowers. One based its view on the additional confusion it would create over options and management of the options. Another based its opinion on the additional complications. A third stated it would add to the programming, personal, and postage costs and create more confusion.

2. Comments on Make No Change Alternative

A total of 46 commenters supported the Make No Change alternative. Forty-two commenters—35 originators/servicers, 5 trade associations, 1 financial software company, and 1 person of unknown professional interest—supported Make No Change as proposed. The MBA and a bank and trust indicated that Make No Change was their second choice next to Mandate First Year Overpayment; NAFCU also implied it was their second choice.

Four additional commenters indicated they would support Make No Change if Variation (A) were added to it. The proposed rule described Variation (A) as follows:

> (A) Require servicers to disclose to borrowers that it is anticipated that they will have a substantial payment increase in the second year, so borrowers will be less surprised when such an increase occurs, but do not require servicers to indicate specifically to borrowers methods of avoiding the shortage.

61 FR 46517.

Three of the 42 who supported the Make No Change alternative as proposed also indicated they would support Make No Change with Variation (A). In addition, two originators/servicers that recommended alternatives instead of Make No Change also indicated that as part of those approaches that it should be disclosed to the borrower that a shortage is expected, but not the amount of the expected shortage.

One commenter who otherwise supported the Make No Change alternative indicated that it was opposed to mandating any type of notice, but indicated a notice similar to Variation (A) would be less problematic than the type of disclosure that would be part of the Consumer Choice alternative. The commenter observed that any disclosure should be generic (no calculations) and advise consumers that: (1) The amount of taxes for which escrow funds are being collected is based on information available at time of closing about anticipated property taxes for next year; (2) the amount could change especially for new construction; and (3) the consumer should monitor the situation and consult a tax advisor if the amount increases substantially.

Ten other commenters—eight originators/servicers, one financial software company, one builder—specifically commented that they opposed Variation (A). The primary reasons were that it would not be effective at eliminating payment shock, and giving borrowers advance notice that a payment increase may occur should be left to the originator/servicer. The reasons the commenters gave for supporting the Make No Change alternative as their second choice were similar to the reasons other commenters gave for supporting it as their first choice. The reasons of all the commenters who supported it as their first or second choice are summarized below:

1. This approach would encourage good, voluntary practices to help customers on an individual basis (25 commenters—22 originators/servicers, 3 trade associations).

2. No change is needed because the current rule is adequate (four commenters—three originators/servicers, one financial software company).

3. It would not be disruptive (three commenters—two originators/servicers, one trade association).

4. It would allow servicers to exercise good judgment (two trade associations).

5. It would be flexible (two originators/servicers).

6. Providing consumers with a simple disclosure would give consumers information to act in their own best interest (one trade association).

In contrast, 13 commenters—10 originators/servicers, 1 trade association, 1 tax service, and 1 builder—opposed the Make No Change alternative. Each of these commenters stated that they opposed the alternative because it would not address the problem and/or ignored a problem that exists.

Other commenters supported other variations on the Make No Change alternative. Two originators/servicers supported Variation (B). Variation (B) would have required servicers to disclose to borrowers that it is anticipated that they will have a substantial payment increase in the second year, and to inform borrowers of the amount of the expected shortage at the end of the first year and of the opportunity to make additional payments to escrow ahead of schedule to avoid payment shock. On the other hand, seven commenters—five originators/servicers and two financial software companies—opposed Variation (B) for reasons such as the burdens and difficulties associated with trying to estimate the amount of a shortage that is expected to result.

In the proposed rule the Department also solicited comments on the following alternative. For each new account for which it is anticipated that there will be a substantial payment increase in the second year for one or

more escrow items, allow the servicer, with the consent of the borrower, the option of calculating the escrow payments on a 24-month basis. This would allow the servicer to look ahead to the second year and estimate the payment that would be due, thereby mitigating the deficiency or shortage after the first year, leaving a smaller deficiency or shortage after the second year. (Using an escrow account period of more than 1 year has precedent. See the treatment of flood insurance and water purification escrow funds in § 3500.17(c)(9).) Under this option, since the amounts held in escrow would be greater than allowed under section 10 of RESPA, it would be necessary for the Secretary to invoke his exemption authority under section 19(a) of RESPA (12 U.S.C. 2617).

Only eight commenters commented on this particular approach. Five commenters supported it while three opposed it. The Department does not believe it is a superior approach to that adopted in this final rule, as discussed below.

The proposed rule also invited commenters to submit other permissible approaches under RESPA that would better serve the interests of the public and the intent of the statute, inviting commenters to submit specific regulatory language to implement their proposals. Fourteen originators/servicers and two trade associations submitted a variety of additional alternatives, none of which appear to the Department to be a superior approach to that adopted in this final rule, as discussed below.

3. Comments on Mandate First Year Overpayment Alternative

Twenty-seven commenters—21 originators/servicers, 2 trade associations, 2 financial software companies, 1 tax service, and 1 State lending agency—supported the Mandate First Year Overpayment alternative. In addition, Citicorp indicated that the Mandate First Year Overpayment alternative was its second choice to the Make No Change alternative. Bank of America indicated it was its second choice next to an alternative of its own creation, but only for new construction and situations involving special tax discounts (e.g., reduced taxes for seniors, disabled, or veterans). GE Capital indicated it was its second choice to the Make No Change alternative, but should only apply if the increase will be due to taxes being based on the land value only for the first year. If the increase will be due to items paid prior to the first payment date, GE Capital favored a different approach.

The reasons given for supporting the Mandate First Year Overpayment alternative included the following:

1. This approach would avoid payment shock best and would result in the fewest shortages (14 commenters—11 originators/servicers, 2 trade associations, 1 financial software company).

2. It would be better for consumers (12 commenters—9 originators/servicers, 2 financial software companies, 1 State lending agency).

3. It would increase consistency, standardization, and uniformity (seven commenters—three originators/servicers, one trade association, two financial software companies, one State lending agency).

4. It would require only minimal changes (four commenters—two originators/servicers, two financial software companies).

5. It would be the least costly alternative to implement (one originator/servicer, one financial software company).

6. It would be the fairest alternative (one originator/servicer, one tax service).

In contrast, 36 commenters—32 originators/servicers, 3 trade associations, and 1 person of unknown professional interest—opposed the Mandate First Year Overpayment alternative. The reasons given for opposing this alternative included the following:

1. It would not be in the consumer's interest to overpay and then money get back; this would be unfair to the borrower (10 commenters—7 originators/servicers, 2 trade associations, 1 person of unknown professional interest).

2. This alternative would be administratively burdensome or costly (e.g., having to make constant refunds and explanations to consumer) (six commenters—four originators/servicers, two trade associations).

3. It would run contrary to the Secretary's stated objectives (21 originators/servicers).

In the proposed rule, the Department proposed that as a variation on Method C, the cushion could be calculated as one-sixth of the estimated annual disbursements for the first year, instead of 2 months of the escrow payments for the first year. Two originators/servicers and a financial software company indicated that they preferred Method C to the variation. One of these commenters, a bank holding company, indicated that the variation would be far less effective at eliminating payment shock, while another, a mortgage company, indicated the variation would be more complicated for borrowers and for the industry. No commenter indicated a preference for the variation.

Commenters also suggested several additional variations on the Mandate First Year Overpayment alternative as their preferred approach, such as limiting it only to situations involving new construction (five commenters—four originators/servicers, one trade association) or offering it even when less than a 50 percent increase in disbursements were expected (four commenters—two originators/servicers, one financial software company, one builder).

B. Approach Adopted in Today's Final Rule

Based on the comments received, the Secretary has determined that there would be little value in rulemaking on the payment shock ''problem.'' The comments, in sum, do not indicate that the ''problem'' is uniformly accepted as such in the industry, there is little support for the Department's prescribing a particular accounting method that will result in overescrowing consumers' money, and there is no agreement on the nature of any form that the Department would prescribe for homebuyers to warn of the possibility of a substantial increase in payments to their accounts.

During the rulemaking, however, the Department identified that individual servicers do provide a written disclosure to borrowers when they anticipate increased payments. The Department favors this approach and believes that such a disclosure should be encouraged as a best practice, without the Department prescribing the particular form.

The Department has decided to adopt, with modifications, the Make No Change alternative. This final rule, therefore, continues the current requirements for escrow analysis, even when the servicer expects that the disbursements from the escrow account will increase substantially after the first year. This alternative will not prevent payment shock in all instances. Under the final rule, however, as in the past, servicers may disclose the problem to borrowers, and borrowers may make voluntary overpayments to escrow accounts. Servicers may also calculate short-year statements. Thus, some methods are available to alleviate the payment shock problem, although they are not required.

This final rule does depart, however, from the Make No Change alternative of the proposed rule in encouraging, on a voluntary basis, the use of a consumer disclosure format concerning payment shock to be given to consumers when

the originator or servicer expects that a substantial increase in escrow payments will occur in the second year of the escrow account. The Department has determined not to define a ''substantial increase.'' Instead, this rule leaves this determination to each originator or servicer to apply sound business judgment.

This disclosure format, which is published as an appendix to this final rule, will be available from the Department as a Public Guidance Document at the address indicated in 24 CFR 3500.3. The format is entitled ''Consumer Disclosure for Voluntary Escrow Payments'' to clarify that when the originator or servicer provides the disclosure, the consumer may choose whether to make higher payments during the first year to reduce or eliminate the monthly payment increase in the second year. The disclosure contains the following information:

> The bills paid out of your escrow account are expected to increase substantially after the first year[.] [because _____]. Under normal escrow practices, your monthly escrow payment in the second year could be much higher than in the first.
>
> You may voluntarily choose to make higher payments during the first year to reduce or eliminate the monthly payment increase in the second year. If you are interested in doing this, contact:

The instructions to the preparer explain that the blank provided is to indicate whom to contact for further information on making voluntary overpayments during the first year, including the mailing address, fax number, e-mail address, and/or telephone number of the contact. The terms ''reserve'' or ''impound'' may be substituted for the terms ''escrow account'' or ''escrow'' to reflect local usage.

While use of the disclosure is not mandatory, providing the disclosure to consumers is a best practice that the Department encourages originators and servicers to follow. The Department is publishing this format at the end of this rule as an appendix for the convenience of the reader. It will not be codified in the Code of Federal Regulations.

The recommended format published with this final rule, in addition to providing notice that payment shock may occur, also indicates that payment shock can be avoided by making additional payments to the escrow account, and suggests that the consumer ask the appropriate originator or servicer for more information. While simply informing consumers of the potential of payment shock and providing information on how to avoid it may not lead the consumers to take actions to avoid it, the information will benefit some consumers and may lead them to request voluntary borrower and servicer agreements to make additional payments to avoid shortages.

To provide clarity to servicers, this rule adds a new provision (24 CFR 3500.17(f)(2)(iii)) regarding funds deposited as a result of such voluntary borrower and servicer agreements. The provision states that the voluntary agreement is for a 1-escrow-account-year period, although successive agreements are allowed. By receiving higher escrow payments into the account, the ending balance will be greater, thus lowering or eliminating the anticipated shortage at the time of the next analysis. At the time of the next escrow analysis, § 3500.17(f) regarding shortages, surpluses, and deficiencies will continue to apply, and may not be changed by any voluntary agreement.

C. Basis for Approach Adopted

The comments received served to confirm that the Make No Change alternative, with some modifications, is a workable solution to this problem. Based on its review of the comments, the costs and burdens associated with any other approach are simply too great compared to the benefits. There is no strong evidence that additional regulation is needed at this time to address the problem. Existing procedures are adequate to avoid payment shock. This rule encourages originators and servicers to inform consumers of the potential problem and allow them to use existing procedures to avoid the problem if they so desire.

This final rule is similar to Variation (A) of the Make No Change alternative in the proposed rule, which was recommended by several commenters. As recommended by commenters, use of the format is not mandatory, but the recommended format is similar to that which was suggested by several commenters. Heeding the objections of several commenters, the recommended format does not call for an estimate of the amount of a shortage that is expected to result. Several commenters urged that the final rule leave the decision of whether to give borrowers advance notice that a payment increase may occur to the originator/servicer. In response, this final rule leaves this determination to each originator or servicer to apply sound business judgment in deciding whether to provide the disclosure; it does not make the disclosure mandatory or define a ''substantial increase.''

The Department intends this final rule to encourage more originators and servicers to adopt practices that will ensure that consumers are informed of the payment shock problem and given the opportunity to avoid it. These practices include:

- Notifying borrowers in advance and providing an opportunity to make voluntary payments ahead of schedule to avoid payment shock. The Department encourages servicers to use the recommended format published today to notify borrowers of this potential problem when the originator or servicer, in applying sound business judgment, believes that payment shock is like to occur.
- Offering consumers extended repayment plans, even beyond those required under RESPA, to make up substantial shortages associated with payment shock.

These two practices are examples of the types of best practices that some originators/servicers in the industry are using today, even without a Government requirement. The Department encourages servicers to adopt these practices so that they will become more widespread.

D. Basis for Rejecting Alternative Approaches

1. Rejection of Consumer Choice Alternative

While the Department believes it would have legal authority to impose Consumer Choice, including the prohibition against the servicer changing escrow account methods, as part of the Secretary's rulemaking authority, it has decided not to do so. The types of costs and burdens associated with such an approach are prohibitive at this time.

The Department was also influenced by the obvious lack of consensus among the commenters as to how to work out the technical details associated with the Consumer Choice alternative. The Department asked several specific questions about how to go about implementing such an alternative in the way least disruptive to the industry. The answers reflected the uncertainties and disruptions that would be created by imposing the Consumer Choice alternative, and helped convince the Department that such an approach is not feasible. Since the Department is not adopting the Consumer Choice alternative in this final rule, the responses received to a number of the questions raised in the proposed rule concerning this issue do not merit detailed discussion, but a brief summary of the comments in response to these questions is provided below to give a

sense of the divergent opinions received:

1. The Department asked Question 5, which was designed to elicit views on when the appropriate time would be for the originator or servicer to provide the borrower the disclosure, if the Consumer Choice alternative were to be adopted. The commenters were nearly evenly divided on whether the disclosure should be provided and the selection made before closing but after underwriting or before underwriting. Eight commenters simply indicated sometime before closing, whereas six commenters indicated that it would have to be before underwriting. Two originators/servicers and one tax service indicated that no matter what time was selected, problems would arise. Five commenters specifically indicated that the selection would affect underwriting because it could affect the funds needed to close, whereas one mortgage lending subsidiary of a bank stated emphatically that it ''should have absolutely no bearing on the loan underwriting or approval process since the borrower must qualify based on a tax escrow payment calculated on fully assessed value.''

2. The Department asked Question 6, which asked whether the Department should prescribe a disclosure format if an approach were adopted in which the borrower's preference for a particular escrow accounting method were controlling. Although there was general agreement that the Department should prescribe the format (15 commenters supporting prescribing it with only 2 opposed), there was disagreement over what the disclosure should say. One commenter supported the disclosure the Department had proposed, agreeing ''with the simplicity of the proposed format.'' Seven commenters, however, said it was confusing and contained too much information, whereas two commenters criticized it for not including enough information.

2. Rejection of Mandate First Year Overpayment Alternative

While the Mandate First Year Overpayment alternative was extolled by some in the industry as the best solution, there was no consensus even within the industry for this approach. Thirty-two originators/servicers and 3 trade associations opposed it, while only 21 originators/servicers, 2 trade associations, 2 financial software companies, 1 tax service, and 1 State lending agency supported it. The Department is persuaded that it is simply not in the consumer's interest to mandate overpayment into escrow accounts, even if consumers ultimately get the money back. Mandating escrowing beyond the limitations of the statute would be unfair to borrowers. Consumers should not be forced to tie up money unnecessarily in their escrow accounts and may prefer to invest the money elsewhere or use it for other more pressing purposes. There is no compelling case for the Department to exercise its exemption authority for this purpose. Nor would such an approach be consistent with the Secretary's stated objectives for escrow accounting.

VII. Single-Item Analysis With Aggregate Adjustment Problem—Comments Received, Approach Adopted in This Final Rule, and Basis

A. Comments Received on Revision Proposed

The Department sought comments from the public on this proposal, as well as other approaches that would be permissible under RESPA and might better serve the interests of the public and the intent of the statute. The Department also invited commenters to submit specific regulatory language to implement their proposals.

A significant number of commenters, including servicers and trade associations, found the proposal to represent a functional or acceptable solution. The MBA, while favoring the proposal, indicated that some of its members were concerned about settlement agent confusion from the change. Those members opposing the change indicated that they make use of the 45-day period within which the initial analysis must be delivered, so they did not share the concern over presenting two different accounting methods. During the Department's development of the proposed rule, Federal Reserve Board staff had indicated that it had no objection to the approach in the proposed rule, inasmuch as the PMI number for APR calculations would otherwise be available.

On the other hand, a number of major lenders and/or servicers opposed the change. For example, Chase Mortgage stated that it was not beneficial for consumers or servicers, since consumers would lose the ease of a single statement from which amounts can be reconciled, and servicers would have no viable audit trail to indicate how the initial deposit was calculated to resolve later differences or discrepancies. Bank of America's comments were similar. A number of other commenters decried a retreat from uniformity (the original premise of the 1994–1995 escrow rules) that allowing options among servicers would produce, and indicated that options affected the ease of servicing transfers. On a tangential point, the American Escrow Association wanted continued clarity that the settlement agent action reflected instructions received, not independent activities of the settlement agent.

B. Approach Adopted in This Final Rule and Basis

The Department carefully reviewed the comments and considered them in view of the mandate issued to the Department and the Federal Reserve Board under legislation enacted September 30, 1996 to re-examine RESPA and TILA disclosure requirements. See sec. 2101 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Title II of the Omnibus Consolidated Appropriations Act, 1997, Pub. L. 104–208; approved September 30, 1996).

It would be inappropriate to undertake a piecemeal and unilateral revision of the HUD–1 and HUD–1A at this time. In addition, the elimination of the aggregate adjustment from the HUD–1 and HUD–1A would harm those who have already developed systems that rely on it for an audit trail. There simply was no consensus for the change. Therefore, this final rule does not contain any revision to the 1000 series disclosures; servicers should continue to follow existing requirements.

On a related matter, this rule adds information to the footnote instructions to Appendix C, in order to reaffirm a previous clarification that instead of using aggregate accounting with no more than a 2-month cushion, the reserves on the Good Faith Estimate may be estimated by using single item accounting with no more than a 1-month cushion (see 61 FR 46518, column 3, September 3, 1996).

VIII. Lead-Based Paint Disclosure Issue—Comments Received, Approach Adopted in This Final Rule, and Basis

A. Comments Received on Revision Proposed

Commenters were almost evenly divided regarding the desirability of adding the lead-based paint disclosures. Nine commenters—four originators/servicers and five trade associations—indicated that they supported or had no objection to the proposal. Most gave no reason. Among those who did, the National Association of Federal Credit Unions indicated that they supported the proposal because it would help educate borrowers of their rights.

In contrast, eight originators/servicers opposed the proposal. One lender indicated that by imposing the burden

of disclosure on the lender, the Department would be blurring the responsibility of sellers to give lead-based paint disclosures required by the EPA/HUD rule (implementing section 1018 of the Housing and Community Development Act of 1992). The commenter noted that lenders have never been required to disclose matters of law between sellers and buyers. Six other originators/servicers presented similar or related arguments.

Four originators/servicers indicated that providing a disclosure on the GFE would be duplicative of other lead disclosures; one commented that the HUD booklet ''Settlement Costs and You'' was a more appropriate forum for this type of disclosure. Two originators/servicers expressed concern that lenders would become involved in lawsuits involving lead-based paint, and that the disclosure could be interpreted as implying a lender duty in some future consumer class action.

B. Approach Adopted in This Final Rule and Basis

Upon careful review of these comments, the Department agrees with the commenters who believe that the lead-based paint disclosure need not specifically be added to the GFE and the HUD–1 and HUD–1A as a separate line at this time. This final rule continues the existing requirement that the lead-based paint inspection fee be included on the HUD–1 or HUD–1A if a lead-based paint inspection is either: (1) required by the lender, whether paid outside of settlement (in which case ''P.O.C.'' should be used) or at settlement; or (2) paid for at settlement. The only change made by this rule is a clarification to the instructions for the HUD–1. The current instructions indicate that Lines 1301 and 1302 of the HUD–1 may be used for ''fees for survey, pest inspection, radon inspection, lead-based paint inspection, or other similar inspections.'' The instructions are being changed to indicate that Lines 1301–1302 or any other available blank line in the 1300 series may be used for these purposes.

In addition, the Department has recently implemented several programs to assist homebuyers in financing the cost of lead-based paint inspections, risk assessments, and repairs. These programs include special requirements for the disclosure of information pertaining to lead-based paint on the HUD–1 and HUD–1A, which were explained in Notice H 96–93 (HUD) issued by the Department's Office of Housing on November 5, 1996.

Most importantly, since the time the September 13, 1996 proposed rule was issued, the Department has replaced its out-of-date settlement costs booklet (see 62 FR 31891, June 11, 1997). This new booklet is also available on the RESPA Website: http://www.hud.gov/fha/res/respa__hm.html. This revised booklet discusses the legal provisions that allow the buyer the option of obtaining a lead-based paint inspection, and gives an earlier and more meaningful description of the lead-based paint inspection process to the consumer. The Department is also currently engaged in a process with the Federal Reserve Board, referred to in Part VII(B) above of this preamble, which involves an overall review of settlement disclosure forms and requirements.

IX. Rule Changes

The changes made in this final rule are summarized below:

1. This rule amends § 3500.17(a) to include a reference to the voluntary disclosure format. This reference clarifies that the Department encourages, but does not require, originators and servicers to provide the format to consumers when they anticipate a substantial increase in disbursements from the escrow account after the first year of the loan.

2. This rule revises the definition of ''disbursement date'' in § 3500.17(b) to eliminate a redundant sentence that had referred to § 3500.17(k).

3. This rule adds a definition of ''penalty'' to § 3500.17(b) to clarify that a penalty does not include any additional charge or fee associated with choosing installment payments as opposed to annual payments or for choosing one installment plan over another. As discussed in Part III(C)(1) of this preamble, this new definition is necessary to clarify, in response to comments on the proposed rule, that a service fee levied by the payee on installment payments is not regarded as a penalty.

4. This rule amends § 3500.17 (c)(1) and (c)(2) to eliminate redundant descriptions of the requirements of § 3500.17(k); the requirements of § 3500.17(k) are clarified by revisions to that paragraph. This rule also makes technical amendments to the citation of § 3500.17 (c)(1) and (c)(2).

5. This rule revises § 3500.17(i)(1) to conform the language more closely to the statutory language in section 10(c)(2)(A) of RESPA. While this clarification pertains to escrow accounting, it does not directly relate to the other matters addressed in this final rule. This is a technical clarification, not a departure from prior requirements. As such, the Department restates its position that because an escrow account statement clearly itemizes all amounts paid out of the escrow account during the period as required, the statement does not also have to provide, as an additional element of the statement, a separate sum of all of those amounts.

6. This rule revises § 3500.17 (k)(1) and (k)(2) to eliminate awkward and unnecessary cross-references to the definition of ''disbursement date.'' The revisions to paragraph (k)(1) eliminate language that had indicated that in calculating the disbursement date, servicers were to use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty. This language caused much public confusion. Instead, as explained in Part III(C)(1) of this preamble, under this final rule servicers are required to disburse in a timely manner, that is, on or before the deadline to avoid a penalty. For escrow items other than property taxes, the rule leaves it to the servicer to decide whether to disburse on a date early enough to take advantage of discounts, so long as the disbursement basis (annual or installments) and the disbursement date complies with the normal lending practice of the lender and local custom and constitutes prudent lending practice. For property taxes only, this rule contains special requirements in paragraph (k)(3).

7. This rule adds § 3500.17(k)(3) to specify the special additional requirements applicable to property taxes when the taxing jurisdiction offers the servicer a choice of disbursements on an installment or annual basis. Those requirements are explained in Part III(C)(1) of this preamble.

8. This rule adds § 3500.17(k)(4) to specify that a servicer and borrower may mutually agree, on an individual case basis, to a different disbursement basis (installment or annual) or disbursement date for property taxes, so long as their agreement avoids a penalty, complies with the normal lending practice of the lender and local custom, and constitutes prudent lending practice. This provision is discussed in Part III(C)(1) of this preamble.

9. This rule makes one minor clarification to the instructions to the HUD–1 as it relates to disclosure of ''lead-based paint inspection'' fees.

10. This rule includes as an appendix a voluntary disclosure format that is entitled ''Consumer Disclosure for Voluntary Escrow Account Payments.'' This format is discussed in Part IV(C)(1) of this preamble.

11. This rule adds a footnote instruction to Appendix C to part 3500, the Sample Form of Good Faith

Estimate, to clarify that single item analysis with a 1-month cushion can be used in developing the estimates for reserves relating to lines 1000–1005 of the Good Faith Estimate.

Findings and Certifications

Paperwork Reduction Act

The information collection requirements in this final rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0517. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321).

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review,* issued by the President on September 30, 1993. OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made in this rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection between 7:30 a.m. and 5:30 p.m. in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. This rule will maintain existing requirements, but clarify them. It also recommends voluntary use of certain practices that would benefit consumers, including voluntary use of a model disclosure format.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule is directed toward clarifying existing requirements and encouraging voluntary use of certain practices that the Department believes would be beneficial to consumers.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4; approved March 22, 1995), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgages, Mortgage servicing, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, part 3500 of title 24 of the Code of Federal Regulations is amended as set forth below.

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

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

Authority: 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

2. In § 3500.17:

a. Paragraph (a) is amended by adding a sentence at the end;

b. Paragraph (b) is amended by revising the definition of ''*Disbursement date*'', and by adding a new definition of ''*Penalty*'' in alphabetical order;

c. Paragraphs (c)(2) and (c)(3) are revised;

d. Paragraph (f) is amended by adding a new paragraph (f)(2)(iii);

e. Paragraph (i) is amended by revising the third sentence of the introductory text of paragraph (i)(1) and by revising paragraph (i)(1)(iv); and

f. Paragraph (k) is revised, to read as follows:

§ 3500.17 Escrow accounts.

(a) * * * A HUD Public Guidance Document entitled ''Consumer Disclosure for Voluntary Escrow Account Payments'' provides a model disclosure format that originators and servicers are encouraged, but not required, to provide to consumers when the originator or servicer anticipates a substantial increase in disbursements from the escrow account after the first year of the loan. The disclosures in that model format may be combined with or included in the Initial Escrow Account Statement required in § 3500.17(g).

(b) * * *

* * * * *

Disbursement date means the date on which the servicer actually pays an escrow item from the escrow account.

* * * * *

Penalty means a late charge imposed by the payee for paying after the disbursement is due. It does not include any additional charge or fee imposed by the payee associated with choosing installment payments as opposed to annual payments or for choosing one installment plan over another.

* * * * *

(c) * * *

(2) *Escrow analysis at creation of escrow account.* Before establishing an escrow account, the servicer must conduct an escrow account analysis to determine the amount the borrower must deposit into the escrow account (subject to the limitations of paragraph (c)(1)(i) of this section), and the amount of the borrower's periodic payments into the escrow account (subject to the limitations of paragraph (c)(1)(ii) of this section). In conducting the escrow account analysis, the servicer must estimate the disbursement amounts according to paragraph (c)(7) of this section. Pursuant to paragraph (k) of this section, the servicer must use a date on or before the deadline to avoid a penalty as the disbursement date for the escrow item and comply with any other requirements of paragraph (k) of this section. Upon completing the initial escrow account analysis, the servicer must prepare and deliver an initial escrow account statement to the borrower, as set forth in paragraph (g) of this section. The servicer must use the escrow account analysis to determine whether a surplus, shortage, or deficiency exists and must make any

adjustments to the account pursuant to paragraph (f) of this section.

(3) *Subsequent escrow account analyses.* For each escrow account, the servicer must conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year, subject to the limitations of paragraph (c)(1)(ii) of this section. In conducting the escrow account analysis, the servicer must estimate the disbursement amounts according to paragraph (c)(7) of this section. Pursuant to paragraph (k) of this section, the servicer must use a date on or before the deadline to avoid a penalty as the disbursement date for the escrow item and comply with any other requirements of paragraph (k) of this section. The servicer must use the escrow account analysis to determine whether a surplus, shortage, or deficiency exists, and must make any adjustments to the account pursuant to paragraph (f) of this section. Upon completing an escrow account analysis, the servicer must prepare and submit an annual escrow account statement to the borrower, as set forth in paragraph (i) of this section.

* * * * *

(f) * * *

(2) * * *

(iii) After an initial or annual escrow analysis has been performed, the servicer and the borrower may enter into a voluntary agreement for the forthcoming escrow accounting year for the borrower to deposit funds into the escrow account for that year greater than the limits established under paragraph (c) of this section. Such an agreement shall cover only one escrow accounting year, but a new voluntary agreement may be entered into after the next escrow analysis is performed. The voluntary agreement may not alter how surpluses are to be treated when the next escrow analysis is performed at the end of the escrow accounting year covered by the voluntary agreement.

* * * * *

(i) * * *

(1) * * * The annual escrow account statement must include, at a minimum, the following (the items in paragraphs (i)(1)(i) through (i)(1)(iv) must be clearly itemized):

* * * * *

(iv) The total amount paid out of the escrow account during the same period for taxes, insurance premiums, and other charges (as separately identified);

* * * * *

(k) *Timely payments.* (1) If the terms of any federally related mortgage loan require the borrower to make payments to an escrow account, the servicer must pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the borrower's payment is not more than 30 days overdue.

(2) The servicer must advance funds to make disbursements in a timely manner as long as the borrower's payment is not more than 30 days overdue. Upon advancing funds to pay a disbursement, the servicer may seek repayment from the borrower for the deficiency pursuant to paragraph (f) of this section.

(3) For the payment of property taxes from the escrow account, if a taxing jurisdiction offers a servicer a choice between annual and installment disbursements, the servicer must also comply with this paragraph (k)(3). If the taxing jurisdiction neither offers a discount for disbursements on a lump sum annual basis nor imposes any additional charge or fee for installment disbursements, the servicer must make disbursements on an installment basis. If, however, the taxing jurisdiction offers a discount for disbursements on a lump sum annual basis or imposes any additional charge or fee for installment disbursements, the servicer may at the servicer's discretion (but is not required by RESPA to), make lump sum annual disbursements in order to take advantage of the discount for the borrower or avoid the additional charge or fee for installments, as long as such method of disbursement complies with paragraphs (k)(1) and (k)(2) of this section. HUD encourages, but does not require, the servicer to follow the preference of the borrower, if such preference is known to the servicer.

(4) Notwithstanding paragraph (k)(3) of this section, a servicer and borrower may mutually agree, on an individual case basis, to a different disbursement basis (installment or annual) or disbursement date for property taxes from that required under paragraph (k)(3) of this section, so long as the agreement meets the requirements of paragraphs (k)(1) and (k)(2) of this section. The borrower must voluntarily agree; neither loan approval nor any term of the loan may be conditioned on the borrower's agreeing to a different disbursement basis or disbursement date.

* * * * *

3. In Appendix A to part 3500, under the text heading ''Line Item Instructions'', and under the subheading ''Section L. Settlement Charges'', the paragraph beginning with the phrase ''Lines 1301 and 1302'' is revised to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 and HUD–1A Settlement Statements; Sample HUD–1 and HUD–1A Statements

* * * * *

Line Item Instructions

* * * * *

Section L. Settlement Charges

* * * * *

Lines 1301 and 1302, or any other available blank line in the 1300 series, are used for fees for survey, pest inspection, radon inspection, lead-based paint inspection, or other similar inspections.

* * * * *

4. Appendix C to part 3500 is amended by adding a new footnote 3 after the word ''Reserves'' in the first column of the table, and by adding the following text under the heading ''FOOTNOTES'' at the end after the text of footnote 2, to read as follows:

Appendix C to Part 3500—Sample Form of Good Faith Estimate

* * * * *

Footnotes

* * * * *

[3] As an alternative to using aggregate accounting with no more than a two-month cushion, the estimate may be obtained by using single-item accounting with no more than a one-month cushion.

Dated: January 13, 1998.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

The following Appendix, ''Public Guidance Document, Consumer Disclosure for Voluntary Escrow Account Payments'', will not be codified in title 24 of the Code of Federal Regulations.

Appendix

Public Guidance Document

Consumer Disclosure for Voluntary Escrow Account Payments

The bills paid out of your escrow account are expected to increase substantially after the first year[.] [because _____ .] Under normal escrow practices, your monthly escrow payment in the second year could be much higher than in the first.

You may voluntarily choose to make higher payments during the first year to reduce or eliminate the monthly payment increase in the second year. If you are interested in doing this, contact:

_____.

[INSTRUCTIONS TO PREPARER: You are encouraged to provide this document to borrowers when you anticipate a substantial increase in bills paid out of the escrow account after the first year of the loan. Explanation of the reason for the increase is

recommended. The document may be delivered separately or combined with the Initial Escrow Account Statement. In the blank provided, insert the contact for further information, including the mailing address, fax number, e-mail address, and/or telephone number of the contact who will provide further information on making voluntary overpayments during the first year. The terms ''reserve'' or ''impound'' may be substituted for the terms ''escrow account'' or ''escrow'' to reflect local usage. These INSTRUCTIONS TO PREPARER should not appear on the form.]

[FR Doc. 98–1395 Filed 1–20–98; 8:45 am]

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Federal Register

Wednesday
January 21, 1998

Part IV

Department of Education

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research: Applications, Invitation for New Traumatic Brain Injury (TBI) Model Systems Projects Under the Disability and Rehabilitation Research Projects and Centers Program (FY 1998); Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133A]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Traumatic Brain Injury (TBI); Model Systems Projects Under the Disability and Rehabilitation; Research Projects and Centers Program for Fiscal Year 1998

Purpose of Program: Authority for Disability and Rehabilitation Research Projects (DRRPs) is contained in section 202 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 761a). DRRPs carry out one or more of the following types of activities, as specified in 34 CFR 350.13–350.19: research, development, demonstration, training, dissemination, utilization, and technical assistance. Disability and Rehabilitation Research Projects develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities.

This notice supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Deadline for Transmittal of Applications: March 23, 1998.

Application Available: January 20, 1998.

Maximum Award Amount per Year: $345,000.

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Estimated Number of Awards: 10.

Note: The estimates of funding level and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: 48 months.

Eligible Applicants: Parties eligible to apply for grants under this program are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, and 34 CFR part 350.

Priority: This notice invites applications for TBI Model Systems Projects. On May 9, 1997 a notice of final priority was published in the **Federal Register** establishing the required activities for TBI Model System Projects in fiscal year 1997 and fiscal year 1998.

The conference agreement accompanying NIDRR's FY 1998 appropriation included $5 million to permit NIDRR to establish additional TBI Model System projects and a national data center.

This notice invites applications for additional TBI Model Systems Projects in FY 1998. In addition to establishing the TBI Model Systems Project in FY 1998, NIDRR plans to invite applications for collaborative research involving the TBI Model Systems.

On February 6, 1997 NIDRR published in the **Federal Register** regulations consolidating a number of regulations governing NIDRR's existing programs, including, but not limited to, Parts 350 (General Provisions) and 351 (Research and Demonstration Projects). These new regulations took effect on October 1, 1997 and apply to this competition. The new regulations include a new menu of selection criteria (34 CFR 350.54) for use in evaluating all applications. NIDRR has drawn from this menu of selection criteria to establish the specific selection criteria (contained in the application package) that will be used to evaluate applications for the TBI Model Systems Projects priority referenced in this notice inviting applications. The final priorities established for the TBI Model Systems R&D Projects in FY 1997 will be used for equivalent projects in FY 1998.

For Applications Contact: The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna__Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document: Anyone may view this document, as well as all other Department of Education documents 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 preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: January 15, 1998.

Howard R. Moses,

Acting Assistant Secretary for Special Education andRehabilitative Services.

[FR Doc. 98–1405 Filed 1–20–98; 8:45 am]

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Federal Register

Wednesday
January 21, 1998

Part V

The President

Proclamation 7063—Religious Freedom Day, 1998

Proclamation 7064—Martin Luther King, Jr., Federal Holiday, 1998

Federal Register
Vol. 63, No. 13
Wednesday, January 21, 1998

Presidential Documents

Title 3—

The President

Proclamation 7063 of January 15, 1998

Religious Freedom Day, 1998

By the President of the United States of America

A Proclamation

The right to worship according to one's own conscience is essential to our dignity as human beings. Whatever our religious beliefs, they represent the essence of our personal values and cannot be dictated to us. Recognizing this truth, our founders made religious liberty the first freedom guaranteed in the Bill of Rights. They wisely understood as well that in protecting the free exercise of religion, we must also prohibit the establishment of religion by the state.

Among the early European settlers who came to our shores were many seeking to escape the religious compulsion and persecution they had endured in the lands of their birth. William Penn, Roger Williams, and many others would strive to make their settlements havens for freedom of conscience, laying the foundation for the great tradition of religious liberty that would ultimately find expression in the First Amendment to the Constitution. Since those early days, our continuing aspiration has been to banish lingering prejudice and increase religious understanding and respect among our people.

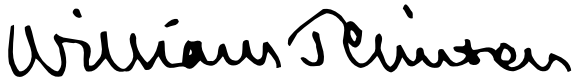
Today, millions of people of different faiths call America home. The churches, synagogues, temples, mosques, and other houses of worship they have built have become centers of community life and service and a source of strength for our Nation. As our country becomes increasingly diverse, we must reaffirm our efforts to reach out to one another and to see past our differences to the values we hold in common.

My Administration is striving to enhance this climate of acceptance and respect, bringing people together across lines of faith. Two years ago, with the help of a broad coalition of religious and civic leaders, we created guidelines clarifying the nature of religious expression permitted in our public schools and reaffirming that America's young people do not have to leave their religious beliefs at the schoolhouse door. With the help of that same coalition, I issued additional guidelines last August to reinforce the right of religious expression in the Federal workplace. Building on America's long-standing commitment to freedom and fairness, these guidelines will ensure that Federal employees may engage in personal religious expression to the greatest extent possible, consistent with workplace efficiency and the requirements of law. The guidelines also clarify that Federal employers may not discriminate in employment on the basis of religion and that an agency must reasonably accommodate employees' religious practices.

On Religious Freedom Day this year, as we celebrate and cherish this precious right we enjoy as Americans, we must not forget others who are less fortunate. Throughout the world, in many lands, too many people still suffer and die for their beliefs, and lives, families, and communities are torn apart by old hatreds and prejudices. We must continue to proclaim the fundamental right of all peoples to believe and worship according to their own conscience, to affirm their beliefs openly and freely, and to practice their faith without fear or intimidation. The priceless gift we have inherited from past generations will only grow in value as we share it with others.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 1998, as Religious Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies, activities, and programs, and I urge all Americans to reaffirm their devotion to the fundamental principles of religious freedom and religious tolerance.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of January, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 98–1609
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Presidential Documents

Proclamation 7064 of January 16, 1998

Martin Luther King, Jr., Federal Holiday, 1998

By the President of the United States of America

A Proclamation

America has been blessed with heroes throughout our history, men and women of vision and courage who have set our feet firmly on the path of freedom and equality. Some became heroes by leading us in times of struggle; some by shaping our values and challenging us to greatness. And a few, like Dr. Martin Luther King, Jr., have done all this and more.

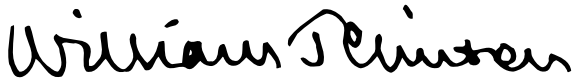
A thoughtful man and one of deep personal faith, his conscience called him into action for the soul of our Nation. He mobilized thousands of other brave and principled Americans—black and white, renowned and unknown—and began a crusade for justice that continues today. In sit-ins, marches, demonstrations, and boycotts, he and many others met violence with nonviolence and ignorance with determination. They awakened the conscience of our Nation and succeeded in winning passage of historic civil rights legislation: the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. Pouring out his life in service, Dr. King made enormous and lasting contributions to improve the lives of millions of his fellow Americans.

Almost 35 years have passed since Dr. King challenged us from the steps of the Lincoln Memorial to live out the true meaning of our creed—that all men are created equal—and almost 30 years have passed since he was taken from us after an all-too-brief sojourn on this earth. A generation of young Americans has come of age without experiencing firsthand the power of his vision or the eloquence of his voice. Much has changed for the better in that time, but we still have much to do if we are to finish the work of Martin Luther King, Jr.

Following his example of service, we must build communities where everyone shares an equal opportunity for a good education and a good job, where our children can grow up without living in the shadow of guns, gangs, and drugs, and where we reject separation and isolation and instead celebrate together the blessing of our diversity. Last June, I established my initiative, ''One America in the 21st Century,'' to encourage a national dialogue among Americans about race and to spur concerted action that will bring Americans together. We must put aside the bitter refrains of accusation and recrimination and instead discuss and implement new ideas for forging a single Nation in the 21st Century out of our ever-increasing racial and ethnic diversity. By learning to talk to one another, to trust one another, and to work together in hope, we can and will come to the time Dr. King foresaw when ''justice rolls down like waters.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 19, 1998, as the Martin Luther King, Jr., Federal Holiday. I call upon the people of the United States to observe this occasion with appropriate programs, ceremonies, and activities and to participate in the many community service activities taking place across the country on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.



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The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

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