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Contents

Federal Register

Vol. 63, No. 67

Wednesday, April 8, 1998

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Hanford Health Projects Inter-tribal Council et al., 17182
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 17182–17183
Scientific Counselors Board, 17183

Agricultural Marketing Service
PROPOSED RULES
Onions (sweet) grown in Washington and Oregon, 17125–17127

Agriculture Department
See Agricultural Marketing Service
See Federal Crop Insurance Corporation
See Forest Service
See Rural Utilities Service

Antitrust Division
NOTICES
National cooperative research notifications:
Asymmetrical digital subscriber line forum, 17214
Microelectronics and Computer Technology Corp., 17214–17215

Army Department
NOTICES
Meetings:
Army Science Board, 17160

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Assassination Records Review Board
NOTICES
Formal determinations and records release, 17151–17152

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
District of Columbia, 17152
Nevada, 17152
Rhode Island, 17152
South Dakota, 17152–17153

Coast Guard
RULES
Ports and waterways safety:
San Francisco Bay, CA; safety zone, 17098–17099

Commerce Department
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17153–17154

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Macedonia, 17156–17157

Copyright Office, Library of Congress
PROPOSED RULES
Copyright office and procedures:
Special services; fees
Correction, 17142–17143

Defense Department
See Army Department
See Uniformed Services University of the Health Sciences
RULES
Acquisition regulations:
Miscellaneous amendments
Correction, 17124
Veterans employment emphasis
Correction, 17124
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17157–17160

Employment and Training Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17215–17217

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Sales regulation:
Strategic petroleum reserve; standard sales provisions, 17260–17305
NOTICES
Electricity export and import authorizations, permits, etc.:
Burke-Divide Electric Cooperative, Inc., 17162
Grants and cooperative agreements; availability, etc.:
Solar water heating systems; development of niche markets; solicitation of applications, 17160–17161
University reactor instrumentation program, 17161
Meetings:
Environmental Management Site-Specific Advisory Board—
Idaho National Engineering and Environmental Laboratory, 17161–17162

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Clethodim, 17101–17108
Hexythiazox, 17099–17101
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17170–17172
Committees; establishment, renewal, termination, etc.:
Science Advisory Board, 17172–17173
Meetings:
Certification and recertification of community and nontransient noncommunity public water systems; stakeholders, 17173–17174
National Drinking Water Advisory Council, 17174
Pesticide, food, and feed additive petitions:
Monsanto Co., 17174–17176
Pesticides; emergency exemptions, etc.:
Carbofuran, 17177–17178

Federal Aviation Administration
RULES
Airworthiness standards:
Special conditions—
Lockheed-Martin model 382J; automatic thrust control system, 17090–17092
Class D airspace, 17092–17093
PROPOSED RULES
Airworthiness directives:
Empresa Brasileira de Aeronautica, S.A., 17130–17132

Federal Communications Commission
RULES
Personal communications services:
Licenses in C block (broadband PCS)—
Installment payment financing, 17111–17123
Radio stations; table of assignments:
Minnesota, 17123–17124
Oregon, 17123
PROPOSED RULES
Radio stations; table of assignments:
Indiana, 17146
Tennessee, 17145–17146
Texas, 17145
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17178
Submission for OMB review; comment request, 17178–17179
Meetings:
North American Numbering Council, 17179

Federal Crop Insurance Corporation
RULES
Crop insurance regulations:
Apples, 17050–17056

Federal Deposit Insurance Corporation
RULES
International banking regulations; consolidation and simplification, 17056–17090

Federal Emergency Management Agency
RULES
Disaster assistance:
Public assistance and hazard mitigation grant programs; appeals review and disposition procedures, 17108–17111

Federal Energy Regulatory Commission
NOTICES
Environmental statements; notice of intent:
Enogex Interstate Transmission L.L.C. and Ozark Gas Transmission L.L.C.; Ozark/NOARK expansion project, 17168–17170
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 17163
CNG Transmission Corp., 17163
El Paso Natural Gas Co., 17164
Georgia Power Co., 17164
Graham-Michaelis Corp., 17164–17165
Indiana Michigan Power Co., 17165
Kern River Gas Transmission Co., 17166
K N Interstate Gas Transmission Co., 17165–17166
Minnesota Power & Light Co., 17166–17167
Molz Oil Co., 17167
NorAm Gas Transmission Co., 17167–17168
Texas Gas Transmission Corp., 17170
Williams Gas Pipelines Central, Inc., 17168

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Florida High Speed Rail project between Miami, Orlando, and Tampa, FL, 17254
Meetings:
Intelligent Transportation Society of America, 17254–17255

Federal Maritime Commission
NOTICES
Investigations, hearings, petitions, etc.:
Best Freight International Ltd., et al., 17180–17181

Federal Reserve System
NOTICES
Banks and bank holding companies:
Formations, acquisitions, and mergers, 17181
Permissible nonbanking activities, 17181–17182

Federal Trade Commission
PROPOSED RULES
Industry guides:
Rebuilt, reconditioned, and other used automobile parts industry, 17132–17133

Food and Drug Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17183–17184
Meetings:
Drug Abuse Advisory Committee, 17185–17186
Medical Devices Advisory Committee, 17186
Reports and guidance documents; availability, etc.:
Regulatory submissions in electronic format; guidance, 17184–17185

Forest Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17147–17149
Meetings:
Scientist Committee, 17147

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17204
Grants and cooperative agreements; availability, etc.:
Public and Indian housing—
Tenant opportunities program, 17204–17208

Indian Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Indian into medicine programs, 17186–17189

Interior Department
See Land Management Bureau

See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office
NOTICES
Committees; establishment, renewal, termination, etc.:
National Satellite Land Remote Sensing Data Archive Advisory Committee, 17208

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17256–17257

Justice Department
See Antitrust Division
See Parole Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Community Oriented Policing Services; FY 1998, 17211–17212
Pollution control; consent judgments:
Ace Tank Co., 17212
Davis, William, et al., 17212–17213
Lockheed Martin Corp. et al., 17213
Prochnow, Marvin E., et al., 17213–17214

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 17208–17209
Meetings:
Resource advisory councils—
Arizona, 17209
Lower Snake River District, 17209
Withdrawal and reservation of lands:
Idaho, 17209–17210

Library of Congress
See Copyright Office, Library of Congress

Minerals Management Service
PROPOSED RULES
Royalty management:
Electronic submission of royalty and production reports, 17133–17138

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Leadership Initiatives Panel, 17217

National Institutes of Health
NOTICES
Invention, Government-owned; availability for licensing, 17189–17190
Meetings:
Center for Scientific Review special emphasis panels, 17190–17191
National Cancer Institute, 17191–17192
National Center for Research Resources, 17192
National Heart, Lung, and Blood Institute, 17192
National Heart, Lung, and Blood Institute; cancellataion, 17193
National Insitute of Allergy and Infectious Diseases, 17193
National Institute of Allergy and Infectious Diseases, 17193–17196
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 17194–17195
National Institute of Child Health and Human Development, 17193, 17195
National Institute of Diabetes and Digestive and Kidney Diseases, 17195
National Institute of General Medical Sciences, 17194
National Institute of Mental Health, 17194
National Institute of Nursing Research, 17193
National Library of Medicine, 17196
Scientific Review Center special emphasis panels, 17196–17197

National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17154
Marine mammals:
Incidental taking; authorization letters, etc.—
Vandenberg Air Force Base, CA; space launch vehicles, 17154–17155
Reports and guidance documents; availability, etc.:
Release of stranded marine mammals to wild; background, preparation, and release criteria, 17156

National Park Service
NOTICES
Concession contract negotiations:
Golden Gate National Recreation Area, CA; Bay Area Discovery Museum; food and gift shop, 17210
Meetings:
Boston Harbor Islands National Recreation Area Advisory Committee to the Partnership, 17210–17211
Realty actions; sales, leases, etc.:
California, 17211

Nuclear Regulatory Commission
PROPOSED RULES
Fee schedules revision; 100% fee recovery (1998 FY)
Correction, 17130
NOTICES
Committees; establishment, renewal, termination, etc.:
Medical Uses of Isotopes Advisory Committee, 17218
Meetings:
Reactor Safeguards Advisory Committee, 17218
Meetings; Sunshine Act, 17218–17219
Operating licenses, amendments; no significant hazards considerations; biweekly notice, 17219–17242
Applications, hearings, determinations, etc.:
General Atomics, 17217–17218

Occupational Safety and Health Administration
RULES
Safety and health standards, etc.:
Reporting and recordkeeping requirements, 17093–17094

Parole Commission
NOTICES
Meetings; Sunshine Act, 17215

Personnel Management Office
RULES
Retirement:
Federal Employees Retirement System—
Disability retirement; application procedures uniformity, 17049–17050

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Rate, fee, and classsification changes
Correction, 17143–17145

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Rural Utilities Service
PROPOSED RULES
Electric loans:
Electric borrowers; hardship rate and municipal rate loans; queue prioritization, 17127–17128
Electric standards and specifications for materials and construction—
Underground electric distribution; specifications and drawings, 17128–17129
NOTICES
Agency information collection activities:
Proposed collection; comment request, 17149–17151

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Stock Exchange, Inc., 17246–17248
Delta Clearing Corp., 17249–17250
Pacific Exchange, Inc., 17250–17253
Participants Trust Co., 17253–17254
Applications, hearings, determinations, etc.:
B.A.T Industries p.l.c., 17242–17244
CoreFunds, Inc. and CoreStates Investment Advisers, Inc., 17244–17246

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Center for Mental Health Services and Center for Substance Abuse Treatment activities, 17197–17203
Meetings:
SAMHSA special emphasis panels, 17203–17204

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Illinois, 17094–17098
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Utah, 17138–17142

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
NOTICES
International cargo rate flexibility level:
Standard foreign fare level—
Index adjustment factors, 17254

Treasury Department
See Internal Revenue Service
NOTICES
Committees; establishment, renewal, termination, etc.:
IRS Citizen Advocacy Panel; South Florida Tax District, 17255–17256

Uniformed Services University of the Health Sciences
NOTICES
Meetings; Sunshine Act, 17160

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Aleksander Rodchenko, 17257

Separate Parts In This Issue

Part II
Department of Energy, 17260–17305

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
831.....17049
844.....17049

7 CFR
405.....17050
457.....17050

Proposed Rules:
956.....17125
1710.....17127
1714.....17127
1728.....17128

10 CFR

Proposed Rules:
140.....17130
171.....17130
625.....17260

12 CFR
303.....17056
325.....17056
326.....17056
327.....17056
346.....17056
347.....17056
351.....17056
362.....17056

14 CFR
25.....17090
71.....17092

Proposed Rules:
39.....17130

16 CFR

Proposed Rules:
20.....17132

29 CFR
1910.....17093
1926.....17093

30 CFR
913.....17094

Proposed Rules:
210.....17133
216.....17133
944.....17138

33 CFR
165.....17098

37 CFR

Proposed Rules:
201.....16142

39 CFR

Proposed Rules:
111.....17143

40 CFR
180 (2 documents). 17099, 17101
185.....17101
186.....17101

44 CFR
206.....17108

47 CFR
1.....17118
24.....17118
73 (2 documents) 17123

Proposed Rules:
73 (3 documents) 17146

48 CFR
209.....17124
212.....17124
213.....17124
217.....17124
222.....17124
252 (2 documents) 17124
235.....17124
243.....17124
252.....17124

Rules and Regulations

Federal Register
Vol. 63, No. 67
Wednesday, April 8, 1998

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 844

RIN 3206–AH68

Revised Application Procedures for Disability Retirement Under CSRS and FERS

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to establish uniformity in the application procedures for disability retirement under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). The regulations allow employees to meet the filing deadline for disability retirement by submitting applications directly to their employing agencies prior to separation, or to either their former employing agencies or OPM within 1 year after separation.

EFFECTIVE DATE: May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Robert J. Girouard, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On January 16, 1997, we published (at 62 FR 2323) proposed regulations to revise the application requirements for disability retirement under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS).

The revised rules allow OPM to accept a CSRS or FERS disability application filed with an employee's agency prior to separation, or with either the former employing agency or OPM within 1 year after separation. This revision constitutes a delegation of function by the Director of OPM under section 1104(a)(2) of title 5, United States Code.

The revised rules establish uniformity between CSRS and FERS with respect to OPM-prescribed disability retirement forms and informal claims. The revised rules also establish standards for determining the date on which an application for disability retirement has been filed.

OPM received comments from one Government agency. The commenter recommended including a reference to former employing agencies in sections 831.1204(a) and 844.201(a)(1), to meet the regulations' intent of allowing former employees to file applications for disability retirement with their former employing agencies within one year of separation. The commenter also recommended including a reference to former employing agencies in sections 831.1204(b) and 844.201(a)(2), to ensure that procedures for determining the date on which a disability retirement application is filed apply equally in all filing situations. The commenter further recommended replacing a confusing term in proposed section 831.1204(b) with a more clear term used in proposed section 844.201(a)(2). Finally, the commenter recommended revising the basic requirements for disability retirement in section 831.1203(a)(5) to conform with the changes made by these regulations to the filing rules for disability retirement applications in section 831.1204.

OPM has adopted all of these recommendations, as they improve the clarity of the regulations and reduce the likelihood of administrative error.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement and insurance benefits of retired Government employees and their survivors.

List of Subjects in 5 CFR Parts 831 and 844

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR parts 831 and 844 as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 is revised to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(1) also issued under 5 U.S.C. 8347(g); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; § 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); §§ 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; § 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; §§ 831.1203 and 831.1204 also issued under 5 U.S.C. 1104; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart L—Disability Retirement

2. In section 831.1203, paragraph (a)(5) is revised to read as follows:

§ 831.1203 Basic requirements for disability retirement.

(a) * * *

(5) An application for disability retirement must be filed with the employing agency before the employee or Member separates from service, or with the former employing agency or the Office of Personnel Management (OPM) within 1 year thereafter. This time limit can be waived only in certain instances explained in § 831.1204.

* * * * *

3. Section 831.1204 is revised to read as follows:

§ 831.1204 Filing disability retirement applications: General.

(a) Except as provided in paragraphs (c) and (d) of this section, an application for disability retirement is timely only if it is filed with the employing agency before the employee or Member separates from service, or with the former employing agency or OPM within 1 year thereafter.

(b) An application for disability retirement that is filed with OPM, an

employing agency or former employing agency by personal delivery is considered filed on the date on which OPM, the employing agency or former employing agency receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the application is presumed to have been mailed 5 days before its receipt, excluding days on which OPM, the employing agency or former employing agency, as appropriate, is closed for business. The date of filing by commercial overnight delivery is the date the application is given to the overnight delivery service.

(c) An application for disability retirement that is filed with OPM or the applicant's former employing agency within 1 year after the employee's separation, and that is incompletely executed or submitted in a letter or other form not prescribed by OPM, is deemed timely filed. OPM will not adjudicate the application or make payment until the application is filed on a form prescribed by OPM.

(d) OPM may waive the 1-year time limit if the employee or Member is mentally incompetent on the date of separation or within 1 year thereafter, in which case the individual or his or her representative must file the application with the former employing agency or OPM within 1 year after the date the individual regains competency or a court appoints a fiduciary, whichever is earlier.

(e) An agency may consider the existence of a pending disability retirement application when deciding whether and when to take other personnel actions. An employee's filing for disability retirement does not require the agency to delay any appropriate personnel action.

PART 844—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DISABILITY RETIREMENT

4. The authority citation for part 844 is revised to read as follows:

Authority: 5 U.S.C. 8461; § 844.201 also issued under 5 U.S.C. 1104.

Subpart A—General Provisions

5. In § 844.201, paragraphs (a) and (c) are revised to read as follows:

§ 844.201 General requirements.

(a)(1) Except as provided in paragraphs (a)(3) and (a)(4) of this section, an application for disability retirement is timely only if it is filed with the employing agency before the employee or Member separates from service, or with the former employing agency or OPM within 1 year thereafter.

(2) An application for disability retirement that is filed with OPM, an employing agency or former employing agency by personal delivery is considered filed on the date on which OPM, the employing agency or former employing agency receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the application is presumed to have been mailed 5 days before its receipt, excluding days on which OPM, the employing agency or former employing agency, as appropriate, is closed for business. The date of filing by commercial overnight delivery is the date the application is given to the overnight delivery service.

(3) An application for disability retirement that is filed with OPM or the applicant's former employing agency within 1 year after the employee's separation, and that is incompletely executed or submitted in a letter or other form not prescribed by OPM, is deemed timely filed. OPM will not adjudicate the application or make payment until the application is filed on a form prescribed by OPM.

(4) OPM may waive the 1-year time limit if the employee or Member is mentally incompetent on the date of separation or within 1 year thereafter, in which case the individual or his or her representative must file the application with the former employing agency or OPM within 1 year after the date the individual regains competency or a court appoints a fiduciary, whichever is earlier.

* * * * *

(c) An agency may consider the existence of a pending disability retirement application when deciding whether and when to take other personnel actions. An employee's filing for disability retirement does not require the agency to delay any appropriate personnel action.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 405 and 457

Apple Crop Insurance Regulations and Common Crop Insurance Regulations, Apple Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of apples. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current apple crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current apple crop insurance regulation to the 1998 and prior crop years.

EFFECTIVE DATE: May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0053 through October 31, 2000.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained

in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of the insurance companies will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Additionally, the regulation does not require any action on the part of small entities than is required for large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, May 8, 1997, FCIC published a notice of proposed rule making in the **Federal Register** at 62 FR 25140 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section 7 CFR 457.158, Apple Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring apples found at 7 CFR part 405 (Apple Crop Insurance Regulations). FCIC also amends 7 CFR part 405 to limit its effect to the 1998 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 103 comments were received from reinsured companies, an insurance service organization, producer groups, and apple producers. The comments received and FCIC's responses are as follows:

Comment: A reinsured company stated the price elections need to be refined to reflect true markets. The price election for both fresh and processing is too low.

Response: Price elections established by FCIC are a projected market price, as required by law. Reported market prices often contain substantial post-production value added, such as harvesting, packing, cullage, transportations to market, and other factors that are not included in the expected market price. Thus, reported market prices are reduced by an amount deemed representative of these post-production added costs. The amount of the price election is determined from cost of production estimated by the Cooperative State Research, Education, and Extension Service or the land-grant university in many states. Therefore, no change will be made.

Comment: A reinsured company stated that FCIC acreage determination is based on land acres while the industry uses estimated tree count acres. The commenter stated that FCIC should be more reflective of reality and not impose their unique demands on an industry for no apparent reason.

Response: FCIC has discussed the issue of land verses tree acre with producers, reinsured companies, and an insurance service organization, and has determined that land acres will be used, unless otherwise provided in the Special Provisions. This will allow flexibility in situations where circumstances dictate that tree acres may be more accurate.

Comment: A reinsured company expressed concern over the paperwork burden. The commenter stated that several years ago a self-certification form was developed to eliminate the need for full inspections on small orchards. Now the self-certification form is required on all orchards in addition to the full inspection and must be completed annually.

Response: The overall paperwork burden on the producer or reinsured company on the self-certification form is not materially greater under the proposed provisions. Pre-acceptance field inspections are only required for limited situations as specified in the 1998 FCIC 18010 Crop Insurance Handbook. Pre-acceptance field inspections were designed to identify those situations requiring a full inspection, thereby eliminating the requirement to inspect all orchards. Therefore, no change will be made.

Comment: A reinsured company stated the insurance coverage is too expensive for the medium size and larger producers considering the limited protection they receive. The coverage becomes less effective as the acreage increases and the inequity accelerates if the producer has high tree density and high value varieties of apples. Most of the progressive, professional producers are adding more and more acres of the higher value apples with high tree density plantings (more trees per acre), and the coverage is falling further and further behind in being able to provide protection against major losses.

Response: FCIC reviews and makes necessary revisions to premium rates for all crop programs including crop type and practices. Insurance guarantees are based on the actual production history (APH) regulations, 7 CFR part 400, subpart G, not the size of the unit. The policy allows for changes in established guarantees when changes in the orchard cause significant changes in yield. FCIC recognizes the commenter's concerns, and will consider them in the future as regulations, procedures and premium rates are revised.

Comment: A reinsured company stated the actual production history (APH) method understates future production potential for up trending orchards.

Response: FCIC recognizes the commenter's concerns that the APH method understates future production potential for up trending orchards and will take these concerns under consideration when APH regulations and procedures are reviewed to comply with the Federal Crop Insurance Act.

Comment: A reinsured company recommended deleting the definition of

''adapted'' because it is already covered under the definition of ''good farming practices'' and referenced in 6(b)(1).

Response: FCIC has removed the definition of ''adapted'' from these provisions.

Comment: A reinsured company suggested identifying the states or regions using various container sizes in the definition of ''production guarantee.''

Response: Standard container sizes vary by state or region based on buyers, packinghouses, or processors. Identifying the state or region using various container sizes in the definition of ''production guarantee'' would make it difficult to recognize changes in container sizes. The units of measurement for apples are contained in the actuarial documents to permit changes in container sizes to recognize industry practices without changing the regulations. Therefore, no change has been made.

Comment: A reinsured company is concerned with the definition of ''good farming practice.'' Commenter suggested the definition should read,* * *''recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.''

Response: FCIC believes the term ''area'' is less clear than the term ''county'' and would tend to make determinations more subjective in nature. The definition of ''good farming practices'' has not been revised, but has been removed from these Crop Provisions and placed in the Basic Provisions.

Comment: A reinsured company suggested defining ''sunburn'' instead of referring to the definition contained in the U.S. Standards for Apples.

Response: Referring to ''sunburn'' as contained in the U.S. Standards for Apples, allows changes in the U.S. Standards to be recognized without changing these regulations. Also, using U.S. Standards for Apples assures standards will be based on a single source. Therefore, no change will be made.

Comment: A reinsured company recommended changes in section 2(e)(3). The commenters expressed concern regarding the use of FSN farm serial numbers to establish optional units. The commenter suggested establishing an optional unit by block, with a minimum number of acres required for an optional unit. Also, comments were made that the standard definition from the Common Crop Insurance Policy which defines a unit ''all insurable acreage of the insured crop in the county'' should be used. The commenter further suggested that unit division for optional units be based only on non-contiguous land or the irrigated and non-irrigated practice (if allowed in the actuarial documents).

Response: All provisions from the Basic Provisions apply unless otherwise excepted in these provisions. FSN farm serial numbers, non-contiguous land, and irrigated and non-irrigated practices are only a few of the requirements needed for establishing optional units. These requirements allow a producer to establish optional units if all applicable requirements are met. Basing optional units on minimum acreage may not be fair to producers who have small acreage in several locations. The optional unit requirements contained in these provisions are consistent with other perennial crop policies. Therefore, no changes have been made.

Comment: A reinsured company stated that the change from basic to optional units by contiguous land in 2(e)(3)(iii) should be communicated to the insured. The commenter believes that the insured needs to understand this change and the impact it has on the premium, if the insured wishes to retain units by non-contiguous land.

Response: It is the agent's responsibility to explain program changes to their insureds. FCIC will furnish the summary of program changes to insurance providers, who will then notify agents and issue the new policy to policyholders.

Comment: A reinsured company requested clarification as to how much change to the orchard would have to occur to reduce the expected yield under section 3(b). The commenter questioned whether the loss of one tree would reduce the expected yield enough so that it must be reported, or would the reduction in trees have to exceed a certain percentage per acre.

Response: This section requires the insured to inform the agent when production practices have changed, any damage, removal of trees, or any circumstance specified in the 1998 FCIC 18010 Crop Insurance Handbook that may reduce the yield below the yield upon which the insurance guarantee is based. If the change in the orchard is not likely to affect the yield, the change need not be reported. This requirement is consistent with other perennial crop policies. Therefore, no change has been made.

Comment: A producer recommended that the insurance period be defined as late December in section 8. This would allow producers time to consider risk management strategies in a more reasonable time frame. The commenter believes the November date is too close to the end of the harvest period.

Response: The apple crop insurance coverage includes loss of production due to adverse weather conditions, some of which may incur during the winter months. Therefore, it is reasonable and prudent to begin coverage prior to the date such weather is most likely to occur, and has selected November 21 as the date for insurance to attach. While this shortens the time available after harvest for risk management decisions, the need to operate a sound insurance program is paramount. This is also consistent with other perennial crop insurance policies. Therefore, no change has been made.

Comment: A producer recommended deleting the phrase ''pruning debris has not been removed from the orchard'' in section 9(a)(2). The commenter stated it is no longer a standard practice in their area to remove pruning debris from the orchard. Pruned branches customarily are chopped and left on the orchard floor.

Response: The practice of chopping pruning debris and leaving it on the orchard floor is not customary in all apple growing regions. This provision applies to pruning debris that is not mulched and left in place. The provision has been clarified to specify unmulched pruning debris.

Comment: A producer recommended in section 9(a)(9) removing ''wildlife as a cause of loss, unless appropriate control measures have not been taken.''

Response: Damage caused by wildlife will remain as an insurable cause of loss. This coverage is consistent with other crop policies. FCIC has removed the phase, ''unless appropriate control measures have not been taken'' because that language is too subjective.

Comment: A reinsured company questioned the provisions in 10(b) that requires a 15 day notice before any production is sold by direct marketing so the insurance provider can appraise the production to count. The commenter believes the pre-inspection process is very inaccurate.

Response: This inspection is presently the only method to obtain a reasonable estimate of production to count for direct marketed production. This requirement is consistent with other perennial crop policies. Therefore, no change has been made.

Comment: A reinsured company recommended the calculation sequence in section 11(b) (1) through (7) be changed. The commenter stated it was difficult to follow because it is too wordy.

Response: The steps in calculating a claim for indemnity in section 11 are

clearly stated. Therefore, no change has been made.

Comment: A reinsured company recommended that the provisions in section 11(c)(1)(iv) not allow the insured to defer settlement and wait for a later, generally a lower appraisal, especially since apples have a short shelf life.

Response: The later appraisal will only be necessary if the insurance provider agrees that such appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not care for the crop, the original appraisal is used. If the insurance provider believes the original appraisal is accurate, resolution of the dispute may be sought through arbitration or appeal, whichever is applicable. Therefore, no change has been made.

Comment: A reinsured company recommended removing the requirement for a written agreement to be renewed each year contained in section 12(d) ''Written agreement.''

Response: Written agreements are intended to change policy terms or permit insurance in unusual situations. If such practices continue from year to year, they should be incorporated into the policy, Special Provisions or the actuarial documents. To streamline Crop Provisions and prevent duplication, the written agreement section was removed from these Crop Provisions and was added to section 18 of the Basic Provisions.

Comment: A reinsured company questioned whether the provisions in section 12(e) allows for orchards purchased or leased after the sales closing or acreage reporting dates to be accepted (add-on) by written agreement.

Response: Written agreements can be used to allow insurability of orchards purchased or leased after the sales closing or acreage reporting date as provided in section 18 of the Basic Provisions.

Comment: A reinsured company questioned the reference in section 13(f)(1) to section 11(c). They suggested that it reference section 11(b) instead.

Response: Sections 13(f)(1) and 11(c) refer to production to count. Section 11(b) refers to the steps used in the settlement of claim for indemnity. Therefore, no change has been made.

Comment: A reinsured company recommended changes in section 13(f)(2) by replacing the words ''a unit'' with ''any acreage'' designated for fresh market; and questioned if grading procedure applies only to harvested production or the total apple production.

Response: The production guarantee is based on total production of apples for each unit. Therefore, no change has been made. The grading procedure applies to the total production to count, including harvested and unharvested.

Comment: A reinsured company recommended inserting the word ''will'' between ''better'' and ''be''* * * in section 13(f)(2)(iv).

Response: FCIC has amended the provisions accordingly.

Comment: A reinsured company recommended deleting the requirement in section 13(f)(3) that apples knocked to the ground by wind be considered 100 percent cull production. The commenter pointed out that many juicers will not accept apples that are knocked to the ground. This is especially important in view of the excessive requirement that 30 percent of such apples are production to count under the proposed rule.

Response: Apples knocked to the ground by wind are covered under ''adverse weather'' and will be considered 100 percent cull production. In certain areas, thirty (30) percent of all cull production as production to count is not excessive. To account for the other areas, FCIC will make the appropriate adjustments in the Special Provisions.

Comment: A reinsured company, producers, and insurance service organization opposed the change in section 13(f)(2)(vii) that increases the amount of culls in the production to count from 15 to 30 percent. One commenter stated it may not reduce the overall loss ratio since many insureds may cancel their policies when they learn of the change. They further stated that the 30 percent figure is too high and makes packing fruit less desirable to the producer. The other commenter recommended that the words, ''excessive sun'' between ''or'' and ''along'' be inserted in section 13(g)(2)(iv).

Response: The provision that increases the amount of cull production from 15 to 30 percent is correct. However, FCIC realizes that the increased amount of the percent of cull production may be excessive for some producers in certain growing regions where fresh market fruit may have a normal 10 percent cull rate. If damage in some years is more than 30 percent, the fruit will not be packed as U.S. Fancy and will be diverted to processing because it is economically impossible, due to the high cost of handling and grading damaged fruit, to pack out at least 80 percent U.S. Fancy or better. The producer who has invested more money for the fresh fruit market and has more intensive pruning, spraying, and handling is under-compensated. Therefore, FCIC has amended the provisions to allow the flexibility of counting 15 percent of cull production for certain regions, if allowed by the Special Provisions. ''Excessive sun'' has been inserted between the words ''or'' and ''along'' accordingly.

Comment: A reinsured company asked, if section 13(f)(2) (iii) through (vi) apply only to Option B or to both Options A and B.

Response: Sections 13(f)(1) has been revised to incorporate the provisions of section 13(f)(2) (iii) through (vi).

In addition to the changes described above and minor editorial changes, FCIC has made the following changes to these Crop Provisions:

1. Section 1. Removed definitions of ''days,'' ''FSA,'' good farming practices,'' ''interplanted,'' irrigated practice,'' ''USDA,'' and ''written agreement'' because these definitions now appear in the Basic Provisions. Deleted the term ''ton'' because it is not used.

2. Section 2 is revised to remove all provisions that were incorporated into the Basic Provisions.

3. Section 9(b)(1) is revised to move, ''russeting'' to 9(b)(4) because russeting cannot be described as a failure characteristic.

4. Removed section 12 and added it to the Basic Provisions.

5. Added new section 12 to indicate that late and prevented planting provisions are not applicable for apples.

List of Subjects in 7 CFR Parts 405 and 457

Crop insurance, Apples, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby amends the Apple Crop Insurance Regulations (7 CFR part 405) and the Common Crop Insurance Regulations (7 CFR part 457) as follows:

PART 405—APPLE CROP INSURANCE REGULATIONS FOR THE 1986 THROUGH THE 1998 CROP YEARS

1. The authority citation for 7 CFR part 405 is revised to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. The part heading is revised as set forth above.

3. The subpart heading ''Subpart-Regulations for the 1986 through the 1998 Crop Years'' is removed.

4. Section 405.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 405.7 The application and policy.

* * * * *

(d) The application is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Apple Insurance Policy for the 1986 through 1998 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

5. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

6. The part heading is revised as set forth above.

7. Section 457.158 is added to read as follows:

§ 457.158 Apple crop insurance provisions.

The Apple Crop Insurance Provisions for the 1999 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Apple Crop Insurance Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions

Area A. A geographic area that includes Montana, Wyoming, Utah, New Mexico and all states west thereof.

Area B. A geographic area that includes all states not included in Area A, except for Colorado.

Area C. Colorado.

Bin. A container that contains a minimum of 875 pounds of apples or some other quantity designated in the Special Provisions.

Box. A container that contains 35 pounds of apples or some other quantity designated in the Special Provisions.

Bushel. In all states except Colorado, 42 pounds of apples. In Colorado, 40 pounds of apples.

Culls. Apples that fail to meet the requirements of U.S. Cider Grade.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, buyer or broker. Examples of direct marketing include selling through an on-farm or roadside stand, or a farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Excessive sun. Exposure of unharvested apples to direct or indirect sunlight that causes apples to grade less than U.S. Fancy due to sunburn.

Harvest. The picking of mature marketable apples from the trees or removing such apples from the ground.

Marketable. Apple production that grades U.S. No. 1, 2, or Cider in accordance with the United States Standards for Grades of Apples.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Pound. Sixteen (16) ounces avoirdupois.

Production guarantee (per acre). The quantity of apples (boxes or bushels) determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Russeting. A brownish roughened area on the surface of the apple.

Sunburn. As defined in the United States Standards for Grades of Apples.

2. Unit Division

In addition to the requirements of section 34(b) of the Basic Provisions, optional units may be established if each optional unit is located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the apples in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each apple type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by type if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern;

(4) The separate acreage of apples intended for fresh-market or processing as shown on the actuarial table; and

(5) For the first year of insurance for acreage interplanted with another perennial crop, and anytime the planting pattern of such acreage has changed:

(i) The age of the interplanted crop, and type if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield. We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: interplanted perennial crop; removal of trees; damage; change in practices and any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is August 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are November 20.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the apples in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that:

(1) Are adapted to the area;

(2) Are in area A and have produced at least an average of 10 bins per acre;

(3) Are in area B and have produced at least an average of 150 bushels per acre;

(4) Are in Area C and have produced at least an average of 200 bushels per acre; and

(c) That are grown in an orchard that, if inspected, is considered acceptable by us.

7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, apples interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the insurability requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) Coverage begins on November 21 of each crop year, except for the year of application, if your application is received after November 11 but prior to November 21. In that case, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage prior to the end of the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is November 5.

(b) In addition to the provisions of section 11 of the Basic Provisions:

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we

consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period. There will no coverage of any insurable interest acquired after the acreage reporting date.

(2) If you relinquish your insurable share on any insurable acreage of apples on or before the acreage reporting date for the crop year, and the acreage was insured by you the previous crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or unmulched pruning debris has not been removed from the orchard;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Earthquake;

(6) Volcanic eruption;

(7) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period;

(8) Excess sun, only if you have elected the Fresh Fruit Option B and the Sunburn Option as described in section 13; and

(9) Wildlife;

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Failure of the fruit to size, shape, or color properly; or

(2) Inability to market the apples for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

(3) Mechanical damage including, but not limited to, limb rubs, scars, and punctures; or

(4) Russeting.

10. Duties In the Event of Damage or Loss

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) You must notify us within three 3 days of the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest, or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee, by type if applicable;

(2) Multiplying each result in section 11(b)(1) by the respective price election, by type if applicable;

(3) Totaling the results in section 11(b)(2) if there are more than one type;

(4) Multiplying the total production to count (see section 11(c)), for each type if applicable, by the respective price election;

(5) Totaling the results in section 11(b)(4), if there are more than one type;

(6) Subtracting the total in section 11(b)(5) from the total in section 11(b)(3); and

(7) Multiplying the result in section 11(b)(6) by your share.

For example:

You have 100 percent share in 28 acres of fresh market apples and 30 acres of processing apples in the unit, with a 300 bushel per acre guarantee and a price election of $5.00 per bushel for fresh market and $2.00 per bushel for processing. You are only able to harvest 4,500 bushels of fresh market apples and 6,500 bushels of processing. Your indemnity would be calculated as follows:

(1) 28 acres × 300 bushels = 8,400 bushels guarantee of fresh market; 30 acres × 300 bushels = 9,000 bushels guarantee of processing;

(2) 8,400 bushels × $5.00 price election = $42,000.00 value of guarantee for fresh market; 9,000 bushels × $2.00 price election = $18,000.00 value of guarantee for processing;

(3) $42,000.00 + $18,000.00 = $60,000 total value guarantee;

(4) 4,500.00 bushels × $5.00 price election = $22,500.00 value of production to count for fresh market;

6,500.00 bushels × $2.00 price election = $13,000.00 value of production to count for processing;

(5) $22,500.00 + $13,000.00 = $35,500.00 total value of production to count;

(6) $60,000.00 − $35,500.00 = $24,500.00 loss; and

(7) $24,000.00 × 100 percent = $24,500.00 indemnity payment.

(c) The total production to count (boxes or bushels) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All marketable harvested production from the insurable acreage.

(3) Mature marketable apple production may be reduced as a result of loss in quality due to hail, wind, freeze, or sunburn in accordance with section 13 of these provisions, if you elect one or more of these coverages.

12. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

13. Optional Coverage for Quality Adjustment

(a) These quality adjustment options apply only if the following conditions are met:

(1) You have not elected to insure your apples under the Catastrophic Risk Protection (CAT) Endorsement.

(2) You elected the Fresh Fruit Option A or the Fresh Fruit Option B; or you elected both the Fresh Fruit Option B and the Sunburn Option on your application or other form approved by us, and did so on or before the sales closing date for the initial crop year

for which you wish it to be effective. By doing so, you agreed to pay the additional premium designated in the actuarial documents for this optional coverage; and

(3) You or we did not cancel the option in writing on or before the cancellation date. Your election of CAT coverage for any crop year after this endorsement is effective will be considered as notice of cancellation by you.

(b) If you select Fresh Fruit Option A only, Fresh Fruit Option A will apply to all of your apples intended for processing and fresh market.

(c) If you select Fresh Fruit Option B, those provisions will apply to all of your apples intended for fresh market and the provisions of Fresh Fruit Option A will apply to all of your apples intended for processing.

(d) If you select the Sunburn Option as designated in the Special Provisions, you must also select Fresh Fruit Option B.

(e) In addition to the requirements of section 10 of these provisions, you must permit us to inspect and grade the fruit prior to harvest or no quality adjustment will be made.

(f) Fresh Fruit Option A and Fresh Fruit Option B are subject to the following conditions:

(1) Fresh Fruit Option A—In addition to section 11(c) of these provisions and notwithstanding the definition of ''marketable'' in section 1 of these provisions, your production to count will be adjusted when your apples are damaged by hail to the extent that such apples will not grade U.S. No. 1 (processing). Harvested apple production that is damaged by hail to the extent that it does not grade 80 percent U.S. No. 1 (processing) or better, in accordance with applicable USDA Standards for Grades of Apples, will be adjusted as follows:

(i) Production to count with 21 through 40 percent not grading U.S. No. 1 (processing) or better will be reduced 2 percent for each full percent in excess of 20 percent.

(ii) Production to count with 41 through 50 percent not grading U.S. No. 1 (processing) or better will be reduced 40 percent plus an additional 3 percent for each full percent in excess of 40 percent.

(iii) Production to count with 51 percent through 64 percent not grading U.S. No. 1 (processing) or better will be reduced 70 percent plus an additional 2 percent for each full percent in excess of 50 percent.

(iv) Production to count with 65 percent or more not grading U.S. No. 1 (processing) or better will be considered 100 percent cull production.

(v) The difference between the total production and the production to count as determined above will be considered cull production.

(vi) Thirty (30) percent of all cull production will be considered production to count, unless otherwise specified in the Special Provisions.

(vii) No reduction in production to count will be applied to any apple grading less than U.S. No. 1 (processing) due solely to size, shape, russeting, or color.

(viii) Any appraisal we make on the insured acreage will be considered production to count unless such appraised production is knocked to the ground by wind or hail or frozen on the tree to the extent that harvest is not practical.

(2) Fresh Fruit Option B—Notwithstanding section 11(c) and the definitions of ''harvest'' and ''marketable'' in section 1 of these provisions, the total production to count for a unit will include all harvested and appraised production. Harvested apple production that is damaged by hail to the extent that it does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards for Grades of Apples, will be adjusted as follows:

(i) Production to count with 21 through 40 percent not grading U.S. Fancy or better will be reduced 2 percent for each full percent in excess of 20 percent.

(ii) Production to count with 41 through 50 percent not grading U.S. Fancy or better will be reduced 40 percent plus an additional 3 percent for each full percent in excess of 40 percent.

(iii) Production to count with 51 percent through 64 percent not grading U.S. Fancy or better will be reduced 70 percent plus an additional 2 percent for each full percent in excess of 50 percent.

(iv) Production to count with 65 percent or more not grading U.S. Fancy or better will be considered 100 percent cull production.

(v) The difference between the total production and the production to count as determined above will be considered cull production.

(vi) Apples that are knocked to the ground by wind or frozen to the extent they can be harvested but not marketed as U.S. Fancy grade apples will be considered 100 percent cull production.

(vii) Thirty (30) percent of all cull production will be considered production to count, unless otherwise specified in the Special Provisions.

(viii) No reduction in production to count will be applied to any apple grading less than U.S. Fancy due solely to size, shape, russeting, or color.

(ix) Any appraisal we make on the insured acreage will be considered production to count unless such appraised production is knocked to the ground by wind, hail, or frozen on the tree to the extent that harvest is not practical.

(g) Sunburn Option

(1) In addition to the causes of loss specified in section 9 of these provisions, excess sun is an insurable cause of loss.

(2) Notwithstanding the definitions of ''harvest'' and ''marketable'' in section 1 and 11(c)(1) and (2) of these provisions, the total production to be counted for a unit will include all harvested and appraised production. Harvested apple production that, due to excessive sun or in conjunction with hail damage, does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards, will be adjusted as follows:

(i) Production to count with 21 through 40 percent not grading U.S. Fancy or better due solely to excessive sun or excessive sun along with hail damage, will be reduced 2 percent for each full percent in excess of 20 percent.

(ii) Production to count with 41 through 50 percent not grading U.S. Fancy or better due solely to excessive sun or excessive sun along with hail damage, will be reduced 40 percent plus an additional 3 percent for each full percent in excess of 40 percent.

(iii) Production to count with 51 through 64 percent not grading U.S. Fancy or better due solely to excessive sun or excessive sun along with hail damage, will be reduced 70 percent plus an additional 2 percent for each full percent in excess of 50 percent.

(iv) Production to count with 65 percent or more not grading U.S. Fancy or better due solely to excessive sun or excessive sun along with hail damage, will be considered 100 percent cull production.

(v) The difference between the total production and the production to count as determined above will be considered cull production.

(vi) Thirty (30) percent of all cull production will be considered as production to count unless otherwise specified in the Special Provisions.

Signed in Washington, D.C., on April 2, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 325, 326, 327, 346, 347, 351, and 362

RIN 3064–AC05

International Banking Regulations: Consolidation and Simplification

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC has revised and consolidated its three different groups of rules and regulations governing international banking. The first group governs insured branches of foreign banks and specifies what deposit-taking activities are permissible for uninsured state-licensed branches of foreign banks. The FDIC's final rule makes conforming changes throughout this group of regulations to reflect the statutory requirement that domestic retail deposit activities must be conducted through an insured bank subsidiary, not through an insured branch. Also with respect to this group of regulations, the FDIC is rescinding the provisions concerning optional insurance for U.S. branches of foreign banks; the pledge of assets formula has been revised; and the FDIC

Division of Supervision's (DOS) new supervision program—the Case Manager approach—has been integrated throughout the applicable regulations. The second group of regulations governs the foreign branches of insured state nonmember banks, and also governs such banks' investment in foreign banks or other financial entities. The final rule modernizes this group of regulations and clarifies provisions outlining the activities in which insured state nonmember banks may engage abroad, and reduces the instances in which banks must file an application before opening a foreign branch or making a foreign investment. The third group of regulations governs the international lending of insured state nonmember banks and specifies when reserves are required for particular international assets. The final rule revises this group of regulations to simplify the accounting for fees on international loans to make it consistent with generally accepted accounting principles. Consistent with the goals of CDRI, the final rule improves efficiency, reduces costs, and eliminates outmoded requirements.

DATES: This final rule is effective July 1, 1998. Compliance is mandatory for all affected institutions on July 1, 1998. Affected institutions may elect to comply with the final rule voluntarily at any time after May 8, 1998. If an affected institution elects to comply voluntarily with any section of subpart A, B, or C of 12 CFR part 347, the institution or bank must comply with the entire subpart.

FOR FURTHER INFORMATION CONTACT: Christie A. Sciacca, Associate Director (202/898–3671), Karen M. Walter, Chief (202/898–3540), Suzanne L. Williams, Senior Financial Analyst (202/898–6788), Division of Supervision; Jamey Basham, Counsel (202/898–7265), Wendy Sneff, Counsel (202/898–6865), Legal Division, FDIC, 550 17th Street, NW, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

As part of this review, the FDIC has determined that certain portions of part 346 are out-of-date, and other provisions of this part require clarification. Although the FDIC previously made certain regulatory amendments which took effect as recently as 1996, other regulatory language contained in part 346 does not accurately reflect the underlying statutory authority. The FDIC has also determined that part 347 is outmoded. Part 347 has not been revised in any significant regard since 1979, when it was originally promulgated. The FDIC published a proposed rule in the **Federal Register** on July 15, 1997 (62 FR 37748).

The FDIC has decided to consolidate its international banking rules into a single part, part 347, for ease of reference. This final rule places material on foreign branching and foreign bank investment by nonmember banks, currently located in part 347, into subpart A of part 347. Material currently located in part 346, governing insured branches of foreign banks and deposit-taking by uninsured state-licensed branches of foreign banks, is placed in subpart B of part 347. Part 351 of the FDIC's current rules and regulations, which contains rules governing the international lending operations of insured state nonmember banks, is placed in subpart C of new part 347. Part 351 was originally adopted in 1984 as an interagency rulemaking in coordination with the Board of Governors of the Federal Reserve System (FRB) and the Office of the Comptroller of the Currency (OCC). The most significant revision to part 351 is to require banks to follow GAAP in accounting for fees on international loans. This change was discussed with accounting staff at the OCC and FRB as part of an interagency working group and they are in general agreement with the change. However, as the other two federal banking agencies are not ready to act on a revised regulation at this time, the FDIC has decided to unilaterally issue its revision to part 351 in connection with its consolidation of the international banking regulations.

In addition, the FDIC has recently published a notice of proposed rulemaking (62 FR 52810, October 9, 1997) containing complete revision of part 303 of the FDIC's rules and regulations, which contains the FDIC's applications procedures and delegations of authority. For ease of reference, the FDIC will consolidate its applications procedures for international banking matters into a single subpart of part 303, subpart J. In order to finalize part 347 without waiting for the part 303 proposal to be finalized, this part 347 proposal includes, as a separate subpart D of part 347, revised application procedures compatible with the substantive provisions of this final rule. These application procedures will be transferred to subpart J of part 303 once it is finalized, as is discussed in connection with subpart D, below.

I. Subpart A—Foreign Branches and Investments in Foreign Banks and Other Entities

A. Background

Section 18(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(2)) requires a nonmember bank to obtain the FDIC's consent to establish or operate a foreign branch. Section 18(d)(2) also authorizes the FDIC to impose conditions and issue regulations governing the affairs of foreign branches.

Section 18(l) of the FDI Act (12 U.S.C. 1828(l)) requires a nonmember bank to obtain the FDIC's consent to acquire and hold, directly or indirectly, stock or other evidences of ownership in any foreign bank or other entity. Section 18(l) also states that these entities may not engage in any activities in the United States except as the Board of Directors of the FDIC (Board), in its judgment, has determined are incidental to the international or foreign business of these entities. In addition, section 18(l) authorizes the FDIC to impose conditions and issue regulations governing these investments. Finally, although nonmember banks are subject to the interaffiliate transaction restrictions of sections 23A and 23B of the Federal Reserve Act, 12 U.S.C. 371c and 371c–1, as expressly incorporated by section 18(j) of the FDI Act, 12 U.S.C. 1821(j), section 18(l) provides that nonmember banks may engage in transactions with these foreign banks and other entities in which the nonmember bank has invested in the manner and within the limits prescribed by the FDIC.

A nonmember bank's authority to establish a foreign branch or invest in foreign banks or other entities, and the permissible activities for foreign branches or foreign investment entities, must be established in the first instance under the law of its state chartering authority. Congress created sections 18(d)(2) and 18(l) out of a concern that there was no federal-level review of nonmember banks' foreign branching and investments. S. Rep. No. 95–323, 95th Cong., 1st Sess. (1977) at 15. Although the FRB had long held authority over foreign branching and investment by state member banks and national banks (member banks) under the Federal Reserve Act, as well as foreign investment by bank holding companies under the Bank Holding Company Act, the FDIC did not hold

corresponding statutory authority over nonmember banks until Congress created sections 18(d)(2) and 18(l) as part of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95–630 (FIRIRCA).

The FRB's rules governing foreign branching and investments by member banks are contained in subpart A of Regulation K (12 CFR 211.1–211.8). The FRB has issued a notice of proposed rulemaking to revise Regulation K (62 FR 68424 (Dec. 31, 1997)). The FDIC's subpart A of part 347 maintains parity with the substance of the current version of Regulation K. The FDIC's treatment of permissible activities for foreign branches and foreign entities in which nonmember banks invest is virtually identical to Regulation K, and the amount limits and expedited approval processes are very similar (the differences take into account certain variances attributable to structural differences between the types of institutions governed). Substantive differences between the FDIC's final rule and the current version of Regulation K are noted below.

In certain of the few instances in which the FDIC is adopting a different treatment than the FRB's under the current version of Regulation K, the differences raise issues under section 24 of the FDI Act (12 U.S.C. 1831a) and part 362 of the FDIC's rules and regulations (12 CFR part 362). Section 24 and part 362 prohibit a state bank from engaging as principal in any activity which is not permissible for a national bank, unless the FDIC first determines that it would not pose a significant risk of loss to the appropriate deposit insurance fund and the bank meets its minimum capital requirements. Section 24 and part 362 similarly prohibit a subsidiary of a state bank from engaging as principal in any activity which is not permissible for a subsidiary of national bank, unless the FDIC first determines that it would not pose a significant risk of loss to the appropriate deposit insurance fund and the bank meets its minimum capital requirements. Section 24 and part 362 also prohibit a state bank from making an equity investment which is not permissible for a national bank, unless the investment is made through a majority-owned subsidiary, the FDIC determines that it would not pose a significant risk of loss to the appropriate deposit insurance fund for the subsidiary to hold the equity investment, and the bank meets its minimum capital requirements. These section 24 issues are discussed below.

Impact of Proposed Revisions to Regulation K

The FDIC has decided to finalize subpart A of part 347 now, notwithstanding the pendency of the FRB's proposal to modify subpart A of Regulation K. Nonmember banks affected by the current version of part 347 have advised the FDIC that they view the FDIC's current rule as an impediment to their ability to compete effectively abroad. The FDIC desires to make the improvements provided under its proposed rule available to nonmember banks without additional delay. If the FRB at some time in the future adopts some or all of the changes it has recently proposed to subpart A of Regulation K, the FDIC may propose additional revisions to subpart A of part 347. The FDIC seeks to maintain general similarity between the restrictions governing the international activities of nonmember banks and member banks, but the FDIC will not be able to assess the advisability of any changes to subpart A of part 347 until the FRB issues final revisions to Regulation K.

If the FRB adopts certain of its proposed changes which would reduce the authority of member banks or their subsidiaries to conduct certain activities abroad, nonmember banks engaging in those activities as authorized by part 347 without an application to the FDIC are cautioned to assess whether an application to the FDIC may nevertheless be required under section 24 of the FDI Act. The FDIC, in structuring subpart A, has been mindful of section 24 issues and structured the rule so that activities authorized by subpart A without application to the FDIC do not require separate case-by-case authorization under section 24. However, if the FRB cuts back on what international activities are permissible for member banks and their subsidiaries under subpart A of Regulation K, the structure may develop gaps which the FDIC will need to address by further revisions to subpart A of part 347. Affected nonmember banks assessing such questions in the interim are encouraged to contact FDIC staff for assistance.

B. Discussion of Comments

The FDIC received two comment letters on subpart A, both from insured state nonmember banks with numerous foreign investments subject to current part 347. Both commenters expressed wholehearted support for the FDIC's efforts to update the rule. Both commenters made suggestions for additional improvements to the proposal, or alternative treatments of certain issues thereunder. Most of these related to the procedures for approving branches or investments. The FDIC has considered each suggestion in turn.

Comments on Application Processing Times

One comment suggested that the FDIC shorten from 45 to 30 days the application processing period under § 347.103 for an eligible bank with branches in two or more countries to establish a branch in an additional country. The FDIC does not think that a 45-day period is burdensome, given that the bank itself will know well in advance of its intention to establish a new branch and can plan accordingly.

This commentor also suggested that the FDIC similarly shorten the 45-day application processing period under 347.108(b) for an eligible bank to make foreign investments not eligible for general consent. Such an application would be required if the eligible bank sought to acquire 20 percent or more of an entity in a jurisdiction which is new to the FDIC as specified in section 347.108(a)(2). In such a case, the FDIC will need a 45-day period to contact host country supervisors and establish a working arrangement with them for cross-border supervision. Moreover, as is the case with the foreign branch application, the FDIC believes that the eligible bank will have sufficient advance notice of its desire to make such a significant investment that the bank can give the FDIC 45 days advance notice. Another situation in which such an application would be required is if an eligible bank with no existing foreign banking experience seeks to make a foreign investment. In such cases, 45 days will give the FDIC necessary time to work with the applicant to ensure it has appropriate operational and management systems in place to deal with the unique risks posed by foreign investments. Finally, such applications are required if an eligible bank seeks to invest more than five percent of its Tier 1 capital (plus an additional five percent for trading purposes) in a 12-month period. While the FDIC has no desire that state nonmember banks be thwarted in their efforts to obtain sound investment opportunities abroad which require swift action, given that the total outstanding foreign investments of even the most internationally active state nonmember banks is generally in the range of 10–15 percent of Tier 1 capital at present, it is the FDIC's opinion that the five percent threshold allows sufficient flexibility for institutions to take advantage of investment opportunities.

In addition, as a result of another comment, the FDIC has modified its application procedures so that applications subject to expedited processing under the 45-day period may be approved by delegated authority prior to the expiration of such period. Thus, if the application presents no special concerns or any such concerns are resolved promptly, approval can be granted prior to the expiration of the 45 day period.

In a similar vein, one commenter requested additional information about what considerations would be involved and what timing would apply if an application was subject to regular processing because the branch or foreign organization is located in a country whose laws or practices limit the FDIC's access to information for examination and other supervisory purposes. The commenter also requested that the FDIC consider any precedent regarding the country in question that has been developed by the OCC or the FRB. The FDIC's concern is that it have sufficient access to information as is necessary to evaluate the impact of the foreign operation on the insured state nonmember bank, and to serve the FDIC's international supervisory obligations as the nonmember bank's home country supervisor. In conducting this review, the FDIC will take into account any information obtained from, and experience gained by, the OCC and the FRB in supervising similar foreign operations of member banks in the foreign country. The FDIC's approach to applications involving secrecy jurisdictions will depend on the facts of the case, but generally speaking, the FDIC is likely to consider some or all of the following.

The FDIC will assess the nature and extent of the secrecy restriction, with particular focus on the matters which are to be kept secret, whether there are appropriate exceptions for regulators, and whether the FDIC is within the scope of such exception. The FDIC will also consider whether the host country supervisor possesses, and exercises when appropriate, a right of access, and whether there is some other appropriately independent third party, such as an independent auditor, which has access to, and systematically evaluates, the relevant operations. The nature and extent of the foreign operation's dealing with customers will be taken into account. If total access is not possible, the FDIC will take into account the practicability of alternate precautions, such as duplicate record-keeping in the U.S., reliance on host country supervisors and recognized external auditors, the use of special operating policies at the foreign organization, and the systematic use of customer confidentiality waivers.

As for timing, the FDIC has recently approved certain applications from insured state nonmember banks seeking to establish foreign operations in secrecy jurisdictions. As the cases were ones of first impression, and involved issues of significant concern, processing took longer than would otherwise be the case. Now that the FDIC has begun to establish a framework for addressing these types of applications, future applications will be processed more quickly. In the final rule, the FDIC has also expanded the delegations of authority for approving foreign branch and foreign investment applications involving secrecy jurisdictions. These applications may be approved under delegated authority whenever the approving official is satisfied that adequate arrangements have been made (through conditions imposed in connection with the approval and agreed to in writing by the applicant) to ensure necessary FDIC access to information for supervisory purposes. In addition, as with any application, processing will be faster to the extent the applicant discloses sufficient information about its proposal in the first instance such that the FDIC can identify all issues raised therein early in the review procedure.

This commenter also appeared to be under the impression that regular processing is required for an application to establish a branch, or to acquire 20 percent or more of a foreign organization, in a country in which there is not already a foreign bank subsidiary of a state nonmember bank. In actuality, there is no such condition in connection with general consent or expedited processing for branch applications. In addition, although § 347.108(a)(2) imposes such a condition upon general consent approval for investing in 20 percent or more of a foreign organization, expedited processing is still available for eligible institutions under § 347.108(b) in the absence of general consent.

Foreign Experience of Applicants

Regarding the FDIC's general consent under § 347.103(b) for a nonmember bank to establish or relocate a foreign branch in any country in which it already maintains a branch, the FDIC received a comment suggesting the authority be expanded to include any country in which the bank already controls a foreign organization. The FDIC has not adopted this suggestion. Such foreign organizations may not necessarily be engaged in banking, and may not have given the applicant sufficient familiarity with the conduct of banking in the country in question. For example, § 347.104(b) authorizes the establishment of foreign organizations engaged in management consulting, or data processing. However, in response to this comment, the FDIC has expanded final § 347.103(b) to include any jurisdiction in which the nonmember bank already has a foreign bank subsidiary. The FDIC has also decided to make expedited processing available for a nonmember bank to establish a foreign branch in a country in which an affiliate has a foreign bank subsidiary, foreign branch, or Edge or Agreement corporation. Also, the FDIC has made conforming changes to the category of banks eligible for expedited processing of foreign branch applications under § 347.103(c) of the final rule. The FDIC proposed that expedited processing be available to eligible banks with foreign branches or foreign affiliates in two or more countries, but the final rule takes into account other banking-related operations of the bank or its affiliates.

For the same reason that the FDIC has not extended foreign branch approval procedures so far as to take all foreign organizations into account, the FDIC has changed proposed § 347.108(a)(1), which required a nonmember bank or an affiliate to own a foreign organization subsidiary before the bank could exercise general consent authority to invest in foreign organizations. Under the final rule, ''foreign organization'' subsidiary has been changed to ''foreign bank'' subsidiary. Upon further consideration, the FDIC has become concerned that foreign organizations may not necessarily be engaged in banking, and may not have given the applicant sufficient familiarity with the conduct of banking. However, the FDIC has also expanded § 347.108(a)(1) to make general consent available if a nonmember bank has a foreign branch, or an affiliate with a banking-related office abroad.

This commenter also suggested that proposed § 347.108(a)(2), which conditioned the availability of general consent authority to invest in 20 percent or more of a foreign organization upon the existence of a foreign organization subsidiary of a state nonmember bank in the country in question, be similarly expanded to include any country in which a state nonmember bank maintains a foreign branch. The FDIC is not making this change at this time, out of a concern that many state nonmember banks currently operate ''nameplate'' branches in several foreign countries, involving little actual presence in the

foreign country since all operations are effectively conducted in the United States. Authorization of free-standing foreign organizations in such countries may require more extensive analysis by the FDIC and more extensive coordination with host country supervisors, and it is thus appropriate to deal with such applications through expedited processing. In addition, although the FDIC proposed that the § 347.108(a)(2) condition could be satisfied through the existence of a ''foreign organization'' subsidiary in the foreign country, upon further consideration of the issue, the FDIC has decided to require the existence of a ''foreign bank'' subsidiary. The FDIC is doing this out of a concern that a foreign organization may not necessarily be engaged in banking, and the FDIC consequently may not have evaluated all necessary factors. For example, as noted above, § 347.104(b) authorizes the establishment of foreign organizations engaged in management consulting, or data processing.

This commenter also requested that the FDIC adopt some mechanism to inform the public of the list of foreign countries in which state nonmember banks have foreign bank subsidiaries, so that affected banks can easily determine whether the § 347.108(a)(2) condition is satisfied. The FDIC will make such information available through its Internet web site, www.fdic.gov, in the near future.

In addition, this commenter pointed out that the preamble to the proposed rule created confusion as to whether the § 347.108(a)(2) condition would be satisfied if the state nonmember bank seeking to exercise general consent authority was the only state nonmember bank with a foreign bank subsidiary in the foreign country in question. In such a case, the condition would indeed be satisfied. There is no requirement that some *other* state nonmember bank have a foreign bank subsidiary in the foreign country. The purpose of the § 347.108(a)(2) condition is to ensure the FDIC has experience with the jurisdiction and a working relationship with its supervisors. These goals will be met regardless of whether the state nonmember bank presence in the foreign country is that of the state nonmember bank making the investment, or another state nonmember bank.

Delegations of Authority

One commenter suggested that the FDIC Board of Directors should delegate its authority to authorize foreign branches, or foreign organizations in which state nonmember banks invest, to engage in activities not specifically set out in subpart A (including incidental activities in the United States), or to engage in such activities in a greater amount. This commenter also suggested delegation of the Board's authority to approve extensions of the two-year holding period for nonconforming foreign investments obtained in satisfaction of debts previously contracted. However, the FDIC feels that these issues are of such significance that they should be determined by the Board. In addition, the commenter was under the impression that a state nonmember bank seeking to invest in a foreign organization which conducts equity securities underwriting and dealing activity within the limits contained in subpart A would be required to obtain Board approval. Under the rule, Board approval would be required from a state nonmember bank seeking to invest in a foreign organization which would conduct underwriting and dealing activities in excess of subpart A's limits. However, for equity securities underwriting and dealing activities within the limits of § 347.105, the Board has delegated its authority regarding the prior approval required by § 347.104(b)(3).

Eligible Bank Definition

Regarding the definition of an ''eligible insured state nonmember bank'' under proposed section 347.102(c), one commenter noted that a bank must have a satisfactory or better Community Reinvestment Act (CRA) (12 U.S.C. 2901 *et seq.*) rating in order to meet the definition, but that ''special purpose'' banks which are exempt from CRA will not have been assigned CRA ratings. Under the FDIC's CRA regulations at 12 CFR part 345, special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as is incidental to their specialized operations, are not subject to examination under the FDIC's CRA regulations (12 CFR 345.11(c)(3)). The FDIC does not intend to apply the CRA element of the definition of an eligible insured state nonmember bank to a special purpose bank which is not subject to examination under the FDIC's CRA regulations. Language to this effect has been added to the definition. The substantive portions of the definition have also been transferred to § 347.401 of the final rule, in order to more appropriately locate the definition with the application processing requirements in subpart D, and § 347.102(c) now simply cross-references to the definition in § 347.401. Additional changes to the eligibility definition are discussed in connection with subpart D, below.

Substantive Comments

The public comments received by the FDIC also addressed three substantive issues. The first concerns the FDIC's list of authorized financial activities for a foreign organization in which a state nonmember bank may invest (§ 347.104(b)). One commenter, noting the FDIC's inclusion of activities authorized under Regulation Y (12 CFR 225.28(b)) as being closely related to banking under section 4(c)(8) of the Bank Holding Company Act (Regulation Y list), suggested the FDIC also include any activity determined by the OCC to be incidental to the business of banking under section 24(Seventh) of the National Bank Act (12 U.S.C. 24(Seventh)). The FDIC has not added such a reference. The list of financial activities authorized under section 347.104(b) as a whole is quite extensive, and should be sufficient to permit nonmember banks to maintain a competitive footing abroad. Adoption of an additional analytical approach to authorizing activities abroad, incorporating the ''incidental to the business of banking'' test, seems unnecessary.

The second substantive comment concerns the FDIC's identification of specific items on which a state nonmember bank should maintain a system of records, controls and reports about the activities of its foreign branches and organizations (§ 347.110(a)(1)–(4)). One commenter was concerned that the list of specific items might be strictly applied, without making allowances for the nature of the foreign operation's particular transactions. As an example, the commenter noted that a recent borrower financial statement, listed in § 347.110(a)(1)(i), might not be necessary for an extension of credit collateralized by investment grade securities with a market value of 150 percent of the outstanding loan amount. To address this concern, the FDIC has changed the language of the regulation slightly, so that the detailed list of items to be held in connection with risk assets (§ 347.100(a)(1)(i)–(v)) and to be included in audit reports (§ 347.110(a)(1)(4)(i)–(vi)) is illustrative rather than mandatory. However, the FDIC cautions bank management that the bank must maintain a system which, at a minimum, meets the informational objectives spelled out in § 347.110(a)(1)–(4).

The third substantive comment concerns the FDIC's limitation on mutual fund activities of a foreign

organization in which a state nonmember bank invests (§ 347.104(b)(4)). This section permits the foreign organization to organize, sponsor, and manage a mutual fund, but only if the fund's shares are not sold or distributed in the United States or to U.S. residents and the fund does not exercise management control over the firms in which it invests. The commenter did not object to the latter restriction concerning control, but suggested that the FDIC should permit the mutual fund shares to be sold or distributed in the United States or to U.S. residents so long as the fund was not required to be registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1). The standard which the FDIC proposed under § 347.104(b)(4) is consistent with what is permissible for a member bank under the FRB's current standard in Regulation K. The commenter's proposed modification raises potential legal and supervisory issues which the FDIC would prefer not to address in a vacuum, in the absence of specific facts about the product in question. If a state nonmember bank wishes in the future to invest in a foreign organization which will organize or sponsor a mutual fund whose shares will be distributed or sold in the United States or to U.S. residents, the bank may submit an application to the FDIC.

C. Other Changes from Proposed Subpart A

In addition to the changes the FDIC has made to proposed subpart A in response to public comments, the FDIC has made three additional changes concerning foreign branches of state nonmember banks. First, the proposal's definition of a ''foreign branch'' in § 347.102(i) erroneously covered offices located in territories of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands. This is inconsistent with the current definition in current § 347.2(a) and section 3(o) of the FDI Act (12 U.S.C. § 1813(o)), and the final definition in § 347.102(i) has been corrected accordingly.

Second, under proposed § 347.103(b), the FDIC provided its general consent for an eligible bank to establish additional branches in a country in which it already maintained a branch, or to relocate an existing branch within a foreign country. This had the effect of requiring a bank which did not meet the criteria of an eligible insured state nonmember bank to go through the full application process to relocate an existing foreign branch within a foreign country. Upon further consideration, the FDIC does not see the necessity for a general rule requiring full applications for such relocations, given the limited impact they would have on the nonmember bank and the FDIC's ability to suspend general consent as to any particular institution if necessary. Therefore, under § 347.103(b)(2) of the final rule, the FDIC gives its general consent for relocations of existing foreign branches.

Third, in the proposed rule, the FDIC indicated it was considering whether to authorize foreign branches to underwrite, distribute and deal, invest in and trade obligations of any foreign government (as opposed to the current authorization which extends only to obligations of the country in which the branch is located). The FDIC has decided to adopt this proposal, but has added an additional requirement that the non-local obligations be rated investment grade by at least two established international rating agencies. In contrast to the situation in the U.S., foreign sovereign debt is frequently rated. Nonmember banks still have the option of making an application to the FDIC to include unrated investment quality obligations as part of their foreign branch's line of business in this regard.

D. Description of Final Rule, Subpart A

Foreign Branches

The most significant change from current part 347 is the FDIC's grant of authority to a nonmember bank meeting certain eligibility criteria to establish foreign branches under general consent or expedited processing procedures. The existing list of foreign branch powers under current § 347.3(c) has also been redrafted to bring it more in line with modern banking practice. The final rule also introduces expanded powers for foreign branches to underwrite, distribute, deal, invest in, and trade foreign government obligations.

The general consent and expedited processing procedures are discussed in detail in the analysis of subpart D, below, but to summarize them briefly, § 347.103(b) gives the FDIC's general consent for a nonmember bank to relocate existing foreign branches within a foreign country, and for an eligible nonmember bank—one which is well-capitalized, well-rated under certain supervisory assessment benchmarks, and has no supervision problems—to establish branches within a foreign country in which the nonmember bank has a branch or a foreign bank subsidiary. By expedited processing requiring only 45 days prior notice to the FDIC, an eligible nonmember bank may also establish additional branches in a country in which an affiliate of the bank operates a foreign bank subsidiary, or in which an affiliated bank or Edge or Agreement corporation operate a foreign branch. An eligible nonmember bank which has established its international expertise by successfully operating such entities in two or more foreign countries may also establish branches in additional foreign countries under expedited processing procedures. There are certain necessary limitations on these general consent and expedited processing procedures, however, as discussed in the analysis of subpart D.

Section 347.103(a) of the final rule lists the permissible activities for a foreign branch. In order to modernize the list of foreign branch powers currently contained in § 347.3(c), the final rule eliminates § 347.3(c)(2) (specific authorization for a foreign branch to accept drafts or bills of exchange), and § 347.3(c)(5) (specific authorization for a foreign branch to make loans secured by real estate). The FDIC has not included a counterpart to the FRB's specific authorization for a foreign branch to engage in repurchase agreements involving securities that are the functional equivalent of extensions of credit. In the FDIC's view, these activities are within the general banking powers of a foreign branch, and thus do not require specific mention on the list of activities which the FDIC has authorized in addition to such general banking powers.

The final rule also eliminates § 347.3(c)(6) (specific authorization for a foreign branch to pay its foreign branch officers and employees a greater rate of interest on branch deposits than the rate paid to other depositors on similar branch deposits). Regulation K presently contains a similar provision. While section 22(e) of the Federal Reserve Act (12 U.S.C. 376) generally limits a member bank's authority to pay employees a greater rate of interest than the rate paid to other depositors on similar deposits, the FDIC is not aware of any current regulatory restrictions directly prohibiting a nonmember bank from doing so, assuming there were no implications of insider abuse or of evading certain limited regulatory requirements concerning executive compensation. Thus, in the FDIC's view, this activity is within the general banking powers of a foreign branch of a nonmember bank.

In addition, the FDIC has not included a counterpart to the FRB's specific authorization for a foreign branch to extend credit to an officer of the branch residing in the foreign country in which the branch is located

to finance the officer's living quarters. In the FDIC's view, this activity is within the general banking powers of a foreign branch, provided that the bank observes prudent banking practices and Regulation O limits on loans to the bank's executive officers. Given that Regulation O currently permits a bank to finance an executive officer's purchase, construction, maintenance, or improvement of a personal residence, the FDIC need not specifically authorize it here.

To update the current authorization under § 347.3(c)(3) to hold the equity securities of the central bank, clearing houses, governmental entities, and development banks of the country in which the branch is located, final § 347.103(a)(2) adds debt securities eligible to meet local reserve or similar requirements, as well as shares of automated electronic payment networks, professional societies, schools, and similar entities necessary to the business of the branch. Section 347.103(a)(2) continues to set the limit for such investments at one percent of the total deposits in all the bank's branches in that country as reported in the preceding year-end Report of Income and Condition (Call Report), subject to the same exclusions as currently apply for investments required by local law or permissible for a national bank under 12 U.S.C. 24 (Seventh).

The current authorization under § 347.3(c)(4) to underwrite, distribute and deal, invest and trade in obligations of the national government of the country in which the branch is located has been similarly updated. Section 347.103(a)(3) clarifies that obligations of the national government's political subdivisions, and its agencies and instrumentalities if supported by the national government's taxing authority or full faith and credit, are also eligible. The final rule also revises the investment limit to reference ten percent of the nonmember bank's Tier 1 capital, instead of the outdated reference to ten percent of its capital and surplus.

Finally, the FDIC has decided to permit a foreign branch to underwrite, distribute and deal, invest in and trade obligations of any foreign government, rather than just the obligations of the country in which it is located. Section 347.103(a)(3)(ii) permits this activity, so long as the issuing country permits foreign enterprises to do so.

Since Regulation K does not currently authorize member (and thus national) banks to conduct this activity, the FDIC, in adopting the final rule, has determined that the activity does not create a significant risk to the deposit insurance fund, as required by section 24 of the FDI Act and part 362 of the FDIC's rules and regulations.[1] Section 347.103(a)(3)(ii) allows nonmember banks to consolidate these activities, which must currently be carried out in different branch offices in each country, into a single branch office, for more convenient administration and oversight. The non-local obligations are counted as part of the ten percent limit applicable to local obligation underwriting, distribution, investment and trading, and must also be rated as investment grade by at least two established international rating agencies.

Foreign Investments

The final rule completely revises the FDIC's approach to approvals of a nonmember bank's investment in the stock or other evidences of ownership of a foreign bank or other entity. The final rule adopts an approach like that of the FRB under Regulation K. The rule lists the various types of financial activities in which a nonmember bank's foreign subsidiaries and joint ventures may engage. The rule also authorizes limited indirect investment in and trading of the stock of nonfinancial entities. Securities underwriting and dealing abroad up to specified limits is permitted, with the FDIC's prior approval. Moreover, the rule grants eligible nonmember banks the FDIC's general consent to make investments in conformity with the rule up to specified annual limits, and permits additional investments upon 45 days prior notice.

Investment in Foreign Banks and Other Entities Engaged in Financial Activities

Section 347.104(b) contains a list of approved activities which are financial in nature. A foreign subsidiary of a nonmember bank is limited to conducting these authorized financial activities, unless the nonmember bank acquires the subsidiary as a going concern, in which case up to five percent of the subsidiary's assets or revenues may be attributable to activities which are not on the list. Under the definition of ''subsidiary'' at § 347.102(p), a foreign organization is a subsidiary of a nonmember bank if the nonmember bank and its affiliates hold more than 50 percent of the foreign organization's voting equity securities. It is important to note that this definition of a subsidiary differs from the commonly-used subsidiary definition found in section 2(d) of the Bank Holding Company Act (BHCA) (12 U.S.C. 1841(d)). Under section 2(d), subsidiary status typically arises upon ownership of 25 percent or more of the entity's voting securities. The FDIC has adopted the less-inclusive subsidiary definition which is triggered at 50 percent rather than the more commonly-used 25 percent in order to maintain consistency with the corresponding provisions of Regulation K. This less-inclusive approach is also carried through to the definition of an affiliate under § 347.102(a), also to maintain consistency with Regulation K.

Subsidiary status under § 2(d) of the BHCA also arises when the parent controls in any manner the election of the majority of the subsidiary's directors in any manner or if the parent has the power to directly or indirectly exercise a controlling influence over the management and policies of an organization. In contrast, the final rule separates these elements out into their own definition of ''control'' at § 347.102(b). Section 347.102(b) also provides that control is deemed to exist whenever a nonmember bank or its affiliate is a general partner of a foreign organization. As is the case with subsidiaries, any foreign organization which is controlled by a state nonmember bank or its affiliates, regardless of the percent of voting stock owned by the state nonmember bank, is limited to conducting approved financial activities contained on the § 347.104(b) list, subject to the same five percent exception for going concerns.

If a nonmember bank and its affiliates hold less than 50 percent of the voting equity securities of a foreign organization and do not control the organization, up to 10 percent of the organization's assets or revenues may be attributable to activities which are not on the list. If the nonmember bank and its affiliates' hold less than 20 percent of a foreign organization's voting equity interests, the nonmember bank is prohibited from making any loans or extensions of credit to the organization which are not on substantially the same terms as those prevailing at the time for comparable transactions with nonaffiliated organizations.

The list of authorized financial activities in § 347.104(b) is modeled on the FRB's corresponding provision in Regulation K, 12 CFR 211.5(d). The final rule reorders the activities in an effort

[1] Because section 24 only permits the FDIC to authorize equity investments which are not permissible for a national bank through a majority-owned subsidiary, proposed § 347.103(a)(3)(B) requires any foreign government obligations which constitute equity interests to be held through a subsidiary of the foreign branch. However, practically speaking, the vast majority of foreign government obligations are debt obligations instead of equity interests, and could be held at the branch level.

to group similar activities together, and where there are conditions and limitations on the conduct of a particular activity, this additional information is separately set out in §§ 347.105 and 347.106. Additional activities require the FDIC's approval.

The final rule does not include six activities which currently appear in Regulation K. The FDIC has not included these activities, because they are each authorized under Regulation Y (12 CFR 225.28(b)) as being closely related to banking under section 4(c)(8) of the Bank Holding Company Act (Regulation Y list), and the final rule authorizes foreign investment organizations to engage in any activity on the Regulation Y list. The omitted activities are: financing; acting as fiduciary; providing investment, financial, or economic advisory services; leasing real or personal property or acting as agent, broker or advisor in connection with such transactions if the lease serves as the functional equivalent of an extension of credit to the lessee; acting as a futures commission merchant; and acting as principal or agent in swap transactions.

In addition, § 347.104(b) contains certain activities—for example, data processing—which are also authorized by the Regulation Y list, but are subject to certain additional limitations and conditions under Regulation Y. In such cases, the activities are included in § 347.104(b) because a foreign investment entity is permitted to conduct them under the less restrictive terms of § 347.104(b). But in cases in which the nonmember bank relies solely on § 347.104(b)'s cross-reference to the Regulation Y list as authority to conduct an activity, the foreign investment entity must comply with the attendant restrictions in 12 CFR 227.28(b).

Also, in the case of one activity authorized by § 347.104(b)'s cross-reference to the Regulation Y list, acting as a futures commission merchant (FCM), the FDIC has imposed one restriction in addition to the restrictions imposed by Regulation Y at 12 CFR 225.28(b). Under § 347.106(a), a foreign investment entity may not have potential liability to a mutual exchange or clearing association of which the foreign investment entity is a member exceeding an amount equal to two percent of the nonmember bank's Tier 1 capital, unless the FDIC grants its prior approval.

Unlike Regulation K, the FDIC's rule authorizes nonmember banks to directly invest in foreign organizations which are not foreign banks. Under 12 CFR 211.5(b)(2), the only foreign organizations in which member banks are permitted to invest directly are foreign banks; foreign organizations formed for the sole purpose of either holding shares of a foreign bank or for performing nominee, fiduciary, or other banking services incidental to the activities of the member bank's foreign branches or affiliates; or subsidiaries of foreign branches authorized under 12 CFR 211.3(b)(9). Any investment by a member bank in a foreign organization which is not one of these types of entities must be made indirectly, through an Edge corporation subsidiary or foreign bank subsidiary of the member bank. This limitation arises out of the language of section 25 of the Federal Reserve Act, which generally limits the direct investments of member banks to foreign banks. In contrast, section 18(l) of the FDI Act permits state nonmember banks, to the extent authorized by state law, to invest in foreign ''banks or other entities.'' As discussed above, the legislative history of section 18(l) shows that Congress was, at the time it created section 18(l), mindful of the FRB's parallel authority over member banks under section 25. Therefore, the FDIC interprets the difference between the two statutes to be significant, and the type of foreign organizations in which a state nonmember bank may invest directly are not restricted by section 18(l).

A national bank's inability to invest directly in the shares of a nonbank foreign organization raises issues under section 24 of the FDI Act and part 362 of the FDIC's rules and regulations. If a nonmember bank acquires a sufficient stake in a nonbank foreign organization such that the nonbank foreign organization is a ''majority-owned subsidiary'' [2] of the state nonmember bank for purposes of section 24, no section 24 analysis is required. This is because subpart A of part 347 only authorizes foreign organizations to engage in the same activities which the FRB has authorized for the foreign subsidiaries of member (and thus national) banks. Therefore, the nonmember bank's foreign subsidiary can only engage as principal in the same activities permitted for a foreign subsidiary of a national bank, and section 24's application requirement is never triggered.

If the nonmember bank holds a lesser amount of the nonbank foreign organization's shares, such that it does not rise to a ''majority-owned subsidiary'' within the meaning of section 24 and part 362, the FDIC is required by section 24 and part 362 to determine that the nonmember bank's equity investment in a nonbank foreign organization does not pose a significant risk to the appropriate deposit insurance fund. The FDIC has determined that dispensing with the intermediate foreign bank subsidiary or Edge subsidiary, the vehicle through which a national bank is permitted to make this type of investment, is simply a structural matter that does not create a significant risk to the deposit insurance fund. The final rule therefore authorizes nonmember banks to hold such non-majority equity interests. However, section 24 and part 362 provide that the FDIC may only permit equity investments to be held by the bank through a majority-owned subsidiary. The final rule therefore requires these investments to be held through some form of U.S. or foreign majority-owned subsidiary.

The final rule does not include one activity authorized by Regulation K concerning a foreign investment entity's ability to underwrite life, annuity, pension fund-related, and other types of insurance, where the associated risks have been determined by the FRB to be actuarially predictable. Under Regulation K, the FRB has not given general authorization for this activity to be conducted directly or indirectly by a subsidiary of a member bank. Since the activity is thus not generally permissible for a subsidiary of a national bank, a section 24 issue arises. However, under section 24(b) and 24(d)(2), the FDIC may not give section 24 approval for a state bank or its subsidiary to engage in insurance underwriting if it is not permissible for a national bank, or is not expressly excepted by other subsections of section 24 covering limited types of insurance underwriting. Therefore, the FDIC is presently foreclosed from granting general regulatory authorization for nonmember banks to underwrite life, pension fund-related, or other types of insurance in this fashion. This prohibition does not extend to annuity underwriting, and a nonmember bank which wishes to underwrite annuities through a foreign organization may apply to the FDIC

[2] Section 24 and part 362 do not set out a separate definition of ''majority-owned subsidiary.'' Part 362 defines a ''subsidiary'' to mean any company directly or indirectly controlled by an insured state nonmember bank. Part 362 further defines ''control'' to mean the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company, the ability to control in any manner the election of a majority of a company's directors or trustees, or the ability to exercise a controlling influence over the management and policies of a company. A state nonmember bank thus holds a company as a ''majority-owned subsidiary'' when the bank holds more than 50 percent of the company's stock. This is equivalent to the definition of ''subsidiary'' in proposed § 347.102(p).

under the final rule and part 362 for specific approval to do so.

Portfolio Investments in Nonfinancial Foreign Organizations

Section 347.104(g) of the final rule authorizes nonmember banks to make portfolio investments in a foreign organization without regard to whether the activities of the organization are authorized financial activities listed in § 347.104(b). Aggregate holdings of a particular foreign organization's equity interests by the nonmember bank and its affiliates must be less than 20 percent of the foreign organization's voting equity interests and 40 percent of its total voting and nonvoting equity interests. The latter restriction prevents a nonmember bank from, by obtaining a large equity position albeit a nonvoting one, obtaining a level of influence over the foreign organization which is inconsistent with the notion of a portfolio holding. The nonmember bank and its affiliates are not permitted to control the foreign organization, and any loan or extensions of credit to the foreign organization must be on substantially the same terms as those prevailing at the time for comparable transactions with nonaffiliated organizations.

Section 347.104(g) limits these investments in nonfinancial foreign organizations to an amount equal to 15 percent of the nonmember bank's Tier 1 capital. In contrast to the FDIC's approach with foreign organizations engaged primarily in financial activities authorized under § 347.104(b), § 347.104(g) does not displace current limitations prohibiting member (and thus national) banks from making nonfinancial portfolio investments at the bank level or through a domestic subsidiary of the bank. Section 347.104(g) requires these investments to be held through a foreign subsidiary, or an Edge corporation subsidiary (subject to the FRB's authorization). The FDIC is authorizing these portfolio investments so that a nonmember bank's foreign bank and other financial subsidiaries can compete effectively in their foreign markets. It is therefore not necessary to authorize portfolio investments at the bank or domestic subsidiary level.

U.S. Activities of Foreign Organizations

As discussed above, section 18(l) of the FDI Act states that the foreign organizations in which nonmember banks invest may not engage in any activities in the U.S. except as the Board of Directors, in its judgment, has determined are incidental to the international or foreign business of the foreign organization. Section 347.107 of the final rule addresses what activities may be engaged in within the United States. The rule prohibits a nonmember bank from investing in any foreign organization which engages in the general business of buying or selling goods, wares, merchandise, or commodities in the U.S., and prohibits investments totaling over five percent of the equity interests of any foreign organization if the organization engages in any business or activities in the U.S. which are not incidental to its international or foreign business. A foreign organization will not be considered to be engaged in business or activities in the U.S. unless it maintains an office in the U.S. other than a representative office.

This structure follows the one established by the FRB under Regulation K. The FDIC is including the five percent threshold and the U.S. office threshold in acknowledgment that the U.S. is a leading international market and a substantial number of foreign organizations transact some portion of their business here. If nonmember banks are prohibited from investing in every foreign organization which does even a limited amount of its business in the U.S., nonmember banks will be at a disadvantage *vis a vis* their international financial institution competitors.

Beyond these thresholds, the regulation permits foreign organizations to conduct activities that are permissible in the U.S. for an Edge corporation, or such other business or activities as are approved by the FDIC. In approving additional activities, the FDIC will consider whether the activities are international in character. For activities proposed by a foreign subsidiary or joint venture of a nonmember bank, the FDIC will also consider whether the activity would be conducted through a foreign organization to circumvent some legal requirement which would apply if the nonmember bank conducted the activity through a domestic organization.

Underwriting, Distributing, and Dealing Equity Securities Outside the United States

Under the final rule, a foreign investment entity of a nonmember bank is permitted to underwrite, distribute, and deal equity securities outside the United States. Briefly summarized, the final rule imposes three main limits as part of § 347.105.

First, underwriting commitments for a single issuer may not exceed an amount equal to the lesser of $60 million or 25 percent of the nonmember bank's Tier 1 capital.

Second, distribution and dealing shares of a single entity may not exceed an amount equal to the lesser of $30 million or five percent of the nonmember bank's Tier 1 capital.[3]

Third, the sum of underwriting commitments, distribution and dealing shares, and any portfolio investments in nonfinancial foreign organizations under § 347.104(g) may not exceed an amount equal to 25 percent of the nonmember bank's Tier 1 capital.

Each of these three limits is discussed further below. In determining compliance with these limits, the nonmember bank counts all commitments of and shares held by each foreign organization in which the nonmember bank has invested pursuant to subpart A of part 347. The nonmember bank also counts all commitments of and shares held by foreign organizations in which the nonmember bank's affiliates have invested pursuant to subpart A of Regulation K.

The $60 million/25 percent underwriting commitment limit may be exceeded to the extent the commitment is covered by binding commitments from subunderwriters or purchasers. The limit may also be exceeded to the extent the commitment is deducted from the nonmember bank's capital and the bank remains well-capitalized after the deduction. At least half of this deduction must be from Tier 1 capital, and the deduction applies for all regulatory purposes.

The $30 million/five percent limit on the equity securities of a single entity which may be held for distribution or dealing is subject to two exceptions. First, in order to facilitate underwritings, any equity securities acquired pursuant to an underwriting commitment extending up to 90 days after the payment date of the underwriting are not included in the limit. Second, up to 75 percent of the position in an equity security may be reduced by netting long and short positions in the identical equity security, or by offsetting cash positions against derivative instruments referenced to the same security. The provision permitting netting of derivative positions is intended to recognize the beneficial impact of prudent hedging strategies, and encourage such strategies where the nonmember bank and the foreign organization determines they are appropriate. The FDIC expects a nonmember bank asserting netting involving derivatives to be able to

[3] Regulation K currently authorizes the lesser of $30 million or 10 percent.

establish the validity of the hedging strategy to the nonmember bank's examiners.

If the nonmember bank's foreign organizations hold the same equity securities for distribution and dealing as well as for investment or trading pursuant to § 347.104 or the corresponding provision of Regulation K, two additional considerations apply.

First, the investment or trading securities are included in calculating the $30 million/five percent per-entity distribution and dealing limit, in order to prevent securities which are potentially distribution or dealing inventory from being characterized as investment or trading shares. Conversely, if the nonmember bank relies on the general consent provisions under proposed § 347.108 to acquire the securities for investment or trading purposes, distribution and dealing securities are counted towards the general consent investment limits.

Second, equity interests in a particular foreign organization held for distribution and dealing are required to conform with the limits of § 347.104. Equity interests held for distribution or dealing by an affiliate permitted to do so under § 337.4 of the FDIC's rules and regulations (12 CFR 337.4) or section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) are counted for this limit. If the nonmember bank's foreign organizations hold equity interests in the same entity for investment and trading purposes, such interests are included in determining compliance with these limits. However, in order to permit 100 percent underwriting, the final rule contains an exception for equity securities acquired pursuant to an underwriting commitment for up to 90 days after the payment date for the underwriting.

The combined limit, under which nonfinancial portfolio shares, underwriting commitments, and distribution and dealing shares are limited to 25 percent of the nonmember bank's Tier 1 capital, only includes underwriting commitments net of amounts subject to commitments from subunderwriters or purchasers or already deducted from the nonmember bank's capital. Equity securities held for distribution or dealing are only counted net of any position reduction through netting, as permitted in connection with the five percent dealing limit.

Approval of Investments

The final rule permits a nonmember bank meeting certain eligibility criteria to make foreign investments pursuant to general consent and expedited processing procedures. These procedures are discussed in detail in the analysis of subpart D below, but to summarize them briefly, § 347.108 grants the FDIC's general consent for nonmember banks meeting the same eligibility criteria as apply in the foreign branching context to invest up to five percent of their Tier 1 capital in any 12-month period in foreign investments, plus up to an additional five percent in equity interests for trading purposes. A sublimit of two percent of Tier 1 capital per foreign organization applies. The nonmember bank must already operate at least one foreign branch or foreign bank subsidiary, or an affiliate of the bank must operate a foreign bank subsidiary, or an affiliated bank or Edge or Agreement corporation must operate a foreign branch. In addition, at least one nonmember bank must have a foreign bank subsidiary in the relevant foreign country, in order for general consent to be applicable. An investment that does not qualify for general consent, but is otherwise in compliance with the rule, may be made by an eligible bank upon 45 days prior notice under the expedited processing procedure. There are certain necessary limitations on these general consent and expedited processing procedures, however, as discussed in the analysis of subpart D.

Extensions of Credit

Section 347.109(a) of the final rule does not alter the FDIC's current treatment under § 347.5 of extensions of credit to foreign investment entities: the limitations of section 18(j) of the FDI Act, incorporating by reference the interaffiliate transaction restrictions of sections 23A and 23B of the Federal Reserve Act, do not apply.

Debts Previously Contracted

With one exception, § 347.109(b) of the final rule does not alter the FDIC's current treatment under § 347.4(b), whereby equity interests acquired to prevent loss on a debt previously contracted in good faith are not subject to the limits and approvals of the regulation. The FDIC is extending the time period an institution is granted to dispose of such equity interests without the FDIC's specific approval under part 347 from one to two years. The extension is not intended to relieve an institution from its general obligation to dispose of the investment promptly under the circumstances and make diligent efforts to such end. However, extending the point at which an application is required reduces administrative burden, and the FDIC can monitor the progress of divestiture efforts as part of the normal examination cycle. As with the current requirements of § 347.4(b), the final rule is not intended to displace any of the nonmember bank's concurrent obligations under state law, or extend a state law divestiture or approval period of less than two years.

E. Supervision and Recordkeeping for Foreign Branches and Investments

Section 347.110 of the final rule does not alter the FDIC's current requirements for reporting and recordkeeping under current § 347.6. These requirements are intended to facilitate both the nonmember bank's oversight of its foreign operations and the FDIC's supervision of them. The final rule adds one new element. If a nonmember bank seeks to establish a foreign branch, or acquire a foreign joint venture or subsidiary, in a country in which applicable law or practice would limit the FDIC's access to information about the branch or subsidiary for supervisory purposes, the nonmember bank may not rely on the FDIC's general consent or expedited processing procedures to do so. In such cases, the FDIC must have an opportunity to evaluate the impact of the limits on the FDIC's access, and determine whether the FDIC can still serve its domestic and international supervisory obligations through measures such as duplicate record-keeping in the U.S., reliance on host country supervisors, operating policies of the foreign organization, or reliance on recognized external auditors.

II. Subpart B—Deposit Insurance Requirements for State Branches and Foreign Banks Having Insured Branches

A. Background

Subpart B, like current part 346 of the FDIC's Rules and Regulations, implements certain provisions of the International Banking Act of 1978 (IBA) (Pub. L. 95–369), as amended, and corresponding provisions of the FDI Act. Subpart B establishes the permissible deposit-taking activities of uninsured state licensed branches of foreign banks. Subpart B also establishes certain rules applicable to insured branches of foreign banks, whose ability to conduct domestic retail deposit activity is grandfathered under the Foreign Bank Supervision Enhancement Act of 1991 (FBSEA) (Title II, subtitle A of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242). These rules cover asset pledge and asset maintenance requirements for insured branches, approval requirements for any activities

not permissible for federal branches, and information-related items.

The FDIC received no public comments on proposed subpart B. The FDIC is issuing the final version of subpart B without change from the proposal. As the FDIC discussed in the NPR, the only significant change from current part 346 is the addition of regulatory language conforming to FBSEA's requirement that foreign banks conduct all domestic retail deposit activity through a U.S. insured bank subsidiary. Insured branches of foreign banks will also be required to calculate and report compliance with the pledge of asset requirement on a quarterly basis. These differences, and other changes from current part 346, are highlighted in the following description of subpart B.

B. Description of Final Rule, Subpart B

The definitions in § 347.202 are unchanged from current part 346, except that substantive limitations contained in some of the definitions have been moved to the appropriate substantive rule itself.

Section 347.203, requiring all branches of the same foreign bank in the same state which accept initial deposits in an amount of less than $100,000 to be insured, is unchanged from current part 346.

Section 347.204 has no counterpart in current part 346. However, the FDIC is merely implementing FBSEA provisions which have applied by their own terms since December 19, 1991. Thus, § 347.204 does not impose any new restrictions on foreign banks. FBSEA amended section 6(c) of the IBA (redesignated section 6(d) in 1994, 12 U.S.C. 3104(d)) to require any foreign bank intending to conduct domestic retail deposit activities in any state in the U.S. to organize an insured bank subsidiary to conduct these deposit activities. However, any insured branches which were accepting or maintaining domestic retail deposit accounts on December 19, 1991, are allowed to continue to operate as insured branches conducting domestic retail deposit activities. IBA section 6(d)(3) also exempts any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the FDIC pursuant to the FDI Act. This allows insured banks organized under the laws of the jurisdictions included therein to conduct any domestic retail deposit activities in the United States through insured branches, rather than organizing an insured bank subsidiary. This statutory scheme has been reiterated in § 347.204.

In connection with reiterating this statutory scheme in § 347.204, the FDIC has included § 347.204(b), mirroring the exemption for FDIC-insured banks organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands set out in IBA section 6(d)(3). The enumerated jurisdictions are commonwealths and territories of the United States which are specifically included within the ''foreign bank'' definition in IBA section 1(b)(7), and which the FDIC has included in the regulatory definition of ''foreign bank'' under § 347.202(g). In drafting the § 347.204(b) exemption, the FDIC has stuck closely to the IBA's statutory language, and has not listed the Northern Mariana Islands among the specifically-enumerated jurisdictions. The Northern Mariana Islands is a commonwealth, and, like the commonwealth of Puerto Rico, is specifically included in the definition of ''State'' for purposes of the FDI Act under section 3(a)(3) thereof (12 U.S.C. 1813(a)(3)). As such, the FDI Act on its face would permit a bank chartered by the Northern Mariana Islands to obtain FDIC insurance. Therefore, there may be an interpretive issue under IBA section 6(d)(3), whether a Northern Mariana Islands bank which had obtained FDIC insurance fell within the section 6(d)(3) exception and was permitted to engage in domestic retail deposit taking in the U.S. through an insured branch. Given that there are currently no Northern Mariana Islands banks with FDIC deposit insurance, the FDIC sees no need to express any interpretive position on this issue at this time.

In consideration of section 6(d) of the IBA, the FDIC has decided it is no longer necessary to have any counterpart to current § 346.8. Section 346.8 authorized foreign banks to seek insurance for a foreign branch even though the foreign branch did not engage in domestic retail deposit activity, and was therefore not required to obtain insurance. On their face, at least, FBSEA's amendments to section 6 of the IBA seem only to reach foreign banks conducting domestic retail deposit activity, and Congress has not repealed section 5(b) of the FDI Act, authorizing deposit insurance applications from foreign branches. Therefore, it may arguably be possible for a foreign branch which does not engage in domestic retail deposit activity to seek deposit insurance from the FDIC. As a practical matter, however, the FDIC does not foresee many circumstances in which it could be appropriate for the FDIC Board of Directors to approve such an application. Moreover, the elimination of § 346.8 does not affect a foreign bank's ability to argue that it may make an application under section 5(b) of the FDI Act. The Board would have to determine whether to actually accept and approve such an application, based upon its review of the facts and circumstances, in addition to the pertinent legal and policy considerations.

Section 347.205 permits an uninsured state foreign branch to operate under an agreement with the FRB which limits the branch to accepting only those deposits which would be permissible for an Edge corporation. This is unchanged from current part 346.

Section 347.206 sets out the rules under which uninsured state foreign branches may, without being deemed to be engaged in domestic retail deposit activity, accept deposits in an initial amount of less than $100,000. The FDIC conducted an exhaustive review of these rules in connection with the enactment of section 107 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328), and revised them to ensure they are consistent with ''affording equal competitive opportunities to foreign and United States banking organizations in their United States operations [and to] ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.'' 12 U.S.C. 3104(a). *See* 61 FR 5671 (February 14, 1996). These revisions to current section 346.6 took effect on April 1, 1996, and the FDIC is only adopting minor, nonsubstantive revisions in connection with this rulemaking. Regulatory language setting out the one percent ''de minimis'' exception is being revised to clearly state the calculation method which the FDIC has long applied in implementing the de minimis exception, but the calculation method is not changed. The FDIC is also relocating the application procedure for foreign branches seeking additional exceptions from the substantive rule to the separate procedural rules on applications, set out in new subpart D of part 347.

Section 347.207, specifying the notice which uninsured state foreign branches must give depositors, makes no changes from the comparable requirements of part 346. The same is true of section 347.208, the agreement by any foreign bank with an insured state branch to provide the FDIC with certain information about the bank and permit the FDIC to examine any of its U.S. operations. The same is also true of

§ 347.209, requiring insured state branches to maintain records on a separate-entity basis, and to maintain a set of records in English.

Section 347.210(a) of the final rule, setting forth the FDIC's requirement that an insured branch pledge assets for the benefit of the FDIC or its designee, contains certain changes from the comparable provisions of current part 346. The pledge requirement remains at five percent of the average of the insured branch's liabilities, as is currently the case, but the final rule requires the pledge to be calculated quarterly, whereas the current rule only requires it to be calculated for the last 30 days of the second and fourth calendar quarters. The final rule provides that the amount of assets that must be pledged to the FDIC will be equal to ''five percent of the average of the insured branch's liabilities for the last 30 days of the most recent calendar quarter.'' This formula will be more straightforward to apply and the calculation thereof will be easier for the insured branches. The final rule also requires the insured branch to provide the appropriate FDIC regional director with a written report regarding the pledged assets on a quarterly basis (§ 347.210(e)(6)(ii)). The current rule only requires semiannual reporting. This new reporting requirement is consistent with other FDIC reporting requirements, such as the filing of Reports of Income and Condition, and with the FDIC's policy of analyzing financial data on a quarterly basis. It is the FDIC's belief that quarterly calculation and reporting requirements do not impose a significant additional burden on insured branches because the information is already being collected and maintained by the bank. Also, § 347.210(e)(4) of the final rule now requires the foreign branch to provide the appropriate FDIC regional director with copies of all the documents and instruments delivered to the depository which holds the pledged assets. Submitting this information to the FDIC will not require additional preparation by the affected banks. Finally, the delegation of authority to the Director of DOS (and to the Deputy Director (DOS)) to enter into or revoke the approval of a pledge agreement or to require the dismissal of a depository pursuant to § 303.8(f) of the FDIC's current rules and regulations has been transferred to proposed § 347.210 as paragraph (f) of that section.

Section 347.211 of the final rule establishes a requirement for insured branches to maintain eligible assets in an amount not less than 106 percent of liabilities. The only change from the corresponding requirements under current part 346 is the addition of language permitting the FDIC to exclude from the eligible asset pool any asset which the FDIC considers not to be bankable.

Section 347.212 permits an insured branch to deduct from its deposit insurance assessment base any deposit to the credit of the foreign bank or any of its offices, branches, agencies, or wholly-owned subsidiaries. This is unchanged from part 346.

Section 347.213 will retain part 346's substantive requirements and standards regarding the necessity for an insured state branch to apply to the FDIC for approval to conduct or continue an activity which is otherwise not permissible for a federal branch. However, the application and plan of divestiture procedures which were formerly found in § 346.101 will be transferred to new § 347.405 of subpart D. Section 347.213, like § 346.101 before it, is modeled in large part on part 362, ''Activities and Investments of Insured State Banks.'' As part of the FDIC's ongoing CDRI review of all of its regulations and written policies, the FDIC has issued a notice of rulemaking to revise part 362. 62 FR 47,969 (September 12, 1997). After the closing of the comment period and the completion of the final part 362, § 347.213 and § 347.405 may be the subject of additional rulemaking proceedings, if necessary, to reflect any changes made to the underlying regulatory scheme governing the permissible activities of insured state banks.

Finally, the language of the rule has been revised throughout where necessary to incorporate references to the appropriate FDIC regional office or official to fully integrate DOS's new Case Manager approach to bank supervision.

III. Subpart C—International Lending

A. Background

The International Lending Supervision Act of 1983 (ILSA), 12 U.S.C. 3901, et. seq, was enacted to assure that the economic health and stability of the United States and the other nations of the world are not adversely affected or threatened by imprudent lending practices or inadequate supervision.

ILSA strengthens supervision of international lending by requiring each federal banking agency to evaluate the foreign country exposure and transfer risk of banks within its jurisdiction for use in the examination and supervision of such banks. 12 U.S.C. 3903. Transfer risk generally refers to the possibility that an asset of a bank cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor. To implement this provision, the federal banking agencies, through the Interagency Country Exposure Review Committee (ICERC), assess and categorize countries on the basis of conditions that may lead to increased transfer risk.

In addition, section 905(a) of ILSA directs each federal banking agency to promulgate regulations or orders to require banks within its jurisdiction to establish and maintain a special reserve whenever the agency determines that the quality of a bank's assets has been impaired by a protracted inability of public or private borrowers in a foreign country to make payments on their external indebtedness, or no definite prospects exist for the orderly restoration of debt service. 12 U.S.C. 3904(a). To implement this provision of ILSA, on February 13, 1984, the FDIC, the Office of the Comptroller of the Currency, and the Federal Reserve System (collectively, the federal banking agencies) issued a joint notice of final rulemaking requiring banks to establish special reserves, called Allocated Transfer Risk Reserves (ATRRs), against the transfer risks presented in certain international assets. 49 FR 5587 (February 13, 1984), (codified in part 351 of the FDIC's Rules and Regulations, part 211 (Subpart D of Regulation K) of the Federal Reserve's Regulations,. and part 20 of the Comptroller of the Currency's Regulations). These regulations set forth specific instructions on the accounting treatment for ATRRs. The line item guidance for reporting ATRRs provided in the instructions for the preparation of Consolidated Reports of Condition and Income (Call Reports) refer back to ILSA and the regulations and other guidelines issued by the federal banking agencies. (Schedule RC, Item 4.c in FFIEC Forms 031, 032, 033 and 034.)

In order to simplify the task of preparing Call Reports by gathering all accounting information in one place, the FDIC requested comment in the Notice of Proposed Rulemaking on whether the instructions for the preparation of Call Reports should be amended to include a full description of the accounting treatment of ATRRs. 62 FR 37,748, 37,757–8 (July 15, 1997). The FDIC also requested comment as to whether, if the Call Report instructions are amended, to retain the detailed description of the accounting treatment of ATRRs in the revised regulations or to replace the

regulatory language with a simplified requirement to follow the accounting treatment outlined in the amended Call Report instructions. Call Report instructions are not issued unilaterally by each federal banking agency but are issued under the auspices of the Federal Financial Institutions Examination Council (FFIEC) in consultation with staff of the federal banking agencies. As the FFIEC has not, to date, amended the Call Report instructions to incorporate the detailed instructions for ATRR accounting, the FDIC has decided to retain the description of the accounting treatment in its revised regulation.

Section 906 of ILSA requires the federal banking agencies to promulgate regulations for the accounting for fees charged by banks in connection with international loans and the restructuring of certain international loans. 12 U.S.C. 3905. To implement this requirement, on March 29, 1984, the federal banking agencies issued a joint notice of final rulemaking concerning the accounting for fees on international loans, including restructured international loans. 49 FR 12,192 (March 29, 1984), (codified in part 351 of the FDIC's Rules and Regulations, part 211 (Subpart D of Regulation K) of the Federal Reserve's Regulations, and part 20 of the Comptroller of the Currency's Regulations).

Section 906(a) of ILSA deals specifically with the restructuring of international loans to avoid excessive debt service burden on debtor countries. 12 U.S.C. 3905(a). This section requires banks, in accounting for fees on a restructured international loan, to amortize any fee exceeding the administrative cost of the restructuring over the effective life of each such loan. In order to distinguish between the category of restructured international loans described in section 906(a) of ILSA and all other international loans for the purposes of accounting for fees, the 1984 regulation contained a definition of ''restructured international loan'' designed to meet the particular scope and purpose of section 906(a).

Section 906(b) of ILSA deals with the accounting for fees on all other international loans. 12 U.S.C. 3905(b). This section requires the federal banking agencies to promulgate regulations to account for agency, commitment, management and other fees in connection with such loans to assure that the appropriate portion of such fees is accrued to income over the effective life of each such loan. When ILSA was enacted in 1983 and part 351 was promulgated on March 29, 1984, Congress and the federal banking agencies considered that the broad fee accounting principles for banks then contained in generally accepted accounting principles (GAAP) were insufficient to accomplish adequate uniformity in accounting principles in this area. The preamble to the 1984 rule stated that the agencies would reexamine the need for a discussion of accounting treatment if the FASB were to issue a final pronouncement or standard on this subject. Since that time, the FASB has revised the GAAP rules for fee accounting for loans, including international loans, in a manner that accommodates the specific requirements of section 906(b) of ILSA. As a result, in order to reduce the regulatory burden on insured state nonmember banks and simplify its regulations, the FDIC has decided, in consultation with accounting staffs from the other federal banking agencies, to eliminate from the revised § 347.304(b) of the regulations the requirements as to the particular accounting method to be followed in accounting for fees on international loans and to require instead that state nonmember banks follow GAAP in accounting for such fees. In the event that the FASB changes the GAAP rules on fee accounting for international loans, the FDIC will reexamine its regulation in light of ILSA to assess the need for a revision to the regulation.

B. Discussion of Comments

Only one comment was received on subpart C of the revised regulation. The commenter generally supported efforts by the federal banking agencies to produce greater consistency between the information collected in regulatory reports and general purpose financial statements.

The commenter cited Section 37 of the Federal Deposit Insurance Act (FDIA) for the principle that accounting principles applicable to reports or statements required to be filed with banking agencies by insured depository institutions should depart from GAAP only if the banking agencies determine that the application of GAAP is inconsistent with the objectives stated in that section of the FDIA [4] and the resulting regulatory accounting principles are no less stringent than GAAP. 12 U.S.C. 1831n. However, the commenter failed to note that section 37(a)(2)(A) of the FDIA also provides that any requirement under that section to apply GAAP in reports to be filed with the banking agencies is subject to other requirements of the FDIA ''and any other provision of Federal law.'' 12 U.S.C. 1831n(a)(2)(A). As a result, to the extent that ILSA mandates a certain accounting treatment which differs from GAAP, the requirements of ILSA prevail and the implementing regulation will reflect these requirements.

The commenter also recommended that instructions for accounting for international loan fees and ATRRs should be developed on an interagency basis through proposed changes to the Call Reports rather than in agency-specific regulations. However, ILSA mandates that the federal banking agencies promulgate regulations or orders necessary to implement its provisions. As a result, the FDIC has decided to retain a regulatory requirement for banks to follow the provisions of ILSA. The commenter further proposed that the regulatory provisions dealing with accounting for international loan fees should be replaced with a requirement to follow the accounting treatment outlined in amended Call Report instructions. As noted above, amendments to Call Report instructions are made through the auspices of FFIEC. Call Report instructions have long had detailed instructions on accounting for loan fees generally. However, to date, FFIEC has not acted to revise the Call Report instructions to include detailed information on the accounting for international loan fees or ATRRs. As a result, the FDIC has decided to retain the detailed accounting information in its revised regulation.

The commenter also recommended that the regulatory provisions dealing with international loan fees should be replaced with a requirement to account for loan fees in conformity with the provisions of FASB SFAS No. 91, Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases and related authoritative pronouncements. The revised § 347.304(b) dealing with accounting for fees on international loans states that, except as specifically provided for restructured international loans, banks should account for fees in accordance with GAAP. As GAAP changes from time to time to reflect changing conditions, the FDIC has decided for the sake of flexibility not to specify that financial institutions follow any particular FASB standard.

The commenter also proposed that the provisions in revised section 347.303 dealing with establishment of ATRRs

[4] FDIA Section 37(a)(1) states that accounting principles applicable to reports filed with banking agencies should (A) result in financial statements and call reports that accurately reflect the capital of the institution, (B) facilitate effective supervision of the institutions, and (C) facilitate prompt corrective action to resolve the institutions at the least cost to the insurance funds. 12 U.S.C. 1831n(a)(1).

should be reevaluated in light of the criteria established in FASB Statements No. 5, Accounting for Contingencies, and No. 114, Accounting by Creditors for Impairment of a Loan (as amended by FASB Statement No. 118, Accounting by Creditors for Impairment of a Loan—Income Recognition and Disclosures). However, a general reliance on GAAP is not appropriate in this instance as ILSA directs the federal banking agencies to require banking institutions to establish and maintain an ATRR whenever, in the judgment of the appropriate banking agency, certain conditions enumerated by statute exist. The determination of the ATRR is conducted on an interagency basis by ICERC.

Lastly, the commenter requested that the Call Report instructions clarify the alternative accounting treatment for ATRRs. As noted earlier, amendments of Call Report instructions are made on an interagency basis through the FFIEC. The commenter also stated that the description of the alternative accounting treatment for ATRRs would permit institutions to charge to the allowance for loan and lease losses (ALLL) impairments of types of international assets which are not chargeable to the ALLL under GAAP. Under the alternative accounting treatment, banks may write down the value of specified international assets by either a reduction in the principal amount of the asset or by a charge to the ALLL. Banks that elect to take a charge to the ALLL, however, are required to replenish the ALLL in an amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan and lease portfolio in accordance with GAAP. We share the commenter's concern that the alternative accounting treatment provisions should be consistent with GAAP. As a result, in response to the comment, we have modified the description of the alternative accounting treatment to provide that banks may charge to the ALLL only those international assets that can be charged to the ALLL pursuant to GAAP.

C. Changes from Proposed Subpart C

Subpart C in the final regulation differs from the proposed regulation by the addition of § 347.301 dealing with *Purpose, Scope and Authority,* and a separate § 347.302 for *Definitions* and the renumbering of the subsequent sections. These changes are made to conform with the format of the other subparts of part 347.

The definitions of ''international loan'' and ''restructured international loan'' from § 351.2 are retained in the final regulation. These definitions were deleted in the proposed regulation from the section on accounting for loan fees in the interest of simplifying language without any intent to change the applicability of the regulation. However, in the interest of reducing any ambiguity, the FDIC has decided to add these definitions back into the final regulation. Because section 906(a) of ILSA refers to restructurings of international loans to avoid excessive debt service burden on debtor countries, the definition of ''restructured international loan,'' as introduced in the 1984 regulation and retained in this revision, contains two criteria. First, the borrower whose loan is being restructured because of debt service difficulties must be a resident of a foreign country experiencing a generalized inability of public and private sector obligors to meet their external debt obligations on a timely basis because of a lack of, or restraints on the availability of, foreign exchange in that country. As noted above, the classification of countries according to transfer risk is the responsibility of ICERC. Second, in a restructuring, the terms of the loan are revised to extend the original schedule of payments or reduce stated interest, or the restructuring takes the form of provision of new funds for the benefit of the borrower that has the same effect as extending the schedule of payments or reducing stated interest on the original loan. These criteria are intended to cover loans restructured to meet debt service difficulties, but not ordinary refinancings.

For any loan that meets the definition of restructured international loan, § 347.304(a) of the final revised regulation prohibits any bank from charging any fee exceeding the administrative cost of the restructuring unless it amortizes the amount of the fee exceeding the administrative cost over the effective life of the loan. However, consistent with the preamble to the 1984 regulation, if any restructuring of an international loan would also be a ''troubled debt restructuring'' under the terms of Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (SFAS) No. 15, as amended by SFAS 114 or SFAS 118 or a subsequent amendatory standard, the loan should be accounted for in accordance with that standard. This definition of ''restructured international loan,'' however, which was adopted to implement the specific fee accounting rules mandated by ILSA, is not intended to categorize any particular loan as a ''troubled debt restructuring.''

The description of administrative cost from the existing § 351.2(d)(2) is being retained in a new definition of ''administrative cost.'' This description was deleted in the proposed regulation from the section on accounting for loan fees in the interest of simplifying language without any intent to change the applicability of the regulation. However, in the interest of reducing any ambiguity, the FDIC has decided to add this description back into the final regulation as a defined term. References to syndication in the description of administrative cost in the current part 351 were deleted as the changes to the regulation remove the need to refer to syndication.

In addition, in response to a comment, we have modified the alternative accounting treatment to provide that banks may charge to the ALLL only those international assets that can be charged to the ALLL pursuant to GAAP.

D. Description of Final Rule, Subpart C

The final rule contains separate provisions for *Purpose, Authority and Scope* and for *Definitions.* The *Definitions* section retains, among others, the definitions of ''international loan'' and ''restructured international loan'' from the current part 351. Definitions of ''international syndicated loan'' and ''loan agreement'' have been deleted from the current regulation as changes to the regulation remove the need to define these terms. The description of ''administrative cost'' from the current part 351 has been retained as a defined term.

The final regulation contains provisions requiring the establishment of ATRRs that are similar to the existing provisions. The term ''Allowance for Possible Loan Losses'' in the existing regulation has been changed to ''Allowance for Loan and Lease Losses'' to reflect current terminology. As noted above, the FDIC has also modified the alternative accounting treatment for ATRRs to provide that banks may charge to the ALLL only those international assets that can be charged to the ALLL pursuant to GAAP.

The final regulation simplifies the provisions for accounting for fees on restructured international loans and other international loans. With respect to restructured international loans, the final regulation follows the ILSA requirement that banks amortize the amount of any fee exceeding the administrative cost of the restructuring over the effective life of the loan. Subject to the provisions for restructured international loans, banks are directed to account for fees on

international loans in accordance with GAAP.

IV. Subpart D—Application Procedures and Delegations of Authority

A. Overview

The final rule includes a separate subpart D containing application procedures and delegations of authority for the substantive matters covered by part 347 as revised. Under the FDIC's current rules, these application requirements are located in various sections of three different regulations: 12 CFR part 303, 12 CFR part 346, and 12 CFR part 347. As discussed above, the FDIC issued a Notice of Proposed Rulemaking to completely revise part 303 of the FDIC's rules and regulations, which contains the FDIC's applications procedures and delegations of authority. As part of these revisions to part 303, subpart J of part 303 will address application requirements relating to the foreign activities of insured state nonmember banks and the U.S. activities of insured branches of foreign banks. In order to permit part 347 to be issued in final form before the FDIC issues part 303 in final form, it is necessary to issue the application procedures for part 347 in this subpart D. However, when part 303 is issued in final form, the application procedures contained in subpart D to part 347 will be transferred to subpart J of part 303 as part of the same rulemaking, in order to centralize all international banking application procedures in one convenient place.

The FDIC has made certain nonsubstantive changes to the language of subpart D of part 347, in order to make it consistent with the language of proposed part 303. The FDIC has also made certain changes to the criteria establishing which applicants are ''eligible depository institutions'' entitled to processing under general consent or expedited processing procedures. These changes, discussed below, were also made to establish consistency with the part 303 proposal. At this time, it is impossible for the FDIC to determine if it will make further changes to the language of part 303 or to the eligibility criteria thereunder. If such changes are made, the FDIC, in connection with transferring the application procedures in subpart D of part 347 over to subpart J of part 303, will make further changes to these application procedures in order to maintain consistency.

B. Public Comments and Changes to Subpart D

Public comments on the application procedures were limited to those concerning foreign branches and investments of nonmember banks under subpart A. Those comments, and the corresponding changes the FDIC has made to the application procedures, are discussed in detail above, in the discussion of comments received in connection with subpart A, and will not be repeated here.

The FDIC has also eliminated two criteria under the definition of an eligible depository institution which were not consistent with the critieria under the definition proposed in connection with part 303. The final rule, in § 347.401(c), does not contain a requirement that the applicant have received a rating of 1 or 2 under the ''management'' component of the Uniform Financial Institutions Rating System (UFIRS); nor does it contain the requirement that the applicant have been chartered and operating for three years. In addition, in the interests of consistency with part 303, the FDIC has modified the proposed rule's criteria requiring that the applicant not be subject to any enforcement-related agreements. The proposal contained an exception for any board of directors resolution addressing corrective action taken pursuant to regulatory recommendations, whereas the final rule has no such carve-out.

C. Description of Final Rule

Establishing, Moving, or Closing a Foreign Branch of a State Nonmember Bank

Applications for a nonmember bank to establish a foreign branch are currently treated under the same process applicable for domestic branches under 12 CFR 303.2. The final rule treats foreign branches separately, since foreign branch applications are not legally required to be subjected to analysis under the Community Reinvestment Act or under the factors listed in section 6 of the FDI Act, as is the case for domestic branches.

Under §§ 347.103(b) and 347.402 of the final rule, the FDIC has given its general consent for an eligible depository institution to establish additional foreign branches in any country in which the bank already operates a branch or foreign bank subsidiary, or to relocate a branch within the country. The final rule, only requires an eligible nonmember bank to notify the FDIC of its actions within 30 days. In addition, if an eligible nonmember bank seeks to establish a foreign branch in any country in which the nonmember bank's affiliates operate certain banking-related offices, the FDIC will give the application expedited processing within 45 days. Expedited processing also applies to an eligible nonmember bank that operates branches or affiliates in two or more foreign countries and seeks to establish additional branches conducting approved activities in additional foreign jurisdictions. Certain banking-related offices of the eligible nonmember bank's affiliates may be counted for these purposes.

To be eligible, the nonmember bank must have received an FDIC-assigned composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (UFIRS); have a satisfactory or better Community Reinvestment Act rating (unless the bank is a ''special purpose'' bank not subject to examination under the FDIC's CRA regulations); and have a compliance rating of 1 or 2. The nonmember bank must also be well capitalized; and it must not be subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary federal regulator or chartering authority. An application to establish a foreign branch is not an ''application for a deposit facility'' covered by the Community Reinvestment Act, and the FDIC will therefore only take the nonmember bank's CRA rating into account for purposes of determining whether the application receives expedited treatment under the general consent and expedited processing procedures.

The FDIC has adopted these general consent and expedited processing provisions because a nonmember bank meeting the proposed requirements will ordinarily have sufficient familiarity with the implications of foreign branching, be well-managed, and be of sufficiently sound overall condition, that extensive FDIC review is not required. The FDIC retains the option to suspend expedited processing as to any application, for any of the reasons specified in § 347.402(c)(1). These are the same grounds for suspension as would be applicable under the general rules contained in the FDIC's part 303 proposal, at proposed § 303.11. The FDIC may also categorically suspend general consent or expedited processing for any particular nonmember bank, as specified in § 347.103(d)(3). If the FDIC suspends its general consent or expedited processing with respect to a particular nonmember bank, it means that the nonmember bank must make

full application to establish additional branches. Suspension of general consent or expedited processing does not, in and of itself, require closure of existing foreign branches. Cases necessitating actual closure of branches would be handled under section 8 of the FDI Act (12 U.S.C. 1818) or other relevant authority.

General consent and expedited processing are also inapplicable in any case presenting either of two special circumstances. Since the FDIC must have access to information about a foreign branch's activities in order to effectively supervise the institution, general consent or expedited processing do not apply if the law or practice of the foreign country would limit the FDIC's access to information for supervisory purposes. In such cases, the FDIC must have an opportunity to fully analyze the extent of the confidentiality conferred under foreign law, as described in connection with the discussion of public comments on subpart A, above. In addition, if the proposed foreign branch would have a direct adverse impact on a site which is on the World Heritage List[5] or the foreign jurisdiction's equivalent of the National Register of Historic Places, the FDIC may need an opportunity to evaluate the application in light of section 402 of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–2).

Section 347.103(f) and 347.402(d) also requires a nonmember bank which closes a foreign branch to notify the appropriate regional director that it has done so. This notice is strictly for informational purposes, since the FDIC has previously determined that Congress did not intend section 42 of the FDI Act (12 U.S.C. 42) on branch closings to apply to foreign branches.

Finally, § 347.402 also sets out the procedures for applications which are not eligible for the general consent or expedited processing provisions.

Acquisition of Stock of Foreign Banks or Other Financial Entities by an Insured State Nonmember Bank

Section 347.4 of the FDIC's current rules contains an investment ceiling, under which a nonmember bank's investments in foreign organizations (as well as an Edge corporation) may not exceed 25 percent of the bank's capital and surplus. The FDIC has eliminated this general limit, and will now instead monitor the overall investments of each nonmember bank on an individual basis. In addition, § 347.4 presently requires an application before a nonmember bank may make any investment in a foreign organization. Under §§ 347.108(a) and 347.403 of the final rule, the FDIC grants its general consent for an eligible nonmember bank to make investments in foreign organizations complying with the activity and other limits of subpart A. Eligibility of the nonmember bank is determined by the same criteria as for foreign branch approvals. As is the case under the foreign branch application procedure, the FDIC will take the nonmember bank's Community Reinvestment Act rating into account only for purposes of determining whether the application is eligible for general consent or expedited processing, since an application to make a foreign investment is not an ''application for a deposit facility'' covered by the CRA.

The final rule permits investments in a single foreign organization of up to two percent of the nonmember bank's Tier 1 capital during any twelve-month period. Aggregate investments for investment purposes may total as much as five percent of the nonmember bank's Tier 1 capital during any twelve-month period, and an additional five percent for investments acquired for trading purposes. Investments acquired at net asset value from an affiliate or representing reinvestments of cash dividends from the foreign organization are not subject to these limits. The final rule only requires the nonmember bank to notify the FDIC of its investment within thirty days, and no notice is required for trading investments.

However, in order to make investments under general consent, the nonmember bank or an must already have at least one foreign bank subsidiary or foreign branch, as evidence that the nonmember bank's management has suitable expertise to address the special considerations that arise in foreign investments. This experience requirement can also be satisfied if an affiliate of the nonmember bank has a foreign bank subsidiary, or if an affiliated bank or Edge or Agreement corporation has a foreign branch. In addition, if the investment will constitute a joint venture or a subsidiary or will otherwise be controlled by the state nonmember, the final rule requires that at least one other nonmember bank already have a foreign bank subsidiary in the country in question. This will prevent nonmember banks from establishing a presence in a jurisdiction in which the FDIC has not had an opportunity to contact host country supervisory authorities and establish a working arrangement for cross-border supervision.

The final rule also permits an eligible nonmember bank to make any investment which complies with the activity and other limits of subpart A through an expedited processing procedure lasting 45 days. Under § 347.403(c)(1), the FDIC may remove an applicant from expedited processing if the FDIC's review of the application indicates significant concerns related to supervision, law or policy. In such a case, a complete application is required. These are the same grounds for removal as would be applicable under the general rules contained in the FDIC's part 303 proposal, at proposed § 303.11.

As is the case in connection with the foreign branch rules, the FDIC is adopting these general consent and expedited processing procedures because a nonmember bank meeting the requirements of the provisions has sufficient expertise, is well-managed, and is in sufficiently sound overall condition, that extensive FDIC review is not required. The FDIC retains the option to suspend these procedures as to any institutions for which this is not the case. As with foreign branch applications, the consequence of suspension is that a full application is required in the future, and divestiture is not implicated. General consent and expedited processing are also not available in any foreign country if its law or practice would limit the FDIC's access to information for supervisory purposes, for the same reasons stated above in connection with foreign branch approvals.

Finally, § 347.402 also sets out the procedures for applications which are not eligible for the general consent or expedited processing provisions.

Exemptions From the Insurance Requirement for a State Branch of a Foreign Bank

From its initial adoption in 1979, § 346.6 of the FDIC's rules has provided a list of deposit activities in which a state branch could engage that would not constitute ''domestic retail deposit activity''. If the state branch only conducts deposit-taking activities which are enumerated in § 346.6(a)(1)–(7), and are carried forward to proposed § 347.206(a)(1)–(7), then the state branch is deemed to not be engaged in domestic retail deposit activity, and the deposit insurance requirement is not triggered. Pursuant to § 346.6(b), which has been carried forward as § 347.206(b), the

[5] The World Heritage List was established under the terms of The Convention Concerning the Protection of World Culture and Natural Heritage adopted in November, 1972 at a General Conference of the United Nations Education, Scientific and Cultural Organization. Current versions of the list are on the Internet at http://www.unesco.org/whc/heritage.htm, or may be obtained from the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC 20429.

FDIC may permit an uninsured state branch to accept additional types of deposits in an initial amount of less than $100,000. The final rule transfers the associated application procedures currently contained in § 346.6(b) to § 347.404. These procedures need no substantive revision at this time, because the procedures were recently reviewed and amended by the FDIC as a result of amendments to the IBA which were made by section 107 of the Riegle-Neal Act.

Application by Insured State Branches for FDIC Approval To Conduct Activities Not Permissible for Federal Branches

Section 347.405 of the final rule contains the application procedure for a state-licensed insured branch of a foreign bank seeking to engage in any activity which is not permissible for a federal branch of a foreign bank, as required by § 347.213 of the final rule. Section 347.405 also sets out procedures for filing divestiture plans in the event such an application is denied or the law changes and a foreign bank elects not to continue the activity. No substantive changes have been made from the current application procedures in § 346.101.

V. Technical and Conforming Changes

The FDIC's rules and regulations currently contain numerous cross-references to part 346. These have conformed to the appropriate sections of revised part 347 under the final rule. The final rule also eliminates application procedures and delegations under current part 303 of the FDIC's rules and regulations, to the extent those procedures and delegations are displaced under the final rule.

VI. Paperwork Reduction Act

The collections of information contained in this rule have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.). The collections of information in this final rule are contained in various sections appearing in subpart A and subpart B of part 347. The collections of information into two groups, each with a separate OMB control number. The collections from subpart A (Foreign Branching and Investment by Insured State Nonmember Banks) have been assigned control number 3064–0125, and the collections from subpart B (Foreign Banks) have been assigned control number 3064–0114. Both OMB clearances will expire on July 31st, 2000. Each of the collections required by the final rule is discussed below.

Subpart A—Foreign Branching and Investment by Insured State Nonmember Banks—OMB Control No. 3064–0125

Sections 347.103(b)–(f) and 347.402 contain collections of information in the form of requirements that insured state nonmember banks (nonmember banks) (1) notify the FDIC if the bank establishes a foreign branch under certain eligibility criteria in the rule; (2) give the FDIC 45 days prior notice before establishing a branch under certain eligibility criteria in the rule; (3) file an application with the FDIC requesting authorization to establish a foreign branch or to engage in certain activities through a foreign branch; or (4) notify the FDIC if the bank closes a foreign branch. The information will be used by the FDIC to authorize foreign branching as set out in section 18(d)(2) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1828(d)(2)). The estimated annual reporting burden for the collection of information is summarized as follows:

Collections (1) and (4) (notice of foreign branch establishment (347.402(a)) or foreign branch closure (347.402(d)):

Total annual responses: 4.

Average hours per response: 2.

Collection (2) (expedited processing for foreign branch establishment (347.402(b))

Total annual responses: 3.

Average hours per response: 6.

Collection (3) (application to establish a foreign branch (347.402(b))

Total annual responses: 3.

Average hours per response: 40.

Total annual burden hours: 146.

Sections 347.108 and 347.403 contain collections of information in the form of requirements that nonmember banks (1) notify the FDIC if the bank acquires stock or other evidences of ownership of foreign organizations under certain eligibility criteria in the rule; (2) give the FDIC 45 days prior notice before acquiring stock or other evidences of ownership of foreign organizations under certain eligibility criteria in the rule; or (3) file an application with the FDIC requesting authorization to acquire stock or other evidences of ownership of foreign organizations or to engage in certain activities through foreign organizations. The information will be used by the FDIC to authorize foreign investment as set out in section 18(l) of the FDI Act (12 U.S.C. 1828 (l)). The estimated annual reporting burden for the collection of information is summarized as follows:

Collection (1) (notice of foreign investment (347.403(a)).

Total annual responses: 5.

Average hours per response: 2.

Collection (2) (expedited processing for foreign investment (347.403(b)).

Total annual responses: 4.

Average hours per response: 6.

Collection (3) (application to make a foreign investment (347.403(b)).

Total annual responses: 3.

Average hours per response: 60.

Total annual burden hours: 214.

Section 347.110 contains collections of information in the form of a requirement that nonmember banks with foreign branches, or that hold 20 percent or more of a foreign organization's voting equity interests, or control a foreign organization, maintain certain records, controls, and reports on the foreign operation's business activities. Section 18(d)(2) and 18(l) of the FDI Act authorize the FDIC to govern a nonmember bank's conduct of foreign branching and investment, and the information will be used by the nonmember bank to monitor the foreign operations and control its risk. The estimated annual reporting burden for the collection of information is summarized as follows:

Total annual responses: 63.

Average hours per response: 400.

Total annual burden hours: 25,200.

Summary of Subpart A—OMB Control No. 3064–0125 Collections

Total annual responses: 85.

Total annual burden hours: 25,560.

Subpart B—Foreign Banks—OMB Control No. 3064–0114

Sections 347.206(b) and 347.404 contain a collection of information in the form of a requirement that noninsured state-licensed branches of foreign banks make an application to obtain the FDIC's permission to receive deposits of less than $100,000 if the deposits are not otherwise authorized by § 347.206(a). The information will be used by the FDIC to determine whether to authorize the deposit taking as set out in section 6(b) of the International Banking Act (12 U.S.C. 3104(b)). The estimated annual reporting burden for the collection of information is summarized as follows:

Total annual responses: 1.

Average hours per response: 6.

Total annual burden hours: 6.

Sections 347.216 and 347.405 contain collections of information in the form of requirements that insured state-licensed branches of foreign banks (1) file an application with the FDIC requesting permission to conduct activities which are not permissible for a federal branch

of a foreign bank; or (2) submit a pro forma plan of divestiture or cessation for activities which are not permissible for a federal branch of a foreign bank. The information in the application will be used by the FDIC to determine whether the activity poses a significant risk to the deposit insurance fund, as required by section 7 of the International Banking Act (12 U.S.C. 3105(h)), and the information in the plan of divestiture or cessation will be used by the FDIC to make judgments concerning the reasonableness of the branch's actions to discontinue activities deemed to pose a significant risk to the deposit insurance fund. This collection of information had previously been approved by the OMB under control no. 3064–0114. The estimated annual reporting burden for the collection of information is summarized as follows:

Total annual responses: 1.
Average hours per response: 8.
Total annual burden hours: 8.

Sections 347.209 contains a collection of information in the form of a requirement that insured branches of foreign banks maintain a set of accounts and records in English and maintain its records as a separate entity with assets and liabilities separate from the foreign bank's head office, other branches, etc. The information will be used by the insured branch in the same way any banking entity uses such records, and the FDIC will review such records in connection with examining and supervising the insured branch (which is an ''insured depository institution'' for which the FDIC is the ''appropriate Federal banking agency'' within the meaning of section 3 of the FDI Act, (12 U.S.C. 1813)). The estimated annual reporting burden for the collection of information is summarized as follows:

Total annual responses: 32.
Average hours per response: 120.
Total annual burden hours: 3,840.

Sections 347.210(e)(4) and 347.210(e)(6) contain collections of information in the form of a requirement that insured branches of foreign banks and their depositories (1) make quarterly reports to the FDIC identifying the specific securities the foreign bank has pledged to the FDIC and their value, as well as the average liabilities of the insured branch; and (2) provide the FDIC copies of documents and instruments conveyed by the insured branch to the depository to effectuate the pledge. The information will be used by the FDIC to verify compliance with the pledge of asset requirements authorized by section 5(c) of the FDI Act (12 U.S.C. 1815(c)). The collection of information under item (1) on a semiannual basis has previously been approved by the OMB, whereas the FDIC is now proposing to collect it quarterly. The OMB's previous approval was under control no. 3064–0010, but the OMB has approved the FDIC's request to regroup it under control number 3064–0114 for ease of reference. The estimated annual reporting burden for the collection of information is summarized as follows:

Collection (1)(reports (347.210(e)(6))
Total annual responses: 256.
Average hours per response: 2.
Collection (2)(copies of documents effectuating pledges (347.210(e)(4))
Total annual responses: 128.
Average hours per response: 0.25.
Total annual burden hours: 544.

Summary of Subpart B—OMB Control No. 3064–0114 Collections

Total annual responses: 418.
Total annual burden hours: 4,398.

The FDIC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments, at any time, regarding any aspect of these collections of information. Comments may be sent to: Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), Federal Deposit Insurance Corporation, Room F–4080, 550 17th Street NW, Washington, DC 20429.

VII. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Title II, Pub. L. 104–121) provides generally for agencies to report rules to Congress for review. The reporting requirement is triggered when a federal agency issues a final rule. Accordingly, the FDIC will file the appropriate reports with Congress as required by SBREFA.

The Office of Management and Budget has determined that this final revision of part 347 does not constitute a ''major rule''' as defined by SBREFA.

VIII. Effective Date

Subject to certain exceptions, 12 U.S.C. 4802(b) provides that new regulations and amendments to regulations prescribed by a federal banking agency which impose additional reporting, disclosures, or other new requirements on an insured depository institution shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. Accordingly, compliance with the final rule is not mandatory until July 1, 1998. However, section 4802(b) also permits any person subject to the regulation to comply with the regulation voluntarily, prior to the effective date. Consequently, affected insured depository institutions and foreign banks may elect to comply voluntarily with the final rule, once the 30-day delay period required by section 553 of the Administrative Procedure Act (5 U.S.C. 552b) has passed. If an insured depository institution or foreign bank elects to comply voluntarily with any section of subparts A, B, or C of part 347, the institution or bank must comply with the entire subpart.

IX. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the final rule will not have a significant impact on a substantial number of small entities. With respect to subparts A and C of part 347, the FDIC's review of Call Report data indicates the rule will impact only an insubstantial number of small entities. With respect to subpart B of part 347, the revisions incorporate the legislative requirement first imposed by FBSEA that a foreign bank which intends to engage in domestic retail deposit activity in the U.S. must do so through an insured bank subsidiary. This has been the statutory standard for over five years; however, this requirement was not heretofore addressed in the FDIC's applicable regulation, part 346. Explicitly including this requirement in subpart B cannot be characterized as having a ''significant impact'' on the affected entities as they have been required to comply with this provision of FBSEA for many years. The other revisions which have been made to subpart B involve adding references to the FDIC's new supervisory approach—the Case Manager system—where applicable and simplifying the calculation of the amount of pledged assets required to comply with § 347.210(a). The formula will be based upon a quarterly calculation rather than a semi-annual calculation. In the future, the foreign bank will be required to report the calculation to the appropriate regional director every quarter. However, the additional two reports per year will not represent a significant burden on the affected banks because the foreign banks are already maintaining the information, and the time required to forward the quarterly calculation to the FDIC will be nominal. Therefore, the revisions to subpart B will not have a significant impact on a substantial number of small entities.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

12 CFR Part 326

Banks, banking, Currency, Insured nonmember banks, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 327

Assessments, Bank deposit insurance, Banks, banking, Financing Corporation, Savings associations.

12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

12 CFR Part 347

Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Credit, Foreign banking, Foreign investments, Insured branches, Investments, Reporting and recordkeeping requirements, United States investments abroad.

12 CFR Part 351

Foreign banking, Reporting and recordkeeping requirements.

12 CFR Part 362

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Insured depository institutions, Investments, Reporting and recordkeeping requirements.

For the reasons set forth above and under the authority of 12 U.S.C. 1819(a)(Tenth), the FDIC Board of Directors hereby amends 12 CFR chapter III as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES REQUIRED TO BE FILED BY STATUTE OR REGULATION

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819 (Seventh and Tenth), 1828, 1831e, 1831o, 1831p–1; 15 U.S.C. 1607.

§ 303.2 [Amended]

2. In § 303.2, paragraph (a) introductory text is amended by removing and reserving footnote 2.

§ 303.5 [Amended]

3. In § 303.5, paragraph (d) is removed and reserved.

4. In § 303.6, paragraphs (f)(1)(ii)(A) and (f)(1)(ii)(C) are revised to read as follows:

§ 303.6 Application procedures.

* * * * *

(f) * * *

(1) * * *

(ii) * * *

(A) *Applications to establish a branch, including a remote service facility.* In the communities in which the home office and the domestic branch to be established are located.

* * * * *

(C) *Applications for deposit insurance.* In the community in which the home bank office is or will be located.

* * * * *

5. In § 303.7, the heading for paragraph (a) and paragraphs (a)(1)(i), (a)(1)(ii)(A), (a)(1)(iii)(D), and (b)(4)(ii) are revised, the words ''; and'' are removed at the end of paragraph (f)(2)(i) and a period is added in their place, and paragraph (f)(2)(ii) is removed and reserved to read as follows:

§ 303.7 Delegation of authority to the Director (DOS) and to the associate directors, regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisition of control.

* * * * *

(a) Applications for branches (including remote service facilities, courier services), relocations, and for trust and other banking powers—(1) * * *

(i) Authority is delegated to the Director (DOS), and where confirmed in writing by the director, to an associate director, or to the appropriate regional director or deputy regional director, to approve applications for consent to establish branch facilities (including remote service facilities and courier services) or relocations where the applicant satisfies the requisites listed in paragraph (a)(1)(iii) of this section and agrees in writing to comply with any condition imposed by the delegate other than those standard conditions listed in § 303.0(b)(31).

(ii) * * *

(A) To deny applications for consent to establish branch facilities (including remote service facilities and courier services) or relocations; and

* * * * *

(iii) * * *

* * * * *

(D) The requirements of the National Historic Preservation Act (16 U.S.C. 470), the National Environmental Policy Act (42 U.S.C. 4321), and the Community Reinvestment Act of 1977 (12 U.S.C. 2901–2905) and its applicable implementing regulation (part 345 of this chapter) have been considered and favorably resolved: *Provided however,* That the authority to approve an application may not be subdelegated to a regional director or deputy regional director where a protest (as that term is defined in § 303.0(b)(30)) under the Community Reinvestment Act is filed.

* * * * *

(b) * * *

(4) * * *

(ii) Where the resulting institution, upon consummation of the merger transaction, does not meet the capital requirements set forth in part 325 of this chapter and the FDIC's ''Statement of Policy on Capital''. (If the applicant is a foreign bank, the delegated authority to approve does not extend to instances where, upon consummation of the merger transaction, the foreign bank's insured branch is not in compliance with subpart B of part 347 of this chapter.)

* * * * *

§ 303.8 [Amended]

6. In § 303.8, paragraph (f) is removed and reserved.

PART 325—CAPITAL MAINTENANCE

7. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

8. In § 325.103, paragraph (c) is revised to read as follows:

§ 325.103 Capital measures and capital category definitions.

* * * * *

(c) *Capital categories for insured branches of foreign banks.* For purposes of the provisions of section 38 and this subpart, an insured branch of a foreign bank shall be deemed to be:

(1) *Well capitalized* if the insured branch:

(i) Maintains the pledge of assets required under § 347.210 of this chapter; and

(ii) Maintains the eligible assets prescribed under § 347.211 of this chapter at 108 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities; and

(iii) Has not received written notification from:

(A) The OCC to increase its capital equivalency deposit pursuant to 12 CFR 28.15(b), or to comply with asset maintenance requirements pursuant to 12 CFR 28.20; or

(B) The FDIC to pledge additional assets pursuant to § 347.210 of this chapter or to maintain a higher ratio of eligible assets pursuant to § 347.211 of this chapter.

(2) *Adequately capitalized* if the insured branch:

(i) Maintains the pledge of assets required under § 347.210 of this chapter; and

(ii) Maintains the eligible assets prescribed under § 347.211 of this chapter at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities; and

(iii) Does not meet the definition of a well capitalized insured branch.

(3) *Undercapitalized* if the insured branch:

(i) Fails to maintain the pledge of assets required under § 347.210 of this chapter; or

(ii) Fails to maintain the eligible assets prescribed under § 347.211 of this chapter at 106 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

(4) *Significantly undercapitalized* if it fails to maintain the eligible assets prescribed under § 347.211 of this chapter at 104 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

(5) *Critically undercapitalized* if it fails to maintain the eligible assets prescribed under § 347.211 of this chapter at 102 percent or more of the preceding quarter's average book value of the insured branch's third-party liabilities.

* * * * *

PART 326—MINIMUM SECURITY DEVICES AND PROCEDURES AND BANK SECRECY ACT [1] COMPLIANCE

9. The authority citation for part 326 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1818, 1819 (Tenth), 1881–1833; 31 U.S.C. 5311–5324.

10. In § 326.1, paragraph (c) is amended by revising the last sentence to read as follows:

§ 326.1 Definitions.

* * * * *

(c) * * * In the case of a foreign bank, as defined in § 347.202 of this chapter, the term *branch* has the same meaning given in § 347.202 of this chapter.

11. In § 326.8, paragraph (a) and footnote 3 are revised to read as follows:

§ 326.8 Bank Secrecy Act compliance.

(a) *Purpose.* This subpart is issued to assure that all insured nonmember banks as defined in § 326.1 [3] establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the Department of Treasury at 31 CFR part 103.

* * * * *

PART 327—ASSESSMENTS

12. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1813, 1815, 1817–1819; Pub. L. 104–208, 110 Stat. 3009–479 (12 U.S.C. 1821).

13. In § 327.1, paragraph (b)(2) is revised to read as follows:

§ 327.1 Purpose and scope.

* * * * *

(b) * * *

(2) Deductions from the assessment base of an insured branch of a foreign bank are stated in subpart B of part 347 of this chapter.

14. In § 327.4, paragraphs (a)(1)(i)(B)(*1*), (a)(1)(i)(B)(*2*), (a)(1)(ii)(B)(*1*), and (a)(1)(ii)(B)(*2*) are revised to read as follows:

§ 327.4 Annual assessment rate.

(a) * * *

(1) * * *

(i) * * *

(B) * * *

(*1*) Maintains the pledge of assets required under § 347.210 of this chapter; and

(*2*) Maintains the eligible assets prescribed under § 347.211 of this chapter at 108 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (a)(1) of this section.

(ii) * * *

(B) * * *

(*1*) Maintains the pledge of assets required under § 347.210 of this chapter; and

(*2*) Maintains the eligible assets prescribed under § 347.211 of this chapter at 106 percent or more of the average book value of the insured branch's third-party liabilities for the quarter ending on the report date specified in paragraph (a)(1) of this section; and

* * * * *

PART 346—[REMOVED]

15. Part 346 is removed.

16. Part 347 is revised to read as follows:

PART 347—INTERNATIONAL BANKING

Subpart A—Foreign Branching and Investment by Insured State Nonmember Banks

Sec.

347.101 Purpose, authority, and scope.
347.102 Definitions.
347.103 Foreign branches of insured state nonmember banks.
347.104 Investment by insured state nonmember banks in foreign organizations.
347.105 Underwriting and dealing limits applicable to foreign organizations held by insured state nonmember banks.
347.106 Restrictions on certain activities applicable to foreign organizations held by insured state nonmember banks.
347.107 U.S. activities of foreign organizations held by insured state nonmember banks.
347.108 Obtaining FDIC approval to invest in foreign organizations.
347.109 Extensions of credit to foreign organizations held by insured state nonmember banks; shares of foreign organizations held in connection with debts previously contracted.
347.110 Supervision and recordkeeping of the foreign activities of insured state nonmember banks.

Subpart B—Foreign Banks

347.201 Scope.
347.202 Definitions.
347.203 Restriction on operation of insured and noninsured branches.
347.204 Insurance requirement.
347.205 Branches established under section 5 of the International Banking Act.
347.206 Exemptions from the insurance requirement.
347.207 Notification to depositors.
347.208 Agreement to provide information and to be examined.
347.209 Records.
347.210 Pledge of assets.

[1] In its original form, subchapter II of chapter 53 of title 31 U.S.C., was part of Pub. L. 91–508 which requires recordkeeping for and reporting of currency transactions by banks and others and is commonly known as the *Bank Secrecy Act.*

[3] In regard to foreign banks, the programs and procedures required by § 326.8 need be instituted only at an *insured branch* as defined in § 347.202 of this chapter which is a *State branch* as defined in § 347.202 of this chapter.

347.211 Asset maintenance.
347.212 Deductions from the assessment base.
347.213 FDIC approval to conduct activities not permissible for federal branches.

Subpart C—International Lending

347.301 Purpose, authority, and scope.
347.302 Definitions.
347.303 Allocated transfer risk reserve.
347.304 Accounting for fees on international loans.
347.305 Reporting and disclosure of international assets.

Subpart D—Applications and Delegations of Authority

347.401 Definitions.
347.402 Establishing, moving or closing a foreign branch of a state nonmember bank; § 347.103.
347.403 Investment by insured state nonmember banks in foreign organizations; § 347.108.
347.404 Exemptions from insurance requirement for a state branch of a foreign bank; § 347.206(b).
347.405 Approval for an insured state branch of a foreign bank to conduct activities not permissible for federal branches; § 347.213.

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 1828, 3103, 3104, 3105, 3108; Title IX, Pub. L. 98–181, 97 Stat. 1153.

Subpart A—Foreign Branching and Investment by Insured State Nonmember Banks

§ 347.101 Purpose, authority, and scope.

Under sections 18(d) and 18(l) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d), 1828(l)), the Federal Deposit Insurance Corporation prescribes the regulations in this subpart relating to foreign branches of insured state nonmember banks, the acquisition and holding of stock of foreign organizations, and loans or extensions of credit to or for the account of such foreign organizations.

§ 347.102 Definitions.

For the purposes of this subpart:

(a) An *affiliate* of an insured state nonmember bank means:

(1) Any entity of which the insured state nonmember bank is a direct or indirect subsidiary or which otherwise controls the insured state nonmember bank;

(2) Any organization which is a direct or indirect subsidiary of such entity or which is otherwise controlled by such entity; or

(3) Any other organization which is a direct or indirect subsidiary of the insured state nonmember bank or is otherwise controlled by the insured state nonmember bank.

(b) *Control* means the ability to control in any manner the election of a majority of an organization's directors or trustees; or the ability to exercise a controlling influence over the management and policies of an organization. An insured state nonmember bank is deemed to control an organization of which it is a general partner or its affiliate is a general partner.

(c) *Eligible* insured state nonmember bank means an eligible depository institution as defined in § 347.401(c).

(d) *Equity interest* means any ownership interest or rights in an organization, whether through an equity security, contribution to capital, general or limited partnership interest, debt or warrants convertible into ownership interests or rights, loans providing profit participation, binding commitments to acquire any such items, or some other form of business transaction.

(e) *Equity security* means voting or nonvoting shares, stock, investment contracts, or other interests representing ownership or participation in a company or similar enterprise, as well as any instrument convertible to any such interest at the option of the holder without payment of substantial additional consideration.

(f) *FRB* means the Board of Governors of the Federal Reserve System.

(g) *Foreign bank* means an organization that is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands that:

(1) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or the country in which its principal banking operations are located;

(2) Receives deposits to a substantial extent in the regular course of its business; and

(3) Has the power to accept demand deposits.

(h) *Foreign banking organization* means a foreign organization that is formed for the sole purpose of either holding shares of a foreign bank or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or foreign bank affiliate of the insured state nonmember bank.

(i) *Foreign branch* means an office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, at which banking operations are conducted, but does not include a representative office.

(j) *Foreign country* means any country other than the United States and includes any territory, dependency, or possession of any such country or of the United States.

(k) *Foreign organization* means an organization that is organized under the laws of a foreign country.

(l) *Indirectly* means investments held or activities conducted by a subsidiary of an organization.

(m) *Loan or extension of credit* means all direct and indirect advances of funds to a person, government, or entity made on the basis of any obligation of that person, government, or entity to repay funds.

(n) *Organization* or *entity* means a corporation, partnership, association, bank, or other similar entity.

(o) *Representative office* means an office that engages solely in representative functions such as soliciting new business for its home office or acting as liaison between the home office and local customers, but which has no authority to make business or contracting decisions other than those relating to the personnel and premises of the representative office.

(p) *Subsidiary* means any organization more than 50 percent of the voting equity interests of which are directly or indirectly held by another organization.

(q) *Tier 1 capital* means Tier 1 capital as defined in § 325.2 of this chapter.

(r) *Well capitalized* means well capitalized as defined in § 325.103 of this chapter.

§ 347.103 Foreign branches of insured state nonmember banks.

(a) *Powers of foreign branches.* To the extent authorized by state law, an insured state nonmember bank may establish a foreign branch. In addition to its general banking powers, and if permitted by state law, a foreign branch of an insured state nonmember bank may conduct the following activities to the extent the activities are consistent with banking practices in the foreign country in which the branch is located:

(1) *Guarantees.* Guarantee debts, or otherwise agree to make payments on the occurrence of readily ascertainable events including without limitation such things as nonpayment of taxes, rentals, customs duties, or costs of transport and loss or nonconformance of shipping documents, if:

(i) The guarantee or agreement specifies a maximum monetary liability; and

(ii) To the extent the guarantee or agreement is not subject to a separate amount limit under state or federal law, the amount of the guarantee or agreement is combined with loans and other obligations for purposes of applying any legal lending limits.

(2) *Local investments.* Acquire and hold the following local investments, so

long as aggregate investments (other than those required by the law of the foreign country or permissible under section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) by all the bank's branches in one foreign country do not exceed 1 percent of the total deposits in all the bank's branches in that country as reported in the preceding year-end Report of Income and Condition (Call Report): [1]

(i) Equity securities of the central bank, clearing houses, governmental entities, and development banks of the country in which the branch is located;

(ii) Other debt securities eligible to meet local reserve or similar requirements; and

(iii) Shares of automated electronic payment networks, professional societies, schools, and similar entities necessary to the business of the branch.

(3) *Government obligations.* Make the following types of transactions with respect to the obligations of foreign countries, so long as aggregate investments, securities held in connection with distribution and dealing, and underwriting commitments do not exceed ten percent of the insured state nonmember bank's Tier 1 capital:

(i) Underwrite, distribute and deal, invest in, or trade obligations of:

(A) The national government of the country in which the branch is located or its political subdivisions; and

(B) An agency or instrumentality of such national government if supported by the taxing authority, guarantee, or full faith and credit of the national government.

(ii) Underwrite, distribute and deal, invest in or trade obligations[2] rated as investment grade by at least two established international rating agencies of:

(A) The national government of any foreign country or its political subdivisions, to the extent permissible under the law of the issuing foreign country; and

(B) An agency or instrumentality of the national government of any foreign country to the extent permissible under the law of the issuing foreign country, if supported by the taxing authority, guarantee, or full faith and credit of the national government.

(4) *Insurance.* Act as an insurance agent or broker.

(5) *Other activities.* Engage in these activities in an additional amount, or in other activities, approved by the FDIC.

(b) *General consent to establish and relocate foreign branches.* (1) General consent of the FDIC is granted for an eligible insured state nonmember bank to establish foreign branches conducting activities authorized by this section in any foreign country in which the bank already operates one or more foreign branches or foreign bank subsidiaries.

(2) General consent of the FDIC is granted for an insured state nonmember bank to relocate an existing foreign branch within a foreign country.

(3) An insured state nonmember bank acting under this paragraph must provide written notice of such action to the FDIC within 30 days after establishing or relocating the branch.

(c) *Expedited processing of branch applications.* (1) Forty-five days after filing a substantially complete application with the FDIC, or upon such earlier time as authorized by the FDIC, an eligible insured state nonmember bank may establish foreign branches conducting activities authorized by this section in any foreign country in which:

(i) An affiliated bank or Edge or Agreement corporation operates one or more foreign branches or foreign bank subsidiaries; or

(ii) The bank's holding company operates a foreign bank subsidiary.

(2) If any of the following are located in two or more foreign countries, an eligible insured state nonmember bank may establish a foreign branch conducting activities authorized by this section in an additional foreign country 45 days after the bank files a substantially complete application with the FDIC, or upon such earlier time as authorized by the FDIC:

(i) Foreign branches or foreign bank subsidiaries of the eligible insured state nonmember bank;

(ii) Foreign branches or foreign bank subsidiaries of banks and Edge or Agreement corporations affiliated with the eligible insured state nonmember bank; and

(iii) Foreign bank subsidiaries of the eligible insured state nonmember bank's holding company.

(d) *Limitations on general consent and expedited processing.* General consent under paragraph (b) or expedited processing under paragraph (c) of this section does not apply:

(1) If the foreign branch would be located on a site on the World Heritage List or on the foreign country's equivalent of the National Register of Historic Places, in accordance with section 403 of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a–2);

(2) If the foreign branch would be located in a foreign country in which applicable law or practice would limit the FDIC's access to information for supervisory purposes; or

(3) If the FDIC at any time notifies the insured state nonmember bank that the FDIC is modifying or suspending its general consent or expedited processing procedure.

(e) *Specific consent required.* An insured state nonmember bank may not engage in a type or amount of foreign branch activity not authorized by this section, or establish a foreign branch other than as authorized by paragraphs (b) and (c) of this section, without obtaining the prior specific consent of the FDIC.

(f) *Branch closing.* An insured state nonmember bank must notify the FDIC in writing at the time it closes a foreign branch.

(g) *Procedures.* Procedures for notices and applications under this section are set out in subpart D of this part.

§ 347.104 Investment by insured state nonmember banks in foreign organizations.

(a) *Investment authorized.* To the extent authorized by state law, an insured state nonmember bank may directly or indirectly acquire and retain equity interests in foreign organizations, subject to the requirements of this subpart.

(b) *Authorized financial activities.* An insured state nonmember bank may not directly or indirectly acquire or hold equity interests of a foreign organization resulting in the insured state nonmember bank and its affiliates holding more than 50 percent of a foreign organization's voting equity interests in the aggregate, or the insured state nonmember bank or its affiliates otherwise controlling the foreign organization, unless the activities of the foreign organization are limited to the following financial activities:

(1) Commercial and other banking activities.

(2) Underwriting, distributing, and dealing debt securities outside the United States.

(3) With the prior approval of the FDIC under § 347.108(d), underwriting, distributing, and dealing equity securities outside the United States.

(4) Organizing, sponsoring, and managing a mutual fund if the fund's shares are not sold or distributed in the United States or to U.S. residents and the fund does not exercise management control over the firms in which it invests.

(5) General insurance agency and brokerage.

[1] If a branch has recently been acquired by the state nonmember bank and the branch was not previously required to file a Call Report, branch deposits as of the acquisition date must be used.

[2] If the obligation is an equity interest, it must be held through a subsidiary of the foreign branch and the insured state nonmember bank must meet its minimum capital requirements.

(6) Underwriting credit life, credit accident and credit health insurance.

(7) Performing management consulting services provided that such services when rendered with respect to the United States market must be restricted to the initial entry.

(8) Data processing.

(9) Operating a travel agency in connection with financial services offered abroad by the insured state nonmember bank or others.

(10) Engaging in activities that the FRB has determined in Regulation Y (12 CFR 225.28(b)) are closely related to banking under section 4(c)(8) of the Bank Holding Company Act.

(11) Performing services for other direct or indirect operations of a U.S. banking organization, including representative functions, sale of long-term debt, name saving, liquidating assets acquired to prevent loss on a debt previously contracted in good faith, and other activities that are permissible for a bank holding company under sections 4(a)(2)(A) and 4(c)(1)(C) of the Bank Holding Company Act.

(12) Holding the premises of a branch of an Edge corporation or insured state nonmember bank or the premises of a direct or indirect subsidiary, or holding or leasing the residence of an officer or employee of a branch or a subsidiary.

(13) Engaging in the foregoing activities in an additional amount, or in other activities, with the prior approval of the FDIC under § 347.108(d).

(c) *Going concerns.* If an insured state nonmember bank acquires equity interests of a foreign organization under paragraph (b) of this section and the foreign organization is a going concern, up to five percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under paragraph (b) of this section.

(d) *Joint ventures.* If an insured state nonmember bank directly or indirectly acquires or holds equity interests of a foreign organization resulting in the insured state nonmember bank and its affiliates holding 20 percent or more, but not in excess of 50 percent, of the voting equity interests of a foreign organization in the aggregate, and the insured state nonmember bank or its affiliates do not control the foreign organization, up to 10 percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under paragraph (b) of this section.

(e) *Portfolio investment.* If an insured state nonmember bank directly or indirectly acquires or holds equity interests of a foreign organization resulting in the insured state nonmember bank and its affiliates holding less than 20 percent of the voting equity interests of a foreign organization in the aggregate, and the insured state nonmember bank or its affiliates do not control the foreign organization:

(1) Up to ten percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under paragraph (b) of this section; and

(2) Any loans or extensions of credit made by the insured state nonmember bank and its affiliates to the foreign organization must be on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions between the insured state nonmember bank or its affiliates and nonaffiliated organizations.

(f) *Indirect holding of foreign organizations which are not foreign banks or foreign banking organizations.* Any investment pursuant to the authority of paragraphs (b) through (e) of this section in a foreign organization which is not a foreign bank or foreign banking organization must be held indirectly through a U.S. or foreign subsidiary of the insured state nonmember bank if the foreign organization does not constitute a subsidiary of the insured state nonmember bank, and the insured state nonmember bank must meet its minimum capital requirements.

(g) *Indirect investments in nonfinancial foreign organizations.* An insured state nonmember bank may indirectly acquire and hold equity interests in an amount up to 15 percent of the insured state nonmember bank's Tier 1 capital in foreign organizations engaged generally in activities beyond those listed in paragraph (b) of this section, subject to the following:

(1) The equity interests must be acquired and held indirectly through a subsidiary authorized by paragraphs (b) or (c) of this section, or an Edge corporation if also authorized by the FRB;

(2) The aggregate holding of voting equity interests of one foreign organization by the insured state nonmember bank and its affiliates must be less than 20 percent of the foreign organization's voting equity interests;

(3) The aggregate holding of voting and nonvoting equity interests of one foreign organization by the insured state nonmember bank and its affiliates must be less than 40 percent of the foreign organization's equity interests;

(4) The insured state nonmember bank or its affiliates must not otherwise control the foreign organization; and

(5) Any loans or extensions of credit made by the insured state nonmember bank and its affiliates to the foreign organization must be on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions between the insured state nonmember bank or its affiliates and nonaffiliated organizations.

(h) *Affiliate holdings.* References in this section to equity interests of foreign organizations held by an affiliate of an insured state nonmember bank includes equity interests held in connection with an underwriting or for distribution or dealing by an affiliate permitted to do so by § 337.4 of this chapter or section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)).

§ 347.105 Underwriting and dealing limits applicable to foreign organizations held by insured state nonmember banks.

If an insured state nonmember bank, in reliance on the authority of § 347.104, holds an equity interest in one or more foreign organizations which underwrite, deal, or distribute equity securities outside the United States as authorized by § 347.104(b)(3):

(a) *Underwriting commitment limits.* The aggregate underwriting commitments by the foreign organizations for the equity securities of a single entity, taken together with underwriting commitments by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5, must not exceed the lesser of $60 million or 25 percent of the insured state nonmember bank's Tier 1 capital unless excess amounts are either:

(1) Covered by binding commitments from subunderwriters or purchasers; or

(2) Deducted from the capital of the insured state nonmember bank, with at least 50 percent of the deduction being taken from Tier 1 capital, and the insured state nonmember bank remains well capitalized after this deduction.

(b) *Distribution and dealing limits.* The equity securities of any single entity held for distribution or dealing by the foreign organizations, taken together with equity securities held for distribution or dealing by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5:

(1) Must not exceed the lesser of $30 million or 5 percent of the insured state nonmember bank's Tier 1 capital, subject to the following:

(i) Any equity securities acquired pursuant to any underwriting commitment extending up to 90 days

after the payment date for the underwriting may be excluded from this limit;

(ii) Any equity securities of the entity held under the authority of § 347.104 or 12 CFR 211.5(b) for purposes other than distribution or dealing must be included in this limit; and

(iii) Up to 75 percent of the position in an equity security may be reduced by netting long and short positions in the same security, or offsetting cash positions against derivative instruments referenced to the same security so long as the derivatives are part of a prudent hedging strategy; and

(2) Must be included in calculating the general consent limits under § 347.108(a)(3) if the insured state nonmember bank relies on the general consent provisions as authority to acquire equity interests of the same foreign entity for investment or trading.

(c) *Additional distribution and dealing limits.* With the exception of equity securities acquired pursuant to any underwriting commitment extending up to 90 days after the payment date for the underwriting, equity securities of a single entity held for distribution or dealing by all affiliates of the state nonmember bank (this includes shares held in connection with an underwriting or for distribution or dealing by an affiliate permitted to do so by § 337.4 of this chapter or section 4(c)(8) of the Bank Holding Company Act), combined with any equity interests held for investment or trading purposes by all affiliates of the state nonmember bank, must conform to the limits of § 347.104.

(d) *Combined limits.* The aggregate of the following may not exceed 25 percent of the insured state nonmember bank's Tier 1 capital:

(1) All equity interests of foreign organizations held for investment or trading under § 347.104(g) or by an affiliate of the insured state nonmember bank under the corresponding paragraph of 12 CFR 211.5;

(2) All underwriting commitments under paragraph (a) of this section, taken together with all underwriting commitments by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5, after excluding the amount of any underwriting commitment:

(i) Covered by binding commitments from subunderwriters or purchasers under paragraph (a)(1) of this section or the comparable provision of 12 CFR 211.5; or

(ii) Already deducted from the insured state nonmember bank's capital under paragraph (a)(2) of this section, or the appropriate affiliate's capital under the comparable provisions of 12 CFR 211.5; and

(3) All equity securities held for distribution or dealing under paragraph (b) of this section, taken together with all equity securities held for distribution or dealing by any affiliate of the insured state nonmember bank under the authority of 12 CFR 211.5, after reducing by up to 75 percent the position in any equity security by netting and offset, as permitted by paragraph (b)(1)(iii) of this section or the comparable provision of 12 CFR 211.5.

§ 347.106 Restrictions on certain activities applicable to foreign organizations held by insured state nonmember banks.

Futures commission merchant. If an insured state nonmember bank, in reliance on the authority of § 347.104, acquires or retains an equity interest in one or more foreign organizations which acts as a futures commission merchant as authorized by § 347.104(b)(10), the foreign organization may not be a member of an exchange or clearing association that requires members to guarantee or otherwise contract to cover losses suffered by other members unless the foreign organization's liability does not exceed two percent of the insured state nonmember bank's Tier 1 capital, or the insured state nonmember bank has obtained the prior approval of the FDIC under § 347.108(d).

§ 347.107 U.S. activities of foreign organizations held by insured state nonmember banks.

(a) An insured state nonmember bank may not directly or indirectly hold the equity interests of any foreign organization pursuant to the authority of this section if the organization engages in the general business of buying or selling goods, wares, merchandise, or commodities in the United States.

(b) An insured state nonmember bank may not directly or indirectly hold more than 5 percent of the equity interests of any foreign organization pursuant to the authority of this subpart unless any activities in which the foreign organization engages directly or indirectly in the United States are incidental to its international or foreign business.

(c) A foreign organization is not engaged in any business or activities in the United States for these purposes unless it maintains an office in the United States other than a representative office.

(d) The following activities are incidental to international or foreign business:

(1) Activities that the FRB has determined in Regulation K (12 CFR 211.4) are permissible in the United States for an Edge corporation.

(2) Other activities approved by the FDIC.

§ 347.108 Obtaining FDIC approval to invest in foreign organizations.

(a) *General consent.* General consent of the FDIC is granted for an eligible insured state nonmember bank to make direct or indirect investments in foreign organizations in conformity with the limits and requirements of this subpart if:

(1) The insured state nonmember bank presently operates at least one foreign bank subsidiary or foreign branch, an affiliated bank or Edge or Agreement corporation operates at least one foreign bank subsidiary or foreign branch, or the insured state nonmember bank's holding company operates at least one foreign bank subsidiary;

(2) In any case in which the insured state nonmember bank and its affiliates will hold 20 percent or more of the foreign organization's voting equity interests or control the foreign organization, at least one insured state nonmember bank has a foreign bank subsidiary in the relevant foreign country; [3]

(3) The investment is within one of the following limits:

(i) The investment is acquired at net asset value from an affiliate;

(ii) The investment is a reinvestment of cash dividends received from the same foreign organization during the preceding 12 months; or

(iii) The total investment directly or indirectly in a single foreign organization in any transaction or series of transactions during a twelve-month period does not exceed two percent of the insured state nonmember bank's Tier 1 capital, and such investments in all foreign organizations in the aggregate do not exceed:

(A) 5 percent of the insured state nonmember bank's Tier 1 capital during a 12-month period; and

(B) Up to an additional five percent of the insured state nonmember bank's Tier 1 capital if the investments are acquired for trading purposes; and

(4) Within 30 days, the insured state nonmember bank provides the FDIC written notice of the investment, unless the investment was acquired for trading purposes, in which case no notice is required.

(b) *Expedited processing.* An investment that does not qualify for general consent but is otherwise in conformity with the limits and

[3] A list of these countries can be obtained from the FDIC's Internet Web Site at www.fdic.gov.

requirements of this subpart may be made 45 days after an eligible insured state nonmember bank files a substantially complete application with the FDIC, or upon such earlier time as authorized by the FDIC.

(c) *Inapplicability of general consent or expedited processing.* General consent or expedited processing under this section do not apply:

(1) For foreign investments resulting in the insured state nonmember bank holding 20 percent or more of the voting equity interests of a foreign organization or controlling such organization and the foreign organization would be located in a foreign country in which applicable law or practice would limit the FDIC's access to information for supervisory purposes; or

(2) If the FDIC at any time notifies the insured state nonmember bank that the FDIC is modifying or suspending its general consent or expedited processing procedure.

(d) *Specific consent.* Any investment that is not authorized under general consent or expedited processing procedures must not be made without the prior specific consent of the FDIC.

(e) *Computation of amounts.* In computing the amount that may be invested in any foreign organization under this section, any investments held by an affiliate of the insured state nonmember bank must be included.

(f) *Procedures.* Procedures for applications and notices under this section are set out in subpart D of this part.

§ 347.109 Extensions of credit to foreign organizations held by insured state nonmember banks; shares of foreign organizations held in connection with debts previously contracted.

(a) *Loans or extensions of credit.* An insured state nonmember bank which directly or indirectly holds equity interests in a foreign organization pursuant to the authority of this subpart may make loans or extensions of credit to or for the accounts of the organization without regard to the provisions of section 18(j) of the FDI Act (12 U.S.C. 1828(j)).

(b) *Debts previously contracted.* Equity interests acquired to prevent a loss upon a debt previously contracted in good faith are not subject to the limitations or procedures of this subpart; however they must be disposed of promptly but in no event later than two years after their acquisition, unless the FDIC authorizes retention for a longer period.

§ 347.110 Supervision and recordkeeping of the foreign activities of insured state nonmember banks.

(a) *Records, controls and reports.* An insured state nonmember bank with any foreign branch, any investment in a foreign organization of 20 percent or more of the organization's voting equity interests, or control of a foreign organization must maintain a system of records, controls and reports that, at minimum, provide for the following:

(1) *Risk assets.* To permit assessment of exposure to loss, information furnished or available to the main office should be sufficient to permit periodic and systematic appraisals of the quality of risk assets, including loans and other extensions of credit. Coverage should extend to a substantial proportion of the risk assets in the branch or foreign organization, and include the status of all large credit lines and of credits to customers also borrowing from other offices or affiliates of the insured state nonmember bank. Appropriate information on risk assets may include:

(i) A recent financial statement of the borrower or obligee and current information on the borrower's or obligee's financial condition;

(ii) Terms, conditions, and collateral;

(iii) Data on any guarantors;

(iv) Payment history; and

(v) Status of corrective measures employed.

(2) *Liquidity.* To enable assessment of local management's ability to meet its obligations from available resources, reports should identify the general sources and character of the deposits, borrowing, and other funding sources, employed in the branch or foreign organization with special reference to their terms and volatility. Information should be available on sources of liquidity–cash, balances with banks, marketable securities, and repayment flows—such as will reveal their accessibility in time and any risk elements involved.

(3) *Contingencies.* Data on the volume and nature of contingent items such as loan commitments and guarantees or their equivalents that permit analysis of potential risk exposure and liquidity requirements.

(4) *Controls.* Reports on the internal and external audits of the branch or foreign organization in sufficient detail to permit determination of conformance to auditing guidelines. Appropriate audit reports may include coverage of:

(i) Verification and identification of entries on financial statements;

(ii) Income and expense accounts, including descriptions of significant chargeoffs and recoveries;

(iii) Operations and dual-control procedures and other internal controls;

(iv) Conformance to head office guidelines on loans, deposits, foreign exchange activities, proper accounting procedures, and discretionary authority of local management;

(v) Compliance with local laws and regulations; and

(vi) Compliance with applicable U.S. laws and regulations.

(b) *Availability of information to examiners; reports.* (1) Information about foreign branches or foreign organizations must be made available to the FDIC by the insured state nonmember bank for examination and other supervisory purposes.

(2) If any applicable law or practice in a particular foreign country would limit the FDIC's access to information for supervisory purposes, no insured state nonmember bank may utilize the general consent or expedited processing procedures under §§ 347.103 and 347.108 to:

(i) Establish any foreign branch in the foreign country; or

(ii) Make any investment resulting in the state nonmember bank holding 20 percent or more of the voting equity interests of a foreign organization in the foreign country or controlling such organization.

(3) The FDIC may from time to time require an insured state nonmember bank to make and submit such reports and information as may be necessary to implement and enforce the provisions of this subpart, and the insured state nonmember bank shall submit an annual report of condition for each foreign branch pursuant to instructions provided by the FDIC.

Subpart B—Foreign Banks

§ 347.201 Scope.

(a)(1) Sections 347.203 through 347.207 implement the insurance provisions of section 6 of the International Banking Act of 1978 (12 U.S.C. 3104). They set out the FDIC's rules regarding domestic retail deposit activities requiring a foreign bank to establish an insured bank subsidiary; deposit activities permissible for a noninsured branch; authority for a state branch to apply for an exemption from the insurance requirement; and, depositor notification requirements. Sections 347.204, 347.205, 347.206 and 347.207 do not apply to a federal branch. The Comptroller of the Currency's regulations (12 CFR part 28) establish such rules for federal branches. However, federal branches deemed by the Comptroller to require

insurance must apply to the FDIC for insurance.

(2) Sections 347.203 through 347.207 also set out the FDIC's rules regarding the operation of insured and noninsured branches, whether state or federal, by a foreign bank.

(b) Sections 347.208 through 347.212 set out the rules that apply only to a foreign bank that operates or proposes to establish an insured state or federal branch. These rules relate to the following matters: an agreement to provide information and to be examined and provisions concerning recordkeeping, pledge of assets, asset maintenance, and deductions from the assessment base.

§ 347.202 Definitions.

For the purposes of this subpart:

(a) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity. An entity shall be deemed to ''control'' another entity if the entity directly or indirectly owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity or controls in any manner the election of a majority of the directors or trustees of the other entity.

(b) *Branch* means any office or place of business of a foreign bank located in any state of the United States at which deposits are received. The term does not include any office or place of business deemed by the state licensing authority or the Comptroller of the Currency to be an agency.

(c) *Deposit* has the same meaning as that term in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)).

(d) *Depository* means any insured state bank, national bank, or insured branch.

(e) *Domestic retail deposit activity* means the acceptance by a state branch of any initial deposit of less than $100,000.

(f) *Federal branch* means a branch of a foreign bank established and operating under the provisions of section 4 of the International Banking Act of 1978 (12 U.S.C. 3102).

(g) *Foreign bank* means any company organized under the laws of a foreign country, any territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, which engages in the business of banking. The term includes foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized and operating. Except as otherwise specifically provided by the Federal Deposit Insurance Corporation, banks organized under the laws of a foreign country, any territory of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands which are insured banks other than by reason of having an insured branch are not considered to be foreign banks for purposes of §§ 347.208, 347.209, 347.210, and 347.211.

(h) *Foreign business* means any entity including, but not limited to, a corporation, partnership, sole proprietorship, association, foundation or trust, which is organized under the laws of a foreign country or any United States entity which is owned or controlled by an entity which is organized under the laws of a foreign country or a foreign national.

(i) *Foreign country* means any country other than the United States and includes any colony, dependency or possession of any such country.

(j) *Home state* of a foreign bank means the state so determined by the election of the foreign bank, or in default of such election, by the Board of Governors of the Federal Reserve System.

(k) *Immediate family member of a natural person* means the spouse, father, mother, brother, sister, son or daughter of that natural person.

(l) *Initial deposit* means the first deposit transaction between a depositor and the branch. The initial deposit may be placed into different deposit accounts or into different kinds of deposit accounts, such as demand, savings or time. Deposit accounts that are held by a depositor in the same right and capacity may be added together for the purposes of determining the dollar amount of the initial deposit. ''First deposit'' means any deposit made when there is no existing deposit relationship between the depositor and the branch.

(m) *Insured bank* means any bank, including a foreign bank having an insured branch, the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act.

(n) *Insured branch* means a branch of a foreign bank any deposits of which branch are insured in accordance with the provisions of the Federal Deposit Insurance Act.

(o) *Large United States business* means any entity including, but not limited to, a corporation, partnership, sole proprietorship, association, foundation or trust which is organized under the laws of the United States or any state thereof, and:

(1) Whose securities are registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System; or

(2) Has annual gross revenues in excess of $1,000,000 for the fiscal year immediately preceding the initial deposit.

(p) A *majority owned subsidiary* means a company the voting stock of which is more than 50 percent owned or controlled by another company.

(q) *Noninsured branch* means a branch of a foreign bank deposits of which branch are not insured in accordance with the provisions of the Federal Deposit Insurance Act.

(r) *Person* means an individual, bank, corporation, partnership, trust, association, foundation, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(s) *Significant risk to the deposit insurance fund* shall be understood to be present whenever there is a high probability that the Bank Insurance Fund administered by the FDIC may suffer a loss.

(t) *State* means any state of the United States or the District of Columbia.

(u) *State branch* means a branch of a foreign bank established and operating under the laws of any state.

(v) A *wholly owned subsidiary* means a company the voting stock of which is 100 percent owned or controlled by another company except for a nominal number of directors' shares.

§ 347.203 Restriction on operation of insured and noninsured branches.

The FDIC will not insure deposits in any branch of a foreign bank unless the foreign bank agrees that every branch established or operated by the foreign bank in the same state will be an insured branch; provided, that this restriction does not apply to any branch which accepts only initial deposits in an amount of $100,000 or greater.

§ 347.204 Insurance requirement.

(a) *Domestic retail deposit activity.* In order to initiate or conduct domestic retail deposit activity which requires deposit insurance protection in any state a foreign bank shall:

(1) Establish one or more insured bank subsidiaries in the United States for that purpose; and

(2) Obtain deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

(b) *Exception.* For purposes of paragraph (a) of this section, ''foreign bank'' does not include any bank organized under the laws of any

territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Corporation pursuant to the Federal Deposit Insurance Act.

(c) *Grandfathered insured branches.* Domestic retail deposit accounts with balances of less than $100,000 that require deposit insurance protection may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on December 19, 1991.

(d) *Noninsured branches.* A foreign bank may establish or operate a state branch which is not an insured branch whenever:

(1) The branch only accepts initial deposits in an amount of $100,000 or greater; or

(2) The branch meets the criteria set forth in § 347.205 or § 347.206.

§ 347.205 Branches established under section 5 of the International Banking Act.

A foreign bank may operate any state branch as a noninsured branch whenever the foreign bank has entered into an agreement with the Board of Governors of the Federal Reserve System to accept at that branch only those deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 *et seq.*) and implementing rules and regulations administered by the Board of Governors (12 CFR part 211).

§ 347.206 Exemptions from the insurance requirement.

(a) Deposit activities not requiring insurance. A state branch will not be deemed to be engaged in domestic retail deposit activity which requires the foreign bank parent to establish an insured bank subsidiary in accordance with § 347.204(a) if the state branch only accepts initial deposits in an amount of less than $100,000 which are derived solely from the following:

(1) Individuals who are not citizens or residents of the United States at the time of the initial deposit;

(2) Individuals who:

(i) Are not citizens of the United States;

(ii) Are residents of the United States; and

(iii) Are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(3) Persons (including immediate family members of natural persons) to whom the branch or foreign bank (including any affiliate thereof) has extended credit or provided other nondeposit banking services within the past twelve months or has entered into a written agreement to provide such services within the next twelve months;

(4) Foreign businesses, large United States businesses, and persons from whom an Edge Corporation may accept deposits under § 211.4(e)(1) of Regulation K of the Board of Governors of the Federal Reserve System, 12 CFR 211.4(e)(1);

(5) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of any of the foregoing, and recognized international organizations;

(6) Persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds or the transmission of such funds by any electronic means; and

(7) Any other depositor, but only if the branch's average deposits under this paragraph (a)(7) do not exceed one percent of the branch's average total deposits for the last 30 days of the most recent calendar quarter (de minimis exception). In calculating this de minimis exception, both the average deposits under this paragraph (a)(7) and the average total deposits shall be computed by summing the close of business figures for each of the last 30 calendar days, ending with and including the last day of the calendar quarter, and dividing the resulting sum by 30. For days on which the branch is closed, balances from the last previous business day are to be used. In determining its average branch deposits, the branch may exclude deposits in the branch of other offices, branches, agencies or wholly owned subsidiaries of the bank. In addition, the branch must not solicit deposits from the general public by advertising, display of signs, or similar activity designed to attract the attention of the general public. A foreign bank which has more than one state branch in the same state may aggregate deposits in such branches (excluding deposits of other branches, agencies or wholly owned subsidiaries of the bank) for the purpose of this paragraph (a)(7).

(b) *Application for an exemption.* (1) Whenever a foreign bank proposes to accept at a state branch initial deposits of less than $100,000 and such deposits are not otherwise excepted under paragraph (a) of this section, the foreign bank may apply to the FDIC for consent to operate the branch as a noninsured branch. The Board of Directors may exempt the branch from the insurance requirement if the branch is not engaged in domestic retail deposit activities requiring insurance protection. The Board of Directors will consider the size and nature of depositors and deposit accounts, the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United States economy, whether the exemption would give the foreign bank an unfair competitive advantage over United States banking organizations, and any other relevant factors in making this determination.

(2) Procedures for applications under this section are set out in subpart D of this part.

(c) *Transition period.* A noninsured state branch may maintain a retail deposit lawfully accepted prior to April 1, 1996 pursuant to regulations in effect prior to July 1, 1998 (See § 346.6 as contained in 12 CFR parts 300 to 499 revised as of January 1, 1998):

(1) If the deposit qualifies pursuant to paragraph (a) or (b) of this section; or

(2) If the deposit does not qualify pursuant to paragraph (a) or (b) of this section, no later than:

(i) In the case of a non-time deposit, five years from April 1, 1996; or

(ii) In the case of a time deposit, the first maturity date of the time deposit after April 1, 1996.

§ 347.207 Notification to depositors.

Any state branch that is exempt from the insurance requirement pursuant to § 347.206 shall:

(a) Display conspicuously at each window or place where deposits are usually accepted a sign stating that deposits are not insured by the FDIC; and

(b) Include in bold face conspicuous type on each signature card, passbook, and instrument evidencing a deposit the statement ''This deposit is not insured by the FDIC''; or require each depositor to execute a statement which acknowledges that the initial deposit and all future deposits at the branch are not insured by the FDIC. This acknowledgment shall be retained by the branch so long as the depositor maintains any deposit with the branch. This provision applies to any negotiable certificates of deposit made in a branch on or after July 6, 1989, as well as to any renewals of such deposits which become effective on or after July 6, 1989.

§ 347.208 Agreement to provide information and to be examined.

(a) A foreign bank that applies for insurance for any branch shall agree in writing to the following terms:

(1)(i) The foreign bank will provide the FDIC with information regarding the affairs of the foreign bank and its affiliates which are located outside of

the United States as the FDIC from time to time may request to:

(A) Determine the relations between the insured branch and the foreign bank and its affiliates; and

(B) Assess the financial condition of the foreign bank as it relates to the insured branch.

(ii) If the laws of the country of the foreign bank's domicile or the policy of the Central Bank or other banking authority prohibit or restrict the foreign bank from entering into this agreement, the foreign bank shall agree to provide information to the extent permitted by such law or policy. Information provided shall be in English and in the form requested by the FDIC and shall be made available in the United States. The Board of Directors will consider the existence and extent of this prohibition or restriction in determining whether to grant insurance and may deny the application if the information available is so limited in extent that an unacceptable risk to the insurance fund is presented.

(2)(i) The FDIC may examine the affairs of any office, agency, branch or affiliate of the foreign bank located in the United States as the FDIC deems necessary to:

(A) Determine the relations between the insured branch and such offices, agencies, branches or affiliates; and

(B) Assess the financial condition of the foreign bank as it relates to the insured branch.

(ii) The foreign bank shall also agree to provide the FDIC with information regarding the affairs of such offices, agencies, branches or affiliates as the FDIC deems necessary. The Board of Directors will not grant insurance to any branch if the foreign bank fails to enter into an agreement as required under this paragraph (a).

(b) The agreement shall be signed by an officer of the foreign bank who has been so authorized by the foreign bank's board of directors. The agreement and the authorization shall be included with the foreign bank's application for insurance. Any agreement not in English shall be accompanied by an English translation.

§ 347.209 Records.

(a) Each insured branch shall keep a set of accounts and records in the words and figures of the English language which accurately reflect the business transactions of the insured branch on a daily basis.

(b) The records of each insured branch shall be kept as though it were a separate entity, with its assets and liabilities separate from the other operations of the head office, other branches or agencies of the foreign bank and its subsidiaries or affiliates. A foreign bank which has more than one insured branch in a state may treat such insured branches as one entity for record keeping purposes and may designate one branch to maintain records for all the branches in the state.

§ 347.210 Pledge of assets.

(a) *Purpose.* A foreign bank that has an insured branch shall pledge assets for the benefit of the FDIC or its designee(s). Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay the insured deposits of an insured branch, the assets pledged under this section shall become the property of the FDIC to be used to the extent necessary to protect the deposit insurance fund.

(b) *Amount of assets to be pledged.* (1) A foreign bank shall pledge assets equal to five percent of the average of the insured branch's liabilities for the last 30 days of the most recent calendar quarter. This average shall be computed by using the sum of the close of business figures for the 30 calendar days of the most recent calendar quarter, ending with and including the last day of the calendar quarter, divided by 30.[4] In determining its average liabilities, the insured branch may exclude liabilities to other offices, agencies, branches, and wholly owned subsidiaries of the foreign bank. The value of the pledged assets shall be computed based on the lesser of the principal amount (par value) or market value of such assets at the time of the original pledge and thereafter as of the last day of the most recent calendar quarter.

(2) The initial five-percent deposit for a newly established insured branch shall be based on the branch's projection of liabilities at the end of the first year of its operation.

(3) The FDIC may require a foreign bank to pledge additional assets or to compute its pledge on a daily basis whenever the FDIC determines that the foreign bank's or any insured branch's condition is such that the assets pledged under paragraph (b)(1) or (b)(2) of this section will not adequately protect the deposit insurance fund. In requiring a foreign bank to pledge additional assets, the FDIC will consult with the insured branch's primary regulator. Among the factors to be considered in imposing these requirements are the concentration of risk to any one borrower or group of related borrowers, the concentration of transfer risk to any one country, including the country in which the foreign bank's head office is located or any other factor the FDIC determines is relevant.

(4) Each insured branch shall separately comply with the requirements of this section. However, a foreign bank which has more than one insured branch in a state may treat all of its insured branches in the same state as one entity and shall designate one insured branch to be responsible for compliance with this section.

(c) *Depository.* A foreign bank shall place pledged assets for safekeeping at any depository which is located in any state. However, a depository may not be an affiliate of the foreign bank whose insured branch is seeking to use the depository. A foreign bank must obtain the FDIC's prior written approval of the depository selected, and such approval may be revoked and dismissal of the depository required whenever the depository does not fulfill any one of its obligations under the pledge agreement. A foreign bank shall appoint and constitute the depository as its attorney in fact for the sole purpose of transferring title to pledged assets to the FDIC as may be required to effectuate the provisions of paragraph (a) of this section.

(d) *Assets that may be pledged.* Subject to the right of the FDIC to require substitution, a foreign bank may pledge any of the kinds of assets listed in this paragraph (d); such assets must be denominated in United States dollars. A foreign bank shall be deemed to have pledged any such assets for the benefit of the FDIC or its designees at such time as any such asset is placed with the depository, as follows:

(1) Certificates of deposit that are payable in the United States and that are issued by any state bank, national bank, or branch of a foreign bank which has executed a valid waiver of offset agreement or similar debt instruments that are payable in the United States and that are issued by any agency of a foreign bank which has executed a valid waiver of offset agreement; provided, that the maturity of any certificate or issuance is not greater than one year; and provided further, that the issuing branch or agency of a foreign bank is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile;

(2) Interest bearing bonds, notes, debentures, or other direct obligations of or obligations fully guaranteed as to principal and interest by the United States or any agency or instrumentality thereof;

(3) Commercial paper that is rated P–1 or P–2, or their equivalent by a

[4] For days on which the branch is closed, balances from the previous business day are to be used.

nationally recognized rating service; provided, that any conflict in a rating shall be resolved in favor of the lower rating;

(4) Banker's acceptances that are payable in the United States and that are issued by any state bank, national bank, or branch or agency of a foreign bank; provided, that the maturity of any acceptance is not greater than 180 days; and provided further, that the branch or agency issuing the acceptance is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile;

(5) General obligations of any state of the United States, or any county or municipality of any state of the United States, or any agency, instrumentality, or political subdivision of the foregoing or any obligation guaranteed by a state of the United States or any county or municipality of any state of the United States; provided, that such obligations have a credit rating within the top two rating bands of a nationally-recognized rating service (with any conflict in a rating resolved in favor of the lower rating);

(6) Obligations of the African Development Bank, Asian Development Bank, Inter-American Development Bank, and the International Bank for Reconstruction and Development;

(7) Notes issued by bank holding companies or banks organized under the laws of the United States or any state thereof or notes issued by United States branches or agencies of foreign banks, provided, that the notes have a credit rating within the top two rating bands of a nationally-recognized rating service (with any conflict in a rating resolved in favor of the lower rating) and that they are payable in the United States, and provided further, that the issuer is not an affiliate of the foreign bank pledging the note; or

(8) Any other asset determined by the FDIC to be acceptable.

(e) *Pledge agreement.* A foreign bank shall not pledge any assets unless a pledge agreement in form and substance satisfactory to the FDIC has been executed by the foreign bank and the depository. The agreement, in addition to other terms not inconsistent with this paragraph (e), shall give effect to the following terms:

(1) *Original pledge.* The foreign bank shall place with the depository assets of the kind described in paragraph (d) of this section, having an aggregate value in the amount as required pursuant to paragraph (b) of this section.

(2) *Additional assets required to be pledged.* Whenever the foreign bank is required to pledge additional assets for the benefit of the FDIC or its designees pursuant to paragraph (b)(3) of this section, it shall place (within two business days after the last day of the most recent calendar quarter, unless otherwise ordered) additional assets of the kind described in paragraph (d) of this section, having an aggregate value in the amount required by the FDIC.

(3) *Substitution of assets.* The foreign bank, at any time, may substitute any assets for pledged assets, and, upon such substitution, the depository shall promptly release any such assets to the foreign bank. Provided, that:

(i) The foreign bank pledges assets of the kind described in paragraph (d) of this section having an aggregate value not less than the value of the pledged assets for which they are substituted and certified as such by the foreign bank; and

(ii) The FDIC has not by written notification to the foreign bank, a copy of which shall be provided to the depository, suspended or terminated the foreign bank's right of substitution.

(4) *Delivery of other documents.* Concurrently with the pledge of any assets, the foreign bank shall deliver to the depository all documents and instruments necessary or advisable to effectuate the transfer of title to any such assets and thereafter, from time to time, at the request of the FDIC, deliver to the depository any such additional documents or instruments. The foreign bank shall provide copies of all such documents described in this paragraph (e)(4) to the appropriate regional director concurrently with their delivery to the depository.

(5) *Acceptance and safekeeping responsibilities of the depository.* (i) The depository shall accept and hold any assets pledged by the foreign bank pursuant to the pledge agreement for safekeeping free and clear of any lien, charge, right of offset, credit, or preference in connection with any claim the depository may assert against the foreign bank and shall designate any such assets as a special pledge for the benefit of the FDIC or its designees. The depository shall not accept the pledge of any such assets unless concurrently with such pledge the foreign bank delivers to the depository the documents and instruments necessary for the transfer of title thereto as provided in this part.

(ii) The depository shall hold any such assets separate from all other assets of the foreign bank or the depository. Such assets may be held in book-entry form but must at all times be segregated on the records of the depository and clearly identified as assets subject to the pledge agreement.

(6) *Reporting requirements of the insured branch and the depository.* (i) *Initial reports.* Upon the original pledge of assets as provided in paragraph (e)(1) of this section:

(A) The depository shall provide to the foreign bank and to the appropriate regional director a written report in the form of a receipt identifying each asset pledged and specifying in reasonable detail with respect to each such asset the complete title, interest rate, series, serial number (if any), principal amount (par value), maturity date and call date; and

(B) The foreign bank shall provide to the appropriate regional director a written report certified as correct by the foreign bank which sets forth the value of each pledged asset and the aggregate value of all such assets, and which states that the aggregate value of all such assets is the amount required pursuant to paragraph (b) of this section and that all such assets are of the kind described in paragraph (d) of this section.

(ii) *Quarterly reports.* Within ten calendar days after the end of the most recent calendar quarter:

(A) The depository shall provide to the appropriate regional director a written report specifying in reasonable detail with respect to each asset currently pledged (including any asset pledged to satisfy the requirements of paragraph (b)(3) of this section and identified as such), as of two business days after the end of the most recent calendar quarter, the complete title, interest rate, series, serial number (if any), principal amount (par value), maturity date, and call date, provided, that if no substitution of any asset has occurred during the reporting period, the report need only specify that no substitution of assets has occurred; and

(B) The foreign bank shall provide as of two business days after the end of the most recent calendar quarter to the appropriate regional director a written report certified as correct by the foreign bank which sets forth the value of each pledged asset and the aggregate value of all such assets, which states that the aggregate value of all such assets is the amount required pursuant to paragraph (b) of this section and that all such assets are of the kind described in paragraph (d) of this section, and which states the average of the liabilities of each insured branch of the foreign bank computed in the manner and for the period prescribed in paragraph (b) of this section.

(iii) *Additional reports.* The foreign bank shall, from time to time, as may be required, provide to the appropriate regional director a written report in the form specified containing the

information requested with respect to any asset then currently pledged.

(7) *Access to assets.* With respect to any asset pledged pursuant to the pledge agreement, the depository will provide representatives of the FDIC or the foreign bank access (during regular business hours of the depository and at the location where any such asset is held, without other limitation or qualification) to all original instruments, documents, books, and records evidencing or pertaining to any such asset.

(8) *Release upon the order of the FDIC.* The depository shall release to the foreign bank any pledged assets, as specified in a written notification of the appropriate regional director, upon the terms and conditions provided in such notification, including without limitation the waiver of any requirement that any assets be pledged by the foreign bank in substitution of any released assets.

(9) *Release to the FDIC.* Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay insured deposits of an insured branch, the FDIC by written certification shall so inform the depository; and the depository, upon receipt of such certification, shall thereupon promptly release and transfer title to any pledged assets to the FDIC or release such assets to the foreign bank, as specified in the certification. Upon release and transfer of title to all pledged assets specified in the certification, the depository shall be discharged from any further obligation under the pledge agreement.

(10) *Interest earned on assets.* The foreign bank may retain any interest earned with respect to the assets currently pledged unless the FDIC by written notice prohibits retention of interest by the foreign bank, in which case the notice shall specify the disposition of any such interest.

(11) *Expenses of agreement.* The FDIC shall not be required to pay any fees, costs, or expenses for services provided by the depository to the foreign bank pursuant to, or in connection with, the pledge agreement.

(12) *Substitution of depository.* The depository may resign, or the foreign bank may discharge the depository, from its duties and obligations under the pledge agreement by giving at least 60 days' written notice thereof to the other party and to the appropriate regional director. The FDIC, upon 30 days' written notice to the foreign bank and the depository, may require the foreign bank to dismiss the depository if the FDIC in its discretion determines that the depository is in breach of the pledge agreement. The depository shall continue to function as such until the appointment of a successor depository becomes effective and the depository has released to the successor depository the pledged assets and documents and instruments to effectuate transfer of title in accordance with the written instructions of the foreign bank as approved by the FDIC. The appointment by the foreign bank of a successor depository shall not be effective until:

(i) The FDIC has approved in writing the successor depository; and

(ii) A pledge agreement in form and substance satisfactory to the FDIC has been executed.

(13) *Waiver of terms.* The FDIC may by written order waive compliance by the foreign bank or the depository with any term or condition of the pledge agreement.

(f)(1) Authority is delegated to the Director (DOS), the Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to enter into pledge agreements with foreign banks and depositories in connection with the pledge of asset requirements pursuant to this section. This authority shall also extend to the power to revoke such approval and require the dismissal of the depository.

(2) Authority is delegated to the General Counsel or designee to modify the terms of the model pledge agreement used for such deposit agreements.

§ 347.211 Asset maintenance.

(a) An insured branch of a foreign bank shall maintain on a daily basis eligible assets in an amount not less than 106 percent of the preceding quarter's average book value of the insured branch's liabilities or, in the case of a newly-established insured branch, the estimated book value of its liabilities at the end of the first full quarter of operation, exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries. The Director of the Division of Supervision or his designee may impose a computation of total liabilities on a daily basis in those instances where it is found necessary for supervisory purposes. The Board of Directors, after consulting with the insured branch's primary regulator, may require that a higher ratio of eligible assets be maintained if the financial condition of the insured branch warrants such action. Among the factors which will be considered in requiring a higher ratio of eligible assets are the concentration of risk to any one borrower or group of related borrowers, the concentration of transfer risk to any one country, including the country in which the foreign bank's head office is located or any other factor the FDIC determines is relevant. Eligible assets shall be payable in United States dollars.

(b) In determining eligible assets for the purposes of compliance with paragraph (a) of this section, the insured branch shall exclude the following:

(1) Any asset due from the foreign bank's head office, other branches, agencies, offices or affiliates;

(2) Any asset classified ''Value Impaired,'' to the extent of the required Allocated Transfer Risk Reserves or equivalent write down, or ''Loss'' in the most recent state or federal examination report;

(3) Any deposit of the insured branch in a bank unless the bank has executed a valid waiver of offset agreement;

(4) Any asset not supported by sufficient credit information to allow a review of the asset's credit quality, as determined at the most recent state or federal examination, as follows:

(i) Whether an asset has sufficient credit information will be a function of the size of the borrower and the location within the foreign bank of the responsibility for authorizing and monitoring extensions of credit to the borrower. For large, well known companies, when credit responsibility is located in an office of the foreign bank outside the insured branch, the insured branch must have adequate documentation to show that the asset is of good quality and is being supervised adequately by the foreign bank. In such cases, copies of periodic memoranda that include an analysis of the borrower's recent financial statements and a report on recent developments in the borrower's operations and borrowing relationships with the foreign bank generally would constitute sufficient information. For other borrowers, periodic memoranda must be supplemented by information such as copies of recent financial statements, recent correspondence concerning the borrower's financial condition and repayment history, credit terms and collateral, data on any guarantors, and where necessary, the status of any corrective measures being employed;

(ii) Subsequent to the determination that an asset lacks sufficient credit information, an insured branch may not include the amount of that asset among eligible assets until the FDIC determines that sufficient documentation exists. Such a determination may be made either at the next federal examination, or upon request of the insured branch, by the appropriate regional director;

(5) Any asset not in the insured branch's actual possession unless the insured branch holds title to such asset and the insured branch maintains records sufficient to enable independent verification of the insured branch's ownership of the asset, as determined at the most recent state or federal examination;

(6) Any intangible asset;

(7) Any other asset not considered bankable by the FDIC.

(c) A foreign bank which has more than one insured branch in a state may treat all of its insured branches in the same state as one entity for purposes of compliance with paragraph (a) of this section and shall designate one insured branch to be responsible for maintaining the records of the insured branches' compliance with this section.

(d) The average book value of the insured branch's liabilities for a quarter shall be, at the insured branch's option, either an average of the balances as of the close of business for each day of the quarter or an average of the balances as of the close of business on each Wednesday during the quarter. Quarters end on March 31, June 30, September 30, and December 31 of any given year. For days on which the insured branch is closed, balances from the previous business day are to be used. Calculations of the average book value of the insured branch's liabilities for a quarter shall be retained by the insured branch until the next federal examination.

§ 347.212 Deductions from the assessment base.

An insured branch may deduct from its assessment base deposits in the insured branch to the credit of the foreign bank or any office, branch or agency of and any wholly owned subsidiary of the foreign bank.

§ 347.213 FDIC approval to conduct activities not permissible for federal branches.

(a) *Scope.* A foreign bank operating an insured state branch which desires to engage in or continue to engage in any type of activity that is not permissible for a federal branch, pursuant to the National Bank Act (12 U.S.C. 21 *et seq.*) or any other federal statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction (each an impermissible activity), shall file a written application for permission to conduct such activity with the FDIC.

(b) *Exceptions.* A foreign bank operating an insured state branch which would otherwise be required to submit an application pursuant to paragraph (a) of this section will not be required to submit such an application if the activity it desires to engage in or continue to engage in has been determined by the FDIC not to present a significant risk to the affected deposit insurance fund pursuant to part 362 of this chapter, ''Activities and Investment of Insured State Banks'.

(c) *Agency activities.* A foreign bank operating an insured state branch which would otherwise be required to submit an application pursuant to paragraph (a) of this section will not be required to submit such an application if it desires to engage in or continue to engage in an activity conducted as agent which would be a permissible agency activity for a state-chartered bank located in the state which the state-licensed insured branch of the foreign bank is located and is also permissible for a state-licensed branch of a foreign bank located in that state; provided, however, that the agency activity must be permissible pursuant to any other applicable federal law or regulation.

(d) *Conditions of approval.* Approval of such an application may be conditioned on the applicant's agreement to conduct the activity subject to specific limitations, such as but not limited to the pledging of assets in excess of the requirements of § 347.210 and/or the maintenance of eligible assets in excess of the requirements of § 347.211. In the case of an application to initially engage in an activity, as opposed to an application to continue to conduct an activity, the insured branch shall not commence the activity until it has been approved in writing by the FDIC pursuant to this part and the Board of Governors of the Federal Reserve System (Board of Governors), and any and all conditions imposed in such approvals have been satisfied.

(e) *Divestiture or cessation.* (1) If an application for permission to continue to conduct an activity is not approved by the FDIC or the Board of Governors, the applicant shall submit a plan of divestiture or cessation of the activity to the appropriate regional director.

(2) A foreign bank operating an insured state branch which elects not to apply to the FDIC for permission to continue to conduct an activity which is rendered impermissible by any change in statute, regulation, official bulletin or circular, written order or interpretation, or decision of a court of competent jurisdiction shall submit a plan of divestiture or cessation to the appropriate regional director.

(3) Divestitures or cessations shall be completed within one year from the date of the disapproval, or within such shorter period of time as the FDIC shall direct.

(f) *Procedures.* Procedures for applications under this section are set out in subpart D of this part.

Subpart C—International Lending

§ 347.301 Purpose, authority, and scope.

Under the International Lending Supervision Act of 1983 (Title IX, Pub. L. 98–181, 97 Stat. 1153) (12 U.S.C. 3901 *et seq.*) (ILSA), the Federal Deposit Insurance Corporation prescribes the regulations in this subpart relating to international lending activities of insured state nonmember banks.

§ 347.302 Definitions.

For the purposes of this subpart:

(a) *Administrative cost* means those costs which are specifically identified with negotiating, processing and consummating the loan. These costs include, but are not necessarily limited to: legal fees; costs of preparing and processing loan documents; and an allocable portion of salaries and related benefits of employees engaged in the international lending function. No portion of supervisory and administrative expenses or other indirect expenses such as occupancy and other similar overhead costs shall be included.

(b) *Banking institution* means an insured state nonmember bank.

(c) *Federal banking agencies* means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.

(d) *International assets* means those assets required to be included in banking institutions' ''Country Exposure Report'' form (FFIEC No. 009).

(e) *International loan* means a loan as defined in the instructions to the ''Report of Condition and Income'' for the respective banking institution (FFIEC Nos. 031, 032, 033 and 034) and made to a foreign government, or to an individual, a corporation, or other entity not a citizen of, resident in, or organized or incorporated in the United States.

(f) *Restructured international loan* means a loan that meets the following criteria:

(1) The borrower is unable to service the existing loan according to its terms and is a resident of a foreign country in which there is a generalized inability of public and private sector obligors to meet their external debt obligations on a timely basis because of a lack of, or restraints on the availability of, needed foreign exchange in the country; and

(2) Either:

(i) The terms of the existing loan are amended to reduce stated interest or extend the schedule of payments; or

(ii) A new loan is made to, or for the benefit of, the borrower, enabling the borrower to service or refinance the existing debt.

(g) *Transfer risk* means the possibility that an asset cannot be serviced in the currency of payment because of a lack of, or restraints on the availability of, needed foreign exchange in the country of the obligor.

§ 347.303 Allocated transfer risk reserve.

(a) *Establishment of Allocated Transfer Risk Reserve.* A banking institution shall establish an allocated transfer risk reserve (ATRR) for specified international assets when required by the FDIC in accordance with this section.

(b) *Procedures and standards*—(1) *Joint agency determination.* At least annually, the federal banking agencies shall determine jointly, based on the standards set forth in paragraph (b)(2) of this section, the following:

(i) Which international assets subject to transfer risk warrant establishment of an ATRR;

(ii) The amount of the ATRR for the specified assets; and

(iii) Whether an ATRR established for specified assets may be reduced.

(2) *Standards for requiring ATRR*—(i) *Evaluation of assets.* The federal banking agencies shall apply the following criteria in determining whether an ATRR is required for particular international assets:

(A) Whether the quality of a banking institution's assets has been impaired by a protracted inability of public or private obligers in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as whether:

(*1*) Such obligors have failed to make full interest payments on external indebtedness; or

(*2*) Such obligors have failed to comply with the terms of any restructured indebtedness; or

(*3*) A foreign country has failed to comply with any International Monetary Fund or other suitable adjustment program; or

(B) Whether no definite prospects exist for the orderly restoration of debt service.

(ii) *Determination of amount of ATRR.* (A) In determining the amount of the ATRR, the federal banking agencies shall consider:

(*1*) The length of time the quality of the asset has been impaired;

(*2*) Recent actions taken to restore debt service capability;

(*3*) Prospects for restored asset quality; and

(*4*) Such other factors as the federal banking agencies may consider relevant to the quality of the asset.

(B) The initial year's provision for the ATRR shall be ten percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the federal banking agencies. Additional provision, if any, for the ATRR in subsequent years shall be fifteen percent of the principal amount of each specified international asset, or such greater or lesser percentage determined by the federal banking agencies.

(3) *FDIC notification.* Based on the joint agency determinations under paragraph (b)(1) of this section, the FDIC shall notify each banking institution holding assets subject to an ATRR:

(i) Of the amount of the ATRR to be established by the institution for specified international assets; and

(ii) That an ATRR established for specified assets may be reduced.

(c) *Accounting treatment of ATRR*—(1) *Charge to current income.* A banking institution shall establish an ATRR by a charge to current income and the amounts so charged shall not be included in the banking institution's capital or surplus.

(2) *Separate accounting.* A banking institution shall account for an ATRR separately from the Allowance for Loan and Lease Losses, and shall deduct the ATRR from ''gross loans and leases'' to arrive at ''net loans and leases.'' The ATRR must be established for each asset subject to the ATRR in the percentage amount specified.

(3) *Consolidation.* A banking institution shall establish an ATRR, as required, on a consolidated basis. For banks, consolidation should be in accordance with the procedures and tests of significance set forth in the instructions for preparation of Consolidated Reports of Condition and Income (FFIEC Nos. 031, 032, 033 and 034).

(4) *Alternative accounting treatment.* A banking institution need not establish an ATRR if it writes down in the period in which the ATRR is required, or has written down in prior periods, the value of the specified international assets in the requisite amount for each such asset. For purposes of this paragraph (c)(4), international assets may be written down by a charge to the Allowance for Loan and Lease Losses or a reduction in the principal amount of the asset by application of interest payments or other collections on the asset; provided, that only those international assets that may be charged to the Allowance for Loan and Lease Losses pursuant to generally accepted accounting principles may be written down by a charge to the Allowance for Loan and Lease Losses. However, the Allowance for Loan and Lease Losses must be replenished in such amount necessary to restore it to a level which adequately provides for the estimated losses inherent in the banking institution's loan and lease portfolio.

(5) *Reduction of ATRR.* A banking institution may reduce an ATRR when notified by the FDIC or, at any time, by writing down such amount of the international asset for which the ATRR was established.

§ 347.304 Accounting for fees on international loans.

(a) *Restrictions on fees for restructured international loans.* No banking institution shall charge, in connection with the restructuring of an international loan, any fee exceeding the administrative cost of the restructuring unless it amortizes the amount of the fee exceeding the administrative cost over the effective life of the loan.

(b) *Accounting treatment.* Subject to paragraph (a) of this section, banking institutions shall account for fees on international loans in accordance with generally accepted accounting principles.

§ 347.305 Reporting and disclosure of international assets.

(a) *Requirements.* (1) Pursuant to section 907(a) of ILSA, a banking institution shall submit to the FDIC, at least quarterly, information regarding the amounts and composition of its holdings of international assets.

(2) Pursuant to section 907(b) of ILSA, a banking institution shall submit to the FDIC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution, such information to be made publicly available by the FDIC on request.

(b) *Procedures.* The format, content and reporting and filing dates of the reports required under paragraph (a) of this section shall be determined jointly by the federal banking agencies. The requirements to be prescribed by the federal banking agencies may include changes to existing forms (such as revisions to the Country Exposure Report, Form FFIEC No. 009) or such other requirements as the federal banking agencies deem appropriate. The federal banking agencies also may determine to exempt from the requirements of paragraph (a) of this section banking institutions that, in the

federal banking agencies' judgment, have de minimis holdings of international assets.

(c) *Reservation of Authority.* Nothing contained in this subpart shall preclude the FDIC from requiring from a banking institution such additional or more frequent information on the institution's holdings of international assets as the agency may consider necessary.

Subpart D—Applications and Delegations of Authority

§ 347.401 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Appropriate regional director or appropriate deputy regional director* means the appropriate regional director or appropriate deputy regional director as defined by § 303.0 of this chapter.

(b) *Board of Governors* means the Board of Governors of the Federal Reserve System.

(c) *Eligible depository institution* means an insured state nonmember bank that has an FDIC-assigned composite rating of 1 or 2 under the Uniform Financial Institutions Rating System as a result of its most recent federal or state examination; received a satisfactory or better Community Reinvestment Act (CRA) rating from the FDIC at its most recent examination, if the bank is subject to examination under part 345 of this chapter; received a compliance rating of 1 or 2 from the FDIC at its most recent examination; is well capitalized; and is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary federal regulator or its chartering authority.

(d) *Federal branch* means a federal branch of a foreign bank as defined by § 347.202.

(e) *FDIC* means the Federal Deposit Insurance Corporation.

(f) *Foreign bank* means a foreign bank as defined by § 347.202.

(g) *Foreign branch* means a foreign branch of an insured state nonmember bank as defined by § 347.102.

(h) *Foreign organization* means a foreign organization as defined by § 347.102.

(i) *Insider* means a person who is or is proposed to be a director, officer, or incorporator of an application; a shareholder who directly or indirectly controls ten percent or more of any class of the applicant's outstanding voting stock; or the associates or interests of any such person.

(j) *Insured branch* means an insured branch of a foreign bank as defined by § 347.202.

(k) *Noninsured branch* means a noninsured branch of a foreign bank as defined by § 347.202.

(l) *State branch* means a state branch of a foreign bank as defined by § 347.202.

§ 347.402 Establishing, moving or closing a foreign branch of a state nonmember bank; § 347.103.

(a) *Notice procedures for general consent.* Notice in the form of a letter from an eligible depository institution establishing or relocating a foreign branch pursuant to § 347.103(b) shall be provided to the appropriate regional director (DOS) no later than 30 days after taking such action, and include the location of the foreign branch, including a street address, and a statement that the foreign branch has not been located on a site on the World Heritage List or on the foreign country's equivalent of the National Register of Historic Places (National Register), in accordance with section 402 of the National Historic Preservation Act Amendments of 1980 (NHPA Amendments Act) (16 U.S.C. 470a–2). The appropriate regional director will provide written acknowledgment of receipt of the notice.

(b) *Filing procedures for other branch establishments*—(1) *Where to file.* An applicant seeking to establish a foreign branch other than under § 347.103(b) shall submit an application to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter application shall include the following information:

(i) The exact location of the proposed foreign branch, including the street address, and a statement whether the foreign branch will be located on a site on the World Heritage List or on the foreign country's equivalent of the National Register, in accordance with section 402 of the NHPA Amendments Act;

(ii) Details concerning any involvement in the proposal by an insider of the applicant, as defined in § 347.401(i), including any financial arrangements relating to fees, the acquisition of property, leasing of property, and construction contracts;

(iii) A brief description of the applicant's business plan with respect to the foreign branch; and

(iv) A brief description of the activities of the branch, and to the extent any activities are not authorized by § 347.103(a) , the applicant's reasons why they should be approved.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Processing*—(1) *Expedited processing for eligible depository institutions.* An application filed under § 347.103(c) by an eligible depository institution as defined in § 347.401(c) seeking to establish a foreign branch by expedited processing will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove the application from expedited processing at any time before the approval date if the appropriate regional director (DOS) determines the application presents a significant supervisory concern, raises a significant legal or policy issue, or other good cause exists for removal, and will promptly notify the applicant in writing of the reason for such action. Absent such removal, an application processed under expedited processing is deemed approved 45 days after receipt of a complete application by the FDIC, or on such earlier date authorized by the FDIC in writing.

(2) *Standard processing.* For those applications which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(d) *Closing.* Notices of branch closing under § 347.103(f) , in the form of a letter including the name, location, and date of closing of the closed branch, shall be filed with the appropriate regional director (DOS) no later than 30 days after the branch is closed.

(e) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, if confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director to approve an application under paragraph (c) of this section if the following criteria are satisfied:

(1) The requirements of section 402 the NHPA Amendments Act have been favorably resolved;

(2) The applicant will only conduct activities authorized by § 347.103(a); and

(3) If the foreign branch will be located in a foreign country in which applicable law or practice would limit the FDIC's access to information for supervisory purposes, the delegate is satisfied that adequate arrangements have been made (through conditions imposed in connection with the approval and agreed to in writing by the applicant) to ensure that the FDIC will have necessary access to information for supervisory purposes.

§ 347.403 Investment by insured state nonmember banks in foreign organizations; § 347.108.

(a) *Notice procedures for general consent.* Notice in the form of a letter from an eligible depository institution making direct or indirect investments in a foreign organization pursuant to § 347.108(a) shall be provided to the appropriate regional director (DOS) no later than 30 days after taking such action. The appropriate regional director will provide written acknowledgment of receipt of the notice.

(b) *Filing procedures for other investments.* (1) *Where to file.* An applicant seeking to make a foreign investment other than under § 347.108(a) shall submit an application to the appropriate regional director (DOS).

(2) *Content of filing.* A complete application shall include the following information:

(i) Basic information about the terms of the proposed transaction, the amount of the investment in the foreign organization and the proportion of its ownership to be acquired;

(ii) Basic information about the foreign organization, its financial position and income, including any available balance sheet and income statement for the prior year, or financial projections for a new foreign organization;

(iii) A listing of all shareholders known to hold ten percent or more of any class of the foreign organization's stock or other evidence of ownership, and the amount held by each;

(iv) A brief description of the applicant's business plan with respect to the foreign organization;

(v) A brief description of any business or activities which the foreign organization will conduct directly or indirectly in the United States, and to the extent such activities are not authorized by subpart A of part 347, the applicant's reasons why they should be approved;

(vi) A brief description of the foreign organization's activities, and to the extent such activities are not authorized by subpart A of part 347, the applicant's reasons why they should be approved; and

(vii) If the applicant seeks approval to engage in underwriting or dealing activities, a description of the applicant's plans and procedures to address all relevant risks.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Processing*—(1) *Expedited processing for eligible depository institutions.* An application filed under § 347.108(b) by an eligible depository institution as defined in § 347.401(c) seeking to make direct or indirect investments in a foreign organization by expedited processing will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove the application from expedited processing at any time before the approval date if the appropriate regional director (DOS) determines the application presents a significant supervisory concern, raises a significant legal or policy issue, or other good cause exists for removal, and will promptly notify the applicant in writing of the reason for such action. Absent such removal, an application processed under expedited processing is deemed approved 45 days after receipt of a complete application by the FDIC, or on such earlier date authorized by the FDIC in writing.

(2) *Standard processing.* For those applications which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(d) *Delegations of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, if confirmed in writing by the Director, to an associate director and the appropriate regional director and appropriate deputy regional director to approve applications under paragraph (c) of this section so long as:

(1) The investment complies with the amount limits in §§ 347.104 through 347.107 and is in a foreign organization which only conducts such activities as authorized in §§ 347.104 through 347.107; and

(2) For foreign investments resulting in the applicant holding 20 percent or more of the voting equity interests of the foreign organization or controlling such organization, if the organization is located in a foreign country in which applicable law or practice would limit the FDIC's access to information for supervisory purposes, the delegate is satisfied that adequate arrangements have been made (through conditions imposed in connection with the approval and agreed to in writing by the applicant) to ensure that the FDIC will have necessary access to information for supervisory purposes.

§ 347.404 Exemptions from insurance requirement for a state branch of a foreign bank; § 347.206(b).

(a) *Filing procedures for consent to operate as a noninsured branch*—(1) *Where to file.* A foreign bank seeking consent to operate a branch as a noninsured branch under § 347.206(b) shall submit an application to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter application shall include the following information:

(i) The kinds of deposit activities in which the branch proposes to engage;

(ii) The expected source of deposits;

(iii) The manner in which deposits will be solicited;

(iv) How this activity will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector;

(v) That the activity will not give the foreign bank an unfair competitive advantage over United States banking organizations; and

(vi) A resolution by the foreign bank's board of directors authorizing the filing of the application; or if a resolution is not required by the applicant's organizational documents, the request shall include evidence of approval by the applicant's senior management.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(b) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

§ 347.405 Approval for an insured state branch of a foreign bank to conduct activities not permissible for federal branches; § 347.213.

(a) *Filing procedures*—(1) *Where to file.* An application by an insured state branch seeking approval to conduct activities not permissible for a federal branch, as required by § 347.213(a), shall be submitted in writing to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter application shall include the following information:

(i) A brief description of the activity, including the manner in which it will be conducted and an estimate of the expected dollar volume associated with the activity;

(ii) An analysis of the impact of the proposed activity on the condition of the United States operations of the foreign bank in general and of the branch in particular, including a copy of the feasibility study, management plan, financial projections, business plan, or

similar document concerning the conduct of the activity;

(iii) A resolution by the applicant's board of directors, or evidence of approval by senior management if a resolution is not required pursuant to the applicant's organizational documents, authorizing the filing of the application;

(iv) A statement by the applicant of whether it is in compliance with §§ 347.210 and 347.211, Pledge of assets and Asset maintenance, respectively;

(v) A statement by the applicant that it has complied with all requirements of the Board of Governors concerning applications to conduct the activity in question and the status of each such application, including a copy of the Board of Governors' disposition of each such application, if applicable; and

(vi) A statement of why the activity will pose no significant risk to the Bank Insurance Fund.

(3) *Board of Governors application.* If the application to the Board of Governors contains the information required by paragraph (a) of this section, the applicant may submit a copy to the FDIC in lieu of a separate letter application.

(4) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(b) *Divestiture or cessation*—(1) *Where to file.* Divestiture plans necessitated by a change in law or other authority, as required by § 347.213(e), shall be submitted in writing to the appropriate regional director (DOS) no later than 60 days after the disapproval or the triggering event.

(2) *Content of filing.* A complete letter application shall include the following information:

(i) A detailed description of the manner in which the applicant proposes to divest itself of or cease the activity in question; and

(ii) A projected timetable describing how long the divestiture or cessation is expected to take.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve plans of divestiture and cessation submitted pursuant to paragraph (b) of this section.

PART 351—[REMOVED]

17. Part 351 is removed.

PART 362—ACTIVITIES AND INVESTMENTS OF INSURED STATE BANKS

18. The authority citation of part 362 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818, 1819 (tenth), 1831a.

19. In § 362.4, paragraph (c)(3)(i)(A) is revised to read as follows.

§ 362.4 Activities of insured state banks and their subsidiaries.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) Directly guarantee the obligations of others as provided for in § 347.103(a)(1) of this chapter; and

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C. this 24th day of March, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–8858 Filed 4–7–98; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM145; Special Conditions No. 25–137–SC]

Special Conditions: Lockheed-Martin Model 382J, Automatic Thrust Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Lockheed-Martin Model 382J airplane. This airplane will have a novel or unusual design feature associated with an automatic thrust control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Connie Beane, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone (425) 227–2796.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1992, Lockheed-Martin applied for an amendment to Type Certificate No. A1S0 to include the new Model 382J. The Model 382J, which is a derivative of the Model 382G currently approved under Type Certificate No. A1S0, is a high wing/low tail configured four-engine turboprop airplane derived from the Lockheed C–130 Hercules military transport. The Model 382J incorporates a new Full Authority Digital Engine Control (FADEC), Allison engines with six blade composite propellers, a modernized cockpit including Electronic Flight Instrument Systems (EFIS), Engine Indication and Crew Alerting Systems (EICAS), and a Head Up Display (HUD) of primary flight information.

The increased thrust provided by the new engine/propeller installation would result in the Model 382J being limited by ground minimum control speed (VMCG) over a large part of the proposed takeoff operating envelope, which in turn would result in unbalanced takeoff field lengths that Lockheed-Martin finds unacceptable. In order to remedy this situation, Lockheed-Martin has developed an electronically controlled system that will monitor engine and propeller performance, and in the event of a failure of an outboard propulsion unit, will reduce the power setting on the functioning outboard engine to a level that permits compliance with the requirements of § 25.149(e); the operation of this system will thus optimize takeoff field lengths for the Model 382J.

Type Certification Basis

Under the provisions of § 21.101, Lockheed-Martin must show that the Model 382J meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1SO or the applicable regulations in effect on the date of application for the change to the Model 382J. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A1SO are as follows:

The certification basis for the present Model 382 series airplanes is Civil Aviation Regulations (CAR) 9a, which references CAR 4b, effective December 31, 1953, including Amendments 4b–1 through 4b–11, SR422B, SR450A, and Amendment 4b–12 as related to CAR 4b.307(a).

The applicable certification basis for the Model 382J is part 25 of the Federal Aviation Regulations (FAR) through Amendment 25–80 for all new or significantly modified portions of the Model 382J (as compared to the present Model 382) and for unmodified portions of the airplane, the applicable certification standard will be the rules that were effective on February 1, 1965 (part 25, Amendment 25–0). In addition, the certification basis includes certain special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model 382J because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 382J must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model 382J will incorporate the following novel or unusual design features:

The Lockheed Model 382J has an Automatic Control System which will, in the event of engine failure on the outboard engine, automatically feather the propeller on the engine and will automatically modulate the output torque on the opposite engine to reduce asymmetric thrust. This system is intended to allow the Model 382J to operate to takeoff decision speeds that result in balanced field lengths, when the decision speed would otherwise be constrained by ground minimum control speed (V_{MCG}).

The system is resident in each of the two outboard mission computers, which will limit the differential torque between the two outboard engines by sending torque limit commands to each of the two Full Authority Digital Engine Controls on each engine. The differential torque limit is a function of ambient condition and airspeed, so that in the event of engine failure during takeoff the functional outboard engine will have its output torque momentarily reduced, and then gradually increased as the airplane continues to accelerate. At a certain point in the takeoff, the thrust is restored to its takeoff rated value. This torque differential limiting acts in a similar fashion if the power is manually reduced by retarding the power lever while the airplane is operating in the envelope of atmospheric conditions and airspeeds where the ATCS is designed to function.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–98–01–SC for the Lockheed-Martin L382J airplane, was published in the **Federal Register** on January 14, 1998 (63 FR 2186). Two commenters responded to the notice. One commenter supports the notice. The other commenter questions the need for an override of the ATCS (Special Condition No. 3), stating this would only be of use to disable the system if it operated when not required and this should, by definition, be nonhazardous. The commenter likens the inadvertent power reduction on an outboard engine, without a failure of the opposite outboard engine, to a very mild engine failure. The commenter states this should be no more hazardous than a normal engine failure, for which the requirements of part 25 apply. The FAA does not disagree that the specific scenario presented by the commenter has a benign effect compared to the critical engine failure that is assumed in all of the part 25 takeoff performance determinations. There are other circumstances where a failure of the ATCS system that would partially reduce the power on a single engine might pose a hazard, for instance, a balked landing climb where the required gradient would not be achievable without obtaining rated power from all four engines. The FAA believes that requiring the installation of an override is necessary to achieve an adequate level of safety. The special condition also requires provisions to prevent inadvertent operation with the ATCS disabled by requiring clear annunciation of ATCS armed state (Special Condition No. 2.) and by incorporation into the takeoff configuration warning system.

Applicability

As discussed above, these special conditions are applicable to the Model 382J. Should Lockheed-Martin apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provision of § 25.101(a)(1).

Conclusion

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

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft safety, Safety.

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 Lockheed-Martin Model 382J airplane.

1. The Automatic Thrust Control System (ATCS) shall be designed so that the combined probability of engine failure and ATCS failure is extremely improbable (on the order of 1 X 10–9 per flight hour). Inadvertent operation of the ATCS shall be improbable (on the order of 1 X 10–5 per flight hour). These requirements may drive the necessity for automatic fault detection and annunciation and/or periodic functional checks. For the purposes of this requirement, the ATCS is intended to include but is not limited to, all engine failure detection means, all sensor inputs used to compute thrust modulation requirements, all communication provisions between system components (Mil-Std-1553 bus, for example), and actuation mechanisms for the propeller feathering and outboard engine thrust control.

2. Flight deck annunciation of the armed state of the ATCS shall be provided. ATCS failed or not armed must be incorporated into the takeoff configuration warning system, or alternatively, a visual annunciation can be incorporated if the annunciation lies within the primary field of view of both pilots.

3. Provisions for flightcrew override of the ATCS must be provided. The

provisions must be through power level actuation, or alternatively, through other means provided the means (1) is located on or forward of the power levers, (2) is easily identified and operated under all operating conditions by either pilot with the hand that is normally used to actuate the power levers, and (3) meets the location, sense of motion, and accessibility requirements of § 25.777(a), (b), and (c).

4. The critical engine must be identified for the performance requirements of paragraphs 5 and 6 below, i.e., the performance must account for failure of a critical outboard engine with the ATCS (including autofeather) operating, or failure of the critical inboard engine to a feathered propeller condition, whichever is more adverse.

5. The performance must conservatively account for the failure of the critical engine at the critical point in the takeoff path. The effect of the ATCS thrust modulation on the gross and net takeoff paths must be modeled into the published performance data. The approved takeoff distance established in accordance with § 25.113 must account for the adverse effect of ATCS on thrust-to-weight ratio.

6. The one-engine-inoperative climb gradient requirements of § 25.121 must be met at the critical power operating condition for each climb segment. The most critical adverse effect of the ATCS on the thrust-to-weight ratio must be accounted for in establishing the climb limited weights for all ambient conditions within the approved envelope.

7. The determination of minimum control speeds must account for the critical failure mode (ATCS controlled outboard engine failure versus feathered propeller inboard engine failure) for directional controllability.

8. Any reduced takeoff power procedures must be shown compatible with operation of the ATCS and must not result in any reduction in the level of safety established for operation of the airplane with normal takeoff power settings and ATCS operating.

9. The ATCS must clearly indicate to the crew when it has been activated, and indicate that the output torque from the modulated engine is being adequately controlled by the ATCS.

Issued in Renton, Washington, on March 31, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 98–9211 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–19]

Establishment of Class D Airspace: Fayetteville (Springdale), AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace extending upward from the surface to and including 3,800 feet mean sea level (MSL) within a 4.4-mile radius of the Northwest Arkansas Regional Airport at Fayetteville (Springdale), AR. An air traffic control tower will provide air traffic control services for pilots operating at Northwest Arkansas Regional Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft operating in the vicinity of Northwest Arkansas Regional Airport, Fayetteville (Springdale), AR.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION:

History

On December 5, 1997, a proposal to amend 14 CFR Part 71 to establish Class D airspace at Northwest Arkansas Regional Airport, Fayetteville (Springdale), AR, was published in the **Federal Register** (62 FR 64321). The proposal was to establish Class D airspaces, controlled airspace extending upward from the surface to and including 3,800 feet MSL, at Northwest Arkansas Regional Airport, Fayetteville (Springdale), AR. The Northwest Arkansas Regional Airport is a new airport and provides service to the Fayetteville, Springdale, and Rogers, AR, area. An air traffic control tower at the airport will provide air traffic control services for aircraft operating at the airport and the FAA anticipates that it will be commissioned on or about August 13, 1998. The intended effect of this proposal is to provide adequate Class D airspace for aircraft operating in the vicinity of Northwest Arkansas Regional Airport, Fayetteville (Springdale), AR.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83. Designated Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the order.

The Rule

This amendment to 14 CFR Part 71 establishes the Class D airspace located at Northwest Arkansas Regional Airport, Fayetteville (Springdale), AR, to provide Class D airspace extending upward from surface to and including 3,800 feet MSL within a 4.4-mile radius of the Northwest Arkansas Regional Airport at Fayetteville (Springdale), AR.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

12. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation

Administration Order 7400.9E, *Airspace Designations and Reporting Points*, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D airspace areas.

* * * * *

AWS AR D Fayetteville (Springdale), Northwest Arkansas Regional Airport, AR [New]

Fayetteville (Springdale), Northwest Arkansas Regional Airport, AR
(Lat. 36°18′55″N., long 094°18′25″W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 4.4-mile radius of Northwest Arkansas Regional Airport.

This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX, on March 19, 1998.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 98–9210 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR 1910 and 1926

Office of Management and Budget Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that the Office of Management and Budget (OMB) has extended its approval for a number of information collection requirements in OSHA's health standards. OSHA sought approval under the Paperwork Reduction Act of 1995, and, as required by that Act, is announcing the approval numbers and expiration dates for those requirements. OSHA is also correcting the approval number for one collection and correcting the citation number for two collections.

DATES: This rule is effective April 8, 1998.

FOR FURTHER INFORMATION CONTACT: Adrian Corsey, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3718, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 219–7075 extension 105.

SUPPLEMENTARY INFORMATION: The following chart lists the collections of information requirements in the health standards that have been approved by OMB recently.

OMB control No.	Standard citation	Standard	Expiration date
1218–0048	1910.95	Noise	11/30/2000
1218–0065	1910.1020	Access to Employee Exposure and Medical Records	11/30/2000
1218–0092	1910.1025	Lead in General Industry	1/31/2001
1218–0103	1910.1096	Ionizing Radiation	9/30/2000
1218–0133	1910.1001	Asbestos in General Industry	1/31/2001
1218–0134	1926.1101	Asbestos in Construction	12/31/2000
1218–0145	1910.1048	Formaldehyde	11/30/2000
1218–0180	1910.1030	Bloodborne Pathogens	11/30/2000
1218–0189	1926.62	Lead in Construction	11/30/2000
1218–0195	1915.1001	Asbestos in Shipyards	12/31/2000

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OSHA provided a period of public comment on all of the collections and submitted a request for OMB approval. OMB renewed its approval for the collections of information under their existing approval number as shown above. OSHA is also correcting two errors in its tables at § 1910.8 which lists OMB approval numbers for collections of information in the general industry and an error in the table in § 1926.5 which lists OMB approval numbers for collections of information in the construction industry. Specifically, § 1910.20 and § 1910.96 should be listed as § 1910.1020 and § 1910.1096, respectively, and the control number assigned to the collection at § 1926.1101 is 1218–0134. Under 5 CFR 1320.5(b), an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless the collection display's a valid OMB control number.

List of Subjects in 29 CFR Parts 1910 and 1926

Occupational safety and health, Reporting and recordkeeping requirements.

Authority and Signature

This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed on the 31st day of March, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

Accordingly, the Occupational Safety and Health Administration amends 29 CFR parts 1910 and 1926 as set forth below.

PART 1910—[AMENDED]

1. The authority citation for Subpart A of part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111) as applicable.

Section 1910.7 and 1910.8 also issued under 29 CFR part 1911.

§ 1910.8 [AMENDED]

2. In § 1910.8, the table is amended by removing 1910.20 and 1910.96 and adding the following entries in numerical order, to read as follows:

§ 1910.8 OMB control numbers under the Paperwork Reduction Act.

* * * * *

1910.1020 1218–0065
1910.1096 1218–0103

* * * * *

PART 1926—[AMENDED]

1. The authority citation for Subpart A of part 1926 continues to read as follows:

Authority: Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1926.5 [Amended]

2. In § 1926.5, the table is amended to correct the control number for the entry at 1926.1101 to read as follows:

1926.1101 .....1218–0134.

[FR Doc. 98–9058 Filed 4–7–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SPATS No. IL–089–FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Illinois regulatory program (hereinafter referred to as the ''Illinois program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Illinois requested that OSM reconsider two regulations disapproved in a previously proposed amendment to the Illinois program and submitted explanatory information in support of its request. These regulations concern the determination of revegetation success for non-contiguous surface disturbance areas less than or equal to four acres. The additional explanatory information is intended to clarify the regulations by providing an interpretation statement and specifying procedures and evaluation criteria that would be used in the implementation of the regulations. The amendment is intended to improve operational efficiency.

EFFECTIVE DATE: April 8, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204–1521, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982, **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

By letter dated February 3, 1995 (Administrative Record No. IL–1615), Illinois submitted a proposed amendment to its program pursuant to SMCRA. OSM announced receipt of the proposed amendment in the February 27, 1995, **Federal Register** (60 FR 19522). The public comment period ended March 29, 1995. A public hearing was requested, and it was held on March 24, 1995. OSM identified concerns relating to the proposed amendment, and notified Illinois of these concerns by letters dated April 28 and August 3, 1995 (Administrative Record Nos. IL–1649 and IL–1660, respectively). By letter dated November 1, 1995 (Administrative Record No. IL–1663), Illinois responded to OSM's concerns by submitting revisions to its proposed amendment. OSM reopened the public comment period in the December 5, 1995, **Federal Register** (60 FR 62229). The public comment period closed on January 4, 1996. OSM approved the proposed amendment with certain exceptions and additional requirements on May 29, 1996 (61 FR 26801). The exceptions were the Director's decision not to approve some of the proposed regulations. This amendment addresses two of those regulations.

II. Submission of the Proposed Amendment

By letter dated August 5, 1997 (Administrative Record No. IL–1670), the Illinois Department of Natural Resources, Office of Mines and Minerals (OMM) requested that OSM reconsider its May 29, 1996, decision not to approve Illinois' regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F). Illinois resubmitted the regulations with an interpretation statement, program procedures, and evaluation criteria for implementation of them. These regulations concern the determination of revegetation success for non-contiguous, surface disturbance areas less than or equal to four acres. By letters dated September 26 and November 3, 1997 (Administrative Record Nos. IL–1671 and IL–1672), OMM provided additional explanatory information to clarify the procedures and evaluation criteria that would be used in the implementation of the proposed regulations.

Based upon its request for reconsideration and the additional explanatory information submitted by Illinois, OSM reopened the public comment period in the December 23, 1997, **Federal Register** (62 FR 67014). The public comment period closed on January 7, 1998.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Illinois proposed the following regulatory language at 62 IAC 1816.116(a)(3)(F) for surface coal mining and 62 IAC 1817.116(a)(3)(F) for underground coal mining.

> Non-contiguous areas less than or equal to four acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

Illinois' proposal would exclude non-contiguous, surface disturbance areas of less than or equal to four acres from productivity testing to prove revegetation success. In OSM's May 29, 1996, decision not to approve Illinois' regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F), the practicality of excluding the need to test for revegetation success for small areas such as signs, boreholes, power poles, and other small and minimally disturbed areas was recognized. OSM explained that in order for it to approve this type of proposal, Illinois would need to provide additional language that would more closely correlate the maximum acreage to the types of activities which would qualify for the exemption. Also, Illinois would need to provide additional language as to what would constitute a satisfactory demonstration of minimum disturbance, achievement of original capability, and achievement of postmining land use. As discussed below, OMM provided additional information to meet each of OSM's conditions for reconsideration of

its proposed regulations by providing an interpretation statement, program procedures, and evaluation criteria that would be used in the implementation of the regulations.

1. Interpretation Statement

OMM provided the following interpretation for the proposed regulatory language at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F):

Non-contiguous, surface disturbance areas, with an approved land use of cropland or pasture/hayland, less than or equal to four acres which:

1. Have minor soil disturbances from activities such as signs, boreholes, power poles, stockpiles and substations;

2. Have the majority of the subsoil remaining in place; and

3. Were not affected by coal or toxic material handling, may use the following procedures for determination of revegetation success, in lieu of Section (a)(4).

(i) The operator must document the required three criteria of (F) above have been met.

(ii) The affected area is successfully supporting its approved post mining land use when compared to the similar, adjacent unaffected areas at the end of the responsibility period.

The Department will evaluate areas requested by the operator, using qualified individuals, and determine them successfully revegetated, if it finds subsection (i) and (ii) have been met. The Department will require the area to be tilled with conventional agricultural subsoiler or deeper as it deems necessary.

Illinois' interpretation clarifies that only those non-contiguous areas of less than or equal to four acres that have been subject to surface disturbance only and have an approved land use of cropland or pasture/hayland will qualify under the proposed regulations. It clarifies that these areas are only exempt from the requirements of 62 IAC 1816.116(a)(4) and 1817.116(a)(4) concerning the use of Agricultural Lands Productivity Formula (ALPF) at 62 IAC 1816.Appendix A to measure production. The ALPF contains the approved sampling methods used by Illinois to determine success of revegetation for areas designated in the approved reclamation plan as cropland, pasture, hayland, or grazing land. The interpretation statement clarifies that areas affected by coal or toxic material handling will not be eligible under the proposed regulations. It clarifies that OMM will require the areas to be tilled with a conventional agricultural subsoiler or, when warranted, a deep tiller and that OMM will use qualified individuals to evaluate the revegetated areas. The Director finds that Illinois' interpretation of its proposed regulations provides the necessary clarification that is lacking in the language of the regulations.

2. Correlation of the Maximum Acreage to the Types of Activities and Demonstration of Minimum Disturbance

OMM proposed a four acre maximum under the recommendation of the Illinois Department of Agriculture (IDOA). OMM enclosed a letter dated September 10, 1997, from the IDOA which supports the proposed amendment (Administrative Record No. IL–1671). The IDOA agreed that small isolated areas of four acres or less should not be subject to the full sampling procedures under the Agricultural Lands Productivity Formula. The IDOA stated that based on its experience with cropland restoration under the ALPF, it firmly believed the four-acre threshold is practical and represents a reasonable approach to the evaluation of cropland and hayland at Illinois mines. The IDOA in cooperation with the OMM implements the Agricultural Lands Productivity Formula.

OMM explained that the proposed regulation language describes minor disturbance as an area where the majority of the subsoil remains in place. It also is intended to include areas where topsoil removal was not required. OMM would ensure all non-toxic contaminants are either prevented from mixing with the subsoil or are adequately removed without significant loss of in-place subsoil. It would require the use of techniques such as engineering fabrics to be placed prior to rock placement where it deems it appropriate. Areas affected by coal or toxic material handling would not be eligible under the proposed regulation. OMM would differentiate the minor disturbances into three main types.

(1) *Areas where topsoil was left in place.* Signs, markers and power poles are common examples. A disturbed area is generally less than .25 acres. The type of disturbance is so minor and small that sampling of these areas is impractical.

(2) *Areas where topsoil was removed and stockpiled and the subsoil was left in place.* Common examples include rock dust holes and electrical substations. The disturbed area rarely exceeds one acre. Typically a bulldozer is used to remove and stockpile the topsoil for these areas. Bulldozers possess a ground pressure less than or equal to conventional farm equipment. In order to alleviate any soil compaction, OMM will require the area to be tilled with a conventional agricultural subsoiler or, if necessary, a deep tiller.

(3) *Areas where the topsoil was removed and stockpiled and portions of the area were excavated for foundations or for shaft construction.* Subsoils were stockpiled where necessary and later replaced during reclamation of the site. A disturbed area may approach four acres. Scrapers and excavators may be used in preparing these areas for use. Amny foundations existing on site will be removed from the rooting zone. In order to alleviate any soil compaction, OMM will require the area to be tilled with a conventional agricultural subsoiler or, if necessary, a deep tiller.

Most surface coal mining permits in Illinois are issued for several hundred acres or more, with some issued for over 1,000 acres. A common occurrence at surface mines is a fringe of surface disturbance only areas adjacent to the mined areas. These surface disturbance only areas are surrounded by unaffected land and usually have been used for signs, markers, power poles, or electrical substations. Most non-contiguous, minor disturbance areas associated with underground mines are permitted under Illinois' regulations at 62 IAC 1785.23 for minor underground mine facilities not at or adjacent to the processing or preparation facility or area. The types of facilities permitted under these regulations include air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures and associated roads. These small isolated areas are surrounded by unaffected land. The Director finds that Illinois has provided adequate information to correlate the maximum acreage to the types of activities that would qualify under the proposed regulations and has provided a satisfactory explanation of what constitutes minimum disturbance.

3. *Achievement of Original Capability.* In its letter of September 26, 1997, OMM stated that the process of the permittee planting of the crop and OMM's evaluating the crop is the ''demonstration of capability,'' if it is determined the crops are successful.

On May 2, 1994 (finding 16.C, 59 FR 22513, 22514), OSM made the following applicable findings concerning the achievement of original capability in the preamble discussion of a proposed amendment submitted by the State of Ohio.

Section 515(b)(2) of SMCRA requires that land affected by surface coal mining operations be restored to a condition capable of supporting the uses which it was capable of supporting prior to any mining or to higher or better uses of which there is a reasonable likelihood. However, this capability demonstration is independent of the

revegetation requirements of paragraphs (b)(19) and (b)(20) of section 515(b) of SMCRA * * * Indeed, in the preamble to 30 CFR 816.133(a) as revised on September 1, 1983 (48 FR 39892, 39897), the Secretary states that:

[T]he final rule emphasizes the land's capability, both with regard to premining uses and higher or better uses, in this implementation of Section 515(b)(2) of the Act. This requirement is distinct from the revegetation or prime farmland rules, which under some circumstances may require actual production on the reclaimed land as a measure of successful reclamation.

Furthermore, section 508(a) of SMCRA and its legislative history (S. Rep. No. 128, 95th Cong., 1st Sess. 77 (1977)) provide that the demonstration that premining capability can and will be restored must be made as part of the reclamation plan submitted with the permit application. Thus, the land use restoration requirements of section 515(b)(2) are addressed primarily through the permit application review process, and compliance is achieved by adherence to the reclamation plan and other performance standards such as those pertaining to toxic materials, topsoil, and backfilling and grading. No separate capability demonstration is necessary upon the completion of mining and reclamation.

The permits which contain the non-contiguous, surface disturbance areas of four acres or less are subject to all of the permit application review processes of the approved Illinois program. These areas also must adhere to the approved reclamation plans and the toxic materials, topsoil, and backfilling and grading performance standards of the approved Illinois program. The minor disturbances, discussed in the above finding under item 2, should have minimal impact on the pre-mining soil capability. Also, Illinois' requirement that the area be tilled with a conventional agricultural subsoiler or, if necessary, a deep tiller would alleviate what impact did occur. Therefore, based upon this discussion and OSM's May 2, 1994, policy finding regarding the demonstration of pre-mining capability, the Director finds that the approved Illinois program will assure the achievement of original capability for non-contiguous, surface disturbance areas of less than or equal to four acres.

Achievement of Postmining Land Use. OMM would assess the success of the area by the determination the area is supporting its post mining use and there were no observable differences between these areas and adjacent unaffected areas. OMM would not use this testing procedure if coal or other toxic material were to be handled in the immediate affected area. OMM would require at a minimum the area to be tilled with an agricultural subsoiler, preferably before topsoil replacement. In the event of poor crop performance on areas being evaluated, Illinois will require tillage to greater depths as deemed appropriate, based on timing, soil handling techniques, and equipment used for reclamation. If mitigation efforts are still unsuccessful, Illinois would require soil penetrometer testing and deeper tillage if deemed appropriate. Areas topsoiled to date will be evaluated in their current state, if a subsoiler has already been through the soil. OMM explained that all determinations of the success of these small areas will be done by qualified individuals experienced in the field of agronomy and soils. OMM's staff currently includes an individual certified under ARCPACS. ARCPACS: A Federation of Certifying Boards in Agriculture, Biology, Earth and Environmental Sciences is a certification program that certifies professionals in agronomy and soils, who possess sufficient education and experience in these fields. Certified individuals are bound by a code of ethics, regarding their professional opinion and conduct. Illinois has persons other than ARCPACS certified persons available for crop evaluations. They include persons who are currently involved in the ALPF testing program such as IDOA personnel and U.S. Department of Agriculture crop enumerators.

The evaluation of the crop would be done near the time of the harvest of the crop grown. Hay would be required in a pasture land use and corn or soybeans would be required in a crop land use. The observation would be done for a minimum of two years of the responsibility period, excluding the first year. No phase III bonds would be released before the fifth year of the responsibility period.

OSM notes that an inspection and evaluation of the reclamation work involved would also be conducted upon receipt of a bond release request in accordance with Illinois' regulation at 62 IAC 1800.40(b). The Director finds that Illinois has adequate procedures and qualified individuals to determine whether the small, minimally distributed areas have achieved their postmining land use.

In accordance with section 101(f) of SMCRA, OSM has always maintained that the primary responsibility for developing, authorizing, issuing and enforcing regulations for surface coal mining and reclamation operations should rest with the States. The absence of minimum standards in portions of the Federal rules is not a weakening of revegetation requirements but reflects that the rules are designed to account for regional diversity in terrain, climate, soils, and other conditions under which mining occurs. OMM in its implementation of the Illinois program has found that it is impracticable to test crop productivity on small isolated areas. Several of these non-contiguous, minimally disturbed areas have been reclaimed for several years. From a practical standpoint, it is usually difficult to identify precisely where such areas are located in the field once revegetation is established in accordance with the approved reclamation plan. As discussed earlier, OSM recognizes the practicality of excluding the need to test for revegetation success for small minimally disturbed areas. Although OSM provided exceptions in the Federal regulations from the full performance standards for soil removal and prime farmland for minor disturbance areas at 30 CFR 816.22(a)(3), 817.22(a)(3), 823.11(a), 823.12(c)(2), and 823.14(d), OSM did not consider the eventual need for exceptions from the full requirements of the Federal revegetation standards for success at 30 CFR 816.116 and 817.116 for minimally disturbed areas. The Federal regulations at 30 CFR 816.22(a)(3) and 817.22(a)(3) authorize the regulatory authority to approve an exception from the requirement to remove topsoil for minimally disturbed areas for surface and underground mines, including operations on prime farmland, for minor disturbances which occurs at the site of small structures, such as power poles, signs, or fence lines. The Federal regulation at 30 CFR 823.11(a) authorizes the regulatory authority to approve an exemption from prime farmland performance standards for coal preparation plants, support facilities, and roads of underground mines that are actively used over extended periods of time and where such uses effect a minimal amount of land. The Federal regulations at 30 CFR 823.12(c)(2) and 823.14(d) authorize the regulatory authority to approve an exception from the requirement to remove and reconstruct B and C soil horizons when the B and C horizons would not otherwise be removed by mining activities and where soil capability can be retained, such as areas beneath surface mine and underground mine support facilities. OSM recognizes that standards sampling methods may not be practical for the small minimally disturbed areas that will be eligible under Illinois' regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F). These areas will still subject to the general revegetation requirements of Illinois' counterparts to the Federal regulations at 30 CFR 816.111 and 817.111. With the exception of the

sampling methods approved of measuring revegetation success for cropland and pastureland at 62 IAC 1816.Appendix A, these areas will also be subject to the applicable revegetation standards for success and responsibility periods contained in Illinois' counterparts to 30 CFR 816.116 and 817.116. Disturbance of the limited types referenced by Illinois for these small areas should have minimal impact on soil productivity, if any. Also, areas this small would have a negligible impact on the overall production of the surrounding non-mined cropland or pastureland. Illinois has established that qualified individuals experienced in the fields of agronomy and soils that have the experience and ability to make valid determinations as to whether a diverse, effective permanent vegetative cover has been successfully established will evaluate these small areas. The interpretation, program procedures, and evaluation criteria provided in Illinois' letter of August 5, 1997, as modified by its letters of September 26 and November 3, 1997, should ensure that these minimally disturbed areas are capable of achieving a productivity level compatible with the approved postmining land uses and that crop production will be at least equal to that of the surrounding unmined lands. Therefore, the Director finds that requiring these areas to be evaluated by the statistically valid sampling methods approved in the Illinois program would be impractical.

Based on the above discussions, the Director is approving Illinois' proposed regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F) in combination with its August 5, 1997, interpretation statement, program procedures, and evaluation criteria as modified by its letters dated September 26, 1997, and November 3, 1997. Also, since approval of these regulations will satisfy the required amendment codified at 30 CFR 913.16(x), it is being removed. The Director wants to emphasize that this method for determining revegetation success is only being approved for small, minimally disturbed areas.

IV. Summary and Disposition of Comments

Public Comments

OSM solicited public comments on the proposed amendment, but none were received.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Illinois program during its review of Illinois' February 3, 1995, proposed amendment (Administrative Record Nos. IL–1618 and IL–1664). The Natural Resources Conservation Service (NRCS) was the only agency to comment on Illinois' proposed regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F). Although it did comment on aspects of the proposed language, the NRCS concurred with the State's objective in proposing the rules (Administrative Record Nos. IL–1657, June 7, 1995, and IL–1661, July 20, 1995). The concerns expressed by the NRCS were that compaction alleviation be required, eligible activities be identified, a maximum size area be designated, and minimum soil disturbance be defined. As shown above in the preamble discussion, OSM took the NRCS concerns into consideration during its evaluation of Illinois' request for reconsideration of its May 29, 1996, decision on the proposed regulations.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments from the SHPO and ACHP during its review of Illinois' February 3, 1995, proposed amendment (Administrative Record Nos. IL–1618 and IL–1664). The SHPO concurred with Illinois' proposed amendment on March 3, 1995 (Administrative Record No. IL–1624(A)). The proposed regulations addressed in this final rule have no effect on historic properties. Therefore OSM did not solicit additional comments from the SHPO or ACHP.

V. Director's Decision

Based on the above findings, the Director approves Illinois' regulations at 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F) as submitted on February 3, 1995, and as revised on November 1, 1995, in combination with the interpretation statement, program procedures, and evaluation criteria to be used in the implementation of the regulations as submitted on August 5, 1997, and as revised on September 26, 1997, and November 3, 1997.

The Director approves the regulations as proposed by Illinois with the provision that they be fully promulgated in identical form to the regulations submitted to and review by OSM and the public and that the interpretation statement, program procedures, and evaluation criteria proposed by Illinois be used in the implementation of the regulations.

the Federal regulations at 30 CFR Part 913, codifying decisions concerning the Illinois program, are being amended to implement this decision.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 913.15 Approval of Illinois regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
August 5, 1997	April 8, 1998	62 IAC 1816.116(c)(3)(F); 1817.116(a)(3)(F); Interpretation Statement, Program Procedures, and Evaluation Criteria for 62 IAC 1816.116(a)(3)(F) and 1817.116(a)(3)(F).

§ 913.16 [Amended]

3. Section 913.16 is amended by removing and reserving paragraph (x).

[FR Doc. 98–9174 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay; 98–005]

RIN 2115–AA98

Safety Zone: San Francisco Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of San Francisco Bay, California, between Pier 35 and the Golden Gate Bridge. This temporary regulation will apply to the powerboat race sponsored by the Pacific Offshore Powerboat Racing Association taking place on April 19, 1998 between Blossom Rock and the south tower of the Golden Gate Bridge. The temporary safety zone will be bounded by the following positions: commencing at Latitude 37°49′10″N, Longitude 122°24′07″W; thence to 37°48′50″N, 122°24′07″W; thence to 37°48′56″N, 122°28′48″W; thence to 37°48′48″N, 122°28′48″W; thence returning to the point of origin. This temporary safety zone is necessary to provide for the safety of participants, spectators, and property during the event. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or the Patrol Commander. Commercial vessels may request authorization to transit this safety zone by contacting Vessel Traffic Service on channel 14. Vessel Traffic Service will coordinate commercial vessel transits with the Patrol Commander.

DATES: This safety zone will be in effect on April 19, 1998 from 1 p.m. to 3 p.m. PDT.

ADDRESSES: U.S. Coast Guard Marine Safety Office, San Francisco Bay, Building 14, Coast Guard Island, Alameda, CA 94501–5100.

FOR FURTHER INFORMATION CONTACT: Lieutenant Andrew B. Cheney, U.S. Coast Guard Marine Safety Office, San Francisco Bay at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective prior to, or less than 30 days after, **Federal Register** publication. Publication of an NPRM and delay of its effective date would be contrary to the public interest since the precise location of the powerboat race necessitating the promulgation of this safety zone, and other pertinent logistical details surrounding the event, were not finalized until a date fewer than 30 days prior to the event date.

Discussion of Regulation

The Pacific Offshore Powerboat Racing Association has been granted a permit by Commander, Coast Guard Group San Francisco to sponsor a multiple lap powerboat race on April 19, 1998 on the waters of San Francisco Bay between the south tower of the Golden Gate Bridge and Blossom Rock. This safety zone is necessary to protect participants, spectators, and property from hazards associated with this race. Entry into, transmit through, or anchoring within this safety zone is prohibited, unless authorized by the Captain of the Port or the Patrol Commander. Commercial vessels may

request authorization to transit the regulated area by contacting Vessel Traffic Service on Channel 14 VHF–FM. Vessel Traffic Service will coordinate commercial vessel transits with the Patrol Commander. For purposes of this temporary regulation, ''commercial vessels'' are defined as all vessels other than those used and registered/documented exclusively for recreational purposes.

Regulatory Evaluation

This is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has 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 (44 FR 11040; February 26, 1979). Due to the short duration and limited scope of the implementation of the safety zone, and because commercial traffic will have an opportunity to request authorization to transit, the Coast Guard expects the economic impact of this rule to be so minimal that full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this temporary regulation and concluded that under section 2.B.2 of Commandant Instruction M16475.1B as revised in 59 FR 38654, July 29, 1994, it will have no significant environmental impact and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.T11–098 is added to read as follows:

§ 165T11–098 Safety Zone, San Francisco Bay, CA.

(a) *Location.* The following area is a safety zone: the waters of San Francisco Bay, California, between Pier 35 and the Golden Gate Bridge, located immediately adjacent to the Golden Gate National Recreation Area. The safety zone is bounded by the following positions: commencing at Latitude 37°49′10″N, Longitude 122°24′07″W; thence to 37°48′50″N, 122°24′07″W; thence to 37°48′56″N, 122°28′48″W; thence to 37°48′48″N, 122°28′48″W; thence returning to the point of origin. All coordinates referred use datum NAD 83.

(b) *Effective date.* This safety zone will be in effect on April 19, 1998, from 1 p.m. to 3 p.m., PDT, unless canceled earlier by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, entry into, transit through, or anchoring within this zone is prohibited, unless authorized by the Captain of the Port or the Patrol Commander. Commercial vessels may request authorization to transit the safety zone by contacting Vessel Traffic Service on Channel 14 VHF–FM. Vessel Traffic Service will coordinate commercial vessel transits with the Patrol Commander.

Dated: March 27, 1998.

H. Henderson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay.

[FR Doc. 98–9209 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300631; FRL–5779–2]
RIN 2070–AB78

Hexythiazox; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the insecticide hexythiazox and its metabolites in or on cotton, undelinted seed at 0.1 part per million (ppm), and cotton gin byproducts at 2.0 ppm for an additional one–year period, to October 1, 1999. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cotton. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective April 8, 1998. Objections and requests for hearings must be received by EPA, on or before June 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300631, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300631, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington,

DC 20460. Office location, telephone number, and e-mail address: Rm. 280, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–9358; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of November 26, 1997 (62 FR 62986) (FRL 5750–9), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of hexythiazox and its metabolites in or on cotton, undelinted seed at 0.1 ppm, and on cotton gin byproducts at 2.0 ppm, with an expiration date of October 1, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of hexythiazox on cotton for this year's growing season due to continued pressure faced by California cotton growers to various species of spider mites. Spider mites populations increase when wet conditions create a favorable environment for the pest. California is experiencing wetter-than-usual weather this year, due to ''el niño'' storms. It is further documented that spider mites have developed resistance to the two primary registered alternative products which are available to California cotton growers. Therefore, EPA has concluded that the situation is urgent and non-routine, and EPA has authorized the emergency use of hexythiazox on up to 300,000 acres of cotton in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of hexythiazox on cotton for control of spider mites in cotton.

EPA assessed the potential risks presented by residues of hexythiazox in or on cotton. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of November 26, 1997 (62 FR 62986) (FRL 5750–9). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional one–year period. Although this tolerance will expire and is revoked on October 1, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cotton after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

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

Any person may, by June 8, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

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

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300631. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerancethat was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the

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

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: March 23, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180--[AMENDED]

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

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

§ 180.448 [Amended]

2. In § 180.448, by amending paragraph (b) by changing the date ''10/1/98'' to read ''10/1/99'' wherever it appears.

[FR Doc. 98–8794 Filed 4–7–98 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP–300642; FRL–5784–9]

RIN 2070–AB78

Clethodim; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, all expressed as clethodim in or on alfalfa, forage; alfalfa, hay; dry beans; peanuts; peanut, hay; peanut, meal; tomatoes; tomato, puree; tomato, paste. Valent U.S.A. Corporation requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170). The tolerances will expire on April 30, 2001.

DATES: This regulation is effective April 8, 1998. Objections and requests for hearings must be received byEPA on or before June 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300620], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300620], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300620]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-305-6224, e-mail: joanne.miller@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 12, 1997 (62 FR 6530–6534) (FRL–5586–3), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by Valent U.S.A. Corporation, 1333 N. California Blvd., Walnut Creek, CA 94596. This notice included a summary of the petition prepared by Valent, the registrant. There were no comments

received in response to the notice of filing.

The petition requested that 40 CFR 180.458 be amended by establishing time-limited tolerances for combined residues of the herbicide clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, all expressed as clethodim, in or on alfalfa, forage at 6 part per million (ppm); alfalfa, hay at 10 ppm; dry beans at 2 ppm; peanuts at 3 ppm; peanut, hay at 3 ppm; peanut, meal at 5 ppm; tomatoes at 1 ppm; tomato, puree at 2 ppm; and tomato, paste at 3 ppm. This tolerance will expire on April 30, 2001.

I. Risk Assessment and Statutory Findings

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

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

A. Toxicity

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

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

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

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

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

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

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

Chronic risk assessment describes risk which could result from several months

to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

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

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

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of clethodim and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, all expressed as clethodim on alfalfa, forage at 6 ppm; alfalfa, hay at 10 ppm; dry beans at 2 ppm; peanuts at 3 ppm; peanut, hay at 3 ppm; peanut, meal at 5 ppm; tomatoes at 1 ppm; tomato, puree at 2 ppm; and tomato, paste at 3 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

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

1. Several acute toxicology studies places the technical-grade herbicide in Toxicity Category II.

2. A 2-year rat chronic toxicity/carcinogenicity study found the compound to be noncarcinogenic to rats under the conditions of the study. The systemic no-observed-effect level (NOEL) was 500 ppm (approximately 19 milligram/kilograms/day (mg/kg/day)), and the systemic lowest-observed-effect-level (LOEL) was 2,500 ppm (approximately 100 mg/kg/day) based on the observed body weight gain, the increases in liver weights, and the presence of centrilobular hepatic hypertrophy.

3. An 18-month mouse carcinogenicity study which showed the compound to be noncarcinogenic to mice under the conditions of the study. The systemic NOEL was 200 ppm (8 mg/kg/day), and the systemic LOEL was 1,000 ppm (50 mg/kg/day) based on treatment-related effects on survival, red cell mass, absolute and relative liver weights, and microscopic findings in liver and lung.

4. A 1-year feeding study in dogs with a systemic NOEL of 1 mg/kg/day in both sexes and an LOEL of 75 mg/kg/day based on increased absolute and relative liver weights, and alteration and clinical chemistry.

5. A developmental toxicity study in rats with a developmental and maternal NOEL and LOEL of 100 and 350 mg/kg/day, respectively. The NOEL and LOEL for developmental toxicity were based on reductions in fetal body weight and increases in skeletal anomalies.

6. A developmental toxicity study in rabbits with a maternal toxicity NOEL and LOEL of 25 and 100 mg/kg/day, respectively. Maternal toxicity was manifested as clinical signs of toxicity and reduced weight gain and food consumption during treatment. Developmental toxicity was not observed, and therefore the developmental toxicity NOEL was 300 mg/kg/day, highest dose tested (HDT).

7. A two-generation reproduction study in the rat with parental toxicity NOEL and LOEL of 500 and 2,500 ppm (51 and 263 mg/kg/day), respectively, based on reductions in body weight in males, and decreased food consumption in both generations. The NOEL for reproductive toxicity was 2,500 ppm (263 mg/kg/day, HDT).

8. A mutagenicity test with *Salmonella* Ames assay showed nonmutagenicity in three strains. Clethodim imine sulfone was negative for reverse gene mutation in *Salmonella* and *E. Coli* exposed up to 10,000 ug/plate with or without activation. Clethodim was negative for chromosomal damage in bone marrow cells of rats treated orally up to toxic dose (1,500 mg/kg).

B. Toxicological Endpoints

1. *Acute toxicity*. There were no effects observed in oral developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, a dose and an endpoint were not selected.

2. *Short - and intermediate - term toxicity*— i. *Dermal absorption*. In a dermal penetration study, groups of 12 male Sprague-Dawley rats received a single dermal application of [^{14}C]-clethodim in deionized water at 0.05, 0.5, or 5 mg/rat onto an area of 10 cm^2. Dermal absorption was assessed in 4 rats/dose/time period after 2, 10 and 24 hours post-treatment. A dermal absorption factor of 30% was selected for risk assessment based on the results observed at 10 hours in rats administered the 0.05 mg/rat dose.

ii. *Short-term toxicity* . A dermal equivalent dose was calculated as 350 mg/kg/day. This dermal equivalent dose was estimated by applying the 30% dermal absorption (DA) rate to the oral NOEL of 100 mg/kg/day in a rat developmental toxicity study (oral NOEL 100 / 30% DA x 100 = 333 mg/kg/day, dermal equivalent dose). Similarly, when the 30% DA is applied to the oral LOEL of 350 mg/kg/day in that study, the resulting dermal equivalent dose of 1167 mg/kg/day (oral LOEL 350 / 30% DA x 100) approximates the LOEL of 1,000 mg/kg/day established in the 21-day dermal study.

In a 21-day dermal toxicity study with technical clethodim, there was a wide range between the mid (100 mg/kg/day) and the high (1,000 mg/kg/day) doses. This broad range obscured the detection of a true NOEL which could have been anywhere in between these doses which were the study NOEL (100 mg/kg/day) and the LOEL (1,000 mg/kg/day). The Office of Pesticide's Health Effects Division's Hazard Identification Review Committee (HAZID Committee) also noted the 10-fold difference between the LOELs established with the Technical (1,000 mg/kg/day) and Formulated (100 mg/kg/day) products in the 21-day dermal toxicity studies. Therefore, based on these factors, the HAZID Committee calculated a dermal equivalent dose for short-term occupational and residential risk assessments.

iii. *Intermediate-term toxicity.* A dermal equivalent dose was calculated as 75 mg/kg/day. This dermal equivalent dose was estimated by applying the 30% dermal absorption (DA) rate to the oral NOEL of 25 mg/kg/day in the dog oral toxicity study (oral NOEL/30% DA x 100 = 75 mg/kg/day, dermal equivalent dose).

This dose (25 mg/kg/day) is supported by the NOEL of 30 mg/kg/day established in the 90-day oral feeding study in rats. In that study, the LOEL of 134 mg/kg/day was based on increased absolute and relative liver weights as well as increases in centrilobular hypertrophy. Liver was shown to be the target organ for clethodim-induced toxicity at comparable doses in two species, dogs and rats.

Since an oral dose was identified, a dermal absorption (DA) rate of 30% should be used for risk assessments. Application of the 30% DA is applied to the oral NOEL in the dog (25 mg/kg/day) and rat (30 mg/kg/day), and yields dermal equivalent doses of 75 and 100 mg/kg/day (25/30 mg/kg/day / 30% x 100 = 75/100 mg/kg/day), which approximates the NOEL of 100 mg/kg/day established in the 21-day dermal toxicity study with the technical product.

3. *Chronic toxicity.* EPA has established the RfD for clethodim at 0.01 mg/kg/day. This RfD is based on alterations in hematology, a clinical chemistry parameter and increased absolute and relative liver weights at 75 mg/kg/day observed in a chronic toxicity study in dogs with a NOEL of 1 mg/kg/day. An uncertainty factor of 100 was used in calculating the RfD to account for both inter- and intra-species variations.

4. *Carcinogenicity.* The Office of Pesticide Programs' Health Effects Division's Carcinogenicity Peer Review Committee (CPRC) has classified clethodim in Group E carcinogen (no evidence of carcinogenicity) under the Agency's ''Guidelines for Carcinogen Risk Assessment,'' published in the **Federal Register** of September 24, 1986 (51 FR 33992). In its evaluation, CPRC gave consideration to the weight change in the 2-year feeding study in rats and the 18 month feeding study in mice.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.458) for the combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, all expressed as clethodim, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures and risks from clethodim as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No acute dietary endpoint was determined for clethodim, so an acute risk assessment was not required.

ii. *Chronic exposure and risk.* The chronic dietary exposure analysis from food sources was conducted using the reference dose (RfD) of 0.01 mg/kg/day and an uncertainty factor (UF) of 100 applicable to all population subgroups. In conducting this chronic dietary (food) risk assessment, residues were used for alfalfa, dry beans, peanuts and tomatoes, and all other commodities with published or pending, permanent or time-limited clethodim tolerances. Residues were used at tolerance levels for some of these crops and at anticipated residue levels for others. Thus, this risk assessment should be viewed as partially refined. Further refinement using additional anticipated residue levels and percent crop-treated information would result in a lower estimate of chronic dietary exposure.

The estimated exposure levels for existing and proposed clethodim uses vary between 0.001034 and 0.008411 mg/kg/day for the population subgroups (the U.S. population (48 states)), those for infants and children, females (13 to 19 years old, not pregnant and not nursing), and the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states); and occupied between 10% and 84% of the RfD.

When EPA establishes, modifies, or leaves in effect a tolerance, section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided five years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than five years from the date of issuance of this tolerance.

2. *From drinking water.* Based on the chronic dietary (food) exposure and using default body weights and water consumption figures, chronic drinking water levels of concern (DWLOC) for drinking water were calcualted. To calculate the DWLOC, the chronic dietary food exposure (from the DRES analysis) was subtracted from the RfD.

For chronic exposure, based on an adult body weight of 70 kg and 2L consumption of water per day, the level of concern from chronic exposure estimates for the U.S. population is 212 ppb and 1031 ppb for females 13 years and older, not pregnant or nursing. For infants and children (10 kg and 1L water/day) our level of concern for drinking water is 16 ppb. Agency estimates for contamination of drinking water from the registered uses of clethodim is 10 ppb. This level is lower than the chronic DWLOCs for the U.S. population (212 ppb) and females 13 years and older, not pregnant or nursing (1,031 ppb), and infants and children (16 ppb). Therefore, EPA concludes with reasonable certainty that the chronic exposure to clethodim in surface water is less than our level of concern.

3. *From non-dietary exposure.* Clethodim is currently registered for use on the following residential non-food sites: ornamental plants, wooden containers for growing plants, along driveways, patios, golf course turf, walkways, trails, and paths. There are no indoor uses registered for clethodim. It is conceivable that these outdoor uses could result in residential exposure. However, under current EPA criteria, the registered and proposed uses of clethodim would not constitute a chronic residential exposure scenario. Clethodim does not control broadleaf weeds and therefore is registered for use on edges and walkways, thus greatly reducing the risk of residential exposure.

The short- and intermediate aggregate MOEs for residential applicators using a low pressure handwand ranged from 7,300 to 1,600. The post-application aggregate short- and intermediate-term MOEs for the U.S. population ranged from 520 to 110. The post-application aggregate short- and intermediate-term MOEs for infants/children range from 540 to 115. Short- and intermediate-term aggregate exposure takes into account chronic dietary exposure plus indoor and outdoor residential exposures. These exposure assessments assumed the maximum application rate for turf and garden uses and two hours as the duration of exposure, and a 20% dislodgeable foliar residue. These assumptions are considered conservative and protective.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

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

EPA does not have, at this time, available data to determine whether clethodim has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, clethodim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that clethodim has a common mechanism of toxicity with other substances.

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

1. *Acute risk.* There were no effects observed in oral developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, a dose and an endpoint were not selected, and EPA concludes that there is a reasonable certainty that no harm will result from aggregate acute exposure to clethodim residues.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to clethodim from food will utilize 39% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children one to six years of age and is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to clethodim in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate chronic exposure to clethodim residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

Clethodim is registered for uses that could result in short- and intermediate-term exposures. The short- and intermediate aggregate margins of exposure (MOEs) for residential applicators using a low pressure handwand ranged from 7,300 to 1,600. The postapplication aggregate short- and intermediate-term MOEs for the U.S. population ranged from 520 to 110. The postapplication aggregate short- and intermediate-term MOEs for infants/children range from 540 to 115. Short- and intermediate-term aggregate exposure takes into account chronic dietary exposure plus indoor and outdoor residential exposures. These exposure assessments assumed the maximum application rate for turf and garden uses and two hours as the duration of exposure, and a 20% dislodgeable foliar residue. These assumptions are considered conservative and protective. Short- and intermediate term MOEs for occupational workers ranged from 620 for aerial mixer/loaders to 60,000 for ground applicators. These estimates do not exceed EPA's level of concern. EPA concludes that there is a reasonable certainty that no harm will result from aggregate short- and intermediate-term exposure to clethodim residues.

E. Aggregate Cancer Risk for U.S. Population

Clethodim has been classified as a Group E chemical (no evidence of carcinogenicity), and EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to clethodim residues.

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

1. *Safety factor for infants and children*— i. *In general.* In assessing the

potential for additional sensitivity of infants and children to residues of clethodim, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

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

ii. *Developmental toxicity studies.* In a prenatal developmental toxicity study in Sprague-Dawley rats, clethodim (82.6%) was administered at doses of 0, 10, 100, 350, or 700 mg/kg/day by gavage in 10 mg/kg of 0.7% carboxy methylcellulose and Tween 80 on gestation days 6-15. For maternal toxicity, the NOEL was 100 mg/kg/day and the LOEL was 350 mg/kg/day based upon decreased body weight gain and clinical signs of toxicity (salivation). The developmental NOEL was 100 mg/kg/day and the developmental LOEL was 350 mg/kg/day, based upon reductions in fetal body weight and an increase in the incidence of skeletal anomalies.

A prenatal developmental toxicity study was conducted in pregnant New Zealand white rabbits in which clethodim (82.6%) was administered by gavage in 5 ml/kg at doses of 0, 25, 100, or 300 mg/kg/day in 0.7% carboxy methylcellulose and Tween 80 on gestation days 7-19. For maternal toxicity, the NOEL was 25 mg/kg/day and the LOEL was 100 mg/kg/day, based on clinical signs of toxicity (dried feces and blood in the cage pan) and reduced body weight and food consumption during treatment. There was no developmental toxicity noted. For developmental toxicity, the NOEL was ≥ 300; a LOEL was not established.

iii. *Reproductive toxicity study.* In a two-generation reproductive study, Sprague-Dawley rats received clethodim (83.2%) in the diet at 0, 5, 20, 500, or 2,500 ppm. The parental systemic NOEL was 500 ppm (51 mg/kg/day) and the parental systemic LOEL was 2,500 ppm (263 mg/kg/day), based on decreased body weights (particularly in males) and food consumption for both generations. There were no effects on reproduction, nor was there evidence of toxicity to the offspring (offspring NOEL ≥ 2,500 ppm).

iv. *Pre- and post-natal sensitivity.* The data base is complete. The oral perinatal and prenatal data demonstrated no indication of increased sensitivity of rats or rabbits to in utero exposure to clethodim. Therefore, EPA concludes that reliable data show that the standard uncertainty factor of 100 will be safe for infants and children.

2. *Acute risk.* There were no effects observed in oral developmental toxicity studies in rats or rabbits that could be attributable to a single dose (exposure). Therefore, a dose and an endpoint were not selected, and EPA concludes that there is a reasonable certainty that no harm will result from aggregate acute exposure to clethodim residues.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to clethodim from food will utilize 45% of the RfD for non-nursing infants less than one year old, and 84% for children ages one through six years of age. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to clethodim in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to clethodim residues.

4. *Short- or intermediate-term risk.* The postapplication aggregate short- and intermediate-term MOEs for infants/children range from 540 to 115. Short- and intermediate-term aggregate exposure takes into account chronic dietary exposure plus indoor and outdoor residential exposures. These exposure assessments assumed the maximum application rate for turf and garden uses and two hours as the duration of exposure, and a 20% dislodgeable foliar residue. These assumptions are considered conservative and protective. These estimates do not exceed EPA's level of concern. EPA concludes that there is a reasonable certainty that no harm will result from aggregate short- and intermediate-term exposure to clethodim residues.

III. Other Considerations

A. Metabolism In Plants and Animals

The nature of clethodim residues in plants, ruminants, and poultry is adequately understood for the purposes of these subject petitions. The residues of concern are as defined in 40 CFR 180.485(b).

B. Analytical Enforcement Methodology

Analytical methods are available for enforcement. Method EPA-RM-26D-2 [HPLC-UV], ''Confirmatory Method for the Determination of Clethodim and Clethodim Metabolites in Crops, Animal Tissues, and Mail and Eggs,'' which distinguishes clethodim residues from residues of the structurally similar herbicide sethoxydim, and Method RM-26B-2 [GLC-FPD-S], ''Analytical Method for the Determination of Clethodim Residues,'' the common moiety method, have undergone successful EPA Method Validation. Revisions to EPA-RM-26D-2 are requested prior to establishment of permanent tolerances on these subject crops. The method may be obtained from: Calvin Furlow, PRRIB, IRSD, (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 119FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5229).

C. Magnitude of Residues

The crop field trial data are adequate for the purposes of these time-limited tolerances. To support future permanent tolerances, Valent U.S.A. Corp. must submit three additional dry bean field trials from Region 5, four additional peanut field trials from Region 2, and four additional tomato field trials from California, each conducted at the maximum use rates and proposed pre-harvest intervals. Field trial regions are defined in EPA OPPTS Guideline 860.1500.

D. International Residue Limits

There are no Codex, Canadian or Mexican tolerances or maximum residue limits established for clethodim

on tomatoes, alfalfa, peanuts, or dry beans. There are no conflicts between this proposed action and international residue limits.

E. Rotational Crop Restrictions

A confined rotational crop study of [ring-4,6-^{14}C]-clethodim with carrots, lettuce, and wheat was reported. Results indicate there is no need for field rotational crop trials.

IV. Conclusion

Therefore, the time-limited tolerances are is established for combined residues of clethodim and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, all expressed as clethodim in alfalfa, forage at 6 ppm; alfalfa, hay at 10 ppm; dry beans at 2 ppm; peanuts at 3 ppm; peanut, hay at 3 ppm; peanut, meal at 5 ppm; tomatoes at 1 ppm; tomato, puree at 2 ppm; and tomato, paste at 3 ppm.

V. Objections and Hearing Requests

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

Any person may, by June 8, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300620] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

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

VII. Regulatory Assessment Requirements

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

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

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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, Pesticides and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: April 3, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is 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. Section 180.458 is amended as follows:

i. By adding a heading to paragraph (a) and designating the text as paragraph (a)(1).

ii. By adding paragraph (a)(2).

iii. By redesignating paragraph (b) as paragraph (a)(3).

iv. By adding with headings and reserving paragraphs (b), (c), and (d).

The added text reads as follows:

§ 180.458 Clethodim ((E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one); tolerances for residues.

(a) *General.* * * *

(2) Time-limited tolerances are established for the combined residues of clethodim ((E)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/ Revocation Date
Alfalfa, forage	6	4/30/01
Alfalfa, hay	10	4/30/01
Dry beans	2	4/30/01
Peanut, hay	3	4/30/01
Peanut, meal	5	4/30/01
Peanuts	3	4/30/01
Tomatoes	1	4/30/01
Tomato, paste ...	3	4/30/01
Tomato, puree ...	2	4/30/01

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

PART 185—[AMENDED]

2. In part 185:

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

Authority: 21 U.S.C. 346a and 348.

§ 185.1075 [Removed]

b. In § 185.1075:

i. By transferring the text and table to § 180.458 and redesignating as paragraph (a)(4).

ii. The remainder of § 185.1075 is removed.

PART 186—[AMENDED]

3. In part 186:

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

Authority: 21 U.S.C. 342, 348, and 701.

§ 186.1075 [Removed]

b. In § 186.1075:

i. Paragraphs (a) and (b) are transferred to § 180.458 and redesignated as paragraphs (a)(5) and (a)(6) respectively.

ii. The remainder of § 186.1075 is removed.

[FR Doc. 98–9392 Filed 4–7––98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC67

Disaster Assistance; Public Assistance Program Appeals; Hazard Mitigation Grant Program Appeals

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule changes the procedure for the review and disposition of appeals related to Public Assistance grants or related to the Hazard Mitigation Grant Program (HMGP). The rule reduces from three to two the number of appeals allowed and thus will allow faster final determination of decisions on appeal.

EFFECTIVE DATE: This rule is effective May 8, 1998.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3619, (facsimile) (202) 646–3104, about HMGP appeals; or Melissa M. Howard, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3053, facsimile (202) 646–3304, about Public Assistance appeals.

SUPPLEMENTARY INFORMATION:

Background

Under § 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5189a, any decision regarding eligibility or amount of assistance may be appealed. Current FEMA regulations at 44 CFR 202.206 and 206.440 provide for a three-stage appellate process, with appeals directed to the Regional Director, the Associate Director, and to the Director.

Proposed Rule

On November 24, 1997 FEMA published a proposed rule, 62 FR 62540—62542, to reduce from three to one the number of appeals allowed. As proposed, the authority for appeal decisions would have rested solely with the Regional Director, who would have had to consult with FEMA Headquarters on all potential appeal denials when the amount in question was $1,000,000 or more in Federal funds.

Public Comments

FEMA received 29 responses to the proposed rule. The most cited argument against placing the final agency decision

making authority with the Regional Director in a one-level appeal process was that the process could lead to inequitable and inconsistent decisions. A Regional Director could have a natural inclination and desire to support the initial decision made by one of his/her staff members. Some suggested that the appeals staff might include some of the same people who participated in the initial decision and that the Regional Director might have been involved in the initial determination. Therefore, they argued that it would not be fair to have a ''biased'' reviewer deciding an appeal.

The second most cited argument against the one-level appeal process was inconsistencies it could create among FEMA's 10 Regional Offices—a reimbursable cost in one region may be determined to be an ineligible cost in another region. To ensure consistency and uniformity in the application of FEMA policies and precedents, they argued that applicants should have a right to review by the Director or Associate Director at the national level.

Four commenters stated that the Regional Director's first appeal decision is often the first time that FEMA clearly identifies and discloses its position on the issue being appealed. The first appeal to the Regional Director frequently gathers new information related to the issue that the Regional Director rules upon for the first time. Until then the subgrantee and the grantee often do not have a written summary of FEMA's position due to the technical nature of the DSR process. These commenters urged that a ''one step'' appeal process—even when directed to a centralized headquarters office—would not provide an adequate record on which to base a final agency decision. They asserted that to end the process after only one appeal would merely exchange the FEMA administrative process for an even more costly and time-consuming process—the Federal court system.

The great majority of the commenters recommended that FEMA adopt a two-level appeal process. Most recommended that the first appeal be made to the Regional Director. If a second appeal was needed they recommended that it be made to the Associate Director or to the Director.

FEMA Response to Comments

We found the comments cogent and persuasive, and have established two levels of appeals. The authority for appeal decisions will rest with the Regional Director at the first level and the Associate Director/Executive Associate Director at the second level. The Associate Director's/Executive Associate Director's appeal determination will be the Agency's final administrative decision on the matter.

The intent of this change remains to reduce the amount of time and associated costs incurred by FEMA, grantees, and subgrantees to resolve appeals. All commenters agreed with that goal. Given the time allowed for appeals at each appellate level, the process can take two years or more to make a final decision under the current three-appeal process. FEMA expects that this change will provide applicants with a final resolution of contested issues more quickly than is now possible and will expedite delivery of assistance to eligible applicants. All provisions for fair and impartial consideration required by law will be maintained.

Effective Date

The rule is effective for all appeals pending on and appeals from decisions issued on or after May 8, 1998, except as provided elsewhere in section (e). Thus, appeals pending on a first-level appeal decision of a Regional Director issued before the effective date of this rule may be appealed to an Associate Director/ Executive Associate Director under this rule. Appeals pending from a decision of an Associate Director/ Executive Associate Director issued before the effective date of this rule may be appealed to the Director under 44 CFR § § 202.206 and 206.440 as they existed before May 8, 1998. The decision of the FEMA official at the next higher appeal level will be the final administrative decision of FEMA.

Redelegation

Under the authority of 44 CFR 2.6, Redelegation of authority, the Associate Director/Executive Associate Director for Response and Recovery and the Associate Director/Executive Associate Director for Mitigation may redelegate their appeal authority under 44 CFR § § 202.206 and 206.440 in whole or in part to another FEMA official. For example, FEMA revised the delegation of appeal decisions when the Northridge Long-term Recovery Area Office was established to deal with the special reporting relationship for the large and complex Northridge earthquake disaster.

Costs Associated With Preparing and Processing Appeals

The proposed rule also provided that grantees and subgrantees would be responsible for separately tracking and accounting for all costs associated with preparing and processing appeals. FEMA would reimburse grantees' and subgrantees' administrative costs for preparing and processing appeals only when an appeal was decided in favor of the applicant.

The final rule does not contain a provision requiring grantees and subgrantees to separately track and account for all costs to prepare and process appeals. There is considerable disparity in the recommendations that commenters made on appeal costs. In the interest of instituting the new appeals procedure as soon as possible we are removing the costs provision from the final rule. We intend to continue our review of the costs to prepare and process appeals and intend to propose changes later to those cost provisions through rulemaking.

Redefinition

This rule also revises the definition of Associate Director in paragraph (a)(3) of 44 CFR 206.2 to indicate that the Associate Director or Executive Associate Director referred to in subparts A through L of part 206 is the head of the Response and Recovery Directorate, and the Associate Director or Executive Associate Director referred to in subparts M and N of part 206 is the head of the Mitigation Directorate.

List of Those Who Commented on the Proposed Rule

We appreciate the comments sent to us by the following individuals and organizations:

Richard Andrews, Director, Governor's Office of Emergency Services, Rancho Cordova, California 95741–9047

Michael Austin, Director, State of Arizona Division of Emergency Mgmt., Phoenix, Arizona 85008–3495

Robert C. Byerts, Deputy General Counsel, Florida Department of Community Affairs, Tallahassee, Florida 32399–2100

Albert Deininger, Vice President, Ambulatory Care, White Memorial Medical Center, Los Angeles, CA 90033

Doran Duckworth, State Planner/Planning Coordinator, Lansing, MI 48909–8136

Randall Duncan, NCCEM President, Falls Church, Virginia 22046–4513

Glen Fichman, Director, FEMA Coordination, University of California, Los Angeles, Los Angeles, CA 90095–1405

Mary Forrest, Chief Executive Officer, Jewish Home for the Aging, Reseda, CA 91335

Ellen Gordon, Administrator, Department of Public Defense, Emergency Management Division, Des Moines, Iowa 50319–0113

Arthur Goulet, Director, Public Works Agency County of Ventura, Ventura, CA 93009–1600

Ursula Hyman, Latham & Watkins, Los Angeles, California 90071–2007

Karen Keene, Legislative Representative, California State Association of Counties, Sacramento, CA 95814

Francis Laden, Brigadier General, Nebraska Army National Guard, Assistant Director,

Nebraska Emergency Management Agency, Lincoln, Nebraska 68508–1090
Fred Liebe, Chair, State of Oklahoma, SHMO NEMA Liaison Committee, Oklahoma Dep't of Civil Emerg'y Mgmt., Oklahoma City, OK 73152–3365
Stuart Mahler, Public Assistance Coordinator, Connecticut Office of Policy and Management, Hartford, Connecticut 06134–1441
Anthony S. Mangeri, Chair, SHMO Regulations Committee, New Jersey State Hazard Mitigation Officer
Stan McKinney, President, National Emergency Management Ass'n, Columbia, SC 29201
David McMillion, Director, Maryland Emergency Management Agency, Pikesville, Maryland 21208
Terrance Muldoon, Vice President, Saint John's Health Center, Santa Monica, CA 90404–2032
John Mulhern, Director, Delaware Department of Public Safety, Delaware Emergency Management Agency, Delaware City, Delaware 19706
Roy Price, Hawaii Department of Defense, Office of the Director of Civil Defense, Honolulu, Hawaii 96816–4495
Phillip K. Roberts, Deputy Director, Indiana State Emergency Management Agency, Indianapolis, IN 46204
Gary Seidenfeld, Hazard Mitigation Program Officer, FEMA Region II
Steven D. Sell, Administrator, Department of Military Affairs, Wisconsin Emergency Management, Madison, Wisconsin 53707–7865
Dale Shipley, Deputy Director, Ohio Emergency Management Agency, Columbus, OH 43235–2206
David L. Smith, Chief, Disaster Assistance & Preparedness, Springfield, Illinois 62701–1109
Harry Stone, Director of Public Works, County of Los Angeles, Alhambra, California 91803–1331
Jerry Uhlmann, Director, Missouri Emergency Management Agency, Jefferson City, Missouri 65102

National Environmental Policy Act

This rule is categorically excluded from the preparation of environmental impact statements and environmental assessments as an administrative action in support of normal day-to-day grant activities. No environmental impact statement or environmental assessment has been prepared.

Executive Order 12866, Regulatory Planning and Review

This rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, but attempts to adhere to the regulatory principles set forth in E.O. 12866. The rule has not been reviewed by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Regulatory Flexibility Act

The Director certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule will reduce the number of appeals that an entity might make and is expected to reduce administrative burden and compliance requirements associated with appeals. A regulatory flexibility analysis has not been prepared.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

This rule complies with applicable standards of § 2(b)(2) of E.O. 12778.

Congressional Review of Agency Rulemaking

FEMA has submitted this rule to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, Pub. L.104–121. This rule is not a ''major rule'' within the meaning of that Act. It does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This rule is exempt (1) from the requirements of the Regulatory Flexibility Act, as certified previously, and (2) from the Paperwork Reduction Act.

This rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4. It does not meet the $100,000,000 threshold of that Act.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure, Appeals, Disaster assistance, Mitigation.

Accordingly, 44 CFR part 206 is amended as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p.376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Paragraph (a)(3) of § 206.2 is revised to read as follows:

§ 206.2 Definitions.

(a) * * *

(3) *Associate Director or Executive Associate Director:* (i) Unless otherwise specified in subparts A through L of this part, the Associate Director or Executive Associate Director of the Response and Recovery Directorate, or his/her designated representative.

(ii) Unless otherwise specified in subparts M and N of this part, the Associate Director or Executive Associate Director of the Mitigation Directorate, or his/her designated representative.

* * * * *

3. Section 206.206 is revised to read as follows:

§ 206.206 Appeals.

An eligible applicant, subgrantee, or grantee may appeal any determination previously made related to an application for or the provision of Federal assistance according to the procedures below.

(a) *Format and Content.* The applicant or subgrantee will make the appeal in writing through the grantee to the Regional Director. The grantee shall review and evaluate all subgrantee appeals before submission to the Regional Director. The grantee may make grantee-related appeals to the Regional Director. The appeal shall contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

(b) *Levels of Appeal.* (1) The Regional Director will consider first appeals for public assistance-related decisions under subparts A through L of this part.

(2) The Associate Director/Executive Associate Director for Response and Recovery will consider appeals of the Regional Director's decision on any first appeal under paragraph (b)(1) of this section.

(c) *Time Limits.* (1) Appellants must file appeals within 60 days after receipt of a notice of the action that is being appealed.

(2) The grantee will review and forward appeals from an applicant or subgrantee, with a written recommendation, to the Regional Director within 60 days of receipt.

(3) Within 90 days following receipt of an appeal, the Regional Director (for first appeals) or Associate Director/ Executive Associate Director (for second appeals) will notify the grantee in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Director or Associate Director/Executive Associate Director for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the Regional Director or Associate Director/Executive Associate Director will notify the grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

(d) *Technical Advice.* In appeals involving highly technical issues, the Regional Director or Associate Director/ Executive Associate Director may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Director or Associate Director/ Executive Associate Director will notify the grantee in writing of the disposition of the appeal.

(e) *Transition.* (1) This rule is effective for all appeals pending on and appeals from decisions issued on or after May 8, 1998, except as provided in paragraph (e)(2) of this section.

(2) Appeals pending from a decision of an Associate Director/Executive Associate Director before May 8, 1998 may be appealed to the Director in accordance with 44 CFR 206.440 as it existed before May 8, 1998.

(3) The decision of the FEMA official at the next higher appeal level shall be the final administrative decision of FEMA.

3. Section 206.440 is revised to read as follows:

§ 206.440 Appeals.

An eligible applicant, subgrantee, or grantee may appeal any determination previously made related to an application for or the provision of Federal assistance according to the procedures below.

(a) *Format and Content.* The applicant or subgrantee will make the appeal in writing through the grantee to the Regional Director. The grantee shall review and evaluate all subgrantee appeals before submission to the Regional Director. The grantee may make grantee-related appeals to the Regional Director. The appeal shall contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent..

(b) *Levels of Appeal.* (1) The Regional Director will consider first appeals for hazard mitigation grant program-related decisions under subparts M and N of this part.

(2) The Associate Director/Executive Associate Director for Mitigation will consider appeals of the Regional Director's decision on any first appeal under paragraph (b)(1) of this section.

(c) *Time Limits.* (1) Appellants must make appeals within 60 days after receipt of a notice of the action that is being appealed.

(2) The grantee will review and forward appeals from an applicant or subgrantee, with a written recommendation, to the Regional Director within 60 days of receipt.

(3) Within 90 days following receipt of an appeal, the Regional Director (for first appeals) or Associate Director/ Executive Associate Director (for second appeals) will notify the grantee in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Director or Associate Director/Executive Associate Director for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the Regional Director or Associate Director/Executive Associate Director will notify the grantee in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Director will take appropriate implementing action.

(d) *Technical Advice.* In appeals involving highly technical issues, the Regional Director or Associate Director/ Executive Associate Director may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Director or Associate Director/ Executive Associate Director will notify the grantee in writing of the disposition of the appeal.

(e) *Transition.* (1) This rule is effective for all appeals pending on and appeals from decisions issued on or after May 8, 1998, except as provided in paragraph (e)(2) of this section.

(2) Appeals pending from a decision of an Associate Director/Executive Associate Director before May 8, 1998 may be appealed to the Director in accordance with 44 CFR 206.440 as it existed before May 8, 1998.

(3) The decision of the FEMA official at the next higher appeal level shall be the final administrative decision of FEMA.

Dated: April 2, 1998.

James L. Witt,

Director.

[FR Doc. 98–9207 Filed 4–7–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 24

[WT Docket No. 97–82; FCC 98–46]

Installment Payment Financing for Personal Communications Services (PCS) Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Order on Reconsideration of the Second Report and Order, the Commission generally affirms the framework established in the Second Report and Order but allows elections among the four payment options—disaggregation, amnesty, prepayment, and resumption of payments—to be made on a Major Trading Area (MTA) basis and makes certain other modifications to the options in order to provide C block licensees greater flexibility in making their elections. The changes will allow more of the existing licensees to adjust their business plans and remain in the wireless market to compete against other providers, while also providing for the return of spectrum to the Commission so that other entrepreneurs will have opportunities to obtain broadband PCS licenses in a reauction.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Rachel Kazan or Julie Buchanan at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This Order on Reconsideration of the Second Report and Order in WT Docket No. 97–82, adopted on March 23, 1998, and released on March 24, 1998, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036 (202) 857–3800. The complete Order on Reconsideration of the Second Report and Order also is available on the Commission's Internet home page (http://www.fcc.gov).

Summary of Action

I. Background

1. On September 25, 1997, the Commission adopted a Second Report and Order and Further Notice of Proposed Rule Making (Second Report and Order) and (Further Notice), 62 FR 55348 (October 24, 1997), establishing March 31, 1998, as the deadline for broadband Personal Communications Services (PCS) C and F block licensees to resume installment payments. In addition, the Commission offered C block licensees a choice of three alternative payment options in lieu of resuming payments under the terms of the original payment plan. The three options were intended to provide limited relief to C block licensees experiencing financial difficulties, while preserving the fairness and integrity of the auction process.

2. In response to the rulings in the Second Report and Order, the Commission received 37 petitions for reconsideration, 17 oppositions to the petitions, 16 replies to the oppositions, and 38 ex parte filings. After considering the arguments raised in those filings, the Commission generally affirmed the framework established in the Second Report and Order but made certain modifications designed to provide C block licensees greater flexibility in making their elections. These changes improve upon the Second Report and Order by allowing more of the existing licensees to adjust their business plans and remain in the wireless market to compete against other providers, while also providing for the return of spectrum to the Commission so that other entrepreneurs will have opportunities to obtain broadband PCS licenses in a reauction. In a forthcoming Order, the Commission will address comments filed in response to the Further Notice, which covers rules for the reauction of returned C block licenses.

3. Consistent with Congress' mandate in section 309(j)(4)(D) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(j)(4)(D), to promote the participation of small businesses and other designated entities in the provision of spectrum-based services, the Commission limited eligibility in the initial C block auctions to entrepreneurs and small businesses. The C block auction concluded on May 6, 1996, and the subsequent reauction of defaulted licenses concluded on July 16, 1996, with a total of 90 bidders winning 493 licenses. The winning bidders were permitted to pay 90 percent of their net bid price over a period of ten years, paying only interest for the first six years and paying both interest and principal for the remaining four years. See 47 CFR 24.711(b)(3). The net bid price is equal to the winning bid less any bidding credits for which the licensee was eligible. See 47 CFR 24.712.

4. On March 31, 1997, the Wireless Telecommunications Bureau (the Bureau) suspended the deadline for payment of installment payments for all C block licensees. The suspension was implemented in response to a joint request from several C block licensees seeking modification of their installment payment obligations and because of other debt collection issues. 62 FR 55348, 55349. On April 28, 1997, the Bureau extended the suspension to F block licensees. Id. On September 25, 1997, the Commission ended this suspension and established March 31, 1998, as the deadline for C and F block licensees to resume their installment payments. Id.

5. The Commission decided in the Second Report and Order to allow each C block licensee to elect one of three options for all of its licenses in lieu of continuing payments under the licensee's original installment payment plan. 62 FR 55348. Each of the three options—disaggregation, amnesty, and prepayment—was intended to provide limited relief to financially troubled licensees without harming the integrity of the auction process. Id.

6. The Commission required C block licensees to file a written election notice on or before January 15, 1998, specifying whether they would resume payments under the terms of the original installment payment plan or would proceed under one of the alternative options. Id. at 55353. On January 7, 1998, the Commission postponed the election date until February 26, 1998, in order to resolve issues raised on reconsideration before licensees submitted their elections. 63 FR 2170. In addition, the Commission announced that the reauction of spectrum surrendered by C block licensees pursuant to their elections would begin on September 29, 1998. Id. On February 24, 1998, the Commission revised both the February 26, 1998, election date and the March 31, 1998, payment resumption date. 63 FR 10153. It changed the election date to 60 days from publication of this Order in the **Federal Register** and the payment resumption date to at least 30 days after the new election date. Id.

II. Overview

7. In this Order on Reconsideration of the Second Report and Order (Reconsideration Order), the Commission continues to believe that the relief provided C block licensees in the Second Report and Order will speed deployment of service to the public by easing lenders' and investors' concerns regarding regulatory uncertainty and by potentially making more capital available for investment and growth. Although the decision adopted in the Second Report and Order largely should be maintained, certain aspects of the adopted approach might constrain many C block licensees from making use of the relief measures offered. A few adjustments to the adopted approach will better allow the Commission to effectuate its intent to provide C block licensees a limited measure of relief under the unique but varied circumstances presented. The Commission therefore leaves the basic framework intact while altering it slightly to allow licensees to be more flexible in making their elections for licenses in different geographic areas, to use more of the down payments already on deposit, and to be more flexible in the use of those down payments.

8. The Commission eliminates the requirement that a licensee must make the same election for all its licenses. Instead, it allows a licensee to make different elections for the different MTAs in which it holds licenses. The election made for an MTA will apply to every Basic Trading Area (BTA) license held by the licensee in that MTA. As under the Second Report and Order, the possible elections will include resumption of payments, amnesty, prepayment, or disaggregation. As part of the modifications to the adopted approach, the Commission will also permit a combination of disaggregation and prepayment. Resumption of payments and prepayment of 30 MHz licenses remain essentially the same as

in the Second Report and Order. The amnesty and disaggregation options, however, are modified, as detailed below.

9. In addition, the Commission adopts the following limited modifications: (1) It extends to 90 days the 60-day non-delinquency period for payments not made on the payment resumption date, and it imposes a 5 percent late payment fee for payments made within this 90-day non-delinquency period; (2) it instructs the Bureau to modify the payment schedules of all C and F block licensees so that all payments will be due on the same date; (3) it eliminates as moot the build-out exception to the amnesty option; and (4) it clarifies that the affordability exception in context of the prepayment option means that a licensee electing prepayment that does not have sufficient funds to prepay all of its BTA licenses within an MTA is required to prepay only the BTA licenses within the MTA that it is able to prepay using only the amount of credit available to the licensee for prepayment.

III. MTA-by-MTA Elections

10. Licensees will be better able to take advantage of the options if they are allowed to make different elections for the different areas in which they hold licenses. Therefore, the Commission eliminates the requirement that a licensee must make the same election for all its licenses. Instead, it establishes the rule that each a licensee is permitted to make only one election for each MTA in which it holds licenses. In other words, the same election must be applied to each BTA license held in a given MTA, but different elections may be selected for different MTAs.

11. By allowing elections to be made on an MTA-by-MTA basis, the Commission enables licensees to make election decisions that are based not solely on the elements of each option, but rather on licensees' own business plans and financial situation. The Commission believes that MTA-by-MTA elections will promote rapid deployment of service to the public. See Communications Act § 309(j)(3)(A), 47 U.S.C. § 309(j)(3)(A). Licensees will have more opportunity to localize their business plans by surrendering licenses in markets where success now seems unlikely due to financial difficulties. As a result, they will be able to focus on providing service in those markets where they have retained their licenses. In addition, the surrendered licenses presumably will be reauctioned to entities better positioned to provide service in those license areas. The Commission anticipates that MTA-by-MTA elections will produce a more robust and competitive reauction. It expects more licenses to be returned for reauction because a licensee choosing disaggregation or resumption will now be free to surrender licenses it was reluctant to keep, but was forced to do so under the previous terms of those elections. Allowing those licenses to be reauctioned to entities that are more committed, or better able, to serve those markets will stimulate competition and benefit consumers. Furthermore, permitting elections on an MTA-by-MTA basis will not undermine the integrity of the auction process because licensees still must pay the full amount of their licenses.

IV. Resumption of Payments

12. The Commission denies requests for a longer deferral of the payment deadline and agrees with parties that urge it to reject any attempts to extend further the suspension of payments. By the time they must resume making payments, C and F block licensees will have enjoyed a respite from their payment obligations substantially longer than one year. A more extensive deferral would be unfair to unsuccessful bidders that might not have withdrawn from the auction had they known of deferral opportunities. As the Commission stated in the Second Report and Order, a further deferral would be a temporary solution that might only postpone licensees' financial difficulties and further prolong uncertainty.

13. Although the Commission will not grant the lengthy postponement requested by some parties, it will extend to 90 days the automatic 60-day non-delinquency period applicable to payments due on the payment resumption date. The Commission's rules allow a 90-day non-delinquency period for all other installment payments. 47 CFR 1.2110(f)(4)(i). Although the Commission stated in the Second Report and Order that a shorter non-delinquency period was justified in light of the one-year payment suspension, it now believes it preferable to make the length of the non-delinquency period consistent with its rule for all other payments. See 62 FR 55348, 55349. The Commission provides this 30-day extension to assist licensees that are experiencing last-minute delays in raising capital. By offering this additional time, the Commission believes that it will help these licensees complete their fund-raising efforts.

14. Consistent with its rule recently adopted for all other payments, payments made within this 90-day non-delinquency period will be assessed a 5 percent late payment fee. See 63 FR 2315, 2327; 47 CFR 1.2110(f)(4)(i). However, in light of the more than one-year suspension and this expanded non-delinquency period, there will be no subsequent automatic grace period for licensees that fail to make payment within the 90-day non-delinquency period. See 63 FR 2315, 2327; 47 CFR 1.2110(f)(4)(ii). Subsequent payments, due after the initial resumption payment, will be subject to the rules adopted in the Third Report and Order in the Commission's Competitive Bidding Proceeding. See 63 FR 2315.

15. Under this plan, the Suspension Period, which the Commission defined in the Second Report and Order as the period beginning with the date on which each license was conditionally granted through and including March 31, 1998, will still end on March 31, 1998. See 62 FR 55348, 55349. All interest accrued from the date of license grant through March 31, 1998, (i.e., Suspension Interest) will continue to be payable over eight equal payments. Interest accrued from April 1, 1998, through the payment resumption date will be due on the payment resumption date, in addition to one-eighth of the Suspension Interest. The Commission believes that this plan will require licensees continuing under an installment payment plan, either through resumption or disaggregation, to demonstrate their financial viability by making a reasonable payment on the payment resumption date. This payment will provide evidence of the ability of licensees to gain access to the capital necessary both to service their government debt obligations and to provide service to the public. In addition, the Commission instructs the Bureau to modify the payment schedule so that all C and F block installment payments will be due on a quarterly basis, beginning on the payment resumption date.

16. The Commission rejects a suggestion that Suspension Interest be forgiven, as well as alternative proposals that Suspension Interest be paid either in a balloon at the end of the ten-year installment payment period or over six years in conjunction with other interest payments. Because the Commission already has provided sufficient relief by granting the one-year suspension, it will neither forgive nor defer payment of the Suspension Interest. The Commission has accommodated licensees sufficiently by allowing payment of the Suspension Interest over eight equal payments.

17. The Commission also rejects requests from parties seeking a deviation from the payment schedule

and from amounts established by the licensees' Notes. The Commission is providing all C block licensees with an array of alternative payment options, designed to accommodate licensees' various needs. These options were developed and are now being modified in an effort to balance complex and competing interests, with the recognition that it is impossible to devise alternatives that satisfy every entity with an interest in this proceeding. The record before the Commission does not provide a sufficient basis for creating additional payment choices; indeed, there is opposition to the Commission's doing so. Retroactively changing the payment terms would be unfair to other applicants that might have bid differently under more relaxed payment terms. Moreover, the Commission has purposefully adopted an approach that does not significantly alter the amounts paid for individual licenses.

18. Finally, the Commission will not adopt the proposal made by one party that the Commission compensate in some way those licensees that timely made the March 31, 1997, payment and, as a consequence, did not benefit from a suspension of that payment obligation. Compensating licensees for complying with Commission rules would establish a precedent the Commission considers inadvisable. Furthermore, if a licensee opts to return all its licenses, the Commission will refund any installment payments previously submitted for those licenses. If a licensee returns some licenses and retains others, the licensee will be allowed to apply previously submitted installment payments toward the prepayment of retained licenses or toward the Suspension Interest for retained licenses which the licensee does not prepay. For example, if a licensee elects resumption of payments for an MTA, any installment payments previously submitted for a BTA license within that MTA will be applied toward the Suspension Interest owed for that license. The treatment of installment payments with respect to the disaggregation and prepayment options is specified below. Therefore, because installment payments will either be refunded or credited, the Commission believes that additional compensation is unnecessary.

V. Surrender of Licenses for Reauction (Amnesty)

19. In the Second Report and Order, the Commission adopted an amnesty option under which a C block licensee would be permitted to surrender all of its licenses in exchange for relief from its outstanding debt. 62 FR 55348, 55351. The Commission would waive any applicable default payments, subject to coordination with the Department of Justice pursuant to applicable federal claims collections standards. Id.; see also 4 CFR parts 101–105. Licensees electing this option would not have their down payments returned; however, neither would they be deemed in default or delinquent in meeting government debt obligations. 62 FR 55348, 55351. In addition, they would be eligible to bid for any and all licenses in the reauction and would not be restricted in making post-auction acquisitions. See id.

20. Subject to one exception, licensees availing themselves of the amnesty option would be required to surrender all of their licenses to the Commission. Id. The sole exception to this ''all-or-nothing'' rule allowed licensees that met or exceeded the five-year build-out requirement on September 25, 1997, the date of adoption of the Second Report and Order, to keep licenses for built-out markets. Id. Specifically, a licensee utilizing this exception would be allowed to retain any built-out BTA, on the condition that it also keep any additional BTAs in the MTA where the built-out BTA is located and that it pay for all of those retained licenses under the terms of their original notes. 62 FR 55348, 55351–52.

21. The Commission directed the Bureau to refund any installment payments licensees had already made (whether due on or before March 31, 1997) on any license surrendered under the amnesty option and announced that it would forgive payment of any due, but unpaid, installment payments for any surrendered license. 62 FR 55348, 55352. Licensees retaining licenses under the build-out exception were to pay over eight equal payments (beginning with the payment due on March 31, 1998) all Suspension Interest applicable to the retained licenses. All installment payments previously made by the licensee on any of its licenses would be applied to reduce the Suspension Interest applicable to the retained licenses, and any amounts remaining would be refunded. Id.

22. In keeping with the Commission's decision on reconsideration to allow licensees to make elections on an MTA-by-MTA basis, the Commission modifies the amnesty option to permit licensees to select that option for as many of their MTAs as they choose. Because amnesty no longer requires an ''all-or-nothing'' choice, the Commission eliminates as moot the build-out exception.

23. The Commission originally adopted the ''all-or-nothing'' requirement for the amnesty option in order to prevent licensees from ''cherry-picking'' only the most desirable MTAs. 62 FR 55348, 55351. The Commission believed that facilitating a ''cherry-picking'' scheme would limit the potential for licenses to be aggregated, which would decrease their value to bidders in the reauction. Id. On reconsideration, the Commission finds persuasive the contention of one party that requiring licensees to keep or surrender entire MTAs, rather than BTAs, will sufficiently limit ''cherry-picking.'' The Commission also agrees with that party that applying the amnesty option on an MTA-by-MTA basis does not carry a risk of ''cherry-picking'' significantly different from that connected with the original disaggregation option.

24. Several parties object to the fact that a licensee does not receive any refund of its down payment under the amnesty option. As the Commission explained in the Second Report and Order, its intent in retaining the down payment was to ensure that licensees electing the amnesty option and participating in the reauction of their surrendered licenses do so without the undue advantage of having all of their original funds available to repurchase the same spectrum they surrendered. See id. The Commission further explained that licensees selecting amnesty would benefit substantially by avoiding being declared in default and thereby being freed from assessments of delinquencies and other collection costs associated with default payments. Id.; see also 47 CFR 1.2110(f)(4)(iii), (iv). This rationale continues to be valid. If the Commission were to allow C block licensees to return their licenses, receive a refund of their down payments, and participate in the reauction, it would undermine the integrity of the auction process by placing amnesty licensees in virtually the same position they would have occupied had the initial C block auction never taken place.

25. Nevertheless, the Commission recognizes that because all elections now are being applied on an MTA-by-MTA basis, licensees are permitted to return licenses in certain MTAs and retain licenses in other MTAs, as with the prepayment option under the Second Report and Order. Thus, licensees electing the amnesty option have the following choice. For licenses in each MTA returned under the amnesty option, the licensee may choose either to: (1) receive no credit for its down payment(s) but remain eligible to bid in the reauction on all its licenses in the returned MTA (pure amnesty), or (2) obtain credit for 70 percent of its down payment and forgo for a period of

two years from the start date of the reauction eligibility to reacquire the licenses it surrendered pursuant to this option through either reauction or any other secondary market transaction (amnesty/prepayment).

26. For purposes of this two-year eligibility restriction, a licensee includes qualifying members of the licensee's control group and their affiliates. If a licensee opts to return all its licenses, the Commission will refund any installment payments previously submitted for those licenses. The 70 percent credit must be applied toward prepayment of the entire principal owed for a retained MTA with 30 MHz licenses and/or toward prepayment of the entire principal owed for the retained 15 MHz licenses of an MTA that has been disaggregated. Providing an additional choice within the amnesty option substantially increases the level of flexibility available to licensees and enables them to formulate new business plans that may be more attractive to lenders and investors.

VI. Prepayment

27. In the Second Report and Order, the Commission offered C block licensees the option to prepay the outstanding principal debt obligations for any licenses, on an MTA basis, that they elected to retain, subject to the restriction described below. The remaining licenses were required to be surrendered to the Commission for reauction. 62 FR 55348, 55352. In exchange, the Commission would forgive the debt on the surrendered licenses, and any associated payments owed. Id. A licensee electing this option would make its prepayment by using 70 percent of the total of all down payments made on the licenses it surrendered to the Commission, plus 100 percent of any installment payments previously paid for all licenses (collectively, ''Available Down Payments''), plus any ''new money'' it was able to raise. Id. The remaining portion of the down payment applicable to the surrendered licenses would not be refunded or credited but simply would be retained by the Commission. Id. Licensees would be prohibited from bidding on their returned spectrum in the reauction or from reacquiring it in the secondary market for two years from the start of the reauction. 62 FR 55348, 55353. Licensees could, however, bid on spectrum or licenses surrendered by other licensees, provided such licensees were not affiliates.

28. The requirement that a licensee had to prepay all its BTA licenses within those MTAs that it selected for prepayment prevented ''cherry-picking'' because licensees could not prepay only the most desirable BTA licenses within a given MTA and then surrender the rest. Id. The one exception to this rule was that any licensee lacking sufficient funds to prepay every BTA license within a chosen MTA would be permitted to prepay only those BTA licenses within that MTA that it could afford. Id. The licenses for the remaining BTAs within that MTA which the licensee could not afford to prepay would be surrendered to the Commission.

29. In the Reconsideration Order, the Commission clarifies that the term ''Available Down Payments,'' as used in the Second Report and Order, was intended to include both 70 percent of the down payment made on surrendered licenses and any installment payments previously submitted for those licenses. See 62 FR 55348, 55352. The Commission also explains that under its modified approach, the prepayment option remains essentially the same as set forth in the Second Report and Order. For any 30 MHz licenses that are returned to the Commission, the licensee may continue to apply 70 percent of the down payment made on those licenses toward the prepayment of the entire outstanding principal owed in retained MTAs. The licensee may pool any down payment amounts that have been designated for prepayment, plus installment payments previously paid on any returned licenses. As described below, down payment amounts may also come from disaggregated licenses if the licensee uses the credit for prepayment. The Commission will refer to this pool of credit as a licensee's ''Prepayment Credit.'' The term ''Prepayment Credit'' is essentially a substitution for the term ''Available Down Payments,'' updated to account for the additional flexibility provided under the Commission's modified approach. Prepayment Credit may be used to prepay any retained MTAs with 30 MHz licenses. As discussed below, it also may be used to prepay the retained 15 MHz licenses of any MTAs that have been disaggregated.

30. As under the Second Report and Order, any ''new money'' that is used to make prepayment must be submitted on or before the election date. Unlike under the Second Report and Order, affiliated licensees will be allowed to combine their Prepayment Credits. See id. However, any affiliated licensees that choose to pool their Prepayment Credits will be considered one licensee for purposes of making elections. Accordingly, the elections made by those affiliates must be made in concert and must be made on an MTA-by-MTA basis, as is required of individual licensees. Therefore, if affiliated licensees decide to pool their credits, then all BTA licenses held by any of those affiliates must be surrendered for credit in any MTA where one of their BTA licenses is surrendered for credit. Similarly, those affiliated licensees must collectively select MTAs for prepayment, and all BTA licenses held by any of those affiliates in those selected MTAs must be prepaid, subject to the affordability exception. Likewise, if those affiliated licensees choose to disaggregate an MTA, then all BTA licenses held by any of those affiliates in that MTA must be disaggregated, and so on.

31. Credit pooling does not require the participation of all of a licensee's affiliates. Any affiliate that chooses not to pool its credit along with its other affiliates will be considered an individual licensee for purposes of making elections. Allowing this flexibility is consistent with the fact that, for purposes of the reauction, the Commission considers a licensee and its affiliates to be the same entity. This rule will also prevent licensees from being precluded from electing prepayment by virtue of the fact that they transferred BTA licenses to affiliates.

32. On reconsideration, the Commission clarifies that, for purposes of its requirement that a licensee prepay all of those BTA licenses within an MTA ''that it can afford,'' a licensee can ''afford'' to prepay all of its BTA licenses within that MTA if it can prepay all BTA licenses using only its Prepayment Credit. See 62 FR 55348, 55352–53. If this amount is not enough to prepay all its BTA licenses within an MTA, the licensee must prepay as many BTA licenses in the MTA as this amount will allow and must surrender for reauction the remaining BTA licenses that it cannot afford to prepay. Only under these circumstances may a licensee choose, within the given MTA, which BTA licenses to prepay and which to surrender. Once a licensee adds any ''new money'' at all to make prepayment, the affordability exception does not apply, and the licensee must add sufficient ''new money'' that, when added to its Prepayment Credit, is adequate to prepay all its BTA licenses within its chosen MTAs. A licensee claiming the affordability exception may choose only one MTA in which it will apply, and the licensee must prepay all of its BTA licenses within all other MTAs that it has selected for prepayment. The Commission will not refund any unspent portion of the Prepayment Credit.

33. Not receiving a refund of any unspent portion of the Prepayment Credit is a reasonable price for being relieved of the requirement that all BTA licenses in all MTAs be prepaid. The affordability exception also will apply to disaggregated MTAs that the licensee wishes to prepay. This clarification provides an objective means for licensees to implement the affordability exception. It eliminates any doubt or confusion regarding the scope of the term ''afford,'' and it is an easy, bright-line test to administer. In addition, the restrictions the Commission imposes on the affordability exception minimize a licensee's ability to ''cherry-pick'' among BTAs.

34. In the Reconsideration Order, the Commission maintains its rule that licensees electing the prepayment option will receive no refund or credit for 30 percent of the down payment made on 30 MHz licenses they surrender to the Commission. The Commission believes that retention of this portion of the down payment is necessary to preserve the integrity of the auction process. See Communications Act § 309(j), 47 U.S.C. § 309(j). Furthermore, to return the entire down payment would undermine the purpose of the down payment—to help ensure performance on a licensee's debt obligation. See Communications Act § 309(j)(4)(B), 47 U.S.C. § 309(j)(4)(B); In the Matter of BDPCS, Inc., Order, 12 FCC Rcd 6606 (WTB 1997), application for review pending. The Commission disagrees with parties that characterize retention of a portion of the down payment as punitive, a penalty, or a forfeiture. Thirty percent of the down payment is the fair and reasonable price for receiving the benefits of this option. Moreover, the prepayment option provides licensees with more flexibility in using their down payments than is permitted under current rules.

35. The Commission disagrees with the claims of some parties that it should account for the net present value of forgoing installment payments or that it should otherwise discount the principal amount due under the installment payment plan. The Commission properly rejected this argument in the Second Report and Order. In the Second Report and Order, the Commission stated that a licensee should be required to pay the face value of its auction bid. 62 FR 55348, 55352. Accounting for the net present value of forgoing installment payments would rewrite the auction results because it would have the effect of changing the amounts bid for licenses. Therefore, to do so would be unfair to those bidders that withdrew from the auction under the assumption that the winning bid amounts represented the prices that would be paid for the licenses. Moreover, if the Commission were to discount the debt at a licensee's cost of capital it would be impossible to determine accurately a cost of capital for all licensees. The cost of capital varies for each licensee because it is based on a licensee's individual cost of debt and equity and on the ratio of debt to equity. Therefore, no single discount rate would be appropriate for every licensee.

36. Because the Commission continues to support the policy that auction bids should be paid at their face value, it will not discount the principal due. Although the Commission provides favorable terms for financing the bid price, the cost of an installment payment plan is the interest that accrues over time. The benefit to a licensee for early pay-off of its financial obligations is the savings in the amount of interest that otherwise would be owed. This trade-off provides a further reason for not discounting the principal.

37. The Commission declines to allow licensees choosing the prepayment option to use the five-year build-out exception provided under the amnesty option in the Second Report and Order. A build-out exception is not needed because, under the Reconsideration Order, licensees are permitted to retain any MTAs they wish, whether built-out or not. Moreover, even under the approach adopted in the Second Report and Order, a build-out exception was unnecessary because licensees had the discretion to choose which MTAs to prepay and which to surrender, as opposed to the ''all-or-nothing'' approach under the original amnesty option. 62 FR 55348, 55353. In addition, the Commission declines to allow licensees that hold both C and F block licenses to use their C block down payment to purchase for cash their F block licenses. Such flexibility is not warranted because the reduction of debt associated with prepayment will help those licensees address their capital needs in servicing their F block debt. Finally, the Commission rejects an argument that the requirement that prepaying licensees must purchase all BTA licenses held within an MTA is unfair to licensees that have licenses in only one MTA. The requirement is essential to prevent ''cherry-picking,'' and a licensee that cannot avail itself of the prepayment option can either choose another option or limit its purchases under the affordability exception, if applicable.

VII. Disaggregation of Spectrum for Reauction

38. In the Second Report and Order, the Commission offered C block licensees the option to disaggregate a portion of their spectrum and return it to the Commission for reauction. 62 FR 55348, 55350O51. Licensees electing the disaggregation option would return one-half (i.e., 15 MHz of 30 MHz) of their spectrum from each of their BTA licenses within the MTAs in which they chose to disaggregate spectrum. Id. In other words, licensees would not be required to disaggregate spectrum for all of the licenses they hold, but they would have to disaggregate spectrum for all of the licenses they hold in a given MTA if they disaggregated spectrum for one license in that MTA. The returned spectrum would have to be at 1895–1902.5 MHz paired with 1975–1982.5 MHz, which is spectrum contiguous to the F block. 62 FR 55348, 55350.

39. In exchange, the Commission would reduce by 50 percent the amount of debt that was owed on a 30 MHz license before it was disaggregated. Id. Fifty percent of the down payment made on the 30 MHz license would be considered the down payment for the retained 15 MHz of spectrum, but the Commission would not provide a refund or credit for the remaining 50 percent of the down payment. Id. Licensees were required to repay over eight equal payments (beginning with the payment due on March 31, 1998) all Suspension Interest, adjusted to reflect the reduction in debt obligation. Id. Any installment payments that were paid prior to the suspension would be credited in full against those amounts. Id. Licensees were prohibited from bidding on their returned spectrum in the reauction or from reacquiring it in the secondary market for two years from the start of the reauction. 62 FR 55348, 55350–51 Licensees could, however, bid on spectrum or licenses surrendered by other licensees, provided such licensees were not affiliates. Id.

40. As provided under the Second Report and Order, when a licensee disaggregates an MTA, it will receive full credit for the portion of the down payment applicable to the spectrum retained from a license (i.e., 50 percent of the down payment made on the original 30 MHz license). However, on reconsideration, the Commission modifies its decision that licensees electing the disaggregation option receive no refund or credit for the portion of the down payment applicable to the returned spectrum. For each disaggregated license for which the licensee elects to resume installment

payments, rather than prepay, the Commission will provide a credit of 40 percent of the down payment applicable to the 15 MHz of spectrum that is returned to the Commission. The 40 percent credit may only be used to reduce the amount owed on the 15 MHz of spectrum retained from the same BTA license that generated the credit. The credit, at the licensee's option, may be applied either to Suspension Interest and/or to reduce the principal outstanding. Any installment payments previously submitted for a disaggregated license for which the licensee elects to resume installment payments will be credited as described in the Second Report and Order (i.e., toward Suspension Interest). See 62 FR 55348, 55350.

41. The Commission derived the 40 percent credit because when that credit is combined with the 100 percent credit associated with the retained spectrum, the licensee will receive a credit of 70 percent of the total down payment for the original 30 MHz license. The Commission has decided to allow this additional credit because it is persuaded by the argument of several parties that the credit permitted under the disaggregation option should be consistent with the 70 percent credit permitted under the prepayment option. The Commission believes that the disparity that existed under the Second Report and Order was unfair to licensees that were precluded from electing prepayment. Furthermore, allowing this additional credit will advance the purposes of the disaggregation option. Disaggregation benefits both licensees and consumers because it provides a means for licensees to remain in a market area at a significantly reduced cost. By having their outstanding debt decreased by 50 percent, licensees improve their ability to finance their retained spectrum and build out their networks. In addition, disaggregation is pro-competitive because it provides a means for other competitors to enter a market area. It also gives unsuccessful bidders an opportunity to rebid on spectrum in market areas in which they were initially outbid. The Commission believes that the additional 40 percent credit will promote these benefits of disaggregation and will help licensees that have expressed an interest in disaggregation to take advantage of this option and continue their plans to provide service in their license areas.

42. The Commission believes that a 40 percent credit is warranted when a licensee resumes installment payments on a disaggregated MTA because the licensee remains in the MTA and continues building out its network in order to serve those consumers. Accordingly, it will not provide such a 40 percent credit to licensees that resume installment payments on a license in a different MTA. In contrast to a licensee that uses the 40 percent credit to resume installments on the retained portion of the disaggregated license, a licensee that seeks to apply a 40 percent credit from down payments made on licenses returned under an amnesty election would have, under those circumstances, abandoned service to the entire licensed area affected by that election. The Commission believes that licensees that surrender licenses should not receive a credit for abandoning those markets unless they use the credit to prepay retained licenses. As discussed above, a licensee that selects the amnesty option and chooses to bid on its returned licenses in the reauction will not receive credit for any of its down payment made on its returned licenses. In such case, a licensee's opportunity to bid on its returned licenses is equitable compensation for not receiving any down payment credit.

43. The Commission also revises the approach adopted in the Second Report and Order to provide for a combination of disaggregation and prepayment. As discussed, there are many advantages to both prepayment and disaggregation. The Commission believes that a combination of the two should be encouraged because it offers the benefits of both options. For example, the licensee continues to build out its network in the market area; the Commission is relieved from its position of lender; and competing entities have the opportunity to bid on the returned spectrum. Therefore, if a licensee disaggregates an MTA and prepays the outstanding principal owed on the retained portion of the MTA, the Commission will provide the licensee with a higher percentage of credit as an incentive to choose both disaggregation and prepayment. Instead of receiving a 40 percent credit, a licensee that elects both disaggregation and prepayment will receive credit for 70 percent of the down payment applicable to the returned spectrum. (The portion of the down payment applicable to the returned spectrum is the equivalent of 50 percent of the down payment made on the original 30 MHz license.) This 70 percent credit will be added to the licensee's Prepayment Credit which, as explained above, may be used to prepay any retained MTAs with 30 MHz licenses and/or the retained portions of any MTAs that have been disaggregated. Allowing this 70 percent credit is consistent with the Commission's policy of providing a 70 percent credit for 30 MHz licenses that are returned to the Commission. In both cases, the credit is 70 percent of the down payment associated with the amount of spectrum that is returned. In addition, any installment payments previously submitted for the licenses in an MTA that is both disaggregated and prepaid will be added to the licensee's Prepayment Credit.

44. If a licensee elects both disaggregation and prepayment for an MTA, the licensee must prepay the principal owed on the 15 MHz of spectrum retained from each BTA license in the MTA. However, if a licensee's Prepayment Credit is insufficient to make full prepayment on the entire MTA, then the affordability exception will apply. Thus, the licensee will be required to prepay only what it can afford and must return the rest of the spectrum to the Commission for reauction. As with prepayment of full 30 MHz licenses, the exception will not apply if any ''new money'' is added to make prepayment, and the exception may be applied to only one MTA.

45. The Commission denies requests by several parties to allow licensees to receive credit for their entire down payment under the disaggregation option. The Commission believes that providing full credit would undermine the integrity of the auction process. See Communications Act § 309(j), 47 U.S.C. § 309(j). As the Commission concluded in the Second Report and Order, allowing licensees to use their entire down payment would be unfair to those C block licensees electing to continue under the existing installment payment plan and to bidders that were unsuccessful in the auction. See 62 FR 66348, 55352.

46. Because numerous benefits are conferred under the disaggregation option, the Commission disagrees with the claims of some parties that not providing a refund or credit for all of the down payment constitutes a penalty or forfeiture. Under disaggregation, the Commission forgives up to half of a licensee's outstanding debt, an action that will facilitate investment and growth by making more funds available to licensees for build-out. In addition, the Commission provides low-cost, long-term financing for the retained spectrum. Furthermore, the Commission renders a valuable service by providing an efficient and cost-effective mechanism for transferring spectrum that licensees otherwise might have been forced to resell in the secondary market at great risk. In exchange, the

Commission receives the disaggregated spectrum and retains a portion of the down payment applicable to that spectrum. Therefore, retention of part of the down payment is not a penalty; rather, it is the fair and reasonable price for receiving the benefits of disaggregation.

47. The Commission declines to adopt a suggestion to allow C block licensees to retain the 15 MHz of spectrum adjacent to the F block if they also hold the F block license for the same BTA. Allowing certain C block licensees to disaggregate a different portion of spectrum would create a patchwork pattern of spectrum blocks in the reauction and would limit the opportunity for F block licensees to aggregate larger spectrum blocks by bidding on contiguous spectrum in the reauction. To promote consistency and simplicity in the reauction, the Commission also rejects a request that to allow licensees the choice to disaggregate 10, 15, or 20 MHz of spectrum. Allowing licensees to disaggregate different pieces of spectrum would create inefficiency in the market and would limit the potential for aggregation, thereby decreasing the value of spectrum in the reauction and delaying service to the public. Finally, the Commission disagrees with the arguments of two parties that disaggregation should be permitted on a BTA-by-BTA basis, rather than on an MTA-by-MTA basis. Disaggregation on an MTA-by-MTA basis will promote participation in the reauction because licensees are prohibited from selectively retaining 30 MHz of spectrum in only the most desirable BTAs.

48. The Commission also declines to extend the build-out exception to licensees selecting the disaggregation option. Under the modified approach, a build-out exception is unnecessary because licensees have the flexibility to determine which MTAs to retain and which to surrender. Moreover, as stated in the Second Report and Order, a build-out exception was never needed under the disaggregation option because, unlike the original amnesty option, the disaggregation option was never an ''all-or-nothing'' proposition. 62 FR 55348, 55350. Under the original amnesty option, a licensee was required to surrender all licenses except for those in MTAs in which it satisfied the build-out requirement. By comparison, disaggregation was permitted on an MTA-by-MTA basis. Licensees were never compelled to disaggregate spectrum in all their MTAs.

49. The Commission affirms the statement in the Second Report and Order that upon acceptance of the election notice, the disaggregated spectrum will be deemed returned to the Commission. 62 FR 55348, 55353. Further, after disaggregation, notwithstanding the fact that a disaggregating licensee will continue to hold in its possession a 30 MHz license, that license will no longer authorize use of the 15 MHz of spectrum that is surrendered to the Commission. The license will continue to be valid with respect to the 15 MHz of spectrum that is retained.

VIII. Election Procedures

50. In the Second Report and Order, the Commission established January 15, 1998, as the deadline for C block licensees to elect to continue under the existing installment payment plan or to elect one of the three alternative options. Id. The Commission also required, inter alia, C block licensees whose elections would necessitate ongoing payments to execute any necessary financing documents pursuant to appropriate requirements and time frames established by the Bureau. The Commission specified procedures to be followed by licensees electing to continue under their existing notes or electing disaggregation, amnesty, or prepayment.

51. On January 7, 1998, the Commission changed the election date to February 26, 1998, in order to allow licensees to submit their elections after final disposition of arguments raised on reconsideration. 63 FR 2170. On February 24, 1998, the Commission issued an order changing the election date to 60 days after publication of the Reconsideration Order in the **Federal Register**. 63 FR 10153.

52. Moving the election date was an appropriate action given the large number of petitions for reconsideration filed in this proceeding. The revised deadline has provided sufficient time for the Commission to respond to arguments raised on reconsideration so that licensees can be assured of regulatory certainty before making their elections. The postponement satisfies the requests of several parties that the date be delayed. The Commission denies other requests for a still longer postponement. Licensees already have had several months in which to consider the options under the Second Report and Order, and the Commission believes that the additional 60 days they will have after publication in the **Federal Register** will provide sufficient time for any reevaluation that may be necessary in light of the modifications the Commission makes in the Reconsideration Order.

53. In the Second Report and Order, the Commission inadvertently omitted reference to the requirement that F block licensees execute fully and deliver timely all necessary financing documents. Consequently, it clarifies in the Reconsideration Order that F block licensees, as well as C block licensees, must execute and deliver all necessary financing documents pursuant to appropriate requirements and time frames as will be established by the Bureau in a forthcoming public notice on procedures. The Commission modifies the Second Report and Order to require both C and F block licensees that fail to execute fully and deliver timely to the Commission any required financing documents to pay on the payment resumption date all unpaid simple interest accruing from the date of license grant through the payment resumption date. See 62 FR 55348, 55353. The Bureau's forthcoming public notice also will set forth updated election procedures for C block licensees, reflecting the Commission's modifications to the Second Report and Order.

IX. Reauction

54. *Timing.* On January 7, 1998, the Commission announced that the C block reauction would begin on September 29, 1998. 63 FR 2170. In light of the postponement of both the election date and the payment resumption date, as discussed above, it will be necessary to establish a new reauction date. The Commission delegates to the Bureau the authority to establish the reauction date and instructs the Bureau to issue a public notice announcing the new date at least three months in advance of the start of the reauction.

55. *Eligibility.* The Second Report and Order specified that all entrepreneurs, all entities that had been eligible for and had participated in the original C block auction, and all current C block licensees would be eligible to bid in the reauction. 62 FR 55348, 55349; see also 62 FR 55375. The Commission, however, created an exception for incumbent licensees: for a period of two years from the start date of the reauction, C block licensees (defined as qualifying members of the licensee's control group, and their affiliates) that opted for the disaggregation or prepayment options would be prohibited from reacquiring, either through the reauction or through any secondary market transaction, any spectrum or licenses that they surrendered to the Commission under those options. 62 FR 55348, 55350, 55353. Such licensees, however, would be permitted to bid on spectrum or

licenses surrendered by other licensees, provided that such licensees were not affiliates. 62 FR 55348, 55350; see 62 FR 55348, 55353. Licensees electing the amnesty option would be eligible to bid for any and all licenses at the reauction, with no restrictions on post-auction acquisitions. 62 FR 55348, 55351.

56. The only reauction eligibility issues set forth in the Second Report and Order ripe for reconsideration in this phase of the proceeding are those related directly to whether and how a licensee's election of a particular payment option should affect its eligibility to participate in the reauction of, or reacquire an ownership interest in, surrendered spectrum. The Commission defers to other phases of WT Docket No. 97–82 additional eligibility issues, including the qualifications of entities that have defaulted on payments to participate in the reauction and the use of a ''controlling interest'' approach rather than ''control group'' structures to determine financial size in the C block, as well as in all auctionable services. See 47 CFR 24.709(b)(3)(i), (b)(5)(i)(C); 62 FR 2315. The Commission notes that, in its comments filed in response to the Further Notice, one party challenges the Commission's ruling in the Second Report and Order that participation in the C block reauction is limited to qualified entrepreneurs. In their petitions for reconsideration, other parties respond to this argument and urge the Commission not to reconsider its decision. The Commission addresses this issue here, notwithstanding the fact that the initial challenge was not filed as a petition for reconsideration of the Second Report and Order. The Commission concludes that no party has provided a convincing rationale for deviating from the public interest goals articulated by the Commission in the Second Report and Order. See 62 FR 55348, 55349. Consequently, the Commission affirms its ruling in the Second Report and Order to limit eligibility for participation in the reauction to applicants meeting the current definition of ''entrepreneur.'' Id.

57. On reconsideration, the Commission makes a change to the eligibility requirements, which already has been discussed above, and also a clarification. As stated, a licensee that elects the amnesty option for an MTA and opts to receive partial credit for down payments on its returned licenses in that MTA will not be eligible to reacquire those licenses through either reauction or any secondary market transaction for a period of two years from the start date of the reauction. This restriction also applies to the licensee's affiliates. Likewise, if a licensee disaggregates an MTA, neither it nor its affiliates may bid on the returned spectrum in the reauction or reacquire it through a secondary market transaction for two years after the start date of the reauction. Licensees that return licenses under the amnesty option or spectrum under the disaggregation option are not precluded from bidding in the reauction on licenses or spectrum returned by other non-affiliated licensees (or from later reacquiring those licenses or spectrum in post-auction transactions). The Commission clarifies that the term ''affiliate'' is defined by the competitive bidding rules in the Part 1 Third Report and Order. 47 CFR 1.2110(b)(4); 63 FR 2315, 2318.

58. Several parties believe that the Commission should revise the bidding eligibility requirements. One party, for example, agrees with the Commission's decision to exclude C block licensees that choose disaggregation or prepayment from bidding on their surrendered spectrum at reauction, but contends that the Commission undermines the integrity of the auction process by not similarly limiting the ability of licensees that select the amnesty option. This party contends that the lack of such a restriction will unjustly enrich licensees that select the amnesty option and then bid for the same spectrum at a likely discount. Other parties, on the other hand, claim that it is unreasonably discriminatory to preclude entities choosing disaggregation or prepayment from reacquiring their surrendered spectrum for two years while allowing entities choosing the amnesty option to reacquire their spectrum immediately either by reauction or through secondary markets.

59. The Commission's modified approach addresses both of these arguments. Licensees electing disaggregation and/or prepayment for one MTA now can choose to return licenses in other MTAs and bid on those licenses in the reauction. However, licensees electing amnesty for an MTA must forgo their entire down payment if they wish to bid on their returned licenses for that MTA. The Commission believes that this cost sufficiently mitigates any concern of unjust enrichment.

X. Miscellaneous Matters

60. *Cross Defaults.* The Second Report and Order provided that if a licensee defaulted on a C block license, the Commission would not pursue cross default remedies with regard to the licensee's other licenses in the C or F blocks. 62 FR 55348, 55353–54. In other words, if a licensee defaulted on a given C block license but was meeting its payment obligations on its other C or F block licenses, the Commission would not declare the licensee to be in default with respect to those other C or F block licenses. Id. The Commission does not believe that its decision encourages auction participants to bid speculatively and then ''cherry-pick'' among the licenses they ultimately decide to keep by simply defaulting on the ones they no longer desire. The Commission has implemented numerous procedures, described earlier, to safeguard against ''cherry-picking.'' Moreover, the Commission believes that by not imposing cross default remedies, it encourages regional financing. Even if a licensee's holdings in one region have proven unattractive to the financial market, the same licensee's holdings in other markets may be financially sound. Therefore, the Commission will not depart from the decision in the Second Report and Order. The Commission notes that licensees that ultimately default will continue to be subject to debt collection procedures. 47 CFR 1.2110(f)(4)(iv).

61. *No Extension of C Block Relief to Other Licensees.* The Commission rejects various requests to grant F block licensees the same relief provided to C block licensees, because C and F block licensees do not have the same need for financial relief. After careful review, the Commission determined in the Second Report and Order that the nature and extent of any financing difficulties faced by the C block licensees appeared to be different from any such problems facing entrepreneurs in the F block. C block prices were higher, on average, than F block prices. The Commission disagrees with several parties that argue that the Commission's explanation in the Second Report and Order fails to justify disparate treatment. The difficulties in financing the unexpectedly high prices bid in the C block auctions is a sufficiently distinguishing basis for limiting relief to C block licensees. The Commission agrees with the analysis of one party that the C block situation was the result of a unique set of mostly unpredictable events, including litigation and resulting licensing delays and the lack of a simultaneous non-entrepreneur auction that could have been used to ease price pressures.

62. The need for C block relief was due to exceptional and urgent circumstances, and because it is essential to maintain the integrity of the auction process, only the most exigent situation would cause the Commission to offer such relief. Even in addressing

the C block financing situation, the Commission provided options that offered only limited relief so as to be fair to bidders that withdrew from the auction. The Commission therefore is not persuaded by one party's claim that F block licensees should be granted relief because A, B, and C block licensees have a competitive advantage given their earlier licensing date and their larger amounts of spectrum. The Commission also rejects another party's argument that C block options should be available to entrepreneurs with D, E, and F block licenses because C block relief will change the relative values of those licenses. These arguments do not present sufficiently compelling reasons to apply the extraordinary procedures we adopted for C block licensees to D, E, and F block licensees. One party argues that narrowband PCS entities should receive relief comparable to that afforded C block licensees because they compete in the same consumer and financial markets and face similar circumstances. The record in this reconsideration proceeding is insufficient to adopt global changes affecting narrowband PCS entities, but the Commission notes that payment matters for these entities are currently being examined in another proceeding before the Commission. 62 FR 27563.

63. *Issues Addressed in Other Proceedings or Requiring Action by Congress.* A number of parties make requests involving issues either that will be, or have been, addressed in other proceedings or that require action by Congress. For example, several petitioners urge the Commission to reduce the interest rate for C block installment payments. The Bureau will address this issue in a forthcoming order. With respect to a request that the Commission allow commercial lenders to acquire a security interest in licenses, the Commission notes that it previously resolved the issue in another proceeding. 62 FR 13540, 13542.

64. Other parties encourage the Commission to seek Congressional authority to award tax certificates to entities that provide investment capital to C block licensees. Section 309(j)(4)(D) of the Communications Act mandates that, in seeking to ensure that designated entities are ''given the opportunity to participate in the provision of spectrum-based services,'' the Commission shall ''consider the use of tax certificates.'' 47 U.S.C. § 309(j)(4)(D). By allowing a tax deferral of the gain realized on an investment, tax certificates provide a significant means of enhancing the value of an investment in an enterprise, and the Commission believes that a tax certificate program for spectrum-based services would be as beneficial to the wireless industry as the Commission's tax certificate programs were for the broadcast and cable industries. However, in view of Congress' repeal in 1995 of Section 1071 of the IRS Code, which granted the Commission authority to use tax certificates to promote Commission policies, the Commission believes that legislative action would be necessary before the Commission could provide such tax relief. See Pub. L. 104–7, § 2, 109 Stat. 93, 93–94 (1995). Accordingly, the Commission urges Congress to review the positive impact of the Commission's previous tax certificate programs and to grant the Commission the authority to establish a similar program for wireless enterprises, which the Commission believes would promote competition in the telecommunications industry by encouraging investment in new services.

XII. Supplemental Final Regulatory Flexibility Analysis

65. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. § 604, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Order, Memorandum Opinion and Order and Notice of Proposed Rulemaking (Notice) in WT Docket No. 97–82. Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding, WT Docket No. 97–82, Order, Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 97–60 (released February 28, 1997). The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. A Final Regulatory Flexibility Analysis (FRFA) was incorporated into the Second Report and Order. The Commission received 37 petitions for reconsideration in response to the Second Report and Order. This FRFA analyzes the modifications adopted in response to those petitions for reconsideration.

A. Need for, and Objectives of, this Reconsideration Order

66. This Reconsideration Order is designed to assist C block broadband PCS licensees to meet their financial obligations to the Commission while at the same time helping the Commission meet its goal of ensuring rapid provision of PCS service to the public. The Reconsideration Order provides a variety of relief mechanisms to assist C block licensees that are experiencing difficulties in meeting the financial obligations under the installment payment plan. The relief provided to C block licensees will speed deployment of service to the public by easing lenders' concerns regarding regulatory uncertainty and by potentially making more capital available for investment and growth. By facilitating the provision of service to consumers, the Commission advances Congress' objective to promote ''the development and rapid deployment of new technologies, products, and services for the benefit of the public.'' Communications Act § 309(j)(3)(A), 47 U.S.C. § 309(j)(3)(A).

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

67. There were no comments filed in response to the IRFA; however, in this proceeding the Commission has considered the economic impact on small businesses of the modifications the Commission has adopted. See Section E of this Supplemental FRFA, infra.

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

68. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules. 5 U.S.C. §§ 603(b)(3), 604(a)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. § 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under Section 3 of the Small Business Act. 5 U.S.C. § 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. § 632). Under the Small Business Act, a ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. § 632.

69. This Reconsideration Order applies to broadband PCS C and F block licensees. The Commission, with respect to broadband PCS, defines small entities to mean those having gross revenues of not more than $40 million in each of the preceding three calendar years. See 47 CFR 24.720(b)(1). This definition has been approved by the SBA. See Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 59 FR 44058 (1994); Implementation of Section 309(j) of the Communications

Act—Competitive Bidding, Fifth Report and Order, 59 FR 37566 (1994); 47 CFR 24.320(b), 24.720(b). On May 6, 1996, the Commission concluded the broadband PCS C block auction. The broadband PCS D, E, and F block auction closed on January 14, 1997. Ninety bidders (including the C block reauction winners, prior to any defaults by winning bidders) won 493 C block licenses and 88 bidders won 491 F block licenses. Small businesses placing high bids in the C and F block auctions were eligible for bidding credits and installment payment plans. For purposes of the evaluations and conclusion in this FRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees potentially affected by this Reconsideration Order, are small entities.

D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements

70. C block licensees must file notice of their elections with the Wireless Telecommunications Bureau no later than the election date. The election date will be 60 days after publication of the Reconsideration Order in the **Federal Register**. The Reconsideration Order increases the reporting requirements of the Second Report and Order to the extent that elections now may be made for each MTA. See Second Report and Order, supra. Formerly, licensees were required to make the same election for all their licenses.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

71. As noted in the FRFA of the Second Report and Order, the Commission analyzed the significant economic impact on small entities and considered significant alternatives. Id. The modifications adopted on reconsideration will further reduce the burden on C block licensees, which are small businesses. These modifications include:

(1) Elections on an MTA-by-MTA basis. Licensees now will have the flexibility to make elections on an MTA-by-MTA basis, and so are not compelled to make the same election for all their licenses. This modification will afford C block licensees greater flexibility in fashioning a restructuring plan.

(2) Additional flexibility for licensees. The Commission added flexibility to the amnesty option by offering licensees the choice between receiving a credit for their returned licenses or having the opportunity to bid on their return licenses in the reauction. The Commission also provided additional flexibility by allowing licensees to combine disaggregation with prepayment.

(3) Higher percentage of down payment credit. By crediting a higher percentage of the down payment under disaggregation, the Commission better enables these small businesses to remain in the wireless market. The Commission provides even more credit to licensees choosing a combination of disaggregation and prepayment in order to encourage licensees to take advantage of the benefits of both these options.

(4) Thirty-day extension of the non-delinquency period for payments not made on the resumption date. The Commission's 30-day extension is intended to help licensees that are experiencing last-minute delays in raising capital by providing them additional time to complete their fund-raising efforts.

(5) Clarification of the Affordability Exception. The Commission's clarification of the affordability exception provides an objective means for licensees to implement the exception. It eliminates any doubt or confusion regarding the scope of the term ''afford,'' and it is an easy, bright-line test to administer.

72. The Commission believes that it is in the public interest to adopt the above modifications in order to facilitate rapid introduction of service to the public without further regulatory or marketplace delay. The Commission's decision minimizes the potential significant economic impact on small entities by permitting C block licensees to choose among a variety of alternative solutions to reduce their debt to the Commission. The intent of this Reconsideration Order is to alleviate to some extent the financial difficulties faced by these small entities by providing options that: (1) achieve a degree of fairness to all parties, including losing bidders in the C block auction; (2) continue to promote competition and participation by smaller businesses in providing broadband PCS service; and (3) avoid solutions that merely prolong uncertainty.

73. The Commission rejected proposals for a further deferral of the payment resumption deadline because licensees already have had a sufficient deferral period. In addition, the Commission does not wish to adopt temporary solutions that might only postpone the difficulties faced by the C block licensees and further prolong uncertainty. There is no guarantee that an extended deferral period would improve the long term financial outlook facing many licensees. The Commission also rejected arguments that licensees should receive full credit for down payments made on licenses or spectrum returned to the Commission for reauction. The Commission already provides substantial use of a licensee's down payment. Moreover, providing full credit would be unfair to unsuccessful bidders that withdrew from the C block auction.

F. Report to Congress

74. The Commission shall send a copy of the Reconsideration Order, including this Supplemental FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. See 5 U.S.C. § 801(a)(1)(A). A copy of the Reconsideration Order and this FRFA (or summary thereof) will be published in the **Federal Register**. See 5 U.S.C. § 604(b). A copy of the Reconsideration Order and this FRFA will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

XIII. Ordering Clauses

75. Accordingly, it is ordered that, pursuant to the authority granted in Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 309(j), the petitions for reconsideration filed in response to the Second Report and Order are granted in part and denied in part, as provided herein.

76. It is further ordered that, pursuant to the authority granted in Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 309(j), the modifications to the Commission's rules, as described herein and in Appendix B, are hereby adopted. These modifications shall become effective 60 days after publication of this Order on Reconsideration of the Second Report and Order in the **Federal Register**.

77. It is further ordered that, pursuant to 47 U.S.C. § 155(c) and 47 CFR 0.331, the Chief of the Wireless Telecommunications Bureau is granted delegated authority to prescribe and set forth procedures for the implementation of the provisions adopted herein.

78. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Order on Reconsideration of the Second Report and Order, including the Supplemental Final Regulatory Flexibility Analysis, to

the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

Notice of Public Information Collections Submitted to the Office of Management and Budget for Emergency Review and Approval

Summary

The Federal Communications, 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 proposed and/or continuing information collections, 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 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. Please Note: The Commission is seeking emergency approval for these information collections by April 30, 1998, under the provisions of 5 CFR 1320.13.

Dates: Written comments should be submitted on or before April 27, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Addresses: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, N.W., Washington, DC 20503 or fain__t@a1.eop.gov.

For Further Information Contact: For additional information or copies of the information collections, contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

Supplementary Information:

OMB Control Number: 3060–0801.

Title: Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees.

Type of Review: Emergency Revision.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 345.

Estimated Time for Response: 0.5–4.89 hours.

Total Annual Burden: 1,687.50 hours.

Total Cost to Respondents: $69,592.

Needs and Uses: This information collection allows the Federal Communications Commission to offer C block PCS licensees various options regarding their existing installment payment obligations. The information is necessary in order to enable the licensees to meet their financial obligations and to ensure rapid provision of PCS to the public.

List of Subjects

47 CFR Part 1

Practice and Procedure.

47 CFR Part 24

Personal Communications Services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 1 and 24 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r), unless otherwise noted.

2. Section 1.2110 is amended by revising paragraphs (f)(4)(ii), (iii), (iv) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(f) * * *

(4) * * *

(ii) If any licensee fails to make the required payment at the close of the 90-day period set forth in paragraph (i) of this section, the licensee will automatically be provided with a subsequent 90-day grace period, except that no subsequent automatic grace period will be provided for payments from C or F block licensees that are not made within 90 days of the payment resumption date for those licensees, as explained in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Order on Reconsideration of the Second Report and Order, WT Docket No. 97–82, FCC 98–46 (rel. Mar. 24, 1998). Any licensee making a required payment during this subsequent period will be assessed a late payment fee equal to ten percent (10%) of the amount of the past due payment. Licensees shall not be required to submit any form of request in order to take advantage of the initial 90-day non-delinquency period and subsequent automatic 90-day grace period. All licensees that avail themselves of the automatic grace period must pay the required late fee(s), all interest accrued during the non-delinquency and grace periods, and the appropriate scheduled payment with the first payment made following the conclusion of the grace period.

(iii) If an eligible entity making installment payments is more than one hundred and eighty (180) days delinquent in any payment, it shall be in default, except that C and F block licensees shall be in default if their payment due on the payment resumption date, referenced in paragraph (f)(4)(ii) of this section, is more than ninety (90) days delinquent.

(iv) Any eligible entity that submits an installment payment after the due date but fails to pay any late fee, interest or principal at the close of the 90-day non-delinquency period and subsequent automatic grace period, if such a grace period is available, will be declared in default, its license will automatically cancel, and will be subject to debt collection procedures.

* * * * *

PART 24—PERSONAL COMMUNICATIONS SERVICES

3. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332, unless otherwise noted.

4. Section 24.709 is amended by revising paragraph (b)(9) to read as follows:

§ 24.709 Eligibility for licenses for frequency Blocks C and F.

* * * * *

(b) * * *

(9) *Special rule for licensees disaggregating or returning certain spectrum in frequency block C.* (i) In addition to entities qualifying under this section, any entity that was eligible for and participated in the auctions for frequency block C, which began on December 18, 1995, and July 3, 1996, will be eligible to bid in a reauction of

block C spectrum surrendered pursuant to Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Second Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 97–82, 12 FCC Rcd 16,436 (1997), as modified by the Order on Reconsideration of the Second Report and Order, WT Docket No. 97–82, FCC 98–46 (rel. Mar. 24, 1998).

(ii) The following restrictions will apply for any reauction of frequency block C spectrum conducted after March 24, 1998:

(A) Applicants that elected to disaggregate and surrender to the Commission 15 MHz of spectrum from any or all of their frequency block C licenses, as provided in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Second Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 97–82, 12 FCC Rcd 16,436 (1997), as modified by the Order on Reconsideration of the Second Report and Order, WT Docket No. 97–82, FCC 98–46 (rel. Mar. 24, 1998), will not be eligible to apply for such disaggregated spectrum until 2 years from the start of the reauction of that spectrum.

(B) Applicants that surrendered to the Commission any of their frequency block C licenses, as provided in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, Second Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 97–82, 12 FCC Rcd 16,436 (1997), as modified by the Order on Reconsideration of the Second Report and Order, WT Docket No. 97–82, FCC 98–46 (rel. Mar. 24, 1998), will not be eligible to apply for the licenses that they surrendered to the Commission until 2 years from the start of the reauction of those licenses if they elected to apply a credit of 70% of the down payment they made on those licenses toward the prepayment of licenses they did not surrender.

* * * * *

[FR Doc. 98–9352 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–220; RM–9179]

Radio Broadcasting Services; Dallas, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Michael Mattson, allots Channel 252C3 to Dallas, OR, as the community's first local FM service. *See* 62 FR 58935, October 31, 1997. Channel 252C3 can be allotted to Dallas in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 44–55–06 North Latitude and 123–19–00 West Longitude. With this action, this proceeding is terminated.

DATES: Effective May 4, 1998. A filing window for Channel 252C3 at Dallas, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–220, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Dallas, Channel 252C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–9106 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–260; RM–8965, RM–9034, RM–9035, RM–9036 and RM–9037]

Radio Broadcasting Services; Lake Crystal, Madelia, Mankato and Vernon Center, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 239A at Lake Crystal, Minnesota, and Channel 231A to Vernon Center, Minnesota, in response to a Notice of Proposed Rule Making issued in response to a petition filed by Mid-Minnesota Broadcasting Company requesting an allotment at Mankato, Minnesota. *See* 62 FR 373, January 3, 1997. The coordinates for Channel 239A at Lake Crystal are 44–09–27 and 94–22–32. There is a site restriction 14.1 kilometeres (8.6 miles) west of the community. The coordinates for Channel 231A at Vernon Center, Minnesota, are 44–01–15 and 94–15–00. There is a site restriction 9.2 kilometers (5.7 miles) northwest of the community. With this action this proceeding is terminated. A filing window for Channel 239A, Lake Crystal, and Channel 231A, Vernon Center, will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: May 4, 1998.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 96–260, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

47 CFR Part 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Lake Crystal, Channel 239A and Vernon Center, Channel 231A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–9108 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

48 CFR Parts 209, 212, 213, 217, 222, and 252

[DFARS Case 97–D314]

Defense Federal Acquisition Regulation Supplement; Veterans Employment Emphasis; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction to interim rule.

SUMMARY: The Department of Defense is issuing a correction to the interim rule published at 63 FR 11850 on March 11, 1998.

EFFECTIVE DATE: March 11, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Pelkey, (703) 602–0131.

Correction

1. On page 11851, in the first column, under **SUPPLEMENTARY INFORMATION: A. BACKGROUND**, remove the last sentence and add the following two sentences: ''41 CFR 61–250.10 requires submission of the 1997 VETS–100 report to the Department of Labor by March 31, 1998. However, on November 26, 1997, the Assistant Secretary for Veterans' Employment and Training, Department of Labor, directly notified Federal contractors and subcontractors that the filing deadline for the 1997 VETS–100 report has been changed to September 30, 1998.''

252.209–7003 [Corrected]

2. On page 11852, in the first column, in section 252.209–7003, in the introductory text, ''222.1304(b)'' should read ''209.104–70(c)''.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–9115 Filed 4–7–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 235, 243, and 252

[Defense Acquisition Circular 91–13]

Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction to final rule.

SUMMARY: The Department of Defense is issuing a correction to Defense Acquisition Circular 91–13, which was published at 63 FR 11522 on March 9, 1998. This correction adds amendatory language which was inadvertently omitted from the final rule published as Item XXVIII, Certification of Requests for Equitable Adjustment (DFARS Case 97–D302).

EFFECTIVE DATE: March 9, 1998.

FOR FURTHER INFORMATION CONTACT: Michele Peterson, (703) 602–1031.

Correction

1. On page 11527, in the third column, under the heading ''PARTS 235, 243, AND 252—[AMENDED]'', after ''243.204–70'' insert '', 243.205–72,''; and after ''73'' insert '', 73a,''.

2. On page 11541, after amendatory instruction 73 and the corresponding changed text, add the following amendatory instruction 73a and corresponding changed text:

73a. Section 243.205–72 is revised to read as follows:

§ 243.205–72 Requests for equitable adjustment.

Use the clause at 252.243–7002, Requests for Equitable Adjustment, in solicitations and contracts estimated to exceed the simplified acquisition threshold.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–9116 Filed 4–7–98; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 63, No. 67
Wednesday, April 8, 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 956

[Docket No. FV98–956–2 PR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Walla Walla Sweet Onion Committee (Committee) under Marketing Order No. 956 for the 1998–99 and subsequent fiscal periods from $0.19 to $0.21 per 50-pound bag or equivalent of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of sweet onions grown in portions of Walla Walla County, Washington, and Umatilla County, Oregon. Authorization to assess Walla Walla Sweet Onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins June 1 and ends May 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by May 8, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 205–6632. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956 (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon, 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 (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Walla Walla Sweet Onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate proposed herein would be applicable to all assessable sweet onions beginning on June 1, 1998, and continue until amended, suspended, or terminated. 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 request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.19 per 50-pound bag or equivalent to $0.21 per 50-pound bag or equivalent of Walla Walla Sweet Onions handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members, three handler members and one public member, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

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

The Committee met on February 17, 1998, and unanimously recommended 1998–99 expenditures of $97,272. In a vote with six favoring, three opposing, and one abstaining, the Committee recommended an assessment rate of $0.21 per 50-pound bag or equivalent handled during the 1998–99 and subsequent fiscal periods. The Committee estimated that the 1998 sweet onion crop will approximate 463,200 50-pound bags or equivalents of onions. In comparison, the 1997–98 fiscal period budget was established at $126,682 with an estimated assessable

poundage of 667,750 50-pound bags or equivalents of sweet onions. In an effort to partially offset the loss of assessment income due to the more conservative 1998 crop estimate, the Committee recommended the $0.02 increase.

In both the 1996 and 1997 seasons, the actual quantity of assessable sweet onions produced for the fresh market was less than the Committee had estimated for the purpose of establishing the respective budgets. Actual assessment income earned during the 1997–98 fiscal period was approximately $30,000 less than was estimated for the 1997–98 budget, and for the 1996–97 fiscal period, actual assessment income was approximately $26,000 less than was budgeted. For the 1998–99 fiscal period, the Committee made its 1998 assessable crop estimate based on a lower average yield per acre than was used during the past two seasons. Based on a reported 772 acres planted, the Committee is anticipating a 1998 harvest averaging 600 50-pound bags or equivalents per acre. Thus, the 1998–99 fiscal period budget is formulated based on a crop estimate of 463,200 50-pound bags or equivalents of Walla Walla Sweet Onions. If the assessment rate is not increased from the 1997–98 fiscal period rate of $0.19, funds would fall approximately $9,264 short of 1998–99 fiscal period budgeted expenses, and this is not acceptable to a majority of the Committee. The members opposed believed that the assessment rate should be increased more than $0.02 per 50-pound bag or equivalent, so more funds could be earmarked for promotion and paid advertising. The public member abstained because of his desire to remain neutral on these issues.

After much discussion, the major expenditures recommended by the Committee for the 1998–99 fiscal period include $43,890 for administration, $10,000 for production research, $35,890 for market promotion including paid advertising, and $4,500 for marketing order compliance. Budgeted expenses for these items in the 1997–98 fiscal period were $41,700, $15,000, $51,000, and $9,000, respectively.

The Committee based its recommended assessment rate increase on the 1998 crop estimate and its estimate of 1998–99 fiscal period expenditures, including administrative costs and desired research and promotion projects. The Committee also took into consideration the impact an increase in the assessment rate would have on producers and handlers. The increased assessment rate should provide $97,272 in income which would be adequate to cover budgeted expenses. In the event the 1998 assessable sweet onion crop falls short of anticipated yields, the Committee estimates it will have approximately $25,000 in its operating reserve at the beginning of the 1998–99 fiscal period (June 1, 1998), which should be adequate to cover any assessment shortages. This amount is within the maximum permitted by the order of approximately two fiscal period's budgeted expenses (§ 956.44).

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

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary.

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

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

There are approximately 60 producers of Walla Walla Sweet Onions in the production area and approximately 35 handlers subject to regulation under the order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Walla Walla Sweet Onion producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.19 per 50-pound bag or equivalent to $0.21 per 50-pound bag or equivalent of Walla Walla Sweet Onions handled. The Committee unanimously recommended 1998–99 expenditures of $97,272, and, with 6 members favoring, 3 members opposing and 1 member abstaining, recommended the $0.21 per 50-pound bag or equivalent assessment rate. The proposed assessment rate is $0.02 higher than the rate currently in effect. The Committee recommended an increased assessment rate to help offset the smaller projected crop of assessable sweet onions in 1998. The anticipated crop of 463,200 50-pound bags or equivalents is approximately 30 percent less than each of the 1996 and 1997 crops. The $0.21 rate should provide $97,272 in assessment income and be adequate to meet 1998–99 fiscal period expenses.

The Committee discussed alternatives to this proposed rule, including alternative expenditure and assessment levels. The Committee discussed various alternative expenditure levels for promotion, production research, and marketing order compliance. Further, the Committee discussed various levels of assessment from the current $0.19 to as much as $0.25 per 50-pound bag or equivalent of sweet onions. Action was taken by the Committee on a motion to increase the assessment rate by $0.01. The vote failed to carry a majority, however, since a $0.01 increase would not have adequately funded desired expenditures. The members opposed believed that the assessment rate should be increased more than $0.02 per 50-pound bag or equivalent, so more funds could be dedicated to promotion and paid advertising. The public member abstained because of his desire to remain neutral on these issues.

After much discussion, the major expenditures recommended by the Committee for the 1998–99 fiscal period include $43,000 for administration, $10,000 for production research, $35,890 for market promotion including paid advertising, and $4,500 for marketing order compliance. Budgeted expenses for these items in the 1997–98 fiscal period were $41,700, $15,000, $51,000, and $9,000, respectively.

Recent price information indicates that producer prices for all sizes and grades of Walla Walla Sweet Onions for the 1998 shipping season will range between $4.50 and $12.00 per 50-pound bag or equivalent. Thus, the estimated

assessment revenue for the 1998–99 fiscal period as a percentage of total producer revenue would range between 0.017 and 0.046 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Walla Walla Sweet Onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 17, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Walla Walla Sweet Onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A 30-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Thirty days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 fiscal period begins on June 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable sweet onions handled during such fiscal period; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 956

Sweet onions, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 956 is proposed to be amended as follows:

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

1. The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 956.202 is proposed to be revised to read as follows:

§ 956.202 Assessment rate.

On and after June 1, 1998, an assessment rate of $0.21 per 50-pound bag or equivalent is established for Walla Walla Sweet Onions.

Dated: April 2, 1998.

Robert C. Keeny,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–9200 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710 and 1714

Prioritizing the Queue for Hardship Rate and Municipal Rate Loans to Electric Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Utilities Service (RUS) makes hardship rate and municipal rate loans to electric borrowers who meet certain statutory requirements. All applications from borrowers for these loans are usually considered for approval on a first-come first-served basis. RUS now has a significant shortfall between the total dollar amount of qualified applications and loan authority for both hardship rate and municipal rate loans. This shortfall has resulted in long waits in the queues for loan approval. RUS is considering making changes to its administrative procedures to prioritize the applications for hardship rate and municipal rate loans, separately, in order to offer these loans to borrowers in greater need of assistance before offering them to other borrowers in the loan queues.

DATES: Written comments must be received by RUS or bear a postmark or equivalent not later than May 8, 1998.

ADDRESSES: Submit written comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Stop 1522, 1400 Independence Avenue, SW, Washington, DC 20250–1522. RUS requires, in hard copy, a signed original and 3 copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Alex M. Cockey, Jr., Deputy Assistant Administrator—Electric Program, U.S. Department of Agriculture, Rural Utilities Service, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250–1560. Telephone: 202–720–9545. FAX: 202–690–0717.

SUPPLEMENTARY INFORMATION:

Background

Under section 305(c) of the Rural Electrification Act of 1936, as amended (RE Act), RUS makes insured electric loans at either a 5 percent hardship rate or a municipal rate to borrowers engaged primarily in providing retail electric service in rural areas. The criteria and related procedures for making these loans are codified primarily in 7 CFR part 1714. Under current practice, applications from borrowers for either hardship rate or municipal rate loans that meet the eligibility criteria are usually considered for approval on a first-come first-served basis, as provided in 7 CFR 1710.119(a).

The administrative procedure of processing hardship and municipal rate loans on a first-come first-served basis has worked reasonably well when there have been sufficient appropriations to process all or nearly all the loan applications during the fiscal year. When appropriations are adequate, no borrower eligible for these loans has to wait more than a few months to receive financing. Under those circumstances it makes less difference in terms of meeting needs for financing and protecting the government's loan security interests if a more needy borrower has to wait in the loan queue a few months longer than a less needy borrower. But when appropriations become inadequate to finance all hardship and municipal rate loans pending during the year, it becomes even more of a problem if borrowers with greater need for financing must wait several months longer than other borrowers in the queue with lesser need.

The substantial need for RUS loan funds to improve and maintain reliable rural electric infrastructure, coupled with fiscally limited loan authority, have more recently left RUS with a significant shortfall between the total dollar amount of qualified applications and loan authority. Based on loan applications currently on hand and those projected to come in during the

remainder of this fiscal year, RUS now projects a backlog of applications at the beginning of fiscal year 1999 of $1.3 billion for municipal rate loans and up to $70 million for hardship loans. The effects of these backlogs on the rural electric community would be partially offset if the Congress enacts the new Treasury rate loan program proposed by the Administration, at its proposed lending level of $400 million in fiscal year 1999.

To address the projected backlog of applications for loans, RUS is considering changes to its administrative procedures to prioritize hardship and municipal rate loan applications so as to make more effective use of limited appropriations by funding borrowers with greater need for subsidized financing before funding those with lesser need. Every borrower eligible for financing would remain eligible, but those in greater need would receive their financing before borrowers of lesser need. RUS invites comments from the public on what criteria and procedures to use to prioritize the queues for hardship and municipal rate loans. We are especially interested in comments on the following questions:

- Since sections 305(c)(1) and 305(c)(2)(B)(ii) of the RE Act establish eligibility criteria for hardship and municipal rate loans, should the criteria for prioritizing the loan queues be based on those statutory criteria?
- For example, should the prioritization criteria include measures of (1) the difference between a borrower's average revenue per kWh sold and 120 percent of the average revenue per kWh sold by all electric utilities in the state served by the borrower; (2) the difference between a borrower's average residential revenue per kWh sold and 120 percent of the average residential revenue per kWh sold by all electric utilities in the state served by the borrower; (3) the difference between the average per capita income of the residents in the borrower's service territory and the average per capita income of all residents of the state in which the borrower serves; (4) the difference between the median household income of the residents in the borrower's service territory and the median household income of all residents in the state served by the borrower; and (5) the difference between the average number of consumers served by the borrower per mile of line and some standard, such as 5.5 consumers per mile, as cited in section 305(c)(2)(B)(ii) of the RE Act?
- Should other criteria be used to reflect the relative need for subsidized financing based on differences among borrowers in the inherent cost of providing service and the strength of the demand in the borrower's service territory? If so, what criteria should be used, for example, plant investment per consumer or per mile of line, cost of power per kWh, growth in borrower's kWh sales, borrower size reflecting economies of scale, or other measures?
- Should some priority be given to borrowers serving in Empowerment Zones or Enterprise Communities, areas that have been officially designated as having a special need for economic development and job creation?
- Should some priority be given to borrowers for financing of facilities located in counties of persistently high poverty and counties experiencing outward migration, as defined by the Department of Agriculture?
- Should an application receive credit for the time it has been in the queue to ensure that even the lowest priority applications eventually receive a loan? If the average (median) application had to wait, say, 6 months, based on its ranking in terms of need, would it be reasonable if the lowest ranked applications had to wait 1, 2, or 3 years, or should they be moved up more quickly based on time spent in the queue?
- Should the Administrator exercise authority to move an application up in the queue if the borrower faces an extreme hardship based on the factors set forth in 7 CFR 1714.8(c)?

Dated: April 2, 1998.

Wally Beyer,

Acting Under Secretary, Rural Development.

[FR Doc. 98–9204 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

Specifications and Drawings for Underground Electric Distribution

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to revise its regulations on Specifications and Drawings for Underground Electric Distribution, RUS Bulletin 50–6. This bulletin is currently incorporated by reference in RUS regulations and, will continue to be incorporated by reference. This proposed rule is necessary to provide RUS electric borrowers with the latest specifications for RUS electric borrowers to construct their rural underground electric distribution systems using state-of-the-art materials, equipment, and construction methods. RUS proposes store number and reformat this bulletin in accordance with the Agency's new publications and directives system.

DATES: Written comments must be received by RUS or bear a postmark or equivalent no later than June 8, 1998.

ADDRESSES: Submit written comments to Mr. George J. Bagnall, Director, Electric Staff Division, U.S. Department of Agriculture, Rural Utilities Service, STOP 1569, 1400 Independence Avenue, SW., Washington, DC 20250–1569. RUS requires a signed original and 3 copies of all comments (7 CFR 1700.30(e)). Comments received will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Mr. Trung V. Hiu, Electrical Engineer, Electric Staff Division, Distribution Branch, U.S. Department of Agriculture, Rural Utilities Service, STOP 1569, 1400 Independence Avenue, SW., Washington, DC 20250–1569. Telephone: (202) 720–1877. FAX: (202) 720–7491.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with state and local officials. A Final Rule Related Notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372,'' (50 FR 47034) exempted RUS loans and loan guarantees from coverage under this order.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in sec. 3 of the Executive Order.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that a rule relating to the RUS electric loan program is not a rule as defined in the Regulatory Act (5 U.S.C. 601 *et seq.*) and, therefore the Regulatory Flexibility Act does not apply to this proposed rule.

Information Collection and Recordkeeping Requirements

This proposed rule contains no reporting or recordkeeping provisions requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis for the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402–9325.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandates Reform Act.

Background

Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), the Rural Utilities Service (RUS) proposes to amend 7 CFR 1728, Electric Standards and Specifications for Materials and Construction, by revising RUS Bulletin 50–6, Specifications and Drawings for Underground Electric Distribution. This revised bulletin will be renumbered as RUS Bulletin 1728F–806. RUS maintains a system of bulletins that contain construction standards and specifications for materials and equipment which must be complied with when system facilities are constructed by RUS electric and telecommunication borrowers in accordance with the RUS loan contract. These standards and specifications contain standard construction units and material items and equipment units commonly used in RUS electric and telecommunication borrowers' systems.

RUS Bulletin 50–6 provides standard underground electric distribution construction drawings and specifications of 12.5/7.2 kV and 24.9/14.4 kV underground electric distribution lines. RUS proposes to change the bulletin number from RUS Bulletin 50–6 to RUS Bulletin 1728F–806. The change in the bulletin number and reformatting is necessary to conform to RUS's new publications and directives system. This action will incorporate the bulletin by reference in 7 CFR 1728.

The following are proposed changes to RUS Bulletin 50–6 (D–806):

(1) To new drawings, UC2–1 and UC2–2, have been added as alternative construction to existing drawing UC2.

(2) RUS has determined that the URD INSPECTION FORM and 23 drawings are no longer practical. Therefore, RUS has removed the following drawings: UC3, UC4, UG9A, UG23, UM3–47, UM3–48, UM8–3, UM12–1, UM12–2, UM50, UX8 through UX10, and UX12 through UX26.

(3) Some of the specifications in the Preface have been altered to comply with the latest codes and regulations and to improve field construction.

(4) The titles of the drawings in the Index Of Drawings have been modified to have better descriptions of the corresponding drawings.

Approximately 60 drawings have been revised with one or more of the following changes:

(1) Clearance distance ''B'' has been changed to be the distance between open vertical conductors (outer edge nearest to pole) and pole center in accordance to the latest codes.

(2) A ''B'' MINIMUM table has been added to appropriate drawings to show proper clearances corresponding to different voltages.

(3) Ground rods have been redrawn to proper grade.

(4) The installation of ''CAUTION'', ''WARNING'', AND ''DANGER'' signs have been changed to meet the latest codes.

(5) In the material tables, item U hw, ''CAUTION'' sign, has been changed to ''WARNING'' signs.

(6) In the material tables, item U hp, elbow termination, has been added.

(7) Ground wires between ground rods and connectors have been redrawn as dotted lines.

(8) In boxes label ''B'' MINIMUM, the ''v'' ''kv'' has been capitalized.

(9) Some notes below the ''DESIGNATE AS'' headings have been deleted where appropriate.

(10) In the material tables, ''(load break type)'' has been removed from item af, cutout descriptions.

(11) The term ''OVERHEAD SOURCE'' has been added to some drawings were appropriate.

(12) Several conductor routes have been redrawn for easier construction and increased performance.

(13) Devices, such as surge arresters, have been redrawn and relocated to reflect the improved designs and to meet the latest safety codes.

(14) Crossarms, penta-head bolts, one-line diagrams, grounding pads, and pin insulators have been added to certain drawings where appropriate.

(15) Blowups have been added to several drawings to emphasize details.

(16) The notes on some drawings have been revised to remove ambiguity and to meet the latest safety codes and construction standards.

List of Subjects in 7 CFR Part 1728

Electric power, Incorporation by reference, Loan programs-energy, Rural areas.

For the reasons set out in the preamble, 7 CFR part 1728 is proposed to be amended as follows:

PART 1728—ELECTRIC STANDARDS AND SPECIFICATIONS FOR MATERIALS AND CONSTRUCTION

1. The authority citation for part 1728 is amended to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 7 U.S.C. 1921 *et seq.;* 7 U.S.C. 6941 *et seq.*

2. Section 1728.97(b) is amended by removing the entry for Bulletin 50–6, and adding to the list of bulletins in numerical order the entry for Bulletin 1728F–D806 to read as follows:

§ 1728.97 Incorporation by reference of electric standards and specifications.

* * * * *

(b) *List of bulletins.*

* * * * *

Bulletin 1728F–D806, Specifications and Drawings for Underground Electric Distribution [*Month and year of publication of final rule*].

* * * * *

Dated: April 2, 1998.

Wally Beyer,

Acting Under Secretary, Rural Development.

[FR Doc. 98–9203 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–15–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 140 and 171

RIN 3150–AF83

Revision of Fee Schedules; 100% Fee Recovery, FY 1998; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; Correction.

SUMMARY: The Nuclear Regulatory Commission published in the **Federal Register** of April 1, 1998, a document concerning the licensing, inspection, and annual fees charged to its applicants and licensees in compliance with the Omnibus Budget Reconciliation Act of 1990. This document adds paragraph (a)(1)(v) to § 140.7 and corrects a footnote number.

FOR FURTHER INFORMATION CONTACT: Glenda Jackson, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–6057.

SUPPLEMENTARY INFORMATION: In proposed rule document 98–8279, beginning on page 16046 in the issue of Wednesday, April 1, 1998, make the following corrections.

§ 140.7 [Corrected]

1. On page 16054, in the second column, add paragraph (a)(1)(v) to read as follows:

(v) For indemnification from $99 million to $1 million inclusive, a fee of $6 per year per thousand kilowatts of thermal capacity authorized in the license;

§ 171.16 [Corrected]

2. In § 171.16, in the table on page 16063, the footnote reference in the Annual Fees column for item ''16 Reciprocity'' reading ''6'' should be corrected to read ''8.''

Dated at Rockville, Maryland, this 3rd day of April, 1998.

For the Nuclear Regulatory Commission.

Alzonia Shepard,

Acting Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 98–9196 Filed 4–7–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–41–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes

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 certain EMBRAER Model EMB–145 series airplanes. This proposal would require a one-time inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment; and cleaning the tubes or replacing drain tubes with new tubes, if necessary. This proposal also requires modification of the pitot/static system. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment caused by cycles of water freezing and expanding inside the tubes, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight.

DATES: Comments must be received by May 8, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Neil Berryman, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6066; fax (770) 703–6097.

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 shall 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 98–NM–41–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–145 series airplanes. The DAC advises that it has received reports indicating that the pitot 1 and pitot 2 drain tubes in the forward electronic compartment had cracked. The cause of the cracking was

attributed to a poor drainage system that allowed water to freeze and expand inside the pitot tubes over a number of flight cycles of the airplane. This condition, if not corrected, could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 145–34–0010, Change 01, dated September 25, 1997, which describes procedures for a one-time visual inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment. This service bulletin also describes procedures for cleaning the pitot tubes, or replacing the drain tubes with new tubes, if necessary.

In addition, EMBRAER has issued Service Bulletin 145–34–0008, dated September 10, 1997, which describes procedures for a modification of the pitot/static system, which involves installing improved piping and a new drainage system.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DAC classified these service bulletins as mandatory and issued Brazilian airworthiness directive 97–07–12R1, dated November 3, 1997, in order to assure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil 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 DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

The FAA estimates that 15 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 2 work hours per airplane to accomplish the inspection proposed by this AD, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

In addition, it would take approximately 2 work hours per airplane to accomplish the modification proposed by this AD, at an average labor rate of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

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

Regulatory Impact

The regulations 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:

Empresa Brasileira De Aeronautica, S.A. (Embraer): Docket 98–NM–41–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145028 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD: Perform a one-time visual inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, in accordance with EMBRAER Service Bulletin 145–34–0010, Change 01, dated September 25, 1997.

(1) If no bulging or cracking is detected, prior to further flight, clean the pitot tubes in accordance with the service bulletin.

(2) If any bulging or cracking is detected in any drain tube, prior to further flight, replace the pitot drain tube with a new tube in accordance with the service bulletin.

Note 2: Accomplishment of the visual inspection, cleaning, or replacement of the pitot 1 and pitot 2 drain tubes prior to the effective date of this AD in accordance with EMBRAER Service Bulletin 145–34–0010, dated July 25, 1997, is considered acceptable for compliance with the applicable action specified in paragraph (a) of this AD.

(b) Within 400 hours time-in-service after the effective date of this AD: Modify the pitot/static system in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

(c) As of the effective date of this AD, no person shall install a pitot/static system on any airplane, unless it has been modified in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

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

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

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

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 97–07–12R1, dated November 3, 1997.

Issued in Renton, Washington, on April 1, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–9120 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 20

Guides for the Rebuilt, Reconditioned, and Other Used Automobile Parts Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission (''Commission'') requests public comments about the overall costs and benefits and the continuing need for its Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry (''the Used Auto Parts Guides'' or ''the Guides''), as part of the Commission's systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until August 6, 1998.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Ave., N.W., Washington, DC 20580. Mailed comments should be identified as ''Used Auto Parts Guide, 16 CFR part 20—Comment.'' E-mail comments will be accepted at [autopart@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: David Plottner, Investigator, Federal Trade Commission, 1111 Superior Avenue, Suite 200, Cleveland, Ohio 44114, telephone number (216) 263–3409, E-mail [dplottner@ftc.gov].

SUPPLEMENTARY INFORMATION:

I. Used Auto Parts Guides

The Commission first promulgated its Trade Practice Rules For The Rebuilt, Reconditioned and Other Used Automotive Parts Industry on June 30, 1962, under Section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45.[1] In 1977, the Commission published its intent to rescind many of its Trade Practice Rules, including this one, barring a showing of continued use in the public interest, 42 FR 31457. In 1979, the Commission issued the Guides in their present form, with only minor changes from the original Trade Practice Rule (''TPR'').

The Guides, and the predecessor to Guides, Trade Practice Rules, constitute administrative interpretations of Commission law administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. Conduct inconsistent with the Guides may result in corrective action by the Commission under applicable statutory provisions.

The Used Auto Parts Guides define industry products broadly to include not only automobile parts, but all truck, tractor, motorcycle and other self-propelled vehicle parts and assemblies containing used parts. Besides automobile parts themselves, large diesel engines, clutches and transmissions found in the heavy equipment industry are covered by the Guides, for example, as well as used parts and assemblies for snow mobiles, jet skies, motorbikes, and golf carts. Industry members are those who sell or distribute industry product. This would include the rebuilders and remanufacturers themselves, assuming such rebuilders/remanufacturers were also involved in product sales and distribution. The Used Auto Parts Guides suggest, among other things, that industry members not misrepresent that their products are new, not misrepresent the condition of the product or the extent of rebuilding, not misrepresent that the rebuilder was the original manufacturer, and that they conspicuously disclose, for example, in advertising and packaging, that the products include used parts.

Specifically, the Guides suggest that industry members not engage in:

(1) Deception as to the previous use of products;

(2) Deception as to the identity of the rebuilder, remanufacturer, reconditioner or reliner;

(3) Misrepresentation as to the condition of products and misuse of the terms ''rebuilt,'' ''factory rebuilt,'' ''remanufactured,'' or other similar terms.

II. Regulatory Review Program

The Commission has determined, as part of its oversight responsibilities, to review rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. The Commission solicits comments on, among other things, the economic impact of and the continuing need for the Used Auto Parts Guides; possible conflict between the Guides and state, local, or other federal laws; and the effect on the Guides of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Used Auto Parts Guides?

(a) What benefits have the Guides provided to purchasers of the products affected by the Guides?

(b) Have the Guides imposed costs on purchasers?

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers?

(a) How would these changes affect the costs the Guides impose on firms following their suggestions? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, have the Guides imposed on firms following their suggestions?

(a) Have the Guides provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms following their suggestions?

[1] Section 5 of the FTC Act declares unfair methods of competition and unfair or deceptive acts or practices to be unlawful.

(a) How would these changes affect the benefits provided by the Guides?

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

(a) Have the existence of or the terms of written warranties largely replace the Guides as a signal of the quality of an industry part or assembly?

(b) Have state consumer protection laws or regulations governing automobile service and automobile service facilities, designation of used parts, return of repaired parts, etc. affected the need for these Guides?

(6) Since 1962 when the main provisions of the Guides were issued as a TPR, what effects, if any, have the following changes in relevant technology or economic conditions had on the Guides:

(a) Increased sales of imported new automobiles?

(b) The global nature of the economy?

(c) Changes in methods of parts distribution? or

(d) Other changes in distribution or sales, including use of E–mail, the Internet, Internet advertising or CD ROM advertising.

(7) Are there any abuses occurring in the distribution, promotion, sale or manufacture of used automobile parts that are not addressed by the Guides? If so, what mechanisms should be explored to address such abuses (*e.g.*, consumer education, industry self-regulation, Guide amendment)?

List of Subjects in 16 CFR Part 20

Advertising, Motor vehicles, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–9206 Filed 4–7–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210 and 216

RIN 1010–AC40

Electronic Reporting

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Minerals Management Service (MMS) proposes to amend its regulations to require reporters to submit royalty and production reports electronically. This change is necessary to comply with various mandates to use new technologies to improve the productivity, efficiency, and effectiveness of Government programs. Additional amendments would extend the due date for production reports filed electronically and eliminate the reporting of most wells that are in drilling status. These changes will reduce administrative costs and increase operating efficiencies for industry and MMS.

DATES: Submit comments on or before June 8, 1998.

ADDRESSES: Send comments to David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, PO Box 25165, Mail Stop 3021, Denver, Colorado 80225–0165; courier delivery to Building 85, Denver Federal Center, Denver, Colorado 80225; or E-mail RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service; telephone (303) 231–3432; fax (303) 231–3385; E-mail David__Guzy@mms.gov. Contact Ralph Spencer at (303) 231–3095 for further information about being added to the list of MMS-approved electronic reporting services.

SUPPLEMENTARY INFORMATION: The principal authors of this proposed rulemaking are Mary Williams, Ralph Spencer, Barbara Lambert, Gail Solaas of the Accounting and Reports Division, and Tim Allard of the Systems Management Division, Royalty Management Program, MMS.

I. Background

Congress and the President have mandated that Federal agencies use new technologies to improve Government operations. For example, the Paperwork Reduction Act of 1995, Public Law 104–13, and the Information Technology Management Reform Act of 1996, Public Law 104–106, authorize the use of new technologies to improve the productivity, efficiency, and effectiveness of Government programs. Executive Order 13011 requires Government agencies to use information technology to improve productivity and increase efficiencies. To meet these legislative and executive mandates and take advantage of rapidly improving technologies, MMS proposes to amend its regulations to require reporters to report electronically.

MMS has been successfully developing and using electronic information collection alternatives for many years. Electronic reports produce more timely and accurate reporting at significantly less cost than paper reports. For example, electronically-submitted Reports of Sales and Royalty Remittance, Form MMS–2014, have an average error rate of 1 percent compared to paper reports that have an 8 percent error rate.

Electronic reports also streamline the error correction process. We can quickly notify a reporter of any problems discovered during our edit processes. The reporter can make his/her own corrections and quickly resubmit the reports to us. This automated process reduces the exchange of paper and the attendant confusion.

Electronic reporting, along with other streamlining and process improvements, has reduced our error correction costs by 20 percent, our manual data entry costs by 60 percent, and our file maintenance costs by 24 percent. Many reporters using an electronic reporting option have experienced up to a 50 percent reduction in resources needed to comply with our reporting requirements.

An additional advantage of electronic reporting is the expanded time to report. If a reporter uses E-mail or Electronic Data Interchange (EDI), he/she can transmit reports to us on the due date rather than several days before the due date to allow for manual delivery. This additional time allows a reporter to collect more accurate and complete data, thereby reducing the need for amended reports. We can also process the reports faster because electronic reports do not require manual data entry.

We offer various electronic reporting options and means of transmission for different reporters. We will work closely with all reporters to provide advice on the best electronic reporting options. Large reporters may use standards approved by the American National Standards Institute, Accredited Standards Committee X12, for sending data via EDI. Small to medium reporters may use a template software version we offer at no cost and transmit their reports to us by diskette or E-mail. We provide detailed electronic reporting guidelines to reporters converting to electronic reporting media. These guidelines consist of a variety of record layout specifications and template software with appropriate user's guides from which the reporter can select the option best suited to his/her needs.

We are requesting specific comments from reporters who do not currently report to us electronically on their capability (hardware, software, knowledgeable personnel, etc.) to convert to electronic reporting.

Conversion to electronic reporting is typically not time-consuming and does not require an extensive knowledge of computer programming. For example, if a reporter is currently using an electronic spreadsheet such as Microsoft Excel to produce a paper report, we can provide a record layout for converting to a Comma Separated Values format which can be transmitted electronically. Reporters who use electronic reports experience few problems with converting or submitting their monthly reports.

For those reporters who do not have computers, there are numerous reporting services that can provide electronic reporting at a reasonable cost. We can provide a list of reporting services that have MMS-approved electronic reporting formats. Any other reporting service not currently using an MMS-approved electronic reporting format can contact us for approval and be added to this list. Please contact Ralph Spencer at (303) 231–3095 for further information.

As an added incentive to report electronically, we are proposing to extend the due date for production reports submitted electronically by 10 days. In a recent pilot program, we tested this concept by extending the due date 10 days for production reports filed using any of our electronic reporting options. We were able to process electronic production reports and provide corrected data to users, such as the Bureau of Land Management (BLM), with no delay.

Because the pilot results were favorable, we are incorporating the extended due date for production reports in this proposed rule. This extension would not apply to the Form MMS-2014 Report of Sales and Royalty Remittance. The royalty payment due date would not change.

Through this rulemaking, we also are proposing to eliminate the requirement to report most wells that are in drilling status. Currently, operators must report drilling wells on Form MMS–3160, Monthly Report of Operations, or Form MMS–4054, Oil and Gas Operations Report, to MMS, and on other reports to either BLM or Offshore Minerals Management in MMS. We propose to amend our regulations to require Forms MMS–3160 and MMS–4054 only on completed wells, unless otherwise directed by MMS. Generally, operators would report wells when drilling is concluded, that is, when the well status changes to completed, temporarily abandoned, or abandoned. We would continue to require reports for the months drilling wells have test production and in some unique or unusual situations on specific leases or agreements. We would notify operators when reporting is required on drilling wells.

These proposed amendments, when adopted, would be effective December 31, 1998, to allow sufficient time for reporters to convert to electronic reporting.

II. Section-by-Section Analysis

PART 210—FORMS AND REPORTS

Section 210.10(c)(1), (2), and (7) Information collection

We would amend these paragraphs to reflect the reduced monthly reporting burden associated with electronic reporting. We estimate reporting electronically would reduce your monthly reporting burden by 50 percent or more if you do not now report electronically. Although converting to electronic reporting would require a resource investment, your monthly benefits would ultimately offset initial conversion costs.

Section 210.10(d) Information Collection

We would amend this paragraph to reflect changes required by the Paperwork Reduction Act of 1995 and to provide updated addresses for commenting on information collections.

Section 210.20 Electronic reporting

This section would require you to submit the following three reports electronically:

- Report of Sales and Royalty Remittance, Form MMS–2014.
- Monthly Report of Operations, Form MMS–3160.
- Oil and Gas Operations Report, Form MMS–4054.

This section would also contain the following provisions:

- Several electronic reporting options, and their order of preference, would be identified.
- You would have to obtain MMS electronic reporting guidelines and arrange to have an electronic sample reviewed and approved by MMS before submitting your first official electronic report.
- You would have to sign an electronic commerce agreement when transmitting your reports by E-mail or EDI.
- Certain security measures would apply to EDI formats and E-mail transmissions.
- A new reporter would have to begin reporting electronically within 90 days from the day its first report is due.
- We will assess you a fee per report line for failure to report electronically under this part after the 90-day period to compensate the Government for the increased costs incurred as a result of a reporter's non-compliance. We will accept your manual reports after the 90-day period to assure that royalties collected are distributed to the proper recipient. However, you will be assessed a fee for failure to report electronically after the 90-day grace period.

Section 210.52 Report of Sales and Royalty Remittance

This section would be amended to remove the references to magnetic tape as the only alternative to a paper Form MMS–2014. Specific reference to payments by electronic funds transfer would also be removed because electronic funds transfer is not the only option for electronic payments. Information on electronic payments is contained in 30 CFR 218.51.

PART 216—PRODUCTION ACCOUNTING

Section 216.11 Electronic reporting

This new section in Subpart A—General Provisions would require electronic submission of Forms MMS–3160 and MMS–4054. Specific requirements for electronic reporting would be located in 30 CFR 210.20.

Section 216.50 Monthly Report of Operations

This section would be amended to require reports only on completed wells unless otherwise directed by MMS. We would also extend the due date from the 15th to the 25th day of the second month following the month of production when your Monthly Report of Operations, Form MMS–3160, is filed electronically.

Section 216.53 Oil and Gas Operations Report

This section would be modified to require reports only on completed wells unless otherwise directed by MMS. We would also extend the due date from the 15th to the 25th day of the second month following the month of production when your Oil and Gas Operations Report, Form MMS–4054, is filed electronically.

Section 216.55 Gas Plant Operations Report

We have no electronic reporting options for the Gas Plant Operations Report, Form MMS–4056. However, this section would be modified to extend the due date for Form MMS–4056 from the 15th to the 25th day of the second month following the month of production when your Form MMS–3160

or Form MMS–4054 is filed electronically.

Section 216.56 Production Allocation Schedule Report

We have no electronic reporting options for the Production Allocation Schedule Report, Form MMS–4058. However, this section would be modified to extend the due date for the Form MMS–4058 from the 15th to the 25th day of the second month following the month of production when your Form MMS–4054 is filed electronically.

III. Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will have no effect on tribal governments or other small governmental jurisdictions. Approximately 2,000 entities who pay royalties and 2,750 entities who report production from Federal and Indian lands will be impacted, and the majority of these entities are small businesses because they employ 500 or less employees. However, the economic impact to these small businesses will not be significant because one-time monetary outlays to convert to electronic reporting will be offset by reduced monthly costs to report to MMS.

Estimated outlays for equipment or contracted services necessary to submit electronic reports to MMS vary widely depending on the number of properties reported, the electronic reporting option selected, and the reporter's access to a computer.

- *Costs for reporters who have computers.* Converting to a Comma Separated Values (CSV) format or template software, which does not require professional programmers, may require 10 hours depending on the number of properties reported. Additional time to maintain the software may require 10 hours per year. Using a cost of $35 per hour, reporters who have computers will incur a one-time cost of $350 and an annual cost to maintain the software of $350. We estimate that 80 percent of reporters not currently reporting to us electronically will use the CSV or template option to comply with this rule.
- *Costs for reporters who do not have computers.* Reporters who do not have computers may choose to contract with an electronic reporting service or may choose to purchase a computer and/or a software package from an electronic reporting service. These reporters may incur average capital/startup costs of $2,000 and subsequent annually operating and maintenance costs of $350.
- *Your comments are important.* The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions in this proposed rule, call 1–888–734–3247.

Executive Order 12866

This rule is not a significant rule subject to Office of Management and Budget review under Executive Order 12866.

Executive Order 12988

The Department has certified to the Office of Management and Budget that this proposed regulation meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

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

Paperwork Reduction Act

This proposed rule does contain information collection requirements. These requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB Control Numbers 1010–0022 and 1010–0040.

As discussed below, this proposed rule impacts two existing collections of information which have been submitted to the Office of Management and Budget (OMB) for review and approval under section 3507(d) of the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden. Submit your comments to the Office of Information and Regulatory Affairs, OMB, Attention Desk Officer for the Department of the Interior, Washington, DC 20503. Send copies of your comments to: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, PO Box 25165, MS 3021, Denver, Colorado 80225–0165; courier address is: Building 85, Denver Federal Center, Denver, Colorado 80225; e-Mail address is: RMP.comments@mms.gov.

OMB may make a decision to approve or disapprove this collection of information after 30 days from receipt of our request. Therefore, your comments are best assured of being considered by OMB if OMB receives them within that time period. However, MMS will consider all comments received during the comment period for this notice of proposed rulemaking.

The burden hours associated with two existing information collections titled Report of Sales and Royalty Remittance (Form MMS–2014), OMB Control Number 1010–0022, and Production Accounting and Auditing System (PAAS) Reports [Facility and Measurement Information Form (FMIF), Form MMS–4051; Oil and Gas Operations Report (OGOR), Form MMS–4054; Gas Analysis Report (GAR), Form MMS–4055; Gas Plant Operations Report (GPOR), Form MMS–4056; Monthly Report of Operations (MRO), Form MMS–3160; Production Allocation Schedule Report (PASR), Form MMS–4058], OMB Control Number 1010–0040, will be reduced by this proposed rulemaking.

MMS estimates that 275,000 lines will be submitted on Form MMS–2014 each month by 2,000 payors. We estimate that a payor will complete a line on the Form MMS–2014 in 2 minutes and that each payor will spend 10 hours on related recordkeeping. The annual burden for reporting electronically under this information collection will be 134,000 hours under this proposed rulemaking.

MMS estimates that the total annual burden for reporting electronically all PAAS reports will be 53,030 hours. Approximately 290,000 Form MMS–3160 reports will be submitted annually, and we estimate that the operator will take ⅛ hour to complete the report or 36,250 burden hours annually. Approximately 59,000 Form MMS–4054 reports will be submitted annually, and we estimate that the operator will take ¼ hour to complete the report or 14,750 burden hours annually. Approximately 7,200 Form MMS–4058 reports will be submitted annually, and we estimate that the operator will take ¼ hour to complete the report manually or 1,800 burden hours annually. Approximately 450 Form MMS–4056 reports will be submitted annually, and we estimate that the operator will take ½ hour to complete the report manually or 225 burden hours. Approximately 10 Form

MMS–4055 reports will be submitted annually, and we estimate that the operator will take ¼ hour to complete the report manually or 2.5 burden hours. Approximately 8 Form MMS–4051 reports will be submitted annually by telephone, and we estimate that the operator will take ¼ hour to complete this report for 2 burden hours.

In compliance with the Paperwork Reduction Act of 1995, section 3506 (c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, and are inviting your comments. For instance your comments may address the following areas. Is this information collection necessary for us to properly do our job? Have we accurately estimated the industry burden for responding to this collection? Can we enhance the quality, utility, and clarity of the information we collect? Can we lessen the burden of this information collection on the respondents by using automated collection techniques or other forms of information technology?

The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 216

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

For the reasons stated in the preamble, MMS proposes to amend 30 CFR parts 210 and 216 as follows:

PART 210—FORMS AND REPORTS

1. The authority citation for part 210 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

2. Amend § 210.10 by revising paragraphs (c)(1), (c)(2), (c)(7), and (d) to read as follows:

§ 210.10 Information collection.

* * * * *

(c) * * *

(1) *MMS–2014*—Used monthly to report lease-related transactions essential for royalty management to determine the correct royalty amount due, reconcile or audit data, and distribute payments to appropriate accounts. Public reporting burden for paper submission is estimated to average 7 minutes to complete each line item on the form, including the time necessary to assemble data, calculate value and royalty, and enter data on the form. Companies reporting electronically may average 2 minutes to complete each line item on the form. Comments submitted relative to this information collection should reference the information collection titled Report of Sales and Royalty Remittance, OMB Control Number 1010–0022.

(2) *MMS–3160*—Used by onshore oil and gas lease operators to report monthly oil and gas production to MMS. Public reporting burden for paper submission is estimated to average 15 minutes per form, including the time necessary to assemble data, ensure that production and disposition numbers are accurate, and enter data on the form. Companies reporting electronically may average 7.5 minutes per month to complete the form. Comments submitted relative to this information collection should reference the information collection titled PAAS Oil and Gas Reports, OMB Control Number 1010–0040.

* * * * *

(7) *MMS–4054*—This three-part form identifies all oil and gas lease production from Federal and Indian lands. MMS uses information from this form to track oil and gas from the point of first sale or other disposition. Respondents will generally not use all three parts of the form. Public reporting burden for paper submission is estimated to average 30 minutes per month, including the time necessary to assemble data, ensure that production and disposition numbers are accurate, and enter data on the form. Companies reporting electronically may average 15 minutes per month to complete the form. Comments submitted relative to this information collection should reference the information collection titled PAAS Oil and Gas Reports, OMB Control Number 1010–0040.

* * * * *

(d) *Comments on burden estimates.* Send comments on the accuracy of this burden estimate or suggestions on reducing this burden to the Information Collection Clearance Officer, MS 4230, MMS, 1849 C Street, NW., Washington, DC 20240 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the U.S. Department of the Interior, OMB Control Number 1010–XXXX, Washington, DC 20503. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

3. Add § 210.20 to subpart A to read as follows:

§ 210.20 Electronic reporting.

(a) You must submit Forms MMS–2014, MMS–3160, and MMS–4054 to MMS electronically.

(b) You may use any of the following electronic media types, unless MMS instructs you differently:

(1) Electronic Data Interchange (EDI)—The inter-organizational, computer-to-computer exchange of structured information in a standard, machine-processable format;

(2) Electronic Mail (E-mail)—Any communications service used to electronically transmit and store messages and attach files. MMS has three file options:

(i) Template—MMS-provided software that generates blank forms on a personal computer to assist companies in preparing MMS regulatory reports (this option is not available for Form MMS–4054);

(ii) Comma Separated Values (CSV)—A file format where attribute fields are separated by commas; and

(iii) American Standard Code for Information Interchange (ASCII)—A file format of fixed-length records with fixed-length attribute fields;

(3) Reporter-Prepared Diskette (3½ inch)—A data storage medium used to transmit report data using one of the following file options:

(i) Template;

(ii) CSV; and

(iii) ASCII;

(4) Magnetic or Cartridge Tape—A data storage medium used to transmit report data in an ASCII file format.

(c) MMS prefers that you use the media types in the order presented in § 210.20(b) to the extent it is cost

effective and practical. As technology changes, MMS will consider other media types and the order of MMS preference may change. Refer to our electronic commerce brochure for the most current reporting options. You can receive a copy of our brochure by calling your MMS representative.

(d) Before you begin reporting electronically:

(1) You must submit an electronic sample of your report for MMS approval using the MMS-supplied electronic reporting guidelines;

(2) If you choose to use EDI or E-mail, you must sign an electronic commerce agreement (ECA). An ECA is an agreement between you and MMS that sets forth the terms and conditions for sending and receiving your electronic report data transactions or funds. This agreement ensures that your report data transactions or funds transfer are legally valid and enforceable;

(3) If you choose to use EDI, MMS must verify your sender identification numbers and security code before you may begin reporting electronically; and

(4) If you choose to use the E-mail interchanges, MMS must verify your originating address and compression software passwords before you may begin reporting electronically.

(e) When MMS approves your sample, we will notify you to begin reporting electronically.

(f) If you are a new reporter to MMS, you have 90 days from the day your first report is due to begin reporting electronically.

(g) After 90 days, we will assess you a fixed fee per report line if you report other than electronically. We will assess you a fixed fee per report line if you do not report electronically. MMS will calculate a reasonable fee in light of the increased costs to the Government of a reporter's non-compliance, and will publish the per line fee rate in the **Federal Register**. MMS may change the per line fee as circumstances warrant by publishing notice in the **Federal Register**.

4. Section 210.52 is revised to read as follows:

§ 210.52 Report of sales and royalty remittance.

You must submit a completed Report of Sales and Royalty Remittance (Form MMS–2014) with all payments to MMS for royalties and, where specified, for rents on nonproducing leases. When you submit Form MMS–2014 data electronically, you are not required to submit the form itself. Completed Form MMS–2014's for royalty payments are due by the end of the month following the production month. Where applicable, completed Form MMS–2014's for rental payments are due no later than the anniversary date of the lease. This section does not prohibit you from making early payments voluntarily.

PART 216—PRODUCTION ACCOUNTING

5. The authority citation for part 216 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396, 2107; 30 U.S.C. 189, 190, 359, 1023, 1751(a); 31 U.S.C. 3716, 9701; 43 U.S.C. 1334, 1801 *et seq.*; and 44 U.S.C. 3506(a).

Subpart A—General Provisions

6. Add § 216.11 to subpart A to read as follows:

§ 216.11 Electronic reporting.

You must submit your Monthly Report of Operations, Form MMS–3160, or the Oil and Gas Operations Report, Form MMS–4054, electronically. Specific requirements are located in 30 CFR 210.20.

Subpart B—Oil and Gas, General

7. Amend § 216.50, by redesignating paragraphs (b) through (d) as paragraphs (f) through (h), revising paragraph (a), and adding new paragraphs (b) through (e) to read as follows:

§ 216.50 Monthly report of operations.

(a) You must submit a Monthly Report of Operations, Form MMS–3160, if you operate either an onshore Federal or Indian lease or an onshore federally-approved agreement that contains one or more wells that are not permanently plugged and abandoned.

(b) You must submit a Form MMS–3160 for each well for each calendar month, beginning with the month in which you complete drilling, unless you have only test production from a drilling well or MMS tells you in writing to do otherwise.

(c) MMS must receive your completed Form MMS–3160 on or before:

(1) The 25th day of the second month following the month for which you are reporting; or

(2) The 15th day of the second month following the month for which you are reporting, if you are a new reporter and not yet converted to electronic reporting.

(d) You must continue reporting until either:

(1) BLM approves all wells as permanently plugged or abandoned and you dispose of all inventory; or

(2) The lease or agreement is terminated.

(e) You do not have to submit Form MMS–3160 if:

(1) You are authorized to submit an Oil and Gas Operations Report, Form MMS–4054, instead of a Form MMS–3160; or

(2) You operate a gas storage agreement. You must report gas storage agreements to the appropriate BLM office.

* * * * *

8. Section 216.53 is revised to read as follows:

§ 216.53 Oil and gas operations report.

(a) You must file an Oil and Gas Operations Report, Form MMS–4054, if you operate either an OCS lease or federally-approved agreement; or an onshore Federal or Indian lease or federally-approved agreement for which you elected to report on a Form MMS–4054 instead of a Form MMS–3160, that contains one or more wells that are not permanently plugged and abandoned.

(b) You must submit a Form MMS–4054 for each well for each calendar month, beginning with the month in which you complete drilling, unless you have only test production from a drilling well or MMS tells you in writing to do otherwise.

(c) MMS must receive your completed Form MMS–4054 on or before:

(1) The 25th day of the second month following the month for which you are reporting; or

(2) The 15th day of the second month following the month for which you are reporting, if you are a new reporter and not yet converted to electronic reporting.

(d) You must continue reporting until either:

(1) BLM or MMS approves all wells as permanently plugged or abandoned and you dispose of all inventory; or

(2) The lease or agreement is terminated.

9. Section 216.55 is revised to read as follows:

§ 216.55 Gas plant operations report.

(a) You must submit a Gas Plant Operations Report, Form MMS–4056, if you operate either:

(1) A gas plant that processes gas originating from an OCS lease or federally-approved agreement before the point of final royalty determination; or

(2) A gas plant that processes gas from an onshore Federal or Indian lease or federally-approved agreement before the point of final royalty determination and MMS has asked you to submit a Form MMS–4056.

(b) You must submit a Form MMS–4056 for each calendar month beginning with the month gas processing is initiated.

(c) MMS must receive your completed Form MMS–4056 on or before:

(1) The 25th day of the second month following the month for which you are reporting; or

(2) The 15th day of the second month following the month you for which are reporting, if you are a new reporter and not yet converted to electronic reporting for Forms MMS–3160 and MMS–4054.

(d) Your report must show 100 percent of the gas.

(e) If your plant has not processed gas that originated from a Federal onshore, OCS, or Indian lease, or federally-approved agreement before the point of final royalty determination for 6 months or more, then:

(1) You must notify MMS in writing; and

(2) You are not required to file a Form MMS–4056 until your plant resumes processing such gas.

10. Amend § 216.56 to revise paragraph (b) and add paragraph (c) to read as follows:

§ 216.56 Production allocation schedule report.

* * * * *

(b) You must submit a Production Allocation Schedule Report, Form MMS–4058, for each calendar month beginning with the month in which you first handle production covered by this section.

(c) MMS must receive your Form MMS–4058 on or before the following dates:

(1) The 25th day of the second month following the month for which you are reporting; or

(2) The 15th day of the second month following the month for which you are reporting, if you are a new reporter and not yet converted to electronic reporting for Form MMS–4054.

[FR Doc. 98–9109 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

[SPATS No. UT–037–FOR]

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Utah regulatory program (the ''Utah program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah's amendment includes proposed changes in requirements for subsidence control plans, subsidence control, and water replacement in context of the definitions, engineering, and hydrology parts of the Utah Administrative Rules (Utah Admin. R.) at R645 *et seq.*

The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations and improve operational efficiency.

DATES: Written comments must be received by 4 p.m., m.d.t. May 8, 1998. If requested, a public hearing on the proposed amendment will be held on May 4, 1998. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on April 23, 1998.

ADDRESSES: Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733, Telephone: (303) 844–1424

Lowell P. Braxton, Acting Director, Division of Oil, Gas and Mining, 1594 West North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, Utah 84114–5801, Telephone: (801) 538–5340

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Chief, Denver Field Division, Telephone: (303) 844–1424.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16 and 944.30.

II. Proposed Amendments

By letter dated March 20, 1998, (administrative record No. UT–1103) Utah submitted a proposed amendment (SPATS No. UT–037–FOR, administrative record No. 1105) to its program pursuant to SMCRA (30 U.S.C. 1202 *et seq.*). Utah submitted the proposed amendment in response to a June 5, 1996, letter (administrative record No. UT–1083) that OSM sent to Utah in accordance with 30 CFR 732.17(c), and at its own initiative.

The proposed amendment consists of revisions to and additions of rules pertaining to: adding definitions for ''material damage'', ''non-commercial building'', ''occupied residential dwelling and structures related thereto'', ''replacement of water supply'', and ''state appropriated water supply'' at R645–100–200; adding requirements at R645–301–525.100 through 525.130 for pre-subsidence surveys; removing existing requirements for subsidence control plans at R645–301–525 through 525.170; redesignating rules at R645–301–525.200 through 525.240 pertaining to protected areas; removing existing requirements for subsidence control at R645–301–525.200 through 525.232; adding requirements at R645–301–525.300 through 525.490 for subsidence control and subsidence control plans; adding requirements for subsidence damage repair at R645–301–525.500 through 525.530; adding a rebuttable presumption of causation by subsidence at R645–301–525.540 through 525.545; adding provisions at R645–301–525.550 for adjusting bond amounts for subsidence damage; redesignating rules at R645–301–525.600 and 525.700 requiring compliance with approved subsidence control plans and public notice of proposed mining; removing existing requirements for aquifer surveys at R645–301–724.600; adding provision at R645–301–728.350 for finding whether underground coal mining and reclamation activities might contaminate, diminish or interrupt State-appropriated water; and adding a requirement at R645–301–731.530 for replacing State-appropriated water supplies that are contaminated, diminished, or interrupted by underground coal mining activities.

Proposed Definition Changes

Specifically, the State proposes to add five definitions to its rules. Definitions the State proposes to add in R645–100–200 are: ''material damage''; ''non-commercial building''; ''occupied residential dwelling and structures related thereto''; ''replacement of water

supply''; and ''state appropriated water supply.''

Utah proposes to defined ''material damage'' for the purposes of R645–301–525 (Subsidence Control Plan) as

(a) any functional impairment of surface lands, features, structures or facilities; (b) any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or (c) any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition.

''Non-commercial building'' as defined in the proposed amendment means

any building, other than an occupied residential dwelling, that, at the time the subsidence occurs, is used on a regular or temporary basis as a public building or community or institutional building as those terms are defined at R645–100–200. Any building used only for commercial agricultural industrial, retail or other commercial enterprises is excluded.

Utah's proposed definition of ''occupied residential dwelling and structures related thereto'' for the purposes of R634–301 (Coal Mine Permitting: Permit Application Requirements) is

any building or other structure that, at the time the subsidence occurs, is used either temporarily, occasionally, seasonally, or permanently for human habitation. This term also includes any building, structure or facility installed on, above or below, or a combination thereof, the land surface if that building, structure or facility is adjunct to or used in connection with an occupied residential dwelling. Examples of such structures include, but are not limited to, garages; storage sheds and barns; greenhouses and related buildings; utilities and cables; fences and other enclosures; retaining walls; paved or improved patios, walks and driveways; septic sewage treatment facilities; and lot drainage and lawn and garden irrigation systems. Any structure used only for commercial agricultural, industrial, retail or other commercial purposes is excluded.

The term ''replacement of water supply'' as proposed in Utah's amendment means

with respect to State-appropriated water supplies contaminated, diminished, or interrupted by coal mining and reclamation operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provision of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

(a) Upon agreement by the permittee and the water supply owner, the obligation to pay such operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner.

(b) If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

Lastly, Utah's proposed definition of ''state appropriate water supply'' means

State-created water rights which are recognized under the provision of the Utah Code.

Proposed Changes for Engineering Information About Subsidence To Be Included in a Permit Application

Utah proposes to revise its rules at R645–301–525 *et seq.*, which are the requirements for engineering information to be included in a permit application. The proposed amendment would add requirements for subsidence control and subsidence control plans and revise existing requirements.

(a) Proposed Requirements for Pre-Subsidence Surveys

The State proposes at R645–301–525 to establish requirements for subsidence control plans. At R645–301–525.100, Utah proposes to add the requirement that each application for underground coal mining and reclamation activities include a pre-subsidence survey. Proposed R645–301–525.110 requires a

* * * map of the permit and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the Division [of Oil, Gas and Mining, ''the Division''], showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value or reasonably foreseeable use may be diminished by subsidence, and showing the location and type of State-appropriated water that could be contaminated, diminished, or interrupted by subsidence.

Proposed R645301–525.120 requires

[a] narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable resource lands or could contaminate, diminish, or interrupt State-appropriated water supplies.

Utah proposes at R645–310–525.130 to require the pre-subsidence survey to include

[a] survey of the condition of all non-commercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the quantity and quality of all State-appropriated water supplies within the permit area and adjacent area that could be contaminated, diminished, or interrupted by subsidence. If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner, in writing, of the effect that denial of access will have as described in R645–301–525. The applicant must pay for any technical assessment or engineering evaluation used to determine the pre-mining condition or value of such non-commercial buildings or occupied residential dwellings and structures related thereto and the quantity and quality of State-appropriated water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and to the Division.

The State proposes to remove existing provisions for subsidence control plans at R645.525 through 525.170 as a result of the proposed addition of the subsidence plans requirements described in the preceding two paragraphs.

Utah also proposes to add the heading ''Protected areas'' at R645–301–525.200 and to redesignate the following eight sections R645.525.210 through 525.240. These rules apply to areas that underground coal mining and reclamation activities will not be conducted under or adjacent to. The State also proposes to remove the existing provisions for subsidence control at R645.525.200 through 525.232.

(b) Proposed Subsidence Control Measures

Utah also proposes to add requirements for subsidence control at R645–301–525.300 and the subject heading ''Measures to prevent or minimize damage'' at 525.310. As proposed at R645–301–525.311,

[t]he permittee will either adopt measures consistent with known technology that prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands or adopt mining technology that provides for planned subsidence in a predictable and controlled manner.

Proposed R645–301–525.312 requires that,

[i]f a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to non-commercial buildings and

occupied residential dwellings and structures related thereto except that measures required to minimize material damage to such structures are not required if:
525.312.1 The permittee has the written consent of their owners or
525.312.2 Unless the aniticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair.

Utah's proposed R6454.301–525.313 provides that

[n]othing in this part prohibits the standard method of room-and-pillar mining.

(c) Proposed Subsidence Control Plan Content Requirements

Utah proposes subsidence control plan contents at R645–301–525.400. This section provides that

[i]f the survey conducted under R645–301–525.100 shows that no structures, or State-appropriated water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution, or interruption of such water supplies would occur as a result of mine subsidence, and if the Division agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution, or interruption of state-appropriated water supplies, or if the Division determines that damage, diminution in value or foreseeable use, or contamination, diminution, or interruption could occur, the application must include a subsidence control plan that contains the following information:
525.410 A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining, including the size, sequence and timing of the development of underground workings;
525.420 A map of the underground workings that describes the location and extent of the areas in which planned-subsidence mining methods will be used and that identifies all areas where the measures described in 525.440, 525.450, and 525.470 will be taken to prevent or minimize subsidence and subsidence-related damage; and, when applicable, to correct subsidence-related material damage;
525.430 A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlaying strata, that affect the likelihood or extent of subsidence and subsidence-related damage;
525.440 A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct material damage in accordance with R645–301–525.500;
525.450 Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence-related damage, such as, but not limited to:
525.451 Backstowing or backfilling of voids;
525.452 Leaving support pillars of coal;
525.453 Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and
525.454 Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface;
525.460 A description of the anticipated effects of planned subsidence, if any;
525.470 For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to non-commercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs of repair;
525.480 A description of the measures to be taken in accordance with R645–301–731.530 and R645–301–525.500 to replace adversely affected State-appropriated water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures; and
525.490 Other information specified by the Division as necessary to demonstrate that the operation will be conducted in accordance with R645–301–525.300.

(d) Proposed Requirements for Subsidence Damage Repair

Utah's proposed amendment at R645–301–525.510 provides that

[t]he permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

Utah proposes at R645–312–525.520 that

[t]he permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence-related damage. The permittee may provide compensation by the purchase, before mining, of a non-cancelable premium-prepaid insurance policy. The requirements of this paragraph apply only to subsidence-related damage caused by underground coal mining and reclamation activities conducted after October 24, 1992.

Utah's proposed rule at R645–301–525.530 provides that

[t]he permittee shall either correct material damage resulting from subsidence caused to any structures or faculties not protected by paragraph 525.520 by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a non-cancelable premium-prepaid insurance policy.

Proposed R645–301–525.540 through 525.545 provide a rebuttable presumption of causation by subsidence within a certain angle of draw. At R645–301–525.541, Utah proposes that,

[i]f damage to any non-commercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting an angle of draw equal to that used for that particular mine's compliance with R645–301 from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. This presumption will normally apply to a 30 degree angle of draw from the vertical, however, the Division may amend the applicable angle of draw for a particular mine through the process described in R645–301–525.542.

Proposed section R645–301–525.542 provides that

[a] permittee or permit applicant may request that the presumption apply to an angle of draw different than 30 degrees. To establish a site-specific angle of draw, an applicant must demonstrate and the Division must determine in writing that the proposed angle of draw has a more reasonable basis than 30 degrees and is based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation.

Under proposed R645–301–525.543, there is

[n]o presumption where access for pre-subsidence survey is denied. If the permittee was denied access to the land or property for the purpose of conducting the pre-subsidence survey in accordance with R645–301–525.130 no rebuttable presumption will exist.

Utah proposes under R645–301–525.544 that

[t]he presumption will be rebutted if, for example, the evidence establishes that: The damage predated the mining in question; the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence; or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.

Proposed R645–301–525.545 provides that

[i]n any determination whether damage to protected structures was caused by

subsidence from underground mining, all relevant and reasonably available information will be considered by the Division.

Utah proposes to add provisions for adjustment of bond amount for subsidence damage at R645–301–525.550. As proposed,

[w]hen subsidence-related material damage to land, structures or facilities protected under R645–301–525.500 through R645–301–525.530 occurs, or when contamination, diminution, or interruption to a water supply protected under Sec. R645–301–731.530 occurs, the Division must require the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the State-appropriated water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation, or replacement is completed within 90 days of the occurrence of damage, no additional bond is required. The Division may extend the 90-day time frame, but not to exceed one year, if the permittee demonstrates and the Division finds in writing that subsidence is not complete, that not all probable subsidence-related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the State-appropriated water supply, and that therefore it would be unreasonable to complete within 90 days the repair of the subsidence-related material damage to lands or protected structures, or the replacement of State-appropriated water supply.

Utah proposes to redesignate former R645–301–525.220 as 525.600 and to add the heading, ''Compliance'' to the new section. It also proposes to redesignate R645–301–525.300, entitled ''Public Notice of Proposed Mining'', as 525.700.

Proposed Changes in Hydrology Information for Permit Applications

Utah proposes to remove existing requirements at R645–301–724.600 for surveys that were to determine if aquifers would be materially damaged or diminished by subsidence. Such surveys were to be included in subsidence control plans required by R645–301–525. The proposed removal follows the change to R645–301–525 as proposed by this amendment at R645–301–728.350.

Utah proposes at R645–301–728.350 an alternative to the existing provision at R645–301–728.340 for probable hydrologic consequences determinations to include findings on the effects of surface coal mining and reclamation activities on underground or surface water sources. The alternative would apply to underground coal mining and reclamation activities. In such cases, Utah proposes that probable hydrologic consequence determinations include findings on

[w]hether the underground coal mining and reclamation activities conducted after October 24, 1992[,] may result in contamination, diminution or interruption of State-appropriated water in existence at the time the application is submitted and used for legitimate purposes within the permit and adjacent areas.

Under provisions applicable to State-appropriated water supplies in a permit application's operation plan, Utah proposes that

[t]he permittee will promptly replace any State-appropriated water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected water supply was in existence before the date the Division received the permit application for the activities causing the loss, contamination or interruption. The baseline hydrologic and geologic information required in R645–301–700. will be used to determine the impact of mining activities upon the water supply.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If OSM finds the amendment adequate, it will become part of the Utah program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. OSM will not necessarily consider comments it receives after the time indicated under **DATES** or at locations other than the Denver Field Division in the final rulemaking, or include them in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.d.t. on April 23, 1998. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. OSM will arrange the location and time of the hearing with those persons requesting the hearing. OSM will not hold a public hearing if no one requests an opportunity to testify at a hearing.

OSM requests that commenters file a written statement at the time of the hearing because doing so will greatly assist the transcriber. If commenters submit written statements in advance of the hearing, OSM will be able to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

OSM may hold a public meeting if only one person requests an opportunity to testify at a public hearing. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, OSM will post notices of meetings at the locations listed under **ADDRESSES**. OSM will make a written summary of each meeting part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decision on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of

30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 31, 1998.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 98–9173 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–05–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 98–2]

Fees

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule; correction

SUMMARY: The Copyright Office published in the **Federal Register** of April 1, 1998, a proposed rule regarding new fees for special services. This document corrects the special services fee chart.

DATES: April 8, 1998.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, or Patricia Sinn, Senior Attorney, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024, or telephone (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The proposed rule Docket No. 98–2 regarding fees published beginning on page 15802 in the April 1, 1998, issue of the **Federal Register**, contained errors in the special services fee chart appearing on pages 15806–15807 that need to be clarified.

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

PART 201—GENERAL PROVISIONS

In consideration of the foregoing, the proposed rule amending part 201 of 37 CFR chapter II published at 63 FR 15802 is corrected as follows:

§ 201.32 [Corrected]

On page 15806, in § 201.32, the special services fee chart is corrected to read as follows:

Special services	Fees
1. Service charge for deposit account overdraft	$70
2. Service charge for dishonored deposit account replenishment check	35
3. Service charge for short fee payment	20
4. Appeals:	
a. First appeal	200
Additional claim in related group	20
b. Second appeal	500
Additional claim in related group	20
5. Secure test processing charge, per hour	60
6. Copying charge, first 15 pages, per page	1
Each additional page	.50
7. Inspection charge	65
8. Special handling fee for a claim	500
Each additional claim using the same deposit	50
9. Special handling for recordation of a document	330
10. Full-term storage of deposits	365
11. Surcharge for expedited Certifications and Documents Section services:	
a. Additional certificates, per hour	75
b. In-process searches, per hour	75
c. Copy of assignment, per hour	75
d. Certification, per hour	75
e. Copy of registered deposit.	
First hour	95
Each additional hour	75
f. Copy of correspondence file:	
First hour	95
Each additional hour	75
12. Surcharge for expedited Reference and Biblography searches:	
First hour	125
Each additional hour	95

Dated: April 2, 1998.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 98–9235 Filed 4–7–98; 8:45 am]

BILLING CODE 1410–30–P

POSTAL SERVICE

39 CFR Part 111

Proposed Domestic Mail Manual Changes to Implement the Rate, Fee, and Classification Changes Proposed in Docket No. R97–1; Correction

AGENCY: Postal Service.

ACTION: Correction to proposed rule.

SUMMARY: This document contains corrections to the proposed rule published in the **Federal Register** on Monday, March 16, 1998 (63 FR 12864). The proposed rule provided information on the implementing rules for the rate, fee, and classification changes that the Postal Service proposes to adopt if the Postal Rate Commission's recommended decision on R97–1 is consistent with the Postal Service's request and the Governors of the Postal Service, acting pursuant to 39 U.S.C. 3625, approve that recommended decision.

DATES: Comments on the proposed rule (including these corrections) must be received on or before April 15, 1998.

ADDRESSES: Mail or deliver written comments to the Manager, Mail Preparation and Standards, USPS Headquarters, 475 L'Enfant Plaza SW, Room 6800, Washington, DC 20260–2405. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, 202–268-6351.

SUPPLEMENTARY INFORMATION: This notice corrects several errors in the proposed rule published on March 16, 1998 (63 FR 12864). In particular, this notice makes the following corrections to the proposed Domestic Mail Manual (DMM) standards and rates.

PART 111—[AMENDED]

In proposed C023.12.0, Hazardous Materials Surcharge, correct the text to read as follows:

12.0 Hazardous Materials Surcharge

Mailable hazardous materials described and prepared under C023.10 are subject to a Hazardous Medical Materials surcharge if mailed at the Express Mail, Priority Mail, First-Class Mail (other than cards), Standard Mail (A), Parcel Post, or Library Mail rates. Mailable hazardous materials mailed under C023.1.0 through 6.0 and C023.9.0 and prepared under C021 and C023 are subject to the other hazardous materials surcharge if mailed at the Express Mail, Priority Mail, First-Class Mail (other than cards), Standard Mail (A), Parcel Post, or Library Mail rates. Both surcharges may apply to the same material.

In proposed M045.9.2, Nonmachinable Parcels, correct item b. to read as follows:

Pallet preparation and Line 1 labeling: destination BMC or destination ASF (required); for line 1, use L605.

In proposed M045.10.2, Nonmachinable Parcels, correct item b. to read as follows:

Pallet preparation and Line 1 labeling: destination BMC or destination ASF (required); for line 1, use L605.

In proposed R100.2.0, Automation—Single Pieces of PRM and QBRM, correct the entire section to read as follows:

AUTOMATION—SINGLE PIECES OF PRM AND QBRM

21 Cards

Single postcards meeting the standards in C100, C810, C840, E110, and S922 (QBRM) or S925 (PRM):

Type	Rate [1]
Single	$0.18

[1] 1 PRM is also subject to fees in S925 and R900. QBRM is also subject to fees in S922 and R900.

Letters

Letter-size mail other than card rate meeting the standards in C100, C810, C840, and S922 (QBRM) or S925 (PRM):

Weight increment	Rate [1]
First ounce or fraction of an ounce	$0.300
Second ounce or fraction	0.230

[1] 1 PRM is also subject to fees in S925 and R900. QBRM is also subject to fees in S922 and R900.

In proposed R600.1.3, Piece-Pound Rates, correct the table to read as follows:

1.3 Piece-Pound Rates [1]

Pieces more than .2062 pound (3.2985 ounces):

Piece/pound rate [2]	Nonautomation [3]		Automation [4]	
	Basic	3/5	Basic	3/5
Per Piece	$0.166	$0.106	$0.109	$0.073
PLUS—Per Pound (includes entry discount if applicable	PLUS	PLUS	PLUS	PLUS
None	0.650	0.650	0.650	0.650
DBMC	0.578	0.578	0.578	0.578
DSCF	0.562	0.562	0.562	0.562
DDU	.....	.....	.....	.....

[1] Add $0.50 per piece for hazardous medical materials and $1.00 per piece for other hazardous materials.
[2] Each piece is subject to both a piece rate and a pound rate.
[3] Add $0.10 per piece for items that are prepared as a parcel or are neither letter-size nor flat-size.
[4] Available only for automation-compatible flats.

In proposed R600.4.1, Letter-Size Minimum Per-Piece Rates, correct the rate table to read as follows:

Letter-Size Minimum Per-Piece Rates [1]

Pieces 0.2057 pound (3.2914 ounces) or less:

Entry discount	Nonautomation			Automation [2]
	Basic	High density	Saturation	Basic
None	$0.096	$0.073	$0.067	$0.087
DBMC	0.081	0.058	0.052	0.072
DSCF	0.078	0.055	0.049	0.069
DDU	0.073	0.050	0.044	0.064

[1] Add $0.50 per piece for hazardous medical materials and $1.00 per piece for other hazardous materials.
[2] Pieces weighing over 3 ounces subject to additional standards.

In proposed R600.6.2, Presorted Rate, correct the rate table in item a. to read as follows:

6.2 Presorted Rate

a. Base Bound Printed Matter Presorted Rate:

Rate	Zone							
	Local	1 & 2	3	4	5	6	7	8
Per Piece:								
Basic [1]	$0.523	$0.697	$0.697	$0.697	$0.697	$0.697	$0.697	$0.697
Carrier Route	0.456	0.630	0.630	0.630	0.630	0.630	0.630	0.630
Per Pound	0.012	0.061	0.087	0.131	0.198	0.269	0.355	0.428

[1] For barcoded discount, deduct $0.04 per piece (machinable parcels only). Barcoded discount not available for parcels mailed at the carrier route bound printed matter rates.

In proposed R600.8.0, Library Mail, correct the rate table to read as follows:

LIBRARY MAIL [1, 2]

Weight not over (pounds)	Single piece
* * * * * * *	
70	$19.38

[1] Add $0.50 per piece for hazardous medical materials and $1.00 per piece for other hazardous materials.
[2] For barcoded discount, deduct $0.04 per piece (machinable parcels only).

In proposed R600.9.1, Mailing, correct item c. to read as follows:

c. Parcel Post (destination BMC, destination SCF, destination delivery unit): $100.00.

In proposed R900.2.2, Charges, correct the rate table to read as follows:

Charges

Each piece is charged the applicable postage plus the appropriate fee upon return to the permit holder.

Type	Postage (per piece)	Fee with advance deposit account (in addition to postage)	Fee without advance deposit account (in addition to postage)
Regular BRM	Letters: $0.33 first ounce or fraction, $0.23 each additional ounce or fraction. Cards: Single: $0.21.	$0.08	$0.30
Qualified BRM	Letters: $0.30 first ounce or fraction, $0.23 second ounce or fraction. Cards: Single: $0.18.	$0.06	N/A

In proposed R900.18.0, Registered Mail, correct typographical errors in the table to read as follows:

18.0 REGISTERED MAIL

Insurance status	Declared value (in dollars)	Fee (in addition to postage)	Handling charge (in addition to postage and fee)
* * * * * * *			
With insurance (for declared value)	20,000.01 to 21,000.00	$22.85	None.

Insurance status	Declared value (in dollars)	Fee (in addition to postage)	Handling charge (in addition to postage and fee)
*	* * * * *	*	*
With insurance (maximum insurance liability: $25,000.00).	25,000.01 to 1,000,000.00	$25.65	$0.70 per $1,000 or fraction over first $25,000.
*	* * * * *	*	*

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–9276 Filed 4–7–98; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–37, RM–9238]

Radio Broadcasting Services; Palestine and Frankston, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Nicol/Excel Broadcasting, LLC, permittee of Station KLIS(FM), Channel 244C2, Palestine, Texas, requesting the reallotment of Channel 244C2 from Palestine to Frankston, Texas, and the modification of Station KLIS(FM)'s construction permit to specify Frankston as the station's community of license. Channel 244C2 can be allotted to Frankston in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.1 kilometers (5.7 miles) east. The coordinates for Channel 244C2 at Frankston are 32–02–02 and 95–24–30. We shall not accept competing expressions of interest in the use of Channel 244C2 at Frankston or require petitioner to demonstrate the availability of an additional equivalent class channel at Frankston.

DATES: Comments must be filed on or before May 11, 1998, and reply comments on or before May 26, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John S. Logan, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–37, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR PART 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–9105 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–38, RM–9223]

Radio Broadcasting Services; Fowler, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Kevin R. Page seeking the allotment of FM Channel 291A to Fowler, Indiana, as that community's first local aural transmission service. Coordinates used for this proposal are 40–38–05 and 87–18–46.

DATES: Comments must be filed on or before May 11, 1998, and reply comments on or before May 26, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Kevin R. Page, 6314 W 400 N Wolcott, IN 47995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–38, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98– 9107 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–204, RM–8876, RM–9015]

Radio Broadcasting Services; Martin, Tiptonville and Trenton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Order to Show Cause.

SUMMARY: The Commission in response to a counterproposal filed by Thunderbolt Broadcasting, proposes the substitution of Channel 269C3 for Channel 269A at Martin, Tennessee, and the modification of Station WCMT(FM)'s license accordingly; the substitution Channel 247A for vacant Channel 267C3 at Tiptonville, Tennessee; and the substitution of Channel 249C3 for Channel 248C3 at Trenton, Tennessee, and the modification of Station WWEZ(FM)'s license to specify operation on Channel 249C3. An Order to Show Cause is directed Radiocorp of Jackson, Inc., licensee of Station WWEZ(FM), as to why its license should not be modified to specify the alternate Class C3 channel. Channel 267C3 can be substituted for Channel 267A at Martin, Tennessee, in compliance with the Commission's minimum distance separation requirements with a site restriction 14.1 kilometers (8.8 miles) northwest, at coordinates 36–26–09 NL and 88–57–30 WL. Channel 247A can be substituted for Channel 267C3 at Tiptonville with a site restriction of 3.l kilometers (1.9 miles) south, at coordinates 36–21–03 NL and 89–28–11 WL. Channel 249C3 can be substituted for Channel 248C3 at Trenton at the site specified in Station WWEZ(FM)'s license, at coordinates 36–05–10 NL and 88–54–39 WL.

DATES: Comments must be filed on or before May 11, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order to Show Cause, MM Docket No. 96–204, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–9100 Filed 4-7-98; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register
Vol. 63, No. 67
Wednesday, April 8, 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

Committee on Scientists; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Committee on Scientists is scheduled for April 22–23 in Missoula, Montana. The purpose of the meeting is to discuss planning issues on the National Forests in the Northern Region (Montana, Northern Idaho, North Dakota, and Northwestern South Dakota) and the Intermountain Region (Southern Idaho, Nevada, Utah, and Western Wyoming). The Committee will meet with representatives from federal, state, and local organizations to share information and ideas about Committee members assignments, to continue discussions on the scientific principles underlying land and resource management, and to conduct any other Committee business that may arise. The meeting is open to the public. On April 22, beginning at 4 p.m., citizens may address the Committee to present ideas on how to improve National Forest System land and resource management planning. Citizens who wish to speak must register at the meeting before 5 p.m., and each speaker will be limited to a maximum of 5 minutes. Persons may also written suggestions to the Committee.

DATES: A meeting is scheduled for April 22–23 in Missoula, MT.

ADDRESSES: The meeting will be held at the Elks Lodge, 112 North Pattee Street, Missoula, Montana. On April 22, the meeting will begin at 9 a.m. and end at 7 p.m. On April 23, the meeting will begin at 8 a.m. and end at 4 p.m.

Written comments on improving land and resource management planning may be sent to the Committee on Scientists, P.O. Box 2140, Corvallis, OR 97339 or the Committee may be accessed via the Internet at www.cof.orst.edu./org/scicomm/.

FOR FURTHER INFORMATION CONTACT: Bob Cunningham, Designated Federal Official to the Committee of Scientists, Telephone: 202–205–2494.

SUPPLEMENTARY INFORMATION: The Committee of Scientists was chartered to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest Service on improvements that can be made to the National Forest System land and resource management planning process (62 FR 43691; August 15, 1997). Notice of the members appointed to the Committee was published December 16, 1997, at 62 FR 65795. Agenda items and locations for future meetings will be published as separate notices in the **Federal Register.**

Dated: April 2, 1998.

Robert C. Joslin,

Deputy Chief, National Forest System.

[FR Doc. 98–9232 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Agency Information Collection Activities; Proposed Collection; Comment Requested

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In conjunction with new export application procedures, the Forest Service announces its intent to establish new recordkeeping and reporting requirements. In accordance with the Paperwork Reduction Act of 1995, the Forest Service is requesting public comment on the information collection requirements of the draft procedures prior to requesting Office of Management and Budget review and approval of the information collection requirements.

DATES: Comments must be received in writing on or before June 8, 1998.

ADDRESSES: Send written comments to: Bill Wilson, Forest Management, USDA Forest Service, PO Box 21628, Juneau, Alaska 99801–1628.

The public may inspect comments at the following office: Forest Management Staff, Room 559E, Federal Building, 709 W. 9th Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Bill Wilson, Forest Management Staff, telephone: (907) 586–7915.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Alaska Log Export.

OMB Number: Application pending.

Expiration Date of Approval: Not applicable.

Type of Request: This is a new information collection requirement that has not received approval from the Office of Management and Budget.

Type of Respondents: Respondents are business or other for-profit entities, including small businesses.

Abstract: A purchaser of a National Forest System timber sale contract in Alaska may apply to the Regional Forester for a permit to export Western red cedar, utility logs, and/or chip logs. To strengthen an export application, a purchaser may provide documents to support arguments regarding the absence of an Alaskan market for such species, log grade, or product. This documentation may include a copy of a published advertisement or notice of the logs being available, signed letters from processors declining to purchase the available logs, price offers, or any other evidence demonstrating a lack of market. In addition, if an application is approved, the purchaser will be required to provide the contracting officer with the log scale summaries which document the actual volume of export. The specific information collection includes:

Western Red Cedar for Alaska Consumption

Purchasers with Western red cedar designated for consumption in Alaska may apply for an export permit to the Pacific Northwest if there is no bona fide Alaska market.

Estimate of Burden: 2 hours per response.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20.

Surplus Western Red Cedar

Purchasers with Western red cedar designated for consumption in the Pacific Northwest may apply for an export permit to other countries if there

is no bona fide Pacific Northwest market.

Estimate of Burden: 2 hours per response.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20.

Utility and Pulp Logs

Purchasers with utility and pulp logs may apply for an export permit if there is no bona fide Alaska market.

Estimate of Burden: 2 hours per response.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 40.

Reporting Exports

Purchasers must provide the Regional Forester with scale reports to document any volume exported.

Estimate of Burden: 1 hour per response.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 20.

Comments are Invited

The Forest Service invites comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Forest Service, including whether the information will have a practical utility; (b) the accuracy of the Forest Service's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility,and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Use of Comments

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 3, 1998.

Ronald E. Stewart,

Acting Associate Chief.

[FR Doc. 98–9233 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection on the Economic, Social, and Cultural Contributions of Livestock Ownership

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to establish a new information collection. The new collection is necessary to provide baseline data on the economic, social, and cultural contributions of livestock ownership by surveying grazing permittees on two ranger districts of the Carson and Santa Fe National Forests, New Mexico. The information provided by both this pilot study and the proposed larger study, encompassing all the permittees on the two forests, will be used to help the Forest Service address issues related to grazing permit administration in northern New Mexico.

DATES: Comments must be received in writing on or before June 8, 1998.

ADDRESSES: All comments should be addressed to: Carol Raish, Research Social Scientist, Rocky Mountain Research Station, Forest Service, USDA, 2205 Columbia SE, Albuquerque, NM, 87106.

FOR FURTHER INFORMATION CONTACT: Carol Raish, Rocky Mountain Research Station, telephone: (505) 766–1045.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service intends to invite private landowners, who hold federal grazing permits on the Canjilon Ranger District (Carson National Forest) and the Espanola Ranger District (Santa Fe National Forest, to participate in a pilot study designed to evaluate and refine the research methods and techniques proposed for a larger study to be conducted on the two forests. Forest Service researchers plan to distribute questionnaires to the 112 permittees associated with the two districts, with approximately one-third of the respondents from each district (or at least 18 persons per district) receiving a follow-up interview. Participation in the study is completely voluntary. In addition to collecting data on the contributions of livestock ownership, researchers are assessing the use of a questionnaire in terms of response rate and quality; clarity, comprehensibility, and relevance of questions; and effectiveness and impact of interviewing techniques.

This study will focus on the rural communities of northern New Mexico. many of the permittees are descendants of Hispanic settlers who have farmed and ranched in northern New Mexico for over 400 years. Much of the land which they now use under federal permit was formerly owned or used by local communities under Spanish and Mexican land grants. Cultural differences and historical issues of land ownership and use contribute to disagreements over land use between permittees and Federal land managers. This research study is designed to provide information to help agency managers manager the lands more effectively, work more cooperatively with livestock grazing permittees, and improve agency-community relations by promoting greater understanding.

Description of Information Collection

The following describes the information collection for which approval will be requested:

Title: Economic, Social, and Cultural Contribution of Livestock Ownership.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: The following describes a new collection requirement, which has not received approval by the Office of Management and Budget.

Abstract: The information collected in both the pilot study and the larger study will assist Forest Service managers in understanding the role and contribution of livestock ownership to the economy, culture, and social interactions of the primarily Hispanic grazing permittees (and the small, rural communities) of northern New Mexico. Data gathered in this information collection is not available from other sources. The information collected and research outcomes will be presented in scientific and technology transfer publications and will be available to federal agencies and local communities, as well as to the study participants.

Questionnaire

Forest Service research personnel will administer a questionnaire to the 112 grazing permittees on the Canjilon and Espanola Ranger Districts. Response to the questionnaire will be voluntary.

The questionnaire consists of 46 questions divided into seven sections. Two sections request demographic

information and descriptive information on livestock operations. Questions on age, education, employment, primary language spoken in the household, and years of residence in the area provided demographic data. Information on livestock operations consists of questions concerning number of years the permittee and his family have owned livestock and have had Forest Service or Bureau of Land Management grazing permits. The number and type of animals owned is also requested. A third section deals with costs and benefits of owning livestock with questions focused on the costs of the livestock operation and on the economic contribution of the livestock to family income. Use of the animals and their by-products for household consumption and exchange with relatives and neighbors is also included.

The remaining four sections emphasize social, lifestyle, and cultural contributions of livestock ownership, including the reasons for owning livestock, community activities related to owning livestock, a rancher's preferred means of saving money, uses of the money earned from the livestock operation, and plans to use the livestock operation as a retirement activity. Questions also elicit information on the role of livestock ownership in selecting a place of residence, the social and business activities that result from livestock ownership, and whether a permittee grazes his cattle with relatives or neighbors or both.

A section on family goals requests respondents to prioritize statements concerning increasing family income, increasing the quality of life, maintaining traditional lifestyles and values, and having greater respect within the community. Another question asks respondents to prioritize family goals for the livestock operation, such as making more money from the operation, increasing the family's quality of life, avoiding being forced out of ranching, and increasing the size of the operation. the section on land ownership and use attitudes contains questions concerning the merits of hiring local versus non-local workers, selling land to local versus non-local buyers, and managing federal lands primarily for the benefit of local residents or for all U.S. citizens. Other questions deal with a rancher's willingness to sell inherited land and their views on what factors constitute land ownership

Estimate of Burden: 1 hour and 15 minutes per respondent.

Type of Respondents: Voluntarily responding grazing permittees on the Canjilon and Espanola Ranger districts.

Estimated Number of Respondents: 112.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 140 hours.

Interviews

Forest Service researchers intent to conduct personal interviews with a randomly selected sample of one-third of the questionnaire respondents from each district (or at least 18 individuals per district). These interviews will be used to discuss views and opinions about the livestock operations in greater depth. The interviews will also expand the discussion concerning the role of livestock operations in family life and the maintenance of cultural traditions.

The questions for the interviews are the following:

1. Please describe your feelings about the land and livestock operation you own and what role they play in your family's life.

2. Do you use your land and livestock to teach your children about traditional values and their heritage? If so, how do you accomplish this?

3. Please give your opinion concerning who has the right to own land and make decisions concerning its use.

4. What are your views on the implementation of the Treaty of Guadalupe Hidalgo signed in 1848 by the United States and Mexico?

5. Describe your experiences and feelings concerning working with the government (Forest Service or Bureau of Land Management) on your allotment(s).

6. Please discuss the most serious problems you face in your livestock operation today. How would you solve these problems?

Since we seek to record the respondent's own story and opinions in the interview section, there may be some instances where questions are expanded or added to clarify or more fully develop a response due to the ethnographic nature of this portion of the study.

Estimate of Burden: 2 hours per respondent.

Type of Respondents: Voluntarily responding sample of grazing permittees from the Canjilon and Espanola Districts, who filled out the questionnaire.

Estimated Number of Respondents: 36.

Estimated Number of Responses per Respondent: 1,

Estimated Total Annual Burden on Respondents: 72 hours.

Comment is Invited

The agency invites comments on the following: (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 respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments, including name and address when provided, will become a matter of public record. Comments received in response to his notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 3, 1998.

Ronald E. Stewart,

Acting Associate Chief,

[FR Doc. 98–9234 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service's (RUS) invites comments on these information collections for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by June 8, 1998.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB)

regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collection that RUS is submitting to OMB for an extension.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information; (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 may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: Report of Compliance and Participation.

OMB Control Number: 0572–0047.

Type of Request: Extension of a previously approved information collection without change.

Abstract: The Rural Utilities Service (RUS) manages programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended, and as prescribed by OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

RUS Form 268 is designed for use by RUS electric and telephone borrowers in complying with the reporting requirements outlined in RUS Bulletin 20–19:320–19, ''Nondiscrimination Among Beneficiaries of RUS Programs.'' RUS is required to implement regulations of the Department of Justice and USDA and to provide for the collection of civil rights data and information from applicants for and recipients of Federal assistance sufficient to permit effective enforcement of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975 (ACTs). RUS Form 268 serves as a compliance report and facilitates RUS' responsibilities in enforcing compliance by electric and telephone borrowers with the requirements of the ACTs.

Respondents: Small businesses or organizations.

Estimated Number of Repondents and Recordkeepers: 1,840.

Estimated Hours Per Respondent and Recordkeepers: 0.67 hours.

Estimated Total Annual Burden Hours: 1,233 hours.

Requests for copies of an information collection can be obtained from Gail Salgado-Duff, Program Development and Regulatory Analysis, at (202) 205–3660. FAX: (202) 720–4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 2, 1998.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 98–9201 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service's (RUS) invites comments on these information collections for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by June 8, 1998.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collection that RUS is submitting to OMB for reinstatement.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information; (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 may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

Title: Accounting Requirements for Electric and Telecommunications Borrowers and Manual for Preservation of Electric Borrowers Records.

OMB Control Number: 0572–0003.

Type of Request: Extension of a previously approved information collection, with change to combine 0572–0002 (Accounting Requirements for Electric Borrowers), 0572–0003 (Accounting Requirements for RUS Telephone Borrowers), and 0572–0012 (Manual for Preservation of Borrowers' Records, Electric.)

Abstract: The Rural Utilities Service (RUS) manages programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended, and as prescribed by OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

The combination of these regulations and bulletin will provide the system of accounts to be used by RUS electric and telecommunications borrowers to provide RUS management with the information necessary to evaluate their financial performance, provides consistency and comparability of financial information, and determines the period records are to be retained to meet RUS' audit objective as well as other financial considerations.

Respondents: Small businesses or organizations.

Estimated Number of Recordkeepers: 1,610.

Estimated Annual Hours Per Recordkeeper: 150 hours.

Estimated Total Recordkeeping Hours: 241,760 hours.

Requests for copies of an information collection can be obtained from Gail Salgado-Duff, Program Support and Regulatory Analysis, at (202) 205–3660. FAX: (202) 720–4120.

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Dated: April 3, 1998.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 98–9202 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service's (RUS) invites comments on these information collections for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by June 8, 1998.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 4036 South Building, Washington, DC 20250–1522. Telephone: (202) 720–9550. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collection that RUS is submitting to OMB for reinstatement.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed collection of information; (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 may be sent to: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

- *Title:* Advance and Disbursement of Funds, Telephone Loan Program.

OMB Control Number: 0572–0023.

Type of Request: Reinstatement of a previously approved information collection, without change.

Abstract: The Rural Utilities Service (RUS) manages programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et seq.*, as amended, and as prescribed by OMB Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

RUS therefore requires borrowers to submit RUS Form 481, Financial Requirement Statement. This form implements certain provisions of the standard RUS loan documents by setting forth requirements and procedures to be followed by borrowers in obtaining advances and making disbursements of loan funds.

Respondents: Small businesses or organizations.

Annual Reporting Burden

Estimated Number of Respondents: 645.

Estimated Number of Responses per Respondent: 3.96.

Estimated Total Annual Burden on Respondents: 2,496 hours.

Requests for copies of an information collection can be obtained from Gail Salgado-Duff, Program Support and Regulatory Analysis, at (202) 205–3660. FAX: (202) 720–4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: April 3, 1998.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 98–9205 Filed 4–7–98; 8:45 am]

BILLING CODE 3410–15–P

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations and Additional Releases

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) voted by notation vote on March 30, 1998, to make formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: Peter Voth, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724–0088, fax (202) 724–0457. Beginning with this Notice, the Review Board will no longer publish its decisions in the **Federal Register** on a document-by-document basis. The public may review the document-by-document decisions in the Reading Room at the Review Board, 600 E Street, N.W., Suite 207, Washington, D.C. 20530, and at the National Archives and Records Administration in College Park, Maryland. The public may obtain an electronic copy of the complete document-by-document determinations by contacting ⟨⟨Eileen__Sullivan@jfk-arrb.gov⟩⟩.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On March 30, 1998, the Review Board made formal determinations on records reviewed under the JFK Act. These determinations are summarized below.

Notice of Formal Determinations

14 CIA Documents: Postponed in Part until 05/2001
1240 CIA Documents: Postponed in Part until 10/2017
666 FBI Documents: Postponed in Part until 10/2017
1 Ford Library Document: Postponed in Part until 10/2017
28 HSCA Documents: Postponed in Part until 10/2017
3 NARA Documents: Postponed in Part until 05/2001
15 NARA Documents: Postponed in Part until 10/2017
275 US ARMY Documents: Postponed in Part until 10/2017

Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 9 CIA documents; 13 Eisenhower Library documents; 2601 FBI documents; 59 HSCA documents; 1 JCS document; 9 NARA documents; 87 US ARMY documents.

Notice of Corrections

On February 17, 1998, the Review Board made formal determinations that

were published in the March 13, 1998 **Federal Register** (FR Doc. 98–6440, 63 FR 12429). For that Notice note the following corrections:

Record identification number	Previously published	Corrected data
124–10104–10314.	0; n/a	1; 10/2017.
124–10104–10395.	0; n/a	1; 10/2017.
124–10104–10417.	0; n/a	1; 10/2017.
124–10104–10419.	0; n/a	2; 10/2017.
124–10104–10424.	0; n/a	2; 10/2017.
124–10104–10426.	0; n/a	2; 10/2017.
124–10107–10116.	0; n/a	4; 10/2017.
124–10193–10346.	0; n/a	1; 10/2017.
124–10271–10210.	0; n/a	2; 10/2017.
124–10271–10229.	0; n/a	1; 10/2017.
124–10271–10230.	0; n/a	1; 10/2017.

Two HSCA documents were inadvertently published as consent releases in the December 24, 1997 **Federal Register** (see FR Doc. 97–33529, 62 FR 67332). The Review Board will make determinations on the following documents at a future meeting: 180–10087–10302; 180–10112–10133.

Notice of Reconsideration

On February 17, 1998, the Review Board made formal determinations that were published in the March 13, 1998 **Federal Register** (FR Doc. 98–6440, 63 FR 12429). On March 13, 1998, the Review Board voted to withdraw its vote on the following U.S. Army document for reconsideration at a future meeting: 198–10005–10016.

Dated: April 2, 1998.

T. Jeremy Gunn,

Executive Director.

[FR Doc. 98–9176 Filed 4–7–98; 8:45 am]

BILLING CODE 6118–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 12:00 p.m. and adjourn at 3:30 p.m. on Tuesday, April 21, 1998, at the JC Penney, Government Relations Office-Board Room, Suite 1015, 1156 15th Street NW, Washington, DC 20036. The Advisory Committee will plan the release of its report, Residential Mortgage Lending Disparities in Washington, D.C., and receive updates from two subcommittees in preparation of the Committee's next project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Steven Sims, 202–862–4815, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 31, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–9148 Filed 4–7–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 p.m. on May 18, 1998, at the Southwest Gas Corporation, Building A, 5241 Spring Mountain Road, Las Vegas, Nevada 89193. The purpose of the meeting is to discuss police-community relations issues and other civil rights matters.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 30, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–9147 Filed 4–7–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:30 p.m. on Friday, April 24, 1998, at the Providence Marriott Hotel, One Orms Street, Providence, Rhode Island 02904. The purpose of the meeting is to discuss plans for future action based on the February 9, 1998, consultation on ''The Impact of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on Legal Immigrants in Rhode Island.''

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Robert Lee, 401–863–1693, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 26, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–9145 Filed 4–7–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 5:30 p.m. on May 20, 1998, at the Holiday Inn, 100 West 8th Street, Sioux Falls, SD 57104. The purpose of the meeting is to convene a

workshop. The purpose of the workshop is to provide training and information on federal fair housing laws and regulations, including a panel discussion on fair housing strategies for South Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 30, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–9146 Filed 4–7–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Special Comprehensive License.

Agency Form Number: BXA–748P, BXA–752.

OMB Approval Number: 0694–0089.

Type of Request: Extension of a currently approved collection of information.

Burden: 1,046 hours.

Average Time Per Response: Ranges between 30 minutes and 40 hours depending on the requirement.

Number of Respondents: 210 respondents.

Needs and Uses: 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.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Dennis Marvich (202) 395–3122.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Dennis Marvich, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: March 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9197 Filed 4–7–98; 8:45 a.m.]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1999 Long Term Care Survey (LTC).

Form Number(s): LTC–1, LTC–2, LTC–3, LTC–4, LTC–7, LTC–9(L1), LTC–9(L2), LTC–9P(L1), BNL–1.

Agency Approval Number: 0607–0778.

Type of Request: Reinstatement, with change, of an expired collection.

Burden: 10,131 hours.

Number of Respondents: 19,785.

Avg Hours Per Response: About 22 minutes.

Needs and Uses: The 1999 LTC is a continuation of LTC surveys the Census Bureau conducted in 1982, 1984, 1989 and 1994. The Census Bureau will conduct the 1999 LTC on behalf of the survey sponsor, the Center for Demographic Studies, Duke University.

The survey will seek to gather information from elderly persons interviewed in previous LTC surveys and newly included elderly sample respondents on their health and functional status, informal care support, socio-demographics, housing, health service use and economic status. The LTC will be conducted by both personal visits and telephone interviews using computer-assisted (laptop) interviewing. The 1999 survey will be preceded by a small pretest and hothouse test of survey questionnaires.

Duke University will use the data and combine it with the data collected from prior LTC surveys to determine how people's health care needs change over time. Duke will also link the survey data to Medicare Part A files and Medicaid files (under agreement with the Health Care Financing Administration) for additional analyses concerning the interrelationships between health status and use of services. Planners and policy makers also use data from the survey to conduct research to improve Medicare services and to plan for a sound future for the Medicare program.

Affected Public: Individuals or households, Businesses or other for-profit organizations.

Frequency: Every 5 years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 42 USC, Section 285e-1 and Title 15 USC, Section 1525.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 2, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9213 Filed 4–7–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13:

Bureau: International Trade Administration.

Title: Application for the President's ''E'' Award for Excellence in Exporting.

Agency Form Number: ITA 725P.

OMB Number: 0625–0065.
Type of Request: Regular Submission.
Burden: 1,644 hours.
Number of Respondents: 60.
Avg. Hours Per Response: 27.4.
Needs and Uses: The ''E'' Award Program was established by Executive Order 10978 on December 5, 1961. The ''E Star'' Program was authorized by the Secretary of Commerce on August 4, 1969. The Executive Order authorized the Secretary of Commerce, in cooperation with the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the Small Business Administration, and the heads of other Government departments and agencies, to establish procedures for the nomination and the granting of awards. The application form is the vehicle designed to determine eligibility for the award within established criteria.

Affected Public: U.S. firms and organization and American subsidiaries of foreign-owned or controlled corporations.

Frequency: Ongoing; at the wishes of the applicant.

Respondent's Obligation: Required to obtain an award; voluntary.

OMB Desk Officer: Dennis Marvich, (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Dennis Marvich, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 1, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9215 Filed 4–7–98; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Foreign Fishing Application Information

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 June 8, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bob Dickinson, Office of Sustainable Fisheries, International Fisheries Division, 1315 East West Highway, Silver Spring, Maryland 20910, (301) 713–2337.

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign fishing activities can be authorized under Section 204 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Collection of application information is necessary to determine the identify of the foreign vessels seeking foreign fishing permits and the nature and scope of the fishing activities for which permits are requested. The application information is used by various entities, including the National Marine Fisheries Service, U.S. Coast Guard, Regional Fishery Management councils and Department of State, to determine if permits should be issued to applicants.

II. Method of Collection

Submission of original documents is required.

III. Data

OMB Number: 0648–0089.
Form Number: None.
Type of Review: Regular Submission.
Affected Public: Businesses and other for-profit (foreign fishing companies).
Estimated Number of Respondents: 50.
Estimated Time Per Response: 10 fishing permits @ 2 hours each, 40 transshipment permits @ .75 hours each.
Estimated Total Annual Burden Hours: 50 hours.
Estimated Total Annual Cost to Public: 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 also will become a matter of public record.

Dated: April 3, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–9198 Filed 4–7–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040298A]

Small Takes of Marine Mammals Incidental to Specified Activities; Space Launch Vehicles at Vandenberg Air Force Base, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Air Force for continuation of an incidental harassment authorization to take small numbers of marine mammals incidental to launches of Lockheed Martin launch vehicles (LMLV) at Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to continue to authorize these takings (limited to harassment) for a period not to exceed 1 year.

DATES: Comments and information must be received no later than May 8, 1998.

ADDRESSES: Comments on this application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. A copy of this

application, previous documentation and **Federal Register** notices on this action may be obtained by writing to this address or by telephoning the contact listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead 301–713–2055, or Irma Lagomarsino 562–980–4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq*.) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' ...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to 1 year. The MMPA defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and a comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 10, 1998, NMFS received an application from the U.S. Air Force, Vandenberg, requesting continuation of an authorization for the harassment of small numbers of harbor seals and possibly California sea lions, northern elephant seals, and other pinnipeds incidental to launches of LMLV (now identified as Athena) rockets from Vandenberg. This application incorporates by reference the information contained in applications provided each year since 1995. Detailed descriptions of the activity and the expected impact from rocket launches on harbor seals and other marine mammals have been provided in previous authorization notices for Lockheed (60 FR 24840, May 10, 1995; 60 FR 38308, July 26, 1995; 61 FR 19609, May 2, 1996; 61 FR 38437, July 24, 1996; 62 FR 26779, May 15, 1997; and 62 FR 40335, July 28, 1997). These applications and notices are available upon request (see **ADDRESSES**).

It should be noted that NMFS has received a petition for regulations and an application for a small take authorization under section 101(a)(5)(A) of the MMPA. If implemented, this rulemaking will replace this 1-year authorization, (see 62 FR 40335, July 28, 1997) with a 5-year regulatory program, governing incidental takes of marine mammals by launches of all rocket and missile types, and jet aircraft and helicopter operations from Vandenberg.

Description of Marine Mammals and Potential Effects of Launches on Marine Mammals

The marine mammal species anticipated to be incidentally harassed by launches from Vandenberg is principally the harbor seal (*Phoca vitulina*). California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), and possibly Guadalupe fur seals (*Arctocephalus townsendi*) in the vicinity of Vandenberg and on the Northern Channel Islands (NCI) may also be harassed, but in significantly smaller numbers. A detailed description of the Southern California Bight population of seals and sea lions and the potential impacts from rocket launches on these species and stocks, have been provided in the above referenced **Federal Register** notices and are not repeated here. For the appropriate discussion, interested reviewers are encouraged to refer to those documents, which are available upon request from NMFS (see **ADDRESSES**).

As a result of the noise associated with launches and the sonic boom resulting from some launch vehicles at certain trajectories, there is a potential to cause a startle response to those seals and sea lions that haul out on the coastline of Vandenberg and on the NCI. The effect on the above listed seals and sea lions would be anticipated to result in a negligible short-term impact to small numbers of seals and sea lions that are hauled out at the time of a launch. No impacts are anticipated to animals that are in the water at the time of launch.

Conclusions

Based upon information provided by the applicant and by previous reviews of the incidental take of seals and sea lions by this activity, NMFS believes that the short-term impact of the rocket launches at Vandenberg is expected to result in, at worst, a temporary reduction in utilization of the haulout as seals and/or sea lions leave the beach for the safety of the water. The launching is not expected to result in any reduction in the number of seals or sea lions, and they are expected to continue to occupy the same area. Additionally, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on seals and sea lions at Vandenberg are unlikely.

Proposed Authorization

NMFS proposes to issue individual incidental harassment authorizations for a period of time not to exceed 1 year for launches of Lockheed Martin Athena rockets at Vandenberg provided the monitoring and reporting requirements currently in effect are continued. NMFS has preliminarily determined that the proposed launches of these launch vehicles at Vandenberg would result in the harassment taking of only small numbers of seals and sea lions and would have no more than a negligible impact on the species and stocks of marine mammals.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: April 2, 1998.

Hilda Diaz-Soltero,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–9258 Filed 4–7–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032598A]

Release of Stranded Marine Mammals to the Wild: Background, Preparation and Release Criteria

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS and the Fish and Wildlife Service (FWS), Interior, have prepared draft guidance on the release of rehabilitated marine mammals to the wild. NMFS and FWS are requesting comments on this document before it is finalized.

DATES: Written comments must be received on or before June 8, 1998.

ADDRESSES: Copies of the (Draft) *Release of Stranded Marine Mammals to the Wild: Background, Preparation and Release Criteria* may be obtained from, and written comments submitted to, the Marine Mammal Health and Stranding Response Coordinator, Marine Mammal Division, Office of Protected Resources, 1315 East West Highway, Silver Spring, Maryland 20910. A copy of the draft release guidelines is also available at www.nmfs.gov/tmcintyr/prot_res. Comments submitted via email or the internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Teri Rowles, phone 301–713–2322 or fax 301–713–0376.

SUPPLEMENTARY INFORMATION: Section 402 (a) of the Marine Mammal Protection Act (MMPA) requires the Secretary of Commerce, in consultation with the Marine Mammal Commission, the Secretary of Interior, and other experts to develop objective criteria and guidance for determining at what point a rehabilitated marine mammal is releasable to the wild. This document provides a discussion of the current rules and regulations involving release of stranded animals, background information on rehabilitation and ethics of rehabilitation. The guidelines are divided into four sections: pinnipeds (seals, sea lions and walruses), cetaceans (whales and dolphins), sea otters, and sirenians (manatees). These are discussed separately so that the unique aspects of each can be addressed.

Within each section, four areas of consideration are presented: natural history, medicine, behavior, and release. These areas of consideration identify specific criteria that should be addressed when considering an animal's release candidacy. Some of the criteria, if not met, dictate that an animal should not be released. However, many of the release criteria do not easily translate into yes-no release determinations. These issues must be evaluated together on a case-by-case basis, to determine if the animal's release satisfies the agencies' two fundamental criteria: the animal poses no threat to wild populations if released, and the animal is physically and behaviorally healthy and likely to survive.

Within each area of consideration, there are discussions of required treatment actions, strongly recommended actions, and suggested actions, which are based on current rules and regulations or on medical considerations. Data gap, suggested research and potential new evaluation techniques are also discussed. The agencies recognize that this field may be changing and plan to periodically update these guidelines as new information becomes available or new rules and regulations apply.

Dated: April 1, 1998.

Patricia A. Montanio,

Deputy Director, Protected Resources, National Marine Fisheries.

[FR Doc. 98–9259 Filed 4–7–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a New Export Visa Arrangement for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

April 2, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing export visa requirements.

EFFECTIVE DATE: May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Governments of the United States and the Former Yugoslav Republic of Macedonia agreed to establish a new Export Visa Arrangement for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported from the Former Yugoslav Republic of Macedonia on and after May 1, 1998. Products exported during the period May 1, 1998 through May 31, 1998 shall not be denied entry for lack of a visa. All products exported after May 31, 1998 must be accompanied by an appropriate export visa.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry of certain textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported from the Former Yugoslav Republic of Macedonia for which the Government of the Former Yugoslav Republic of Macedonia has not issued an appropriate export visa.

A facsimile of export visa stamp is on file at the U.S. Department of Commerce in Room 3100.

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).

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Bilateral Textile Agreement of November 7, 1997, between the Governments of the United States and the Former Yugoslav Republic of Macedonia, you are directed to prohibit, effective on May 1, 1998, entry into

the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported from the Former Yugoslav Republic of Macedonia on and after May 1, 1998 for which the Government of the Former Yugoslav Republic of Macedonia has not issued an appropriate export visa fully described below. Should merged categories or part categories become subject to import quota, the merged or part category(s) automatically shall be included in the coverage of this arrangement. Merchandise in the merged or part category(s) exported on or after the date the merged or part category(s) is added to the agreement or becomes subject to import quotas shall require a visa. Products exported during the period May 1, 1998 through May 31, 1998 shall not be denied entry for lack of an export visa.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice or successor document. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for the Former Yugoslav Republic of Macedonia is ''MK''), and a six digit numerical serial number identifying the shipment; e.g., 8MK123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official and the printed name of the issuing official of the Government of the Former Yugoslav Republic of Macedonia.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity of the shipment as set forth in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, annotated or successor documents shall be reported in the spaces provided within the visa stamp (e.g., ''Cat. 340–510 DOZ'').

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 347/348 may be visaed as 347/348 or if the shipment consists solely of 347 merchandise, the shipment may be visaed as ''Cat. 347,'' but not as ''Cat. 348''). If, however, a merged quota category such as 340/640 has a quota sublimit on Category 340, then there must be a ''Category 340'' visa for the shipment if it includes Category 340 merchandise.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, printed name of the signer, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

If the visa is not acceptable then a new correct visa or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the U.S. Department of Commerce at the request of the Embassy of the Former Yugoslav Republic of Macedonia in Washington, DC, for the Government of the Former Yugoslav Republic of Macedonia. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from the Former Yugoslav Republic of Macedonia has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less do not require an export visa for entry and shall not be charged to existing quota levels.

A facsimile of the visa stamp is enclosed.

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). This letter will be published in the **Federal Register**.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–9122 Filed 4–7–98; 8:45 am]

BILLING CODE CODE 3510–DR–F

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0232]

Information Collection Requirements; Contract Pricing

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through September 30, 1998. DoD proposes that OMB extend its approval for use through September 30, 2001.

DATES: Consideration will be given to all comments received by June 8, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0232 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0232 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Ms. Amy Williams,

PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 215.8, Price Negotiation, and Related Clauses at 252.215, OMB Control Number 0704–0232.

Needs and Uses: This information collection requirement pertains to information collections used by DoD to negotiate an equitable adjustment in the total amount paid or to be paid under a fixed-price redeterminable or fixed-price incentive contract, to reflect final subcontract prices; and to determine if a contractor has an adequate system for generating cost estimates, and monitor correction of any deficiencies.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 5,350 hours.

Number of Respondents: 300.

Response per Respondent: .45.

Number of Responses: 141.

Average Burden per Response: 37.94 hours.

Frequency: On occasion.

Summary of Information Collection

a. Subcontract Pricing Considerations.

DFARS 215.806–1 requires that, upon establishment of firm prices for each subcontract listed in a repricing modification, the contractor shall submit costs incurred in performing the subcontract and the final subcontract price. This requirement is used when pricing a fixed-price redeterminable or fixed-price incentive contract that includes subcontracts placed on the same basis for which the contractor has not yet established final prices, if cost or pricing data is inadequate to determine whether the amounts are reasonable, but circumstances require prompt negotiation.

b. Cost Estimating Systems

DFARS 215.811 and the clause at 252.215–7002, Cost Estimating System Requirements, require that certain large business contractors—

- Establish an adequate cost estimating system and disclose such estimating system to the Administrative Contracting Officer (ACO) in writing.
- Respond in writing to written reports from the Government that identify deficiencies in the estimating system.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–9117 Filed 4–7–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0255]

Information Collection Requirements; Construction and Architect-Engineer Contracts

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through September 30, 1998. DoD proposes that OMB extend its approval for use through September 30, 2001.

DATES: Consideration will be given to all comments received by June 8, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0255 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0255 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/.

Paper copies may be obtained from Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 236, Construction and Architect-Engineer Contracts, and Related Clauses at 252.236, OMB Control Number 0704–0255.

Needs and Uses: This information collection requirement pertains to information collections applicable to fixed-price construction contracts. Government personnel use the information generated by these collections to (a) evaluate contractor proposals for contract modifications, (b) determine that a contractor has removed obstructions to navigation, (c) review contractor requests for payment for mobilization and determine reasonableness of costs allocated to mobilization and demobilization, and (d) determine eligibility for the 20 percent evaluation preference for U.S. firms in the award of some overseas construction contracts.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 276,625 hours.

Number of Respondents: 2,710.

Responses per Respondent: 1.

Number of Responses: 2,740.

Average Burden per Response: 100.96 hours.

Frequency: On occasion.

Summary of Information Collection

This request covers the following requirements prescribed in DFARS 236.570, applicable to fixed-price construction contracts:

- DFARS 252.236–7000, Modification Proposals—Price Breakdown, requires contractors to submit a price breakdown with any proposal for a contract modification.
- DFARS 252.236–7002, Obstruction of Navigable Waterways, requires contractors to notify the contracting officer of obstructions in navigable waterways.
- DFARS 252.236–7003, Payment for Mobilization and Preparatory Work, requires contractors to provide supporting documentation when submitting requests for payment for mobilization and preparatory work.
- DFARS 252.236–7004, Payment for Mobilization and Demobilization, permits contracting officers to require contractors to furnish cost data justifying the percentage of the cost split between mobilization and demobilization, if the contracting officer believes that the proposed percentages

do not bear a reasonable relation to the cost of the work.

• DFARS 252.236–7010, Overseas Military Construction—Preference for United States Firms, and DFARS 252.236–7012, Military Construction on Kwajalein Atoll—Evaluation Preference, require offerors to identify their status as a U.S. firm, or, when contract performance will be on Kwajalein Atoll, status as a U.S. or Marshallese firm. This requirement implements Section 112 of the Military Construction Appropriations Act for Fiscal Year 1998 (Pub. L. 104–45).

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–9118 Filed 4–7–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0272]

Information Collection Requirements; Environment, Conservation, and Occupational Safety

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. 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 estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. This information collection requirement is currently approved by the Office of Management and Budget (OMB) for use through September 30, 1998. DoD proposes that OMB extend its approval for use through September 30, 2001.

DATES: Consideration will be given to all comments received by June 8, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection requirement should be sent to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (AT&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0272 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0272 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (703) 602–0131. A copy of this information collection requirement is available electronically via the Internet at: http://www.dtic.mil/dfars/

Paper copies may be obtained from Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 223, Environment, Conservation, and Occupational Safety, and Related Clauses at 252.223, OMB Control Number 0704–0272.

Needs and Uses: This information collection requirement pertains to information that an offeror/contractor must submit to the Department of Defense (DoD) in response to solicitation provisions and contract clauses in DFARS 252.223. This information is used by DoD contracting officers to—

a. Verify compliance with requirements for labeling of hazardous material;

b. Ensure compliance of contractors with DoD 4145.26–M, DoD Contractors' Safety Manual for Ammunition and Explosives, and minimize risk of future mishaps;

c. Monitor subcontractor compliance with DoD 4145.26–M;

d. Verify that the contractor has the financial capability to reimburse the Government for any liabilities incurred by the Government as a result of the contractor's negligence or breach of contract; and

e. Monitor subcontractor compliance with DoD 5100.76–M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 28,964 hours.

Number of Respondents: 2,856.

Responses per Respondent: 12.56.

Number of Responses: 35,873.

Average Burden per Response: .81 hours.

Frequency: On occasion.

Summary of Information Collection

This information collection requirement, which consolidates the requirements previously covered by OMB Control Numbers 0704–0272, 0704–0343, and 0704–0385, and also transfers requirements relating to Part 223 from OMB Control Number 0704–0187, includes the following requirements:

a. 252.223–7001, Hazard Warning Labels

Paragraph (c) requires all offerors to list which hazardous materials will be labeled in accordance with certain statutory requirements instead of the Hazard Communication Standard. Paragraph (d) requires only the apparently successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause.

b. 252.223–7002, Safety Precautions for Ammunition and Explosives

Paragraph (c)(2) requires the contractor, within 30 days of notification of noncompliance with DoD 4145.26–M, to notify the contracting officer with DOD 4145.26–M, to notify the contracting officer of actions taken to correct the noncompliance. Paragraph (d)(1) requires the contractor to notify the contracting officer immediately of any mishaps involving ammunition or explosives. Paragraph (d)(3) requires the contractor to submit a written report of the investigation of the mishap to the contracting officer. Paragraph (g)(4) requires the contractor to notify the contracting officer before placing a subcontract for ammunition or explosives.

c. 252.223–7003, Changes in Place of Performance—Ammunition and Explosives

Paragraph (a) requires the offeror to identify, in the ''Place of Performance'' provision of the solicitation, the place of performance of all ammunition and explosives work covered by the ''Safety Precautions for Ammunition and Explosives'' clause of the solicitation. Paragraphs (b) and (c) require the offeror/contractor to obtain written permission from the contracting officer before changing the place of performance after the date set for receipt of offers or after contract award.

d. 252.223–7005, Hazardous Waste Liability

Paragraph (c) requires the contractor to demonstrate the ability to reimburse the Government for damages, by providing evidence that the facility has liability insurance meeting the requirements of 40 CFR 264.147; or the facility meets the financial assurance requirements of 40 CFR 264.147 for sudden and nonsudden accidental occurrences.

e. 252.223–7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives

Paragraph (e) requires the contractor to notify the cognizant Defense Security Service (formerly the Defense Investigative Service) field office within 10 days after award of any subcontract involving sensitive conventional arms, ammunition, and explosives within the scope of DoD 5100.76–M.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–9119 Filed 4–7–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 6–8 April 1998.

Time of Meeting: 0800–1700, 6–7 Apr 98; 0800–1300, 8 Apr 98.

Place: Space & Missile Defense Command, Army Space Command—Colorado Springs, CO.

Agenda: The Army Science Board's (ASB) 1998 Summer Study Panel on ''Prioritizing Army Space Needs'' will meet for briefings and discussions concerning DoD space capabilities and limitations as well as current operational Reconnaissance, Intelligence, Surveillance and Target Acquisition programs and procedure. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7490.

Wayne Joyner,

Program Support Specialist, Army Science Board.

[FR Doc. 98–9138 Filed 4–7–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 4:00 p.m., May 15, 1998.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552B(e)(3).

MATTERS TO BE CONSIDERED:

8:30 a.m. MEETING—BOARD OF REGENTS

(1) Approval of Minutes—February 9, 1998
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Reprot—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: April 3, 1998.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–9289 Filed 4–3–98; 4:39 p.m.]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Golden Field Office; Solicitation for Financial Assistance Applications

AGENCY: Department of Energy.

ACTION: Solicitation for financial assistance applications, development of Niche markets for solar water heating systems.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.8, is announcing its intention to solicit responses for Federally cost-shared collaborative projects that implement innovative approaches to the development of sustainable niche markets for solar water heating systems in the building industry.

ADDRESSES: To obtain a copy of the solicitation, once issued, write to the U.S. Department of Energy, Golden Field Office, 1617 Cole Boulevard, Golden, Colorado 80401–3393, Attention: Beth H. Peterman, Contract Specialist and Contracting Officer. Facsimiles and electronic mail are acceptable and can be transmitted to (303) 275–4788 or beth__peterman@nrel.gov. Applicants are encouraged to obtain the solicitation electronically through the Golden Field Office Home Page at http://www.eren.doe.gov/golden/solicit.htm. Only written requests for the solicitation or notifications of receipt will be honored.

SUPPLEMENTARY INFORMATION: Through cooperative agreements, DOE is proposing to support business development projects that integrate solar water heating systems into the building sector under provisions of the Energy Policy Act of 1992 (EPAct): Public Law 102–486. It is the goal of DOE to accelerate the establishment of markets for solar water heating systems (SWH) by assisting industry in developing sustainable niche markets within the building sector through Federally cost-shared projects. The projects are intended to focus on market development combined with strategic partnering leading to the integration of solar water heating in both new construction and existing buildings. The ultimate goal of the program is a sustainable market for the SWH products within the conventional residential and commercial building industry without Federal assistance.

Successful applications shall demonstrate an innovative approach for integrating SWH into new construction or existing buildings (e.g., residential or commercial). Respondents are encouraged to form appropriate consortia or other business arrangements with utilities and/or Energy Service Company's (ESCO's), new home construction industry, and solar water heating suppliers or demonstrate a plan for establishing a business arrangement for implementing the solar business venture. Viability of the consortia to develop a sustainable niche market for solar water heating will be a major factor in selecting projects for Federal assistance. Respondents should demonstrate an innovative and cost

effective approach to integrating SWH into the building sector; capabilities and resources to implement the business venture; and plan to identify and address barriers which might retard market penetration. The collaborative projects are intended to include the following components: (1) Business and market planning; (2) market and business development; and (3) a pilot program for installation of solar water heating systems; and (4) a plan for a sustainable business venture beyond Federal involvement.

As there is a reasonable expectation that the recipients of a cooperative agreement will receive significant future economic benefits as a result of the performance of this project, cost sharing on the part of the recipient is required. All respondents must propose a cost share of at least 50% of the total project costs from non-Federal sources. Examples of potential applicants include, but are not limited to, home builders, utilities, and energy service companies in partnership with solar companies.

Solicitation Number DE–PS36–98GO10323 will include complete information on the program including technical aspects, funding, application preparation instructions, application evaluation criteria, and other factors that will be considered when selecting projects for funding. Issuance of the solicitation is planned for May 1, 1998, with responses due 45 days following solicitation release. Issuance of the solicitation is planned on a semi-annual basis beginning in 1998.

Issued in Golden, Colorado, on April 1, 1998.

Beth H. Peterman,

Contracting Officer.

[FR Doc. 98–9194 Filed 4–7–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Intent to Solicit Applications for Financial Assistance Grants

AGENCY: Department of Energy.

ACTION: Notice of Intent to Solicit applications for financial assistance grants.

SUMMARY: The U.S. Department of Energy is announcing its intent to solicit applications for awards for financial assistance (i.e., grants) for the upgrade, purchase or maintenance of equipment and/or instrumentation (1) relating to the performance, control or operational capability of nuclear research reactors at university facilities, or (2) for radiation detection and measurement at laboratories directly related to the reactor facilities.

DATES: The anticipated issuance date of Solicitation Number DE–PS07–98ID13671 is April 6, 1998. A copy of the solicitation in its full text may be obtained on the Internet at http://www.id.doe.gov/doeid/proc-div.html under Current Solicitations. The deadline for receipt of applications is May 12, 1998.

ADDRESSES: Applications will be submitted to: Connie Osborne, Procurement Services Division, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho, 83401–1563.

FOR FURTHER INFORMATION CONTACT: Connie Osborne, Contract Specialist at (208) 526–0093 or Brad Bauer, Contracting Officer at (208) 526–0090; U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho, 83401–1563.

SUPPLEMENTARY INFORMATION: The solicitation will be issued pursuant to 10 CFR 600.6(b). Eligibility for awards under this University Reactor Instrumentation (URI) Program will be restricted to U.S. colleges and universities having a duly licensed, operating nuclear research or training reactor. The purpose of the URI Program is to assist educational institutions in updating their nuclear reactor or related radiation laboratory facilities.

The statutory authority for the program is Pub. L. 95–91.

Michael L. Adams,

Acting Director, Procurement Services Division.

[FR Doc. 98–9193 Filed 4–7–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Engineering and Environmental Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL).

DATES: Wednesday, April 22, 1998 from 9:30 a.m. to 12:30 p.m. Mountain Daylight Time (MDT).

ADDRESSES: The meeting will be held via video-conference. The public is invited to attend the meeting at any of the following locations:

- *Nampa, Idaho:* Room 184 of Boise State University's Canyon County Campus, 2407 Caldwell Blvd., Nampa, ID (208) 467–5707
- *Idaho Falls, Idaho:* Room 372 of the Administration Building on the Eastern Idaho Technical College campus, 1600 S. 2500 E, Idaho Falls, ID; (208) 524–3000.
- *Lewiston, Idaho:* Room 143 of the Educational Technology Center on the Lewis and Clark State College campus, 500 8th Avenue, Lewiston, ID; (208) 799–5272.
- *Twin Falls, Idaho:* Room C–91 of the Evergreen Building on the College of Southern Idaho campus, 3151 Falls Avenue, Twin Falls, ID; (208) 733-9554 ext. 2449.

FOR FURTHER INFORMATION CONTACT: INEEL Information (1–800–708–2680), Wendy Green Lowe, Jason Associates Corp. (208–522–1662) or visit the Board's Internet homepage at http://www.ida.net/users/cab@.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

The objectives for the meeting will be to consider draft language developed by various committees and to achieve consensus on a final recommendation on the draft Accelerating Cleanup document. The final agenda will be available at the meeting.

Public Comment Availability

The meeting is open to the public, with a public comment session scheduled at the end of the meeting. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with its current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the INEEL Information line or Wendy Green Lowe, Jason Associates Corp., at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to

include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Charles M. Rice, INEEL Citizens' Advisory Board Chair, 477 Shoup Ave., Suite 205, Idaho Falls, Idaho 83402 or by calling Wendy Green Lowe, the Board Facilitator, at (208) 522–1662.

Issued at Washington, DC on April 2, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–9191 Filed 4–7–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Dockets No. PP–177 and EA–177]

Applications for Presidential Permit and Electricity Export Authorization Burke-Divide Electric Cooperative, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: Burke-Divide Electric Cooperative, Inc. (Burke-Divide), a rural electric cooperative headquartered in Columbus, North Dakota, has applied for a Presidential permit to construct, connect, operate and maintain a new electric transmission facility across the U.S. border with Canada. In addition, Burke-Divide has applied for authorization to export electric energy to Canada.

DATES: Comments, protests, or requests to intervene must be submitted on or before May 8, 1998.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350.

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael T. Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038. Exports of electricity from the United States to a foreign country are also regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On March 18, 1998, Burke-Divide filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit. Burke-Divide proposes to construct approximately one mile of 12.47 kilovolt (kV) distribution line in North Star Township, Burke County, North Dakota, north to the Canadian border. In a separate application, also filed on March 18, 1998, Burke-Divide applied for authorization to export electric energy to Canada, using this proposed facility, pursuant to section 202(e) of the FPA.

The purpose of the proposed line and export authorization is to supply electric energy to a rail car loading facility located approximately 2000 feet north of the United States border with Canada in the Province of Saskatchewan, Canada. The proposed line would extend from the present dead end of a 12.47 kV distribution line that itself originates at Burke-Divide's Bowbells Substation. The substation will not be enlarged, nor will new generation be required to supply the proposed load.

Burke-Divide does not own or operate any generating facilities. The electric energy Burke-Divide proposes to export will be supplied from its Western Area Power Administration allocation or purchased from Upper Missouri G&T Association (Upper Missouri). Upper Missouri also does not own generating facilities, but purchases its power needs from Basin Electric Power Cooperative, a generation and transmission cooperative headquartered in Bismarck, North Dakota.

Since the restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities constructed pursuant to Presidential permits to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulatory Commission Order Nos. 888 and 888–A (Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities). In furtherance of this policy, DOE intends to condition any Presidential permit issued in this proceeding on compliance with these open access principles.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with section 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protest also should be filed directly with: Mr. Keith Berg, General Manager, Burke-Divide Electric Cooperative, Inc., P.O. Box 6, Columbus, North Dakota 58727–0006.

Before a Presidential permit or electricity export authorization may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system and also consider the environmental impacts of the proposed actions pursuant to the National Environmental Policy Act of 1969. For a Presidential permit, DOE also must obtain the concurrences of the Secretary of State and the Secretary of Defense before taking final action.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on April 1, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–9192 Filed 4–7–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–168–000]

ANR Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

April 2, 1998.

Take notice that on March 30, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets proposed to be effective May 1, 1998:

Fourth Revised Sheet No. 49
First Revised Sheet No. 50
Third Revised Sheet No. 51
Third Revised Sheet No. 84
First Revised Sheet No. 84A
Third Revised Sheet No. 149

ANR states that this filing is being made in accordance with the provisions of Section 154.204 of the Commission's regulations, is to revise its currently effective Rate Schedule FSS to allow, among other things, for more flexible deliverability, cycling and overrun options under the Rate Schedule. Accordingly, this filing includes revised tariff sheets for these changes to the Rate Schedule, as well as certain conforming revisions to the General Terms and Conditions of ANR's tariff.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9165 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–406–013]

CNG Transmission Corporation; Notice of Compliance Filing

April 2, 1998.

Take notice that on March 30, 1998, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of January 5, 1998:

Second Sub. Fourth Revised Sheet No. 251
Second Sub. 1st Revised Sheet No. 379
Second Sub. 3rd Revised Sheet No. 386
Second Revised Sheet No. 386A

CNG states that the purpose of this filing is to comply with the March 13 Order's directives to correct various rejected tariff sheets as detailed below, and to provide the electronic version of additional sheets for which the paper copies have already been accepted for filing. In particular, CNG states that it is filing language on Sheet No. 379 containing the first three lines of Section 25 of the General Terms and Conditions, which had been inadvertently dropped in CNG's January 5, 1998 compliance filing in the captioned proceeding. CNG states that it is revising Sheet Nos. 251, 386 and 386A to reflect the GISB standard version numbers adopted by the Commission's regulations (at 18 CFR 284.10), as required by the March 13 Order.

CNG states that copies of its letter of transmittal and enclosures are being mailed to its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9162 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–171–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 2, 1998.

Take notice that on March 31, 1998, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of May 1, 1998:

Thirty-Sixth Revised Sheet No. 32
Thirty-Sixth Revised Sheet No. 33

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B. Surcharge, effective for the three-month period commencing May 1, 1998. The charge for the quarter ending April 30, 1998, has been ($0.0459) per Dt, as authorized by Commission Order dated January 28, 1998, in Docket No. RP98–103–000. CNG's proposed Section 18.2.B. surcharge for the next quarterly period is $0.0032 per Dt. The revised surcharge is designed to recover $19,818 in Stranded Account No. 858 Costs.

CNG states that copies of this letter of transmittal enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–9168 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–363–013]

El Paso Natural Gas Company; Notice of Filing

April 2, 1998.

Take notice that on March 30, 1998, El Paso Natural Gas Company (El Paso) tendered for filing its report detailing the fuel adjustments made to affected shippers on February 12, 1998 for the period January 1, 1997 through November 30, 1997, in accordance with the provisions of the Fuel Settlement at Docket No. RP95–363–010.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 9, 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–9161 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2177, GA]

Georgia Power Company; Notice of Georgia Power Company's Request to Use Alternative Procedures In Preparing a License Application

April 2, 1998

On March 23, 1998, the existing licensee, Georgia Power Company (GPC), filed a request to use alternative procedures for submitting an application for new license for the existing Middle Chattahoochee Project No. 2177.[1] GPC has demonstrated that they have made an effort to contact resource agencies, Indian tribes, nongovernmental organizations (NGOs), and others affected by their proposal, and that a consensus exists that the use of an alternative procedure is appropriate in this case.

The purpose of this notice is to invite comments on GPC's request to use the alternative procedure pursuant to Section 4.34(i) of the Commission's regulations.[2] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedures being requested here combine the prefiling consultation process with the environmental review process, allowing the applicant to complete and file an environmental document (NEPA document) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on GPC's proposal to use the alternative procedures to prepare an application to relicense the Middle Chattachoochee Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedure,'' and include the project name and number (Middle Chattahoochee Project, No. 2177).

For further information, please contact Ronald McKitrick of the Federal Energy Regulatory Commission at 770–452–2363 ext. 44 or E-mail at ronald.mckitrick@FERC.Fed.US.

Linwood A. Watson, Jr.

Acting Secretary

[FR Doc. 98–9160 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA98–49–001 and SA98–49–002]

Graham-Michaelis Corporation; Notice of Amendment to Petition for Adjustment and Request for Extension of Time

April 2, 1998.

Take notice that on March 13, 1998, in Docket No. SA98–49–001, and on March 26, 1998, in Docket No. SA98–49–002, Graham-Michaelis Corporation (GMC) filed supplements amending its March 9, 1998 petition for adjustment and request for an extension of time regarding the Kansas ad valorem tax refunds that GMC and the working interest owners for whom GMC operated [1] (hereafter collectively referred to as the: Applicants) owe to Northern Natural Gas Company (Northern). The March 13 amending supplement adds North Dakota University, Beresco Properties, Inc., Chris Dobbins Family Trust, Dr. Edwin W. Brown, and the Fred and June MacMurray Trust to the original list of Applicants in the March 9 petition, deletes George D. Rosel Estate, Aikman Oil & Gas Company, CEA Corporation, Robert E. Aikman, William H. Aikman, Clenard O. McLaughlin Revocable Trust, H.R. Michaelis Revocable Trust, Leona P. Maxfield, and Kaiser-Francis Oil Company, and revises GMC's determination of Applicants' refund liability to Northern, from $269,280.80 to $275,687.38. The March 26 amending supplement adds Daniel C. Searle, and the John L. Burns Estate as Applicants and revises GMC's determination of Applicants' refund liability, to $280,653.90. The March 9 petition and

[1] The 115.7-megawatt Middle Chattahoochee project is located on the Chattahoochee River in Harris and Muscogeee Counties, Georgia, and Chambers, Lee and Russell Counties, Alabama. The project consists of three developments; Goat Rock, Oliver Dan, and North Highlands.

[2] Order No. 596, Regulations for Licensing of Hydroelectric Projects, 81 FERC ¶61,103 (1997).

[1] GMC'S Original list of Applicants includes: Graham-Michaelis Corporation; W.A. Michaelis, Jr. Revocable Trust; John L. James Revocable Trust; George D. Rosel Estate; Airman Oil & Gas Company; CEA Corporation; Robert E. Aikman; William H. Aikman; Dail C. West; Graham Enterprises; William L. Graham Revocable Trust; Betty Harrison Graham Revocable Trust; Clenard O. McLaughlin Revocable Trust; GrahamCo; H.R. Michaelis Revocable Trust; David M. Dayvault Revocable Trust; Jack L. Yinger Revocable Trust; K & B Producers Inc.; William Graham, Inc.; Chas. A. Neal & Company; March Oil Company; Minatome Corporation; Leona P. Maxfield; Lake Forest Academy; and Kaiser-Francis Oil Company.

March 13 and March 26 supplements amending the March 9 petition are on file with the Commission and open to public inspection.

GMC filed the March 9 petition pursuant to section 502(c) of the Natural gas Policy act of 1978, in response to the Commission's September 10,1997, order in Docket No. RP97–369–000 *et al*.[2] on remand from the D.C. Circuit Court of appeals,[3] which directed first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988.

The Commission also issued a January 28, 1998 order in Docket No. RP98–39–001, et al. (January 28 Order),[4] clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first sellers may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller. Pursuant to that order, GMC's March 9 petition requested the Commission: (1) to authorize a 90-day extension of the Commission's March 9, 1998 refund deadline, to allow GMC resolve any disputes with Northern over Applicants' refund liability or, if necessary, to file a dispute resolution request with the Commission; (2) to grant Applicants a 1-year deferral (i.e. to March 9, 1999) on the payment of principal and interest attributable to royalties; and (3) to allow Applicants to escrow (a) amounts that remain in dispute (b) principal and interest amounts attributable to royalty refunds which have not been collected from the royalty owners, (c) principal and interest on amounts attributable to production prior to October 4, 1983, (d) interest on royalty amounts that have been recovered form the royalty owners (where the principal has been refunded), and (e) interest on all reimbursed principal amounts determined to be refundable as being in excess of maximum lawful prices, excluding interest retained under (b), (c), and (d) above.

Any person desiring to answer GMC's March 13 and March 20 amendments should file such answer with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, on or before 15 days after the date of publication of this notice in the **Federal Register**, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.213, 385.215, 385.1101, and 385.1106).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9170 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F. 3d 1478 (D.C. Cir. 1996), cert. denied, 65 U.S.L.W. 3751 and 3754 (May 12, 1997) (Nos. 96–954 and 96–1230).

[4] See 82 FERC ¶ 61,059 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application for a New License

April 2, 1998.

a. Type of filing: Notice of Intent to File an Application for a New License.

b. Project No.: 401

c. Date filed: March 23, 1998

d. Submitted By: Indiana Michigan Power Company, current licensee

e. Name of Project: Mottville Hydroelectric Project

f. Location: On the St. Joseph River, in St. Joseph County, Michigan

g. Filed Pursuant to: Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations

h. Effective date of current license: February 1, 1978

i. Expiration date of current license: September 18, 2003

j. The project consists of: (1) a 20-foot-high, 846-foot-long dam comprising (a) a 241-foot-long spillway containing eight 7.5-foot-high by 22-foot-long Taintor gates and two 13-foot-high by 22-foot-long Taintor gates, and (b) a 4-foot fish ladder section; (2) a 378-acre reservoir at normal full pool elevation 771.0 feet m.s.l.; (3) an integral powerhouse containing four generating units with a total installed capacity of 1,715 kW; (4) transmission facilities; and (5) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Indiana Michigan Power Company, Hydro Generation, 13840 East Jefferson Road, Mishawaka, IN 46545, (219) 255–8946.

l. FERC contact: Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.9 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 18, 2001.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–9158 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–306–000]

KN Interstate Gas Transmission Company; Notice of Application

April 2, 1998

Take notice that on March 26, 1998, KN Interstate Gas Transmission Company (KN), P.O. Box 281304, Lakewood, Colorado 80228, filed in Docket No. CP98–306–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by transfer to Warren Energy Resources, Limited Partnership (Warren), the compression, treating and appurtenant facilities comprising its Pawnee Rock Station which is located in Rush County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

KN states that, by abandoning the facilities to Warren, it would eliminate the expenses associated with the operation of the facilities without diminishing or abandoning the services available to the producers connected to Warren's Pawnee Rock gathering system.

KN requests that the Commission declare that the facilities are gathering facilities exempt from the Commission's jurisdiction under Section 1(b) of the Natural Gas Act.

Any person desiring to be heard or any person desiring to make any protest with reference to said application should on or before April 23, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene

in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K N to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9157 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–169–000]

Kern River Gas Transmission Company; Notice of Petition for Grant of Expedited Limited Waiver of Tariff

April 2, 1998.

Take notice that on March 30, 1998, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(5), Kern River Gas Transmission Company (Kern River) tendered for filing a Petition for Grant of Expedited Limited Waiver of Tariff, Section 3.1 of Rate Schedule KRF–1 in its FERC Gas Tariff, First Revised Volume No. 1.

Kern River seeks a one-time waiver of Section 3.1 of its Rate Schedule KRF–1 to allow its customers to request KRF–1 service earlier than the ninety days currently specified in its tariff. Kern River proposes to post and award for competitive bid up to 40,000 Mcf per day of firm capacity that is available during the 1998–99 winter heating season, and wishes to post the capacity and receive bids earlier than ninety days before the proposed commencement date of that service. kern River also requests that the Commission grant any other waivers it may deem necessary to allow Kern river to proceed as outlined.

Kern River states that a copy of this filing has been served upon its jurisdictional customers and affected states regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9166 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 469–MN]

Minnesota Power & Light Company; Notice of Minnesota Power & Light Company's Request for Waiver and to Use Alternative Procedures in Filing a License Application

April 2, 1998.

On March 30, 1998, the existing licensee, Minnesota Power & Light Company (Minnesota Power), filed a request to waive certain Commission regulations and to use alternative procedures for submitting an application for new license for the existing Winton Hydroelectric Project No. 469. The project is located on the Kawishiwi River, in Lake and St. Louis Counties, Minnesota, and consists of the Winton Dam and a 4.0–MW powerhouse, Garden Lake Reservoir, Birch Lake Dam, and Birch Lake Reservoir. The project occupies lands of the United States within the Superior National Forest.

Minnesota Power has demonstrated that it has made an effort to contact all resource agencies, Indian tribes, nongovernmental organizations (NGOs), and others affected by the proposal, and that a consensus exists that the use of alternative procedures is appropriate in this case. Further, waiving the Commission's regulations will be automatic upon approval of the alternative procedures stipulated in Order No. 596.[1]

Minnesota Power has submitted a communications protocol that is supported by the interested entities.

The purpose of this notice is to invite any additional comments on Minnesota Power's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedures being requested here combine the prefiling consultation process with the environmental review process, allowing Minnesota Power to complete and file an Environmental Assessment (EA) in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental Project No. 469 review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Applicant Prepared EA Process and Winton Project Schedule

Minnesota Power has distributed an Initial Consultation Packet for the proposed project to state and federal resource agencies and NGOs. Minnesota Power has submitted a proposed schedule for the alternative procedures that leads to the filing of a license application by October 2001.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on Minnesota Power's proposal to use the alternative procedures to file an application for the Winton Hydroelectric Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's

[1] Order No. 596, Regulations for the Licensing of Hydroelectric Projects, 81 FERC ¶ 61,103 (1997).

regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedures,'' and include the project name and number (Winton Hydroelectric Project No. 469).

For further information on this process, please call Tom Dean of the Federal Energy Regulatory Commission at 202–219–2778.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9159 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA98–44–001 and SA98–44–002]

Molz Oil Company; Notice of Amendment to Petition for Adjustment and Request for Extension of Time

April 2, 1998.

Take notice that on, March 13, 1998, in Docket No. SA98–44–001, and March 20, 1998, in Docket No. SA98–44–002, Molz Oil Company (Molz) filed supplements amending its March 9, 1998 petition, in Docket No. SA98–44–000, for a procedural adjustment and request for a 90-day extension of time to resolve disputes with Panhandle Eastern Pipe Line Company (Panhandle) over the amount of Kansas ad valorem tax refunds owed by the First Sellers (including Molz) listed in the March 9 petition.[1] The March 13 amending supplement states that Dean Courson (individually and on behalf of M–C Oil), Darry Brown (individually and on behalf of Lieble Brown), L.L. Demaree, Doug McGinness, Viola McGinness, Marvin Miller, Joe Nagele, Cindy Nagele a.k.a. Cindy Yandell, Helen Thiesing, Tri-K Equipment, Kenneth Vassar, Bob Watts, and Mollie Watts are included as First Sellers under Molz's March 9 petition, and updates the amount reported to be in dispute with Panhandle. The March 20 amending supplement states that MBT Antrim MBT Oil, Darrol Miller, and Pauline Miller (a.k.a. Mrs. Darrol Miller), are included as First Sellers under Molz's March 9 petition. The March 20 amending supplement also further updates the amount reported to be in dispute with Panhandle.

The March 9 petition and March 13 and March 20 supplements amending the March 9 petition are on file with the Commission and open to public inspection.

Molz filed the March 9 petition pursuant to section 502(c) of the Natural Gas Policy Act of 1978, on its own behalf and the working interest owners for whom Molz operated, and in response to the Commission's September 10, 1997, order in Docket No. RP97–369–000 *et al*,[2] on remand from the D.C. Circuit Court of Appeals,[3] which directed first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The March 9 petition, in addition, to the request for a 90-day extension of the March 9, 1998 refund deadline, requests that the Commission: (1) Grant a procedural adjustment, allowing Molz and the listed First Sellers (as amended) to escrow the disputed amount of the refund set forth in the Statement of Refunds Due that Panhandle filed in Docket No. RP98–40–000 (as revised); (2) to allow Molz (following resolution of the dispute) to retain in that account (a) the principal and interest on amounts attributable to production prior to October 4, 1983, and (b) the interest on all reimbursed principal determined to be refundable as being in excess of maximum lawful prices, excluding interest retained under (a) above; and (3) determine that Molz is liable solely for its proportionate share of the tax refunds.

Molz's March 20 amending supplement states that Panhandle served Molz with a revised Statement of Refunds Due, dated February 6, 1998, indicating a total refund due of $301,843.59, and that the entire disputed amount (with interest through March 9, 1998) is now $261,992.05.

Any person desiring to answer Molz's March 13 and March 20 amendments should file such answer with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, on or before 15 days after the date of publication of this notice in the **Federal Register**, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.213, 385.215, 385.1101, and 385.1106).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 98–9169 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

[1] The working interest owners in Molz's original list of First Sellers include: Donald Albers; Molz Oil Company; James Jukes (as successor to Barber Assoc., D.M. Associates, KMAD Associates, KMAD #3 Associates, and Logan McGuire Assoc.); C.H. Bartlett; Marvin Blubauh, Carlos (a.k.a. Charles) Brewer; Darry Brown; Caruthers Const.; D.L. Caruthers; Rick Caruthers; M.D. Christensen; Judy Courson; Donald E. Evans; Helen Evans; Judy Evans; K.B. Evans; Clarence Hrencher; K&K Leasing; Kansas Oil & Gas; Keen Oil, Inc.; Kenla Oil Co.; Thereon Krehbiel; Tommie Littell; Joyce Lutz; Viola McGinness; Lee Mackey; Robert McCaffree; John Michel; Beverly Molz; Jim Molz; Ronald Molz; Kristi Molz; Russell Molz; Judith Ann Price; A.W. Powell; Rathgeber & Rathgeber; Ben Rathgeber; Bob and Lometa Rathgeber; Eloise Rathgeber; B. Jean Sandifer; Lamoine Schrock; Dexter Smith; Super Service; Sweetman Drilling; R.K. Sweetman; Kelly Thiesing; Kevin Thiesing; Jana Thiesing; Traffas Herfords; Vinmar Children; Vinmar Farms; Westmore Drilling Co.; Wilderness Oil & Gas; Marilyn Wiles; and Betty Winn.

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F. 3d 1478 (D.C. Cir. 1996), cert. denied, 65 U.S.L.W. 3751 and 3754 (May 12, 1997) (Nos. 96–954 and 96–1230).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–167–000]

NorAm Gas Transmission Company; Notice of Filing

April 2, 1998.

Take notice that on March 30, 1998, NorAm Gas Transmission Company (NGT) submitted its annual revenue crediting filing pursuant to its FERC Gas Tariff, Fourth Revised Volume No. 1, Section 5.7(c)(ii)(2) B. (Imbalance Cash Out), Section 23.2(b)(iv) (IT and SBS Revenue Crediting) and Section 23.7 (IT Revenue Credit).

NGT states that its filing addresses the period from February 1, 1997 through January 31, 1998. The IT and FT Cash Balancing Revenue Credits and the IT Revenue Credit for the period reflected in this filing are zero. Since NGT's current tariff sheets already reflect zero Cash Balancing and IT Revenue Credits, no tariff revisions are necessary.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9164 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–31–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 2, 1998.

Take notice that on March 30, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective May 1, 1998:

Twelfth Revised Sheet No. 5
Twelfth Revised Sheet No. 6

NGT states that the purpose of this filing is to adjust NGT's fuel percentages pursuant to Section 21 of its General Terms and Conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9171 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–165–000 and RP89–183–078]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 2, 1998.

Take notice that on March 31, 1998, Williams Gas Pipelines Central, Inc. (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of May 1, 1998:

First Revised Sheet No. 6A, Original Sheet Nos. 38 and 39

Williams states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1. Williams hereby submits its second quarter, 1998, report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds.

Williams states that there was not sufficient time to reflect in the instant filing, the requirements of the order approved at the Commission's March 25, 1998 meeting in Docket No. RP98–105, et al. Therefore, Williams is submitting the instant filing utilizing the previously effective direct allocation method of allocating GSR cost to firm service in order to ensure that cost recovery is proposed in a timely manner. Williams states that it will file revised tariff sheets to reflect the required changes in its GSR mechanism prior to May 1, 1998.

Williams states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9163 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–266–000]

Enogex Interstate Transmission L.L.C. and Ozark Gas Transmission, L.L.C.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Ozark/NOARK Expansion Project and Request for Comments on Environmental Issues

April 2, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an Environmental Assessment (EA) that will discuss the environmental impacts of the construction and operation of approximately 9.9 miles of natural gas transmission pipeline and other appurtenant facilities, and the modification of two compressor stations and a meter station, proposed in the Ozark/NOARK Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner whose property will be crossed by the proposed project, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company may seek to negotiate a mutually acceptable agreement relative to land use and access. However, if the project is approved by the Commission, the pipeline has the right to use eminent domain. Therefore, if negotiations fail to produce an agreement between the pipeline company and landowner, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent

[1] Enogex Interstate Transmission L.L.C. and Ozark Gas Transmission, L.L.C.'s application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

domain, is attached to this notice as appendix 1.[2]

Summary of the Proposed Project

Enogex Interstate Transmission L.L.C. and Ozark Gas Transmission, L.L.C. (Enogex) proposes to acquire the facilities of the Ozark Gas Transmission System (Ozark); dedicate to interstate service the facilities of NOARK Pipeline system, Limited Partnership (NOARK), and intrastate pipeline; and expand and integrate the Ozark and NOARK systems into a single interstate system.[3] Once completed, the system would be known as Ozark Gas Transmission, L.L.C., and would have a firm transportation capacity of 330 million cubic feet per day.

To fully integrate the systems Enogex proposes to construct/install the following facilities:

- about 0.19 mile of 10-inch-diameter pipeline extending from milepost (MP) 151.0 of Ozark's system to Southwestern Energy Pipeline Company's Fort Chaffee Compressor Station which connects with NOARK's system at about MP 0.0, all in Sebastian County, Arkansas;
- about 4.86 miles of dual 20-inch-diameter pipeline loops (totaling about 9.7 miles) from MP 123.1 on Ozark's system to the NOARK Mainline Compressor Station at MP 26.4 on NOARK's system, all in Franklin County, Arkansas;
- two electrically driven compressor units totaling 5,500 horsepower (hp) and ancillary facilities including a pig launcher, a pig receiver, a compressor building, piping, and appurtenances at the existing NOARK Mainline Compressor Station;
- about 2 miles of electric transmission line to provide power for the new compressor additions at the existing NOARK Mainline Compressor Station;
- one 4,500-hp electrically driven compressor unit and ancillary facilities including a compressor building, piping, and appurtenances at the existing Ozark Lequire Compressor Station, located on Ozark's system at MP 212.4 in Haskell County, Oklahoma;
- about 1 mile of electric transmission line to provide power for the new compressor addition at the existing Ozark Lequire Compressor Station; and
- two 8-inch-diameter meter runs, valves, and tie-in piping to upgrade the receipt meter capacity at the existing Ozark-Enogex Boiling Springs Meter Station, located on Ozark's system at MP 237.0 in Latimer County, Oklahoma.

A general location map of the project facilities is shown in appendix 2. If you are interested in obtaining detailed maps of a specific portion of the project, contact the Office of External Affairs.

Land Requirements for Construction

Construction of the proposed facilities would affect a total of about 95.1 acres. Of this total, about 69.2 acres would be disturbed by construction of the pipelines. An additional 14.0 acres would be disturbed by installation of the compressor and meter facilities. The remaining 11.9 acres would be disturbed by construction of an access road and use of 25 extra work areas that would be needed at road, railroad, and waterbody crossings.

The 4.86 miles of dual 20-inch-diameter pipelines would be installed adjacent to an existing NOARK 12-inch-diameter pipeline using a 115-foot-wide construction right-of-way. Following construction and restoration of the right-of-way and temporary work spaces, Enogex would retain a 50-foot-wide permanent pipeline right-of-way. For construction of the 0.19 mile of 10-inch-diameter pipeline, Enogex would use a 65-foot-wide construction right-of-way, of which it would retain a 25-foot-wide strip as permanent pipeline right-of-way. Enogex would install the compressor and meter facilities entirely within in the fence lines of existing sites, requiring no additional temporary work space.

Existing land uses on the disturbed areas, as well as most land uses on the permanent rights-of-way, would be allowed to continue following construction. Total land requirements for new permanent rights-of-way would be about 30.1 acres.

Construction of the electric transmission line for the NOARK Mainline Compressor Station would require a 2-mile-long, 70-foot-wide right-of-way that would affect about 17.0 acres. For the Ozark Lequire Compressor Station, a 1-mile-long, 80-foot-wide right-of-way would be required, which would affect about 9.7 acres.

The EA 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. The EA we are preparing will give the Commission the information to do that. NEPA also requires us to discover and address concerns the public may have about the proposal. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA 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 EA. All comments received are considered during the preparation of the EA. We encourage state and local government representatives to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Socioeconomics.

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 EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our final recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section on pages 5 and 6 of this Notice.

Currently Identified Environmental Issues

We have already identified an issue that we think deserves attention based on a preliminary review of the proposed facilities and the environmental information provided by Enogex. The number of issues may increase or

[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, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] On March 5, 1998, under Docket No. CP98–265–000, Ozark Gas Transmission System filed an application under section 7(b) of the Natural Gas Act to abandon all of its facilities by sale to Enogex.

decrease based on your comments and our analysis.

- There are 15 noise-sensitive areas that are in proximity to the compressor stations.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. 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:

- Reference Docket No. CP98–266–000.
- Send *two* copies of your comments to: David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First St., NE, Washington, DC 20426.
- Lable one copy for the attention of the Environmental Review and Compliance Branch, PR–11.1.
- Please mail your comments so that they will be received in Washington, DC on or before May 8, 1998.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, known as an ''intervenor''. Intervenors play a more formal role in the process. 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 14 copies of its filings to the Secretary of the Commission and must send a copy to all other parties on the Commission's service lists for these proceedings. 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). Only intervenors have the right to seek rehearing of the Commission's decision. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9156 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–170–000]

Texas Gas Transmission Corporation; Notice of GSR Reconciliation Report

April 2, 1998.

Take notice that on March 30, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a report which compares gas supply realignment (GSR) costs with amounts recovered through the GSR recovery filings. Texas Gas states that this reconciliation filing is being made in accordance with Section 33.3(h) as found in Texas Gas's FERC Gas Tariff, First Revised Volume No. 1 and to comply with Article IV, Section 4.5 of the GSR Settlement in Docket No. RP94–119–000, *et al.*, filed on July 12, 1995, and approved by Commission Letter Order issued September 18, 1995.

Texas Gas states that copies of this filing have been served upon Texas Gas's jurisdictional customers, those appearing on the applicable service lists, and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–9167 Filed 4–7–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[SWH–FRL–5992–6]

Agency Information Collection Activities—Proposed Collection; Comment Request; Survey of the Inorganic Chemicals Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Survey of the Inorganic Chemicals Industry, ICR Number 1848.01. This ICR includes information about the RCRA section 3007 questionnaire, subsequent data update requests, site visits, and sampling anticipated for this information collection effort. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 8, 1998.

ADDRESSES: Comenters must send an original and two copies of their comments referencing docket number F–98–SICP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments also may be submitted electronically through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format also should be identified by the docket number F–98–SCIP–FFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

The ICR, including the Inorganic Chemicals Industry RCRA Section 3007 questionnaire, and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235

Jefferson Davis Highway, Arlington, VA. The public comments, upon their receipt will be available at the aforementioned address. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/osw/hazwaste.htm#id.

FTP: ftp.epa.gov.

Login: anonymous.

Password: your Internet address.

Files are located in /pub/epaoswer.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register.** EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Anthony D. Carrell, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308–0458, or carrell.anthony@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those generating, transporting, storing or disposing of the wastes of interest from the inorganic chemicals industries.

Title: Survey of the Inorganic Chemicals Industry, ICR Number 1848.01.

Abstract: Under the Industry Studies Program, EPA's Office of Solid Waste is planning to conduct surveys of various industries during the rest of this fiscal year through FY 1999, primarily for the purpose of developing hazardous waste listing determinations as part of a rulemaking effort under sections 3001 and 3004 of the Resource Conservation and Recovery Act (RCRA). Information collected under authority of this ICR will be used to establish and expand an information data base with regard to hazardous waste generation and management by the inorganic chemicals industry to support a goal of more effective regulation under sections 3001 and 3004 of RCRA.

This ICR, once approved, will allow continued and expanded data collection on the inorganic chemicals industry for the following program areas:

- Listing.
- Land Disposal Restrictions (LDR) and Capacity.
- Source Reduction and Recycling.
- Risk Assessment.

EPA has been conducting surveys and site visits for various industries over the past 12 years under authority granted under RCRA section 3007 and OMB #2050–0042. Responses to these surveys are mandatory and required by EPA to collect data for development of hazardous waste rulemakings as required by a consent decree signed December 9, 1994, which resulted from the EDF v. Reilly case.

For the inorganic chemicals industries that are the subject of this information collection, these surveys will collect the data listed below.

- Corporate/facility data—name, location, EPA hazardous waste identification number, and facility representative.
- Feedstock and product information—chemical and physical identification of feedstocks and raw materials.
- General process information—types of processes in place, and on-site wastewater treatment and disposition.
- Specific manufacturing processes, residuals—flow sheets, including types and points of introduction and generation of feedstocks, products, co-products, by-products, and residuals.
- General residuals management information—on-site and/or off-site management of residuals of concern.
- Residuals characterization—chemical/physical properties of the residuals, regulatory status (*i.e.*, whether the waste already is a hazardous waste).
- Residuals management units/facility-wide exposure pathway risk assessment of information—management units that manage residuals of concern, operating and design information on units, potential releases from units, environmental descriptors surrounding management units.

In addition to the RCRA section 3007 questionnaire, other information collection efforts under this ICR include clarifications and updates to the questionnaire, site visits, and sampling. The information collected will be used primarily to determine if wastes from the inorganic chemicals industries should be listed as hazardous. In addition, this information also will be used to support other RCRA activities including developing engineering analyses; conducting regulatory impact analyses, economic analyses, and risk assessments; and developing land disposal restrictions treatment standards and waste minimization programs.

The information collection will consist of a census of all the facilities that are included in the inorganic chemicals industries.

EPA anticipates that some data provided by respondents will be claimed as confidential business information (CBI). Respondents may make a business confidentiality claim by marking the appropriate data as CBI. Respondents may not withhold information from the Agency because they believe it is confidential. EPA now is requiring that claims of confidentiality be substantiated at the time the claim is made. Information so designated will be disclosed by EPA only to the extent set forth in 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Ch. 15.

EPA would like to solicit comments to:

(I) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(ii) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

In addition, EPA would like to solicit comments on the RCRA section 3007

questionnaire for the inorganic chemicals industry. Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The average annual burden imposed by the survey and other information collection efforts is approximately 44.0 hours per respondent. The average number of responses for each respondent is 1.2. The estimated number of likely respondents is 119. The information on the burden estimates is clarified in the ICR part A.

Dated: March 25, 1998.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–9243 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Motor Vehicle Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks; EPA ICR 0783.37, OMB 2060–0104, expires 31 August 1998. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 8, 1998.

ADDRESSES: Interested persons may obtain a copy of the ICR without charge from: United States Environmental Protection Agency, Vehicle Programs Compliance Division, ATTN: Richard W. Nash, 2565 Plymouth RD, Ann Arbor MI 49105.

FOR FURTHER INFORMATION CONTACT: Richard W Nash, 2565 Plymouth Rd, Ann Arbor MI 48105, (313) 668–4412/ (734) 214–4412, E-mail: nash.dick@EPA.GOV.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are passenger car, light truck and motorcycle manufacturers and importers.

Title: Emission Certification and Fuel Economy Compliance; Motorcycles, Light Duty Vehicles and Light Duty Trucks; EPA ICR 0783.37, OMB 2060–0104, expires August 31, 1998.

Abstract: Under the Clean Air Act (42 USC 7525), manufacturers and importers of passenger cars, light trucks and motorcycles must have a certificate of conformity issued by EPA covering any vehicle they intend to offer for sale. In addition, car and truck manufacturers (and importers) must also submit information and reports required by the Energy Conservation and Policy Act (15 USC 2000 *et seq.*). EPA reviews vehicle information and test data to verify that the vehicle conforms to appropriate requirements and to verify that the proper testing has been performed. Subsequent audit and enforcement actions may be taken based, in part, on the information submitted. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Ch. 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The total labor burden imposed by the Motor Vehicle Emission Certification and Fuel Economy Compliance program is approximately 968,175 hours/year. The annual operating and capitalized costs are $3 million and $9.7 million respectively. Approximately 70 respondents are regulated by this program. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 1, 1998.

Richard D. Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 98–9244 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–3]

Science Advisory Board; Request for Nomination of Members and Consultants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with its standard operating procedures (SAB–FRL–2657–4 dated August 21, 1984), the Science Advisory Board (SAB), including the Clean Air Scientific Advisory Committee (CASAC) and the Council on Clean Air Compliance Analysis (Council), previously referred to as the Clean Air Act Compliance Advisory Council (CAACAC), of the Environmental Protection Agency (EPA)

is soliciting nominations for Members and Consultants (M/Cs). As part of this effort, the Agency is publishing this notice to describe the purpose of the SAB and to invite the public to nominate appropriately qualified candidates to fill upcoming vacancies. This process supplements other efforts to identify qualified candidates.

The SAB is composed of non-Federal government scientists and engineers who are employed on an intermittent basis to provide independent advice directly to the EPA Administrator on technical aspects of public health and environmental issues confronting the Agency. Members of the SAB are appointed by the Administrator—generally in October—to serve two years terms with some possibilities for reappointment. Consultants are appointed throughout the year, as the need arises, by the Staff Director of the Science Advisory Board to serve renewable one-year terms and serve on SAB committees, as needed. Many individuals serve as Consultants prior to serving as Members.

Any interested person or organization may nominate qualified persons to serve on the SAB. Nominees should be qualified by education, training and experience to evaluate scientific, engineering and/or economics information on issues referred to and addressed by the Board. The principal criteria in the membership selection process are:

a. Technical competence.

b. Independence.

c. Ability to work in a committee environment.

d. Overall balance of technical points of view on the SAB Historically, between 15 and 20 new Members and between 30 and 40 new consultants are appointed each year.

Members and Consultants most often serve in association with one of the following standing committees: Advisory Council on Clean Air Compliance Analysis, Clean Air Scientific Advisory Committee, Drinking Water Committee, Ecological Processes and Effects Committee, Environmental Economics Advisory Committee, Environmental Engineering Committee, Environmental Health Committee, Integrated Human Exposure Committee, Radiation Advisory Committee, and Research Strategies Advisory Committee.

Members and Consultants can expect to attend 1–6 meetings per year, based upon the activity of the committee on which they serve. M/Cs generally serve as Special Government Employees (SGEs) (40 CFR part 3, subpart F or EPA Ethics Advisory 88–6 dated 7/6/88) and receive compensation, in addition to reimbursement at the Federal government rate for travel and per diem expenses while serving on the SAB. SGEs are required to complete an application package, including a Confidential Financial Disclosure Report.

Nominees should be identified by name, occupation, position, address, telephone number, fax number, email address (if available) and SAB committee of primary interest. Nominations should include a current resume or curriculum vitae that addresses the nominee's background, experience, qualifications, and specific areas of expertise (e.g., genetic toxicologist, resource economist, etc.).

Information on the nominees will be evaluated and entered into the SAB's M/C data base which will be consulted whenever vacancies arise and/or when special expertise is needed for particular reviews. This request for nominations does not imply any commitment by the Agency to select individuals to serve as a Member of or Consultant to the Science Advisory Board from the responses received.

Nominations should be submitted to: Ms. Carolyn Osborne, Project Coordinator, Science Advisory Board, USEPA, 401 M Street, SW, Washington, DC 20460 Tel: (202) 260–9644 no later than May 15, 1998. Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found in the Annual Report of the Staff Director which is available at the SAB Website URL http://www.epa.gov/science1 or by calling (202) 260–8414 or by INTERNET at BARNES.Don@EPAMAIL.GOV.

Dated: March 30, 1998.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 98–9246 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–7]

Stakeholder Meetings on the Public Review Draft Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems

AGENCY: Environmental Protection Agency.

ACTION: Announcement of Stakeholder Meetings.

SUMMARY: The U.S. Environmental Protection Agency (EPA) will hold three regional public meetings to gather information and collect opinions from parties who will be affected by or are otherwise interested in the Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems. EPA will consider the comments and views expressed at these meetings in developing the final guidelines. EPA encourages the full participation of all stakeholders throughout this process.

DATES AND LOCATIONS: The stakeholder meetings regarding the Public Review Draft Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems will be held as follows:

(1) Thursday, April 23, 1998, 1:30 p.m. to 5 p.m. PT., San Francisco, CA.

(2) Tuesday, June 2, 1998, 9:30 a.m. to 3:30 p.m. ET., Washington, DC.

(3) Tuesday, June 9, 1998, 9:30 a.m. to 4 p.m. CT., Dallas, TX.

ADDRESSES: The April 23, 1998 stakeholder meeting will be held in the American Samoa Room, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA. The June 2, 1998 stakeholder meeting will be held in the WIC Conference Room 17, U.S. EPA Headquarters, 401 M Street SW, Washington, DC. The June 9, 1998 stakeholder meeting will be held in the Arkansas Room, U.S. EPA Region VI, 1445 Ross Avenue, 12th Floor, Dallas, TX.

To register for a meeting, please contact the EPA Safe Drinking Water Hotline at 1–800–426–4791, or Jenny Jacobs of EPA's Office of Ground Water and Drinking Water at (202) 260–2939. Participants registering in advance will be mailed a packet of materials before the meeting. Interested parties who cannot attend the meeting in person may participate via conference call and should register with the Safe Drinking Water Hotline. Conference lines are limited and will be allocated on the basis of first-reserved, first served.

FOR FURTHER INFORMATION CONTACT: For general information on meeting logistics, please contact the Safe Drinking Water Hotline at 1–800–426–4791. For information on the activities related to these guidelines, contact: Jenny Jacobs, U.S. EPA at (202) 260–2939 or e-mail at jacobs.jenny@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act (SDWA) Amendments of 1996 direct the EPA, in cooperation with the States, to publish

guidelines in the **Federal Register** specifying minimum standards for certification and recertification of operators of community and nontransient noncommunity public water systems. The final guidelines are required to be published by February 6, 1999. States then have two years to adopt and implement an operator certification program that meets the requirements of these guidelines. After that date, if a State has not adopted and implemented an approved program, the EPA must withhold 20 percent of the funds a State is otherwise entitled to receive in its Drinking Water State Revolving Fund (DWSRF) capitalization grants under section 1452 of SDWA.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water, Environmental Protection Agency.

[FR Doc. 98–9242 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5992–8]

National Drinking Water Advisory Council, Open Meetings

Under section 10(a)(2) of Pub. L. 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council (NDWAC) established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on April 29, 1998 until 6 p.m. and April 30, 1998, from 8:30 a.m. until 5 p.m., in the Auditorium at the Environmental Protection Agency's (EPA) Environmental Research Center (ERC), located on the corner of Alexander Drive and Route 54, Research Triangle Park, North Carolina. The purpose of this meeting is to provide the opportunity for the Council to discuss and make recommendations on the EPA's plans to meet future needs to support the sound science requirements for upcoming programmatic deadlines. In addition, the Council will be briefed on and discuss the NDWAC working groups and the Drinking Water Strategic Needs Assessment Project. Presentations will also be held on the draft First Annual Compliance Report and the Water Conservation Plan Guidelines.

This meeting is open to the public. The Council encourages the hearing of outside statements and will allocate one hour on April 30, 1998, for this purpose. Oral statements will be limited to ten minutes and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 or by E-Mail at shaw.charlene@epamail.epa.gov by April 23. 1998.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, DC 20460. The telephone number is Area Code (202) 260–2285 or E-Mail shaw.charlene@epamail.epa.gov.

Dated: April 3, 1998.

Charlene Shaw,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–9248 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–800;FRL–5781–1]

Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of petition (PP 7F4822), submitted by Monsanto Company, proposing the establishment of a regulation for an exemption from the requirement of a tolerance for residues of the plant pesticide, active ingredient, *Bacillus thuringiensis variety kurstaki* (*B.t.k.*) insect control protein (CryIIA), when used in or on all food and feed crops.

DATES: Comments, identified by the docket control number PF-800, must be received on or before May 8, 1998.

ADDRESSEES: By mail submit written comments to: Public Information and Records Integrity Branch (7502C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, 22202.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION''. No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of the information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Willie H. Nelson, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticides Programs, Environmental Protection Agency, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8682; e-mail:nelson.willie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals/microbials in or on various food commodities under section 408 elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on petitions.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF-800] (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 included any information claimed as CBI, is available for inspection from 8:30 to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–800] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 20, 1998

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticides Programs.

Summary of Petition

Below a summary of the pesticide petition is printed. The summary of the petition was prepared by the petitioner. This petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Monsanto Company

PP 7F4822

1. *Plant-pesticide uses*. Cotton, *Gossypium hirsutum*, has been genetically engineered to be resistant to selected insect pests of the taxonomic order Lepidoptera. Insect protection was accomplished by the insertion of the *cryIIA* gene from *Bacillus thuringiensis* subsp. *kurstaki* (*B.t.k.*) which encodes for the production of a protein specifically insecticidal to Lepidopteran larvae in cotton but safe to nontarget organisms such as mammals, birds, fish and beneficial insects. Larvae of Lepidopteran pests are the most important insect pests impacting successful cotton production and numerous chemical insecticide treatments are typically applied for their control. The production of cotton varieties containing the *CryIIA* gene from *B.t.k.* is expected to significantly reduce chemical insecticide use in cotton and; therefore, provide a major benefit to cotton growers and the environment.

2. *Safety*. The CryIIA protein produced in Bollgard™ Cotton is >99.9% identical to the protein produced by the *B.t.k.* HD-1 bacterial strain found in nature and in commercial *B.t.k.* formulations registered with the EPA. These microbial *B.t.k.* formulations have been commercially available for the last 30 years. This strain controls insect pests by the production of crystalline insecticidal proteins known as delta-endotoxins. To be active against the target insect, the protein must be ingested. In the insect gut, the protein binds to specific receptors on the insect mid-gut, inserts into the membrane and forms ion-specific pores. These events disrupt the digestive processes and cause the death of the insect.

There are no receptors for the protein delta-endotoxins of *B. thuringiensis* subspecies on the surface of mammalian intestinal cells; therefore, humans are not susceptible to these proteins. This has been confirmed in numerous safety studies carried out in laboratory animals which are traditionally experimental surrogates for humans. The results of some of these studies have been published in scientific reviews (Ignoffo,1973; Shadduck *et al.*, 1983; Siegel and Shadduck, 1990). Results of unpublished safety studies generated by registrants of *B. thuringiensis* commercial preparations have also been summarized in a recently issued EPA Registration Standard for *Bt* Formulations (EPA, 1988). In published reviews and the EPA document, studies are referenced in which large doses (5,000 mg/kg) of *B. thuringiensis* formulations were administered as single or multiple oral doses (up to 2 years) to different laboratory animals, with no adverse effects.

Avian and aquatic organisms have also been fed *B. thuringiensis* formulations, with no adverse effects. A typical formulation is composed of *Bt* spores and *Bt* protein endotoxin, the latter compromising up to one-third of the weight of the spores. While target insects are susceptible to oral doses of *B.t.k.* proteins, there was no evidence of any toxic effects observed in non-target laboratory mammals, fish or birds given the equivalent of up to 10^6 g of protein per gram of body weight. No deleterious effects were observed on non-target insects at doses over 100 fold higher than needed to control target insects (EPA 1988).

In addition to the lack of receptors for the *B.t.k.* proteins, the absence of adverse effects in non-target animals is further supported by the poor solubility and stability of the *B.t.k.* proteins in the acid milieu of the stomach. The acid conditions in the stomach and the presence of bile acids denature the *B.t.k.* proteins facilitating their rapid degradation by pepsin. *In vitro* enzymatically activated delta-endotoxins are also non-toxic when administered orally to laboratory animals (Nishitsutsuji-Uwo *et al.* 1980). Even if activated *B.t.k.* protein toxins could enter the mammalian gastrointestinal tract, there are no receptors on the surface of gastrointestinal tissues to permit binding of the protein toxin to the cell surface. These scientific considerations are experientially support by the history of completely safe use of *B. thuringiensis* preparations. Based on the available scientific data, EPA and other regulatory scientists worldwide have determined that use of registered *B. thuringiensis* products pose no risks to human health or non-target organisms.

Monsanto Company has also submitted several toxicology studies in support of the CryIIA protein as a plant pesticide. According to Monsanto Company, there is no acute toxicity of the CryIIA protein. In addition, the CryIIA protein is also produced at low levels by Bollgard cotton plants and is contained within the cells of the cotton plant. Consequently, there would be negligible exposure to the protein from handling cottonseed, leaf tissue or lint at planting, during growth, or at harvest. In addition, there would be no potential hazard during storage, transportation, or disposal of Bollgard cottonseed as the protein cannot drift or volatilize from the plant and its bioactivity is rapidly lost upon decomposition of the plant tissue.

The following mammalian toxicity studies have been conducted to support this exemption from the requirement of a tolerance:

i. A mouse acute oral gavage study in which the No-Observed-Effect-Level (NOEL) for toxicity of the CryIIA protein administered as a single dose was considered to be 4,000 mg/kg (the highest tested dose).

ii. *In vitro* digestive fate of the CryIIA protein in simulated gastric and intestinal fluids. The results of this study established that the CryIIA protein and its associated functional activity will be efficiently degraded upon exposure to gastric and intestinal fluids in the mammalian digestive tract. A lack of stability to digestion is a characteristic of proteins which are non-allergens.

iii. Amino acid sequence homology assessment of the CryIIA protein to known allergens and toxins. The results of this analysis establish that the CryIIA protein expressed in Bollgard cotton shares no significant sequence similarity with known toxins, allergens or gliadin proteins. In addition, the CryIIA protein

appears to contain no sequences relevant to allergy or coeliac disease.

3. *Threshold effects*— i. *Acute toxicity*. Based on the available acute toxicity data for the CryIIA protein and on the safe use of microbial *Bacillus thuringiensis* foliar formulations containing the same protein and registered with the EPA and used commercially for 30 years, no acute dietary risks are posed.

ii. *Chronic effects*. The CryIIA protein is degraded upon exposure to gastric and intestinal fluids in the mammalian digestive tract. Consequently, no chronic effects are expected. In addition, in published reviews and the EPA Registration Standard for *Bt* Formulations (EPA, 1988) studies are referenced where large doses (5,000 mg/kg) of *B. thuringiensis* formulations were administered as single or multiple oral doses (up to 2 years) to different laboratory animals, with no adverse effects.

4. *Non-threshold effects*. Carcinogenicity: Proteins are not considered to be carcinogenic (Pareza and Foster, 1983) and consequently, there is no carcinogenic risk associated with the CryIIA protein.

5. *Aggregate exposure*. Cottonseed meal is not currently used for human consumption in the United States (Morgan, 1990; Cottonseed Oil, 1990). The presence of gossypol and cyclopropenoid fatty acids in cottonseed also limits its use as a protein supplement in animal feed except for cattle, which are unaffected by these components. Inactivation or removal of these components during processing, which entails heating and chemical treatment, enables the use of some cottonseed meal for catfish, poultry and swine. However, as the CryIIA protein is heat labile, the biological activity of the protein is expected to be lost upon processing as demonstrated by Sims and Berberich with other *B.t.* proteins (1996).

Refined cottonseed oil and cottonseed linters (the fiber remaining after ginning seed cotton) are also highly processed and are the only cotton products consumed as food by humans. Cottonseed oil is typically removed from the meal by direct solvent extraction with hexane and is further processed and refined by exposure to extreme heat and alkaline pH. Processed cottonseed oil contains no detectable protein (Fuchs, 1994; Fuchs *et. al.*, 1993). Cotton linters are essentially comprised only of cellulose (>99.9%) and Sims *et. al.* (1996) have demonstrated that processed linters, which also undergo exposure to temperatures exceeding 100°C and alkaline treatment do not contain detectable levels of transgenic proteins such as CryIIA.

Based on these results, aggregate exposure to the CryIIA protein through ingestion of cottonseed oil and linters derived from bollgard cotton would be negligible.

6. *Determination of safety for U.S. population*. The toxicity data support an exemption from the requirement of a tolerance for the CryIIA protein expressed in Bollgard cotton indicate that there would be no risk from exposure to the CryIIA protein by the overall U.S. population. In addition, the CryIIA protein expressed in Bollgard is more than 99.9% identical to the natural protein, which is component of microbial *Bacillus thuringiensis* subsp. *kurstaki* formulations that have been registered with the EPA and available commercially for the last 30 years. The EPA and other regulatory scientists worldwide have determined that use of registered *B. thuringiensis* products pose no significant risks to human health or non-target organisms (EPA, 1988).

7. *Determination of safety for infants and children*. Monsanto considers the acute toxicity data, the rapid degradation of the CryIIA protein in the mammalian digestive system, the lack of homology to known proteinaceous allergens or toxins and a 30 year history of safe use of microbial *B. thuringiensis* containing the near identical CryIIA protein as ample evidence to support the safety of this protein to neonatal infants, infants and children.

8. *Estrogenic effects* Not applicable. Proteins are not capable of direct estrogenic activity as they are incapable of binding to an estrogen receptor.

9. *Chemical residue*. Not applicable. In the United States, only refined cottonseed oil and cottonseed linters (the fiber remaining after ginning seed cotton), which are highly processed, are the only cotton products consumed as food by humans. Cottonseed oil is typically removed from the meal by direct solvent extraction with hexane and is further processed and refined by exposure to extreme heat and alkaline pH. Processed cottonseed oil contains no detectable protein (Fuchs, 1994; Fuchs *et. al.*, 1993). Cotton linters are essentially comprised only of cellulose (>99.9%) and Sims *et. al.* (1996) have demonstrated that processed linters, which also undergo exposure to temperatures exceeding 100°C and alkaline treatment do not contain detectable levels of transgenic proteins such as CryIIA.

10. *Environmental fate*. The CryIIA protein expressed in Bollgard cotton plant tissue was evaluated over 120 d in both a laboratory microcosm and under field conditions. DT_{50} values were 15.5 d and 31.7 d for the laboratory and field respectively. These results demonstrate that CryIIA protein, as a component of post-harvest Bollgard cotton plants, will dissipate when cultivated into soil.

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[FR Doc. 98–8659 FIled 4–7–98; 8:45 a.m.]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181059; FRL 5782–3]

Carbofuran; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Oklahoma Department of Agriculture hereafter referred to as the ''Applicant'') to use the pesticide flowable carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279–2876) to treat up to 148,000 acres of cotton, to control cotton aphids. The Applicant proposes the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs. The granular formulation of carbofuran was the subject of a Special Review between the years of 1986–1991, which resulted in a negotiated settlement whereby most of the registered uses of granular carbofuran were phased out. While the flowable formulation of carbofuran is not the subject of a Special Review, EPA believes that the proposed use of flowable carbofuran on cotton could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. Additionally, in 1997 EPA denied requests made under provisions of section 18 for this use of flowable carbofuran. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

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

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–181059,'' should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instruction under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be included in the public record by EPA without prior notice.

The public docket is available for public inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–308–9358); e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of carbofuran on cotton to control aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that the state of Oklahoma is likely to experience non-routine infestations of aphids during the 1998 cotton growing season. The applicant further claims that, without a specific exemption of FIFRA for the use of flowable carbofuran on cotton to control cotton aphids, cotton growers in the state will suffer significant economic losses. The applicant also details a use program designed to minimize risks to pesticide handlers and applicators, non-target organisms (both Federally-listed endangered species, and non-listed species), and to reduce the possibility of drift and runoff.

The Applicant proposes to make no more than two applications of flowable carbofuran on cotton at the rate of 0.25 lb. active ingredient (a.i.) [(8 fluid oz.)] in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1998 growing season (July 1, 1998 until October 15, 1998) would be 0.5 lb. a.i. (16 fluid oz.) per acre. The applicant proposes that the maximum acreage which could be treated under the requested exemption would be 148,000 acres. If all acres were treated at the maximum proposed rate, then 74,000 lbs. a.i. (18,500 gallons Furadan 4F Insecticide/Nematicide) would be used in Oklahoma.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar to the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–181059] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–181059]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Oklahoma Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: March 24, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–8657 Filed 4–7–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

March 31, 1998

SUMMARY: The Federal Communications Commissions, 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, 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: Persons wishing to comment on this information collection should submit comments June 8, 1998.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, 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 collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0128.

Title: Application for General Mobile Radio Service and Interactive Video Data Service.

Form No.: FCC 574.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals; business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 1,826.

Estimated Time Per Response: 30 minutes.

Total Annual Burden: 913 hours.

Frequency of Response: On occasion reporting requirements.

Needs and Uses: This form is used by General Mobile Radio Service (GMRS) and some Interactive Video Data Service (IVDS) applicants for a new or modified license.(IVDS Auction applicants use FCC 600.) Applicants may also file this form for renewal when they do not receive the automated renewal notice, FCC Form 574R, sent to them by the Commission. This form is required by the Communications Act of 1934, as amended; International Radio Regulations, General Secretariat of International Telecommunications Union and FCC Rules - 47 CFR 1.922, 1.924, 95.71, and 95.73. FCC 574 is also being used by some Interactive Video Data Service licensees until the Universal Licensing System (ULS) is implemented. FCC Rules 47 CFR 95.811, 95.815, 95.817 and 95.833 identify the collection of the data for IVDS purposes.

The Wireless Telecommunications Bureau staff will use the data to determine eligibility of the applicant to hold a radio station authorization and for rulemaking proceedings. Compliance personnel will use the data in conjunction with field engineers for enforcement purposes. The data obtained from the collection is vital to maintaining an acceptable database.

This form is being revised to delete the fee payment blocks. FCC Form 159, Fee Remittance Advice, is required with any payment to the FCC. The fee payment blocks duplicated the collection of this information. A space has been added for the applicant to provide an Internet/e-mail address. The collection of ''FCC Tower Number'' has been changed to ''Antenna Structure Registration Number'' due to the FCC revising the way antennas are registered with the FCC.

When the Universal Licensing System (ULS) is implemented, GMRS applicants will use the proposed FCC Form 605 and IVDS applicants will file the proposed FCC 601. At the time of implementation, the FCC will notify OMB of any change in the status of this collection of information.

The number of respondents is being adjusted to reflect a decrease from 2,970 to 1,826 and total annual burden hours from 1,485 to 913 hours. This adjustment is due to a re-evaluation of receipts.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9188 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to ORB for Review and Approval

March 31, 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 May 8, 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–XXXX.

Title: Federal Communications Commission's National Call Center Generic Customer Satisfaction Survey.

Form No.: N/A.

Type of Review: New collection.

Respondents: Individuals or households; business or other for-profit, not-for-profit institutions.

Number of Respondents: 2,250.

Estimated Time Per Response: .05 hours.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: N/A.

Total Annual Burden: 113 hours.

Needs and Uses: The collection of information is necessary to ensure customer satisfaction and to guarantee that the Federal Communications Commission's National Call Center is providing quality service. The information collected will be used to calculate time waiting; if the caller was given complete and responsive information to their inquiry or complaint; if the caller had to make repetitive calls to obtain information; how the caller rated the service they received; and if the caller received courteous service. Data collected will be used for program evaluation, planning or management to improve quality and efficiency of the operation and to target areas of needed employee customer service training.

OMB Control No.: 3060–0690.

Title: Rules regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 13,904.

Estimated Time Per Response: .5 hours.

Frequency of Response: On occasion reporting requirement.

Cost to Respondents: $0.

Total Annual Burden: 210,318 hours.

Needs and Uses: The collection of information is necessary because of the amendments of the Commission's rules regarding the 37.0 - 38.6 GHz (37 GHz) and 38.6 - 40.0 GHz (39 GHz) bands in ET Docket No. 95–183. The rules implemented use a channeling plan, and licensing and technical rules for fixed point-to-point microwave operations in the 37 GHz, while also modifying the rules for the 39 GHz band to make them consistent with the technical rules we are proposing for the 37 GHz band. The information is used by the Commission staff to provide adequate point-to-point microwave spectrum, which will facilitate provision of communications infrastructure for commercial and private mobile radio operations and competitive wireless local telephone service. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–9189 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 98–637]

North American Numbering Council Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 2, 1998, the Commission released a public notice announcing the April 21, 1998, meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its Agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes, Paralegal Specialist assisting the NANC, at (202) 418–2313 or via the Internet at jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: April 3, 1998.

The next meeting of the North American Numbering Council (NANC) will be held on Tuesday, April 21, 1998, from 8:30 a.m., until 5:00 p.m., EST at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC 20554.

This notice of the April 21, 1998, NANC meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to NANC's need to finalize its proposed agenda before the next scheduled meeting. This statement complies with the General Services Administration Management Regulations implementing the Federal Advisory Committee Act. *See* 41 CFR § 101–6.1015(b)(2).

This meeting will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. Admittance, however will be limited to the seating available. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before each meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

The planned agenda for the April 21, 1998, meeting is as follows:

1. Steering Group Report.

2. Numbering Resource Optimization Working Group Report: First organizational meeting of April 16, 1998.

3. Number Pooling Management Group (NPMG) Status Report.

4. Industry Numbering Committee (INC) Monthly Report to the NANC.

5. Number Pooling Report: Colorado Public Utilities Commission.

6. North American Numbering Plan Administration (NANPA) Working Group Report: Decision on aging and administration of disconnected telephone numbers. CO Code Transition Task Force Update.

7. Cost Recovery Working Group Report.

8. Local Number Portability Administration (LNPA) Working Group Report: Phase I and II Implementation update.

9. Wireline/Wireless Integration Task Force Report. Discussion of draft NANC Wireless LNP recommendation due to FCC on May 18, 1998.

10. N11 Ad Hoc Committee Update: Progress report on NANC Responsibilities under the *First Report and Order and Further Notice of Proposed Rulemaking,* In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket 92–105, FCC 97–51.

11. Other Business.

12. Review of Decisions Reached and Action Items.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–9264 Filed 4–7–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 98–04]

Best Freight International Ltd., et al.; Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984

Order of Investigation and Hearing

Best Freight International Ltd. (''Best Freight'') is a tariffed and bonded non-vessel-operating common carrier (''NVOCC'') located at 5th Floor, Kam Sang Building, 255–257 Des Voeux Road Central, Sheung Wan in Hong Kong. Best Freight holds itself out as an NVOCC pursuant to its ATFI tariff FMC No. 014801–001, effective June 24, 1997.

Best Freight currently maintains an NVOCC bond, No. 8941464, in the amount of $50,000 with the Washington International Insurance Company, located in Schaumburg, Illinois. Pursuant to Rule 24 of Best Freight's tariff, Washington, International Insurance Company also serves as the U.S. resident agent for purposes of receiving service of process on behalf of Best Freight International Ltd.

Best Freight was established by former employees of Ever Freight International Ltd. (''Ever Freight''), a NVOCC which is the subject of a formal investigation of commodity misdescription activities in FMC Docket No. 97–04, *Ever Freight International Ltd., et al., Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984.* Best Freight is currently operated by Chia Yao (''Gary'') Chen and Yu Fung (''Raymond'') Hau, both of whom actively managed Ever Freight's NVOCC activities which are at issue in the above docket. Best Freight's original anti-rebate certification bears the signature and title of Raymond Hau as ''Manager'' of Best Freight.

Shortly after the inception of formal proceedings as to Ever Freight, Best Freight is believed to have been separately incorporated and to have begun operations as a NVOCC in its own right.[1] During that period and at times subsequent to the filing of its tariff and bond, Best Freight participated in numerous apparent acts of misdescription of cargo on shipments from Hong Kong to the U.S.

The shipments at issue each originated in Hong Kong and were destined for the Los Angeles area. Best Freight was listed as shipper on the ocean carrier's bill of lading, and United Cargo Management (''UCM'') acted as the consignee or notify party. It appears that UCM's role was to serve as the initial destination agent on behalf of Best Freight, primarily to provide Best Freight with access to those rates available under UCM's existing service contract with Hyundai Merchant Marine Co. Ltd. (''Hyundai'') SC No. 95489.

It further appears that Hyundai rated the commodities in accordance with the inaccurate description furnished by best Freight, while Best Freight's U.S. destination agents accepted delivery of the cargo and made payment to Hyundai on the basis of the lower rate attributable to such inaccurate commodity description. Other contemporaneous documentation, such as the arrival notice issued by Best Freight's agent to the U.S. consignee, reflects that Best Freight and its principals were fully cognizant that the shipments actually consisted of commodities different from those listed on Hyundai's bills of lading.

Subsequent to the filing of Best Freight's NVOCC tariff and bond in June, 1997, it appears that Best Freight provided services as a carrier issuing its own (Best Freight) NVOCC bill of lading with respect to the commodity being shipped. The rates assessed and collected by Best Freight and its U.S. agents for these shipments, however, appear to bear no relation to the rates set forth in Best Freight's ATFI tariff on file with the Commission.[2]

Section 10(a)(1) of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. § 1709 (a)(1), prohibits any person knowingly and willfully, directly or indirectly, by means of false billings, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means, to obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable. Section 10(b)(1), 46 U.S.C. app. § 1709(b)(1), prohibits a common carrier from charging, collecting or receiving greater, less or different compensation for the transportation of property than the rates and charges set forth in its tariff. Under section 13 of the 1984 Act, 46 U.S.C. app. § 1712, a person is subject to a civil penalty of not more than $25,000 for each violation knowingly and willfully committed, and not more than $5,000 for other violations.[3] Section 13 further provides that a common carrier's tariff may be suspended for violations of section 10(b)(1) for a period not to exceed one year, while section 23 of the 1984 Act, 46 U.S.C. app § 1721 provides for a similar suspension in the case of violations of section 10(a)(1) of the 1984 Act.

Now therefore, it is ordered, That pursuant to sections 10, 11, 13 and 23 of the 1984 Act, 46 U.S.C. app. §§ 1709, 1710, 1712, and 1721, an investigation is instituted to determine:

(1) whether Best Freight International Ltd., Gary Chen, and Raymond Hau violated section 10(a)(1) of the 1984 Act by directly or indirectly obtaining transportation at less than the rates and charges otherwise applicable through the means of misdescription of the commodities actually shipped.

(2) whether Best Freight International Ltd. violated section 10(b)(1) of the 1984 Act by charging, demanding, collecting or receiving less or different compensation for the transportation of property than the rates and charges shown in its NVOCC tariff;

(3) whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, civil penalties should be assessed against Best Freight International Ltd., Gary/Chen, and Raymond Hau and, if so, the amount of penalties to be assessed;

(4) whether, in the event violations of sections 10(a)(1) and 10(b)(1) of the 1984 Act are found, the tariff of Best Freight International Ltd. should be suspended; and

(5) whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion to the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of

[1] Ever Freight's NVOCC bond was canceled by Washington International Insurance effective July 23, 1997. At this time, Ever Freight principals Gary Chen and Raymond Hau transferred their offices from the 18th Floor to the 5th Floor of the Kam Sang Building. It appears that their offices on the 18th Floor continue to be occupied by others formerly employed by Ever Freight, also operating as Best Freight.

[2] Since filing its tariff in the ATFI system in June, 1997, Best Freight has maintained only a ''shell'' tariff consisting of three classes of Cargo N.O.S. rates. Best Freight does not publish ''per container'' rates because its tariffed rates are set forth solely on a weight/measurement (W/M) ton basis. Nor does it appear to charge those N.O.S. rates which the NVOCC does publish.

[3] The maximum penalties are raised by 10 percent for violations occurring after November 7, 1996 See Inflation Adjustment of Civil Monetary Penalties, 27 S.R.R. 809 (1996).

alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Best Freight International Ltd., Gary Chen, and Raymond Hau are designated as Respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 CFR 502.118, and shall be served on parties of record; and

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by March 25, 1999 and the final decision on the Commission shall be issued by July 26, 1999.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–9142 Filed 4–7–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 4, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Valley National Corporation, Lanett, Alabama; to merge with First National Sylacauga Corporation, Sylacauga, Alabama, and thereby indirectly acquire First National-America's Bank, Sylacauga, Alabama.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Buena Vista Bancorp, Inc., Chester, Illinois; to acquire 100 percent of the voting shares of Bank of Evansville, Evansville, Illinois.

2. Security State Bancshares, Inc., Charleston, Missouri; to acquire 100 percent of the voting shares of Bank of Atkins, Atkins, Arkansas.

Board of Governors of the Federal Reserve System, April 3, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9256 Filed 4–7–98; 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, including the companies listed below, 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 April 23, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire The Ohio Company, Columbus, Ohio, and thereby engage in underwriting and dealing in all types of debt and equity securities and to provide such services as are a necessary incident thereto, *see J.P. Morgan & Co., Inc.*, 75 Fed. Res. Bull. 192, 197 (1989); in providing discount and full-service brokerage services, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in financial and investment advisory services, pursuant to § 225.28(b)(6) of the Board's Regulation Y; in performing functions or activities that may be performed by a trust company, pursuant to § 225.28(b)(5) of the Board's Regulation Y; in underwriting and dealing in bank eligible securities, pursuant to § 225.28(b)(8) of the Board's Regulation Y; in acting as agent in the private placement of securities, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in riskless principal transactions, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in

providing employee benefit consulting services, pursuant to § 225.28(b)(9)(C)(ii) of the Board's Regulation Y, and thereby indirectly acquire Cardinal Management Corp., Columbus, Ohio, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 3, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–9257 Filed 4–7–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Public Meeting of the Inter-tribal Council on Hanford Health Projects (ICHHP) in Association With the Meeting of the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee (HHES)

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Public Meeting of the ICHHP in association with the meeting of the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: HHES.

Time and Date: 1 p.m.-5 p.m., April 22, 1998.

Place: Doubletree Hotel, 802 George Washington Way, Richland, Washington 99352, telephone 509/946–7611, fax 509/943–8564.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC. Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ICHHP is part of these efforts. The ICHHP will work with the HHES to provide input on American Indian health effects at the Hanford, Washington, site.

Purpose: The purpose of this meeting is to address issues that are unique to tribal involvement with the HHES, including considerations regarding a proposed medical monitoring program and discussions of cooperative agreement activities designed to provide support for capacity-building activities in tribal environmental health expertise and for tribal involvement in HHES.

Matters to be Discussed: Agenda items will include a dialogue on issues that are unique to tribal involvement with the HHES. This will include exploring cooperative agreement activities in environmental health capacity building and providing support for tribal involvement in and representation on the HHES.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jim Carpenter, Public Health Advisor, Division of Health Assessment and Consultation, ATSDR, E–32, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–6027, fax 404/639–4699.

Dated: April 1, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–9181 Filed 4–7–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 8 a.m.–5 p.m., April 23, 1998. 6:30 p.m.–8:30 p.m., April 23, 1998. 8 a.m.–12:45 p.m., April 24, 1998.

Place: Doubletree Hotel, 802 George Washington Way, Richland, Washington 99352, telephone 509/946–7611, fax 509/943–8564.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. Activities shall focus on providing a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include: ATSDR's proposed medical monitoring program, ATSDR's planning for an exposure subregistry program, and solicitations of subcommittee concerns to be addressed by ATSDR and CDC. There will also be updates from the Inter-tribal Council on Hanford Health Projects, and reports from the following Work Groups: Outreach/Special Populations, Public Health Activities, and Health Studies.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Jim Carpenter, Executive Secretary, ATSDR, E–32, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–6027, fax 404/639–4699.

Dated: April 1, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–9182 Filed 4–7–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Community/Tribal Subcommittee and the Board of Scientific Counselors, Agency for Toxic Substances and Disease Registry: Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) announces the following subcommittee and committee meetings.

Name: Community/Tribal Subcommittee.

Times and Dates: 1:30 p.m.–5 p.m., April 28, 1998. 8:30 a.m.–5 p.m., April 29, 1998.

Place: ATSDR, 35 Executive Park Drive, Training Room, Atlanta, Georgia 30329, telephone 404/639–0708.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 60 people.

Purpose: This subcommittee will bring to the Board advice, citizen input, and recommendations on community and tribal programs, practices, and policies of the Agency.

Matters to be Discussed: Agenda items include identifying issues and concerns of the Subcommittee related to ATSDR community and tribal programs, policies, and activities. Recommendations will be developed and a report will be presented to the Board.

Name: Board of Scientific Counselors, ATSDR.

Times and Dates: 8:30 a.m.–5 p.m., April 30, 1998. 8:30 a.m.–3:45 p.m., May 1, 1998.

Place: ATSDR, 35 Executive Park Drive, Training Room, Atlanta, Georgia 30329, telephone 404/639–0708.

Status: Open to the public, limited by the available space. The meeting room accommodates approximately 60 people.

Purpose: The Board of Scientific Counselors, ATSDR, advises the Secretary; the Assistant Secretary for Health; and the Administrator, ATSDR, on ATSDR programs to ensure scientific quality, timeliness, utility, and dissemination of results. Specifically, the Board advises on the adequacy of science in ATSDR-supported research, emerging problems that require scientific investigation, accuracy and currency of the science in ATSDR reports, and program areas to emphasize and/or to de-emphasize. In addition, the Board recommends research programs and conference support for which the Agency seeks to make grants to universities, colleges, research institutions, hospitals, and other public and private organizations.

Matters to be Discussed: Agenda items will include a report from the Community/Tribal Subcommittee on issues and concerns related to hazardous waste sites; a report on the TCE speech and hearing study; a report by the external evaluation panel on the ATSDR Program of Research for Historically Black Colleges and Universities; workgroup reports on the Great Lakes Health Effects Research Program and Uncertainty in Health Guidance Values; a report of findings and public health implications of the Agency's Hazardous Substances Emergency Events Surveillance; and updates on the Environmental Cancer Registry and the Mississippi Delta Project Needs Assessment Profiles.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Charles Xintaras, Sc.D., Executive Secretary, BSC, ATSDR, M/S E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708.

Dated: April 1, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office.

[FR Doc. 98–9179 Filed 4–7–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0192]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). The purpose of the proposed collection of information is to enable manufacturers of biological products to use specific establishment and product license application (PLA) forms in submissions seeking FDA approval of their products.

DATES: Submit written comments on the collection of information by April 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. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA and 5 CFR 1320.13 because the information is essential to the agency's mission. The agency cannot reasonably comply with the normal clearance provisions of the PRA of 1995 because the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Establishment and Product License Applications: Forms FDA 2599, 2599a, 2600, 2600b, 3066, 3086, 3096, 3098, 3098a, 3098b, 3098c, 3098d, 3098e, 3210, 3213, 3214, and 3314—21 CFR 601.2 and 601.12—(OMB Control Number 0910–0124—Reinstatement)

FDA is the Federal agency charged with responsibility for insuring the safety and effectiveness of drugs and the safety, purity, and potency of biological products. Manufacturers of biological products for human use must file an application for FDA approval of the product prior to introducing it into interstate commerce. The information provided by manufacturers on these license application forms is necessary for FDA to carry out its mission of protecting the public health and helping to ensure that biologics for human use have been shown to be safe, pure, and potent. The uniform format of the forms provides for orderly, efficient review by

the Center for Biologics Evaluation and Review (CBER) staff and expedites the licensing process as well as documenting for future reference the methods and procedures that have been approved for use at each manufacturing location. Statutory authority for this collection of information is found in section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262).

Section 601.2 (21 CFR 601.2) requires that manufacturers of biological products regulated under the PHS Act submit an establishment license application (ELA) and a PLA, or a biologic license application (BLA) to CBER for review and approval prior to marketing a biological product in interstate commerce. Blood and blood components fall within the category of biological products. All establishments collecting and/or preparing blood and blood components for sale or distribution in interstate commerce are subject to the licensing application provisions of section 351 of the PHS Act. Section 601.12 (21 CFR 601.12) requires manufacturers of a biologic for human use to file supplemental applications for all important changes to applications previously approved prior to implementing such changes. In addition to §§ 601.2 and 601.12, other regulations impose additional standards relating to certain information submitted in a license application, including 21 CFR 640.17, 640.21(c), 640.25(c), 640.56(c), 640.64(c), 640.74(a) and (b)(2), and 680.1(b)(2)(iii) and (c). The information collection requirements in the preceding regulations and their associated reporting burdens are included with the burdens estimated for §§ 601.2 and 601.12 and cleared, together with application form 356h, under OMB control number 0910–0338.

As outlined in the President's November 1995 National Performance Review's document entitled ''Reinventing the Regulation of Drugs Made From Biotechnology,'' FDA intends to use a single harmonized application form for all drug and licensed biological products. FDA revised Form FDA 356h, ''Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use,'' for this purpose and announced its availability in the **Federal Register** of July 8, 1997 (62 FR 36558). This notice described FDA's intent to phase in the use of the new Form FDA 356h for all biological products and stated that applicants submitting new drug applications (NDA's), abbreviated new drug applications (ANDA's), abbreviated antibiotic drug applications (AADA's), and biologics license applications (BLA's) for biologic products specified in § 601.2(c) could begin to use the new Form FDA 356h immediately. The notice also advised such applicants that they would be required to use revised Form FDA 356h beginning January 8, 1998. In the interim period, the old Form FDA 356h and the new Form FDA 356h were to be acceptable alternatives for NDA's, ANDA's, AADA's, and BLA's.

In future **Federal Register** notices, FDA will advise applicants for the products not yet using the new Form FDA 356h, when they may voluntarily begin, and when they will be required to use the new Form FDA 356h. FDA is in the process of preparing guidance documents on the content and format of the chemistry, manufacturing, and controls section, and establishment description section of the new Form FDA 356h for those biological products not yet using the new form. As these guidance documents are completed, FDA will begin accepting the new Form FDA 356h. Until further notice, if the biological product is not specified in § 601.2(c), applicants should continue to submit an ELA and a PLA application on the CBER forms listed below in this notice.

Because all applicants have not completed the transition to Form FDA 356h, this notice seeks clearance for the continued use of the following forms: Form FDA 2599, ''Establishment License Application for the Manufacture of Blood and Blood Components;'' Form FDA 2599a, ''Supplement to Establishment License Application for the Manufacture of Blood and Blood Components;'' Form FDA 2600, ''Product License Application for the Manufacture of Source Plasma;'' Form FDA 2600b, ''Product License Application for Therapeutic Exchange Plasma;'' Form FDA 3066, ''Product License Application for Manufacture of Blood Grouping Reagents;'' Form FDA 3086, ''Product License Application for the Manufacture of Reagent Red Blood Cells;'' Form FDA 3096, ''Product License Application for the Manufacture of Anti-Human Globulin;'' Form FDA 3098, ''Product License Application for the Manufacture of Whole Blood and Blood Components;'' Form FDA 3098a, ''Product License Application for Red Blood Cells;'' Form FDA 3098b, ''Product License Application for Plasma;'' Form FDA 3098c, ''Product License Application for Platelets;'' Form FDA 3098d, ''Product License Application for Cryoprecipitated Antihemophilic Factor;'' Form FDA 3098e, ''The Manufacture of Products Prepared by Cytapheresis;'' Form FDA 3210, ''Application for Establishment License for Manufacture of Biological Products;'' Form FDA 3213, ''Application for License for the Manufacture of Allergenic Products;'' Form FDA 3214, ''Application for the Manufacture of a Human Plasma Derivative;'' and Form FDA 3314, ''Product License Application for the Manufacture of Human Immunodeficiency Virus for In-Vitro Diagnostic Use.''

Respondents to this collection of information are manufacturers of biological products. The reporting burden for the current collection of information was reported to OMB as part of the total burden for the agency's collection of information using Form FDA 356h. This collection of information using Form FDA 356h was assigned OMB control number 0910–0338 and approved by OMB on April 23, 1997.

Under OMB control number 0910–0338, FDA estimated that CBER's portion of the reporting burden for the collection of information using Form FDA 356h was 76,200 hours. The 76,200 hours reflected the future use of Form FDA 356h by all manufacturers of biological products. The number of manufacturers of biological products that are already using Form FDA 356h would account for approximately 3,000 hours of the total burden. Thus, the other 73,200 hours would account for manufacturers who have not completed the transition to using Form FDA 356h and who still need to use the other license application forms described in this notice. FDA expects that all manufacturers of biological products will begin to use Form FDA 356h during 1998.

Dated: April 1, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–9101 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 97D–0381]

Draft Guidance for Industry on Providing Regulatory Submissions in Electronic Format—NDA's; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory

Submissions in Electronic Format—NDAs.'' The draft guidance is intended to assist applicants who wish to submit new drug applications (NDA's) in electronic format. Submissions of NDA's in electronic format should reduce the amount of paperwork for applicants and the agency. Submissions in electronic format are voluntary.

DATES: Written comments may be submitted on this draft guidance document by June 8, 1998. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments are to be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Kenneth Edmunds, Center for Drug Evaluation and Research (HFD–350), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3276, e-mail: ESUB@CDER.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Traditionally, FDA has required that regulatory submissions, such as investigational new drug applications and NDA's, be submitted as paper documents. In the **Federal Register** of March 20, 1997 (62 FR 13430), FDA published the electronic records; electronic signatures regulation, which provided for the voluntary submission of parts or all of an application, as defined in the relevant regulations, in electronic format without an accompanying paper copy (21 CFR part 11). The agency also established public docket number 92S–0251 to provide a list of the agency unit(s) that are prepared to receive electronic submissions and the specific types of records and submissions that can be accepted in electronic format (62 FR 13467, March 20, 1997). Shortly after establishing the docket, the Center for Drug Evaluation and Research (CDER) published a guidance for industry entitled ''Archiving Submissions in Electronic Format—NDA's'' (62 FR 49695, September 23, 1997), to assist applicants wishing to make electronic submissions. The September 1997 guidance provided specific information on submitting case report forms (CRF's) and case report tabulations (CRT's) as part of the NDA archival submission.

This draft guidance for industry expands on the September 1997 guidance and provides information on submitting a complete archival copy of the NDA in electronic format, including CRF's and CRT's. This draft guidance for industry contains much new information on submitting NDA's in electronic format. As a result, the agency is publishing the guidance in draft and is soliciting comments. Once comments have been received and addressed, a final guidance will be published that will replace the guidance on case report forms and case report tabulations issued on September 23, 1997.

CDER anticipates that as this effort proceeds, sponsors, investigators, and CDER staff will improve procedures for submitting electronic applications. As a result, CDER believes that guidance on electronic submissions will be updated periodically.

Applicants planning to submit parts or all of their NDA's in electronic format should consult public docket number 92S–0251 to determine which agency units are prepared to receive electronic submissions and the specific types of documents that can be submitted in electronic format.

This draft guidance represents the agency's current thinking on providing regulatory NDA submissions in electronic format. 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.

II. Comments

Interested persons may submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests are to be identified with the docket number found in brackets in the heading of this document. Submit written requests for single copies of the draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—NDA's'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document using the World Wide Web (WWW). For WWW access connect to CDER at ''http://www.fda.gov/cder/guidance/index.htm''.

Dated: April 1, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–9103 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Abuse 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: Drug Abuse 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 April 27, 1998, 1:30 p.m. to 5 p.m. and April 28, 1998, 8:30 a.m. to 5:30 p.m.

Location: Holiday Inn, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4090, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12535. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 27, 1998, the committee will discuss and review trade secret and/or confidential information. On April 28, 1998, the committee will: (1) Discuss the scientific evidence for initiating a scheduling action for ULTRAM® (tramadol hydrochloride), R. W. Johnson Pharmaceutical Research Institute, under the Controlled Substances Act; (2) evaluate the effectiveness of the independent steering committee in detecting, moderating, and preventing the physical

dependence and abuse of ULTRAM®; and (3) suggest improvements for surveillance of misuse.

Procedure: On April 28, 1998, from 8:30 a.m. to 5:30 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 April 17, 1998. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on April 28, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 17, 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 April 27, 1998, from 1:30 p.m. to 5 p.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)). The investigational new drug application (IND) and Phase I and Phase II drug products in process will be presented, and recent action on selected new drug applications (NDA's) will be discussed. This portion of the meeting will be closed to permit discussion of this information.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 1, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–9102 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology 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 April 30, 1998, 9:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Mary J. Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194, ext. 118, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval application for a lithotripter used to fragment biliary stones.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 20, 1998. Oral presentations from the public will be scheduled between 9:30 a.m. and 10 a.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 20, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 1, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–9187 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Indians Into Medicine Programs

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant applications for the Indians Into Medicine Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are being accepted for the Indians Into Medicine (INMED) Program established by sec. 114 of the Indian Health Care Improvement Act of 1976 (25 U.S.C. 1612), as amended by Pub. L. 102–573. There will be only one funding cycle during fiscal year (FY) 1998. This program is described at 93.970 in the Catalog of Federal Domestic Assistance and is governed by regulations at 42 CFR 36.310 et seq. Costs will be determined in accordance with applicable OMB Circulars. Executive Order 12372 requiring intergovernmental review does not apply to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2000,* a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. *Healthy People 2000,* the full report, is currently out of print. You may obtain the objectives from the latest *Healthy People 2000* Review. A copy may be obtained by calling the National Center for Health Statistics, telephone (301) 436–8500.

Smoke Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and 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 in which education, library, day care, health care, and early childhood development services are provided to children.

DATES: A. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business June 2, 1998. Applications shall be considered as meeting the deadline if they are either: (1) received on or before the deadline with hand carried applications received by close of business 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the

U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant and will *not* be considered for funding.

ADDITIONAL DATES:

1. Application Review: July 13, 1998.
2. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 3, 1998.
3. Anticipated Start Date: September 1, 1998.

FOR FURTHER INFORMATION CONTACT: For program information, contact Ms. Patricia Lee-McCoy, Chief, Scholarship Branch, Division of Health Professions Recruitment and Training, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100A, Rockville, Maryland 20852, (301) 443–6197. For grants application and business management information, contact M. Kay Carpentier, Grants Management Office, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and priority, fields of health care considered for support, required affiliation, fund availability and period of support, and application procedure for FY 1998.

A. General Program Purpose

The purpose of the INMED program is to augment the number of Indian health professionals serving Indians by encouraging Indians to enter the health professions and removing the multiple barriers to their entrance into the IHS and private practice among Indians.

B. Eligibility and Priority

Public and nonprofit private colleges and universities with medical and other allied health programs are eligible. Nursing programs are not eligible under this announcement since the IHS currently funds the Nursing Recruitment grant program. The existing INMED grant program at the University of North Dakota has as its target population Indian tribes primarily within the States of North Dakota, South Dakota, Nebraska, Wyoming and Montana. A college or university applying under this announcement must propose to conduct its program among Indian tribes in States not currently served by the University of North Dakota INMED program.

C. Program Objectives

Each proposal must address the following *five* objectives to be considered for funding:

1. Provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.
2. Incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program.
3. Provides summary preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions.
4. Provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university.
5. To the maximum extent feasible, employs qualified Indians into the program.

D. Fields of Health Care Considered for Support

The grant program must be developed to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, x-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS Nursing Recruitment grant program.

E. Required Affiliations

The grant applicant must submit official documentation indicating a tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the tribe's governing body, i.e., letter of support of tribal resolution. Documentation must be submitted from every tribe involved in the grant program.

F. Fund Availability and Period of Support

It is anticipated that approximately $220,100 will be available for one award. The anticipated start date of the grant will be September 1, 1998, in order to begin recruitment for the 1998–1999 academic year. Projects will be awarded for a budget term of 12 months, with a maximum project period of up to three (3) years. Grant funding levels include both direct and indirect costs. Funding of succeeding years will be based on the FY 1998 level, continuing need for the program, satisfactory performance, and the availability of appropriations in those years.

G. Application Process

An IHS Grant Application Kit, including the required PHS 5161–1 (OMB Approval No. 0937–0189 expires 7/31/98) may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, telephone (301) 443–5204. (This is not a toll free number.)

H. Grant Application Requirements

All applications must be single-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one inch border margins, on only one side of standard size 8½ x 11 paper that can be photocopied. The application narrative (not including abstract, tribal resolutions or letters of support, standard forms, table of contents or the appendix) must not exceed 15 typed pages as described above. All applications must include the following in the order presented:

—Standard Form 424, Application for Federal Assistance
—Standard Form 424A, Budget Information—Non-Construction Programs, (pages 1 and 2)
—Standard Form 424B, Assurances—Non-Construction Programs (front and back)
—Certifications, PHS 5161–1 (pages 17–19)
—Checklist, PHS 5161–1 (pages 25–26)
—Project Abstract (one page)
—Table of Contents
—Program Narrative to include:
  —Introduction and Potential Effectiveness of Project
  —Project Administration
  —Accessibility to Target Population
  —Relationship of Objectives to Manpower Deficiencies
  —Project Budget
—Appendix to include:
  —Tribal Resolution(s) or Letters of Support
  —Resumes (Curriculum Vitae) or key staff
  —Position descriptions for key staff
  —Organizational chart
  —Workplan format
  —Completed IHS Application Checklist
  —Application Receipt Card, PHS 3038–1, Rev. 5–90.

I. Application Instructions

The following instructions for preparing the application narrative also constitute the standards (criteria or basis for evaluation) for reviewing and scoring the application. Weights assigned each section are noted in parenthesis.

Abstract—An abstract may not exceed one typewritten page.

The abstract should clearly present the application in summary form, from a ''who-what-when-where-how-cost'' point of view so that reviewers can see how the multiple parts of the application fit together to form a coherent whole.

Table of Contents—provide a one page typewritten table of contents.

Narrative

1. Introduction and Potential Effectiveness of Project (30 Pts.)

a. Describe your legal status and organization.

b. State specific objectives of the project, which are measurable in terms of being quantified, significant to the needs of Indian people, logical, complete and consistent with the purpose of sec. 114.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific workplan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the timeframe needed to accomplish each task. Timeframes should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A workplan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

2. Project Administration (20 Pts.)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangement and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the application's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

3. Accessibility to Target Population (20 Pts.)

a. Describe the current and proposed participation of Indian (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

4. Relationship of Objectives to Manpower Deficiencies (20 Pts.)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

5. Project Budget (10 Pts.)

a. Cleraly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary for the conduct of the project.

b. The available funding level of $220,100 is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

c. The applicant may include as a direct cost tuition and student support costs related only to the summer preparatory program. Tuition and stipends for regular sessions are not allowable costs of the grant; however, students recruited through the INMED program may apply for funding from the IHS Scholarship Programs.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

Appendix—to include:

a. Tribal Resolution(s) or Letters of Support.

b. Resumes (Curriculum Vitae) of key staff.

c. Position descriptions for key staff.

d. Organizational chart.

e. Workplan format.

f. Completed IHS Application Checklist

g. Application Receipt Card, PHS 3038–1, Rev. 5–90

J. Reporting

1. Progress Report—Program progress reports may be required quarterly or semi-annually. These reports will include a brief description of a comparison of actual accomplishments to the goals established for the period, reasons for slippage and other pertinent information as required. A final report is due 90 days after expiration of the budget/project period.

2. Financial Status Report—Quality or semi-annually financial status reports will be submitted 30 days after the end of the quarter or half year. Final financial status reports are due 90 days after expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR 92, HHS, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments or 45 CFR part 74, Administration of Grants,

2. PHS Grants Policy Statement, and
3. OMB Circular A–21, Cost Principles for Educational Institutions.

L. Objective Review Process

Applications meeting eligibility requirements that are complete, responsive, and conform to th is program announcement will be reviewed by an Objective Review Committee (ORC) in accordance with IHS objective review procedures. The objective review process ensures a nationwide competition for limited funding. The ORC will be comprised of IHS (40% or less) and other federal or non-federal individuals (60% or more) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers will assign a numerical score to each application, which will be used in making the final funding decision. Approved applications scoring less than 60 points will not be considered for funding.

M. Results of the Review

The results of the objective review are forwarded to the Director, Office of Management Support (OMS), for final review and approval. The Director, OMS, will also consider the recommendations from the Division of Health Professions Support and the Grants Management Branch. Applicants are notified in writing on or about August 3, 1998. A Notice of Grant Award will be issued to successful applicants. unsuccessful applicants are notified in writing of disapproval. A brief explanation of the reasons the application was not approved is provided with the name of the IHS official to contact if more information is desired.

Dated: April 1, 1998.

Michael H. Trujillo,

Assistant Surgeon General, Acting Director.

[FR Doc. 98–9104 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Human Cell Line Which Constitutively Expresses the Nonstructural (NS) Proteins of Hepatitis C Virus

G Sherman, S Feinstone (FDA)
DHHS Reference No. E–012–98/0
Licensing Contact: Carol Salata, 301/496–7735 ext. 232

Currently there are no good animal models or tissue culture systems which can be used in assaying compounds directed against HCV. A cell line has been developed which may represent a valuable tool in the identification of potential therapeutic agents against hepatitis C. This permanent human cell line contains an expression vector which directs cells to synthesize 5 nonstructural (NS) hepatitis C proteins: NS3, NS4a, NS4b, NS5a, and NS5b. Two of these proteins provide enzymatic activities crucial to virus replication (NS3: protease, helicase; NS5b, RNA polymerase). The cell line will permit the evaluation of antivirals directed against these enzymes.

Plasmodium Falciparum Gene Linked to Chloroquine Resistance in Human Malaria

TE Wellems, X–Z Su (NIAID)
Serial No. 60/058,895 filed 15 Sep 97
Licensing Contact: Carol Salata, 301/496–7735 ext. 232

Malaria infects over 200 million people annually worldwide, causing at least one million deaths yearly. Particularly affected areas of the world include Africa, Asia, the Indian subcontinent and South America. Malaria is caused by systemic infections with the parasite *Plasmodium* which infects blood and other tissues. Of the four species of *Plasmodium* that can infect humans, *P. falciparum* is the most deadly. Therapeutic and preventive approaches to control malaria include the use of drugs, particularly drugs that are chemically related to quinine, and the attempted development of vaccines that confer immunological resistance to infection.

Chloroquine, once a first-line drug for control of malaria, now fails frequently against *P. falciparum*. This invention relates to methods and reagents for diagnosis of chloroquine-resistant malarial infections caused by *P. falciparum*, and the development of new antimalarial drugs against these infections. These diagnostics are based on a unique and heretofore unknown gene and its protein product linked to chloroquine resistance in *P. falciparum* malaria. Because of the worldwide incidence of chloroquine-resistant *P. falciparum*, there is a need for diagnostic methods for detecting chloroquine-resistant malaria, thus allowing such infected individuals to be treated with alternative drugs. Furthermore, there is a need to design and/or screen for new antimalarial agent that can take the place of chloroquine. Use of alternative drugs may prevent further spread of chloroquine-resistant *P. falciparum* in infected individuals.

Phage Display of Intact Domains at High Copy Number

AC Steven (NIAMS)

Serial No. 08/837,301 filed 11 Apr 97

Licensing Contact: Carol Salata, 301/496–7735 ext. 232

Filamentous phage-based display systems have found widespread use in molecular biology, including many immunologic applications such as antigen presentation and the immuno-isolation of desired recombinants by ''biopanning''. The present invention relates to a phage display system in which the molecules to be displayed (i.e., molecules of interest) are covalently connected to dispensable capsid polypeptides such as SOC (small outer capsid) and HOC (highly antigenic outer capsid) polypeptides that are, in turn, bound to a surface lattice protein, such as those on the surface of a virion or polyhead. Polyheads are tubular capsid variants containing much longer numbers of the surface lattice protein. Molecules of interest may be displayed in various ways. For example, a chimeric polypeptide that includes a dispensable polypeptide and a polypeptide of interest can be expressed in *Esherichia coli*, purified, and then bound *in vitro* to separately isolated surface lattice proteins. The surface lattice proteins can be those on the surface of a capsid or polyhead from which the wild type dispensable polypeptides have been deleted. Similarly, a chimera that contains a

dispensable polypeptide and a synthetic molecule of interest can be prepared *in vitro* and bound to surface lattice proteins. In another embodiment, a positive selection vector forces integration of a gene that encodes a dispensable polypeptide and a polypeptide of interest into the genome of a phage from which the wild type dispensable polypeptide is deleted. For example, a modified *soc* gene can be integrated into a *soc*-deleted T4 genome, leading to *in vivo* binding of the display molecule on progeny virions. More than one type of dispensable polypeptide can be used as part of the chimera for displaying one or more molecules of interest. For example, the surface lattice proteins of a phage may be bound to a chimera that contains SOC and a chimera that contains HOC.

The display system has been successfully demonstrated for three molecules of interest that vary in their length and character: (1) a tetrapeptide; (2) the 43 amino acid residue V3 loop domain of gp120, the human immunodeficiency virus type-1 (HIV–1) envelope glycoprotein; and (3) poliovirus VP1 capsid protein (312 residues).

Ultrasound-Hall Effect Imaging System and Method

H Wen (NHLBI)

DHHS Reference No. E–067–96/0; PCT/US97/11272 filed 03 Jul 97 Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present application provides for a new ultrasound-based imaging modality that is based on the interaction among a static magnetic field and conductive moieties in the imaged sample under electrical excitation. The application also provides a new ultrasound-based imaging modality that provides a contrast mechanism which reflects the conductivity distribution of the medium being imaged. The disclosed methods and system are advantageous over other ultrasonic imaging systems in the following aspects: it provides a method which is not limited to contrast based solely on acoustic properties; it dispenses with acoustic beam excitation, and therefore is suitable for fast 2D and 3D image formation with wide angle signal reception. A working prototype system is in testing and the present invention is suitable for development into commercial computed imaging products for biomedical imaging and industrial non-destructive testing.

Multideterminant Peptide Antigens That Stimulate Helper T Lymphocyte Response to HIV in a Range of Human Subjects

JA Berzofsky, JD Ahlers, PL Nara, M Shirai, CD Pendleton (NCI) Serial No. 08/060,988 filed 14 May 93; PCT/US94/05142 filed 13 May 94

Licensing Contact: Robert Benson, 301/496–7056 ext. 267

A vaccine for the prevention and/or treatment of HIV infection would ideally elicit a response in a broad range of the population. It would also have the capability of inducing high titered neutralizing antibodies, cytotoxic T lymphocytes, and helper T cells specific for HIV–1 gp 160 envelope protein. A vaccine based on synthetic or recombinant peptides has been developed which elicits these responses while avoiding the potential safety risks of live or killed viruses. Unlike previously developed vaccines this invention avoids those regions of gp 160 which may contribute to acceleration of infection or the development of immune deficiency. This invention provides peptides up to 44 amino acid residues long that stimulate helper T-cell response to HIV in a range of human subjects. Six multideterminant regions have been identified in which overlapping peptides are recognized by mice of either three or all four MHC types. Four of the six regions have sequences relatively conserved among HIV–I isolates. These multideterminant cluster peptides are recognized by T cells from humans of multiple HLA types, and have been found in a phase I clinical trial to elicit neutralizing antibodies, cytotoxic T cells, and helper T cells in at least some of the human subjects.

Mucosal Cytotoxic T Lymphocyte Responses

J. Berzofsky, I Belyakov, M Derby, B Kelsall, W Strober (NCI)

DHHS Reference No. E–268–97/1 (incorporating USSN 60/058,523) filed 17 Feb 98 (priority to 11 July 97)

Licensing Contact: Robert Benson, 301–496–7056 ext. 267

This invention is the discovery that intrarectal (IR) administration of a peptide antigen can induce an antigen-specific, protective CTL response in the mucosal and systemic immune system. The CTL response is much greater than occurs with intranasal administration. The CTL response is enhanced by co-administration of a mucosal adjuvant such as cholera toxin, and is further enhanced by IR administration of interleukin 12 (IL–12). IR administration of an HIV–1 peptide vaccine protected mice against an IR challenge with a recombinant vaccinia virus expressing HIV gp160. This invention provides an approach to the use of peptide vaccines that protect against mucosal infection, especially for HIV. The invention is further described in Proc. Natl. Acad. Sci. USA, Vol. 95, pp. 1709–1714, 1998.

Dated: March 31, 1998.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 98–9177 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: April 8, 1998.

Time: 4:00 p.m.

Place: NIH, Rockledge 2, Room 5190, Telephone Conference.

Contact Person: Dr. Herman Teitelbaum, Scientific Review Administrator, 6701 Rockledge Drive, Room 5190, Bethesda, Maryland 20892, (301) 435–1254.

Name of SEP: Microbiological and Immunological Sciences.

Date: April 14, 1998.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4194, Telephone Conference.

Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4194, Bethesda, Maryland 20892, (301) 435–1146.

Name of SEP: Biological and Physiological Sciences.

Date: April 14, 1998.

Time: 10:00 a.m.

Place: NIH, Rockledge 2, Room 5202, Telephone Conference.

Contact Person: Dr. Anita Sostek Miller, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Biological and Physiological Sciences.

Date: April 14, 1998.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4142, Telephone Conference.

Contact Person: Dr. Edmund Copeland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4142, Bethesda, Maryland 20892, (301) 435–1715.

Name of SEP: Biological and Physiological Sciences.
Date: April 15, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4142, Telephone Conference.
Contact Person: Dr. Edmund Copeland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4142, Bethesda, Maryland 20892, (301) 435–1715.

Name of SEP: Biological and Physiological Sciences.
Date: April 17, 1998.
Time: 12:00 p.m.
Place: NIH, Rockledge 2, Room 4142, Telephone Conference.
Contact Person: Dr. Edmund Copeland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4142, Bethesda, Maryland 20892, (301) 435–1715.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.
Date: April 20, 1998.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4146, Telephone Conference.
Contact Person: Dr. Martin Padarathsingh, Scientific Review Administrator, 6701 Rockledge Drive, Room 4146, Bethesda, Maryland 20892, (301) 435–1717.

Name of SEP: Biological and Physiological Sciences.
Date: April 21, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4150, Telephone Conference.
Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

Name of SEP: Biological and Physiological Sciences.
Date: April 22, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5170, Telephone Conference.
Contact Person: Dr. Luigi Giacometti, Scientific Review Administrator, 6701 Rockledge Drive, Room 5170, Bethesda, Maryland 20892, (301) 435–1246.

Name of SEP: Biological and Physiological Sciences.
Date: April 23, 1998.
Time: 10:30 a.m.
Place: NIH, Rockledge 2, Room 4182, Telephone Conference.
Contact Person: Dr. William Branche, Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

Name of SEP: Biological and Physiological Sciences.
Date: April 29, 1998.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4150, Telephone Conference.
Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

Name of SEP: Biological and Physiological Sciences.
Date: May 1, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 6178, Telephone Conference.
Contact Person: Dr. Nancy Pearson, Scientific Review Administrator, 6701 Rockledge Drive, Room 6178, Bethesda, Maryland 20892, (301) 435–1047.

Name of SEP: Clinical Sciences.
Date: June 2, 1998.
Time: 8:00 a.m.
Place: Holiday Inn, Silver Spring, MD.
Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1784.

Name of SEP: Behavioral and Neurosciences.
Date: June 2–4, 1998.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Gamil Debbas, Scientific Review Administrator, 6701 Rockledge Drive, Room 5170, Bethesda, Maryland 20892, (301) 435–1018.

Name of SEP: Behavioral and Neurosciences.
Date: June 8–9, 1998.
Time: 8:30 a.m.
Place: One Washington Circle, Washington, DC.
Contact Person: Dr. Joseph Kimm, Scientific Review Administrator, 6701 Rockledge Drive, Room 5178, Bethesda, Maryland 20892, (301) 435–1249.

Name of SEP: Behavioral and Neurosciences.
Date: June 17–19, 1998.
Time: 8:30 a.m.
Place: Ramada Inn, Rockville, MD.
Contact Person: Dr. Laurence Stanford, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1255.

Name of SEP: Clinical Sciences.
Date: June 24, 1998.
Time: 8:00 a.m.
Place: Holiday Inn, Silver Spring, MD.
Contact Person: Dr. Gertrude McFarland, Scientific Review Administrator, 6701 Rockledge Drive, Room 4110, Bethesda, Maryland 20892, (301) 435–1784.

Name of SEP: Behavioral and Neurosciences.
Date: June 24–25, 1998.
Time: 8:30 a.m.
Place: Ramada Inn, Rockville, MD.
Contact Person: Dr. Laurence Stanford, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435–1255.

Name of SEP: Behavioral and Neurosciences.
Date: June 24–26, 1998.
Time: 8:30 a.m.
Place: Holiday Inn-Capitol, Washington, DC.
Contact Person: Dr. Samuel Rawlings, Scientific Review Administrator, 5160 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435–1243.

Name of SEP: Behavioral and Neurosciences.
Date: June 25–26, 1998.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Richard Marcus, Scientific Review Administrator, 6701 Rockledge Drive, Room 5168, Bethesda, Maryland 20892, (301) 435–1245.

Name of SEP: Behavioral and Neurosciences.
Date: June 25–27, 1998.
Time: 8:30 a.m.
Place: One Washington Circle, Washington, DC.
Contact Person: Dr. Bernard Driscoll, Scientific Review Administrator, 6701 Rockledge Drive, Room 5158, Bethesda, Maryland 20892, (301) 435–1242.

Name of SEP: Behavioral and Neurosciences.
Date: June 29-July 1, 1998.
Time: 8:30 a.m.
Place: Clarion Hampshire Hotel, Washington, DC.
Contact Person: Dr. Jay Cinque, Scientific Review Administrator, 6701 Rockledge Drive, Room 5186, Bethesda, Maryland 20892, (301) 435–1252.

Name of SEP: Behavioral and Neurosciences.
Date: June 30-July 1, 1998.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Richard Marcus, Scientific Review Administrator, 6701 Rockledge Drive, Room 5168, Bethesda, Maryland 20892, (301) 435–1245.

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: April 1, 1998.

LaVerne Y. Springfield,

Committee Management Officer, NIH.

[FR Doc. 98–9225 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Grant Applications for Cancer Education Programs Telephone Conference Call.

Date: April 15, 1998.

Time: 2:00 p.m. to Adjournment.

Place: National Cancer Institute, Executive Plaza North, Room 611A, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Mary Bell, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 611A, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7978.

Purpose/Agenda: To review, discuss and evaluate grant applications.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

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 the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9224 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Meeting of the National Advisory Research Resources Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), National Center for Research Resources (NCRR). This meeting will be open to the public as indicated below. Attendance by the public will be limited to space available.

This meeting will be closed to the public as indicated below 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, 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 the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Cheryl A. Fee, Committee Management Officer, NCRR, National Institutes of Health, One Rockledge Centre, Room 5170, 6705 Rockledge Drive, MSC 7965, Bethesda, Maryland 20892–7965, (301) 435–1827, will provide a summary of the meeting and a roster of the members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Individuals who plan to attend and need special assistance, such as a sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Name of Committee: National Advisory Research Resources Council.

Date of meeting: May 21, 1998.

Place of meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 6C10, Building 31, Bethesda, Maryland 20892.

Open: May 21, 8:30 a.m. until 3:00 p.m.

Purpose/agenda: Report of Center Director and other issues related to Council business.

Closed: May 21, 3:00 p.m. until adjournment.

Purpose/agenda: Review of grant applications.

Executive Secretary: Louise Ramm, Ph.D., Deputy Director, National Center for Research Resources, Building 31, Room 3B11, Bethesda, MD 20892, Telephone: (301) 496–6023.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory of Animal Sciences and Primate Research; 93.333, Clinical Research; 93.337, Biomedical Research Support; 93.371, Biomedical Research Technology; 93.389, Research Centers in Minority Institutions; 93.198, Biological Models and Materials Research; 93.167, Research Facilities Improvement Program; 93.214, Extramural Research Facilities Construction Projects, National Institutes of Health.)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9223 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 National Heart, Lung, and Blood Institute meetings:

Name of Committee: Clinical Trials Review Committee.

Date: June 21–23, 1998.

Time: 7:00 p.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Joyce A. Hunter, Ph.D., Two Rockledge Center, Room 7192, 7601 Rockledge Drive, Bethesda, Maryland 20982–7924, (301) 435–0287.

Purpose/Agenda: To review and evaluate Clinical Trial and R03 grant applications.

Name of Committee: National Heart, Lung, and Blood Special Emphasis Panel (A Related Umbilical Cord Blood Bank for Hemoglobinopathy Patients)—Telephone Conference Call.

Date: May 11, 1998.

Time: 2:00 p.m.

Place: Rockledge Center II, Room 7214, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924.

Contact Person: Camille King, Ph.D., Two Rockledge Center, Room 7208A, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0321.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Heart, Lung, and Blood Special Emphasis Panel (Immunogenetics of Inhibitor Formation in Hemophilia.

Date: June 15, 1998.

Time: 8:00 a.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Contact Person: Deborah Beebe, Ph.D., Two Rockledge Center, Room 7178, 6701 Rockledge Drive, Bethesda, Maryland 20892–7924, (301) 435–0270.

Purpose/Agenda: To review and evaluate grant applications.

These 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 Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: April 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9226 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Heart, Lung, and Blood Institute Special Emphasis Panel Meeting on Ensuring Adequate Utilization of Epidemiologic Data, May 7, 1998, which was published in the **Federal Register** on March 4, 1998 (63 FR 10643).

The meeting was canceled due to a shortage of funds in the current fiscal year.

Dated: April 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9227 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, on June 8–10, 1998, at the Rocky Mountain Laboratories, Building 6, Conference Room 349, Hamilton, Montana.

In accordance with the provisions set forth in Sec. 552b(c)(6), Title 5, U.S.C. and Sec. 10(d) of Pub. L. 92–463, the entire meeting will be closed to the pubic for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personal qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Thomas J. Kindt, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 10, Room 4A31, telephone 301–496–3006, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93–301, National Institutes of Health)

Dated: April 3, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9237 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting of the National Advisory Council for Nursing Research

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council for Nursing Research, National Institute of Nursing Research, National Institutes of Health on May 19–20, 1998, National Institutes of Health, William H. Natcher Building, 45 Center Drive, Conference Room D. Bethesda, Maryland 20892.

The Council meeting will be open to the public on May 19 form 1:00 to 5:00 p.m. for discussion of program policies and issues. 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 Council meeting will be closed to the public from 9:00 a.m. to adjournment on May 20. This meeting is closed for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting, roster of committee members, and other information may be obtained for the Executive Secretary, Dr. Mary Leveck, NINR, NIH, Building 45, Room 3AN–12, Bethesda, Maryland 20892, 301/594–5968. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: March 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9216 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Population Research Center.
Date: April 26–27, 1998.
Time: April 26—7:30 p.m.—10:00 p.m.; April 27—8:00 a.m.—Adjournment.
Place: Sheraton Hotel, 36th & Chestnut, Philadelphia, Pennsylvania 19104.
Contact Person: Anne Krey, Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5E01, Rockville, MD 20852, Telephone: 301–496–1485.
Purpose/Agenda: To evaluate and review a research grant application.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with this application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institute of Health, HHS)

Dated: March 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9217 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Microbiology and Infectious Diseases Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on June 11–12, 1998 at the Holiday Inn Gaithersburg, Walker Room, 2 Montgomery Village Avenue, Gaithersburg, Maryland.

The meeting will be open to the public from 8 a.m. to 9 a.m. on June 11, to discuss administrative details relating

to committee business and program review, and for a report from the Director, Division of Extramural Activities, which will include a discussion of budgetary matters. 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 for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on June 11, and from 9 a.m. until adjournment on June 12. These applications, 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 proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Gary Madonna, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, Room 4C21, Rockville, Maryland 20892, telephone 301–496–3528, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9219 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Mental Health; 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 meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda purpose: To review and evaluate grant applications.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: April 9, 1998.

Time: 1 p.m.

Place: Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20875.

Contact person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: April 10, 1998.

Time: 11 a.m.

Place: Parklawn, Room 9C–18, 5600 Fisher Lane, Rockville, MD 20857.

Contact person: Salvador H. Cuellar, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

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.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9221 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Special Emphasis Panel (SEP) meeting:

Name of SEP: Minority Biomedical Research Support (Teleconference).

Date: April 9, 1998.

Time: 3:00 p.m.—adjournment.

Place: NIH, NIGMS, Natcher Building, Room 1AS–13, Bethesda, Maryland 20892.

Contact Person: Dr. Helen Sunshine, Scientific Review Administrator, NIGMS, Natcher Building—Room 1AS–13, Bethesda, Maryland 20892, Telephone: 301–594–2881.

Purpose/Agenda: To evaluate and review grant applications.

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. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is published less than 15 days prior to the 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)], National Institutes of Health)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9222 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Disease; 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 National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meetings.

Name of SEP: Program Project Committee.

Date: April 20, 1998.

Time: 8:30 a.m.–adjournment.

Place: Holiday Inn, Georgetown, 2101 Wisconsin Avenue, N.W., Washington, D.C. 2007.

Contact Person: Tommy Broadwater, Ph. D., Chief, Grant Review Branch, Natcher Building, Room 5AS25U, Bethesda, Maryland 20819, Telephone: 301–594–4952.

Name of SEP: MAMDC Review.

Date: April 28–29, 1998.

Time: April 28—1:00 p.m.–5:00 p.m., April 29—9:00 a.m.–adjournment.

Place: Holiday Inn, Beltsville, 4095 Powdermill Road, Beltsville, Maryland 20705.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Administrative, Natcher Building, Room 5AS25U, Bethesda, Maryland 20819, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review grant applications.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: April 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9228 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Meeting:

Name of SEP: ZDK1 GRB–D (M1) P.

Date: April 27–29, 1998.

Time: 7:00 PM.

Place: Radisson Englewood Hotel, 401 S. Van Brunt Street, Englewood, NJ 07631, Telephone: 201 871–2020.

Contact: Ann A. Hagan, Ph.D., Chief, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37F, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8886.

Purpose/Agenda: To review and evaluate grant applications.

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. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9229 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Use of Genetically Modified Skin to Treat Disease.

Date: April 20, 1998.

Time: 9:00 a.m.-adjournment.

Place: Holiday Inn Bethesda, 8120 Wisconsin Pike, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5E01, Rockville, MD 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a research grant application

This meeting will be closed in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with this application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health, HHS)

Dated: April 3, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9239 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on June 1–2, 1998. Meetings of the Council, NAAIDC Allergy and Immunology Subcommittee, NAAIDC Microbiology and Infectious Diseases Subcommittee and the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be held at the National Institutes of Health, Bethesda, Maryland.

The meeting of the full Council will be open to the public on June 1 in Building 31C, Conference Room 10, from 1 p.m. to approximately 3:45 p.m. for general discussion and program presentations.

On June 2 the meetings of the NAAIDC Allergy and Immunology Subcommittee and NAAIDC Microbiology and Infectious Diseases Subcommittee will be open to the public from 8:30 a.m. until adjournment. The subcommittees will meet in Building 31C, conference rooms 9 and 10 respectively.

The meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be open to the public from 8:30 a.m. until adjournment, on June 2. The subcommittee will meet at the Natcher Building, Conference Room E1.

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 of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately four hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:30 a.m. until approximately 1 p.m. on June 1, in conference rooms 8, 9 and 10 respectively. The meeting of the full Council will be closed from 3:45 p.m.

until recess on June 1 for the review, discussion, and evaluation of individual grant applications. These 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.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. John McGowan, Director, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 3C20, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone 301–496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855 Immunology, Allergic and Immunologic Diseases Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9240 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meetings:

Name of SEP: Adoptive transfer of CD8+CTL's to Control EIAV.
Date: April 20, 1998.
Time: 2:00 p.m. to Adjournment.
Place: Teleconference, Solar Building, Room 4C12, 6003 Executive Blvd., Bethesda, MD 20892, (301) 496–2550.
Contact Person: Dr. Kevin Ryan, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C12, Bethesda, MD 20892, (301) 496–2550.
Purpose/Agenda: To evaluate a grant application.

Name of SEP: In Vitro Antiviral Screens.
Date: April 23–24, 1998.
Time: 8:00 a.m. to Adjournment.
Place: Chevy Chase Holiday Inn, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815, (301) 654–1000.
Contact Person: Dr. Peter R. Jackson, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C10, Bethesda, MD 20892, (301) 496–2550.
Purpose/Agenda: To evaluate contract proposals.

These 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 Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated April 2, 1998,

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9241 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Library of Medicine Special Emphasis Panel (SEP) meeting.

Name of SEP: National Library of Medicine Special Emphasis Panel.
Date: April 13, 1998.
Place: Conference Hall, 8600 Rockville Pike, Bldg. 38A, Rm. 5N–519, Bethesda, Maryland 20894.
Contact: Sharee Pepper, Ph.D., Scientific Review Administrator, EP, 8600 Rockville Pike, Bldg. 38A, Rm. 5N–519, Bethesda, Maryland 20894, 301/496–4253.
Purpose/Agenda: To review one grant application.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations by the grant review and funding cycle.

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. 93–879—Medical Library Assistance, National Institutes of Health)

Dated: April 1, 1998.

LaVerne Y. Stringfield,

Committee Management Office, NIH.

[FR Doc. 98–9220 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

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 individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: April 6, 1998.
Time: 4:00 p.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.
Date: April 10, 1998.
Time: 4:00 p.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.
Date: April 24, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4148, Telephone Conference.
Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.
Date: May 1, 1998.
Time: 4:00 p.m.

Place: NIH, Rockledge 2, Room 4148, Telephone Conference.

Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

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: March 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9218 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

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 individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: April 13, 1998.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4206, Telephone Conference.

Contact Person: Dr. Betty Hayden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4206, Bethesda, Maryland 20892, (301) 435–1223.

Name of SEP: Behavioral and Neurosciences.

Date: April 15, 1998.

Time: 8:30 a.m.

Place: Holiday Inn, Bethesda, Maryland.

Contact Person: Dr. Carl Banner, Scientific Review Administrator, 6701 Rockledge Drive, Room 5182, Bethesda, Maryland 20892, (301) 435–1251.

Name of SEP: Behavioral and Neurosciences.

Date: April 15, 1998.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 5192, Telephone Conference.

Contact Person: Dr. David Simpson, Scientific Review Administrator, 6701 Rockledge Drive, Room 5192, Bethesda, Maryland 20892, (301) 435–1278.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.

Date: April 27, 1998.

Time: 11:30 a.m.

Place: NIH, Rockledge 2, Room 4140, Telephone Conference.

Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 6701 Rockledge Drive, Room 4140, Bethesda, Maryland 20892, (301) 435–1214.

Name of SEP: Clinical Sciences.

Date: April 29, 1998.

Time: 10:00 a.m.

Place: NIH, Rockledge 2, Room 4106, Telephone Conference.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Biological and Physiological Sciences.

Date: April 30, 1998.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 4202, Telephone Conference.

Contact Person: Dr. Gene Zimmerman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4202, Bethesda, Maryland 20892, (301) 435–1220.

Name of SEP: Microbiological and Immunological Sciences.

Date: May 12, 1998.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4184, Telephone Conference.

Contact Person: Dr. Martin Slater, Scientific Review Administrator, 6701 Rockledge Drive, Room 4184, Bethesda, Maryland 20892, (301) 435–1149.

Name of SEP: Clinical Sciences.

Date: May 12, 1998.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 4106, Telephone Conference.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892 (301) 435–1786.

Name of SEP: Clinical Sciences.

Date: May 15, 1998.

Time: 12:00 p.m.

Place: NIH, Rockledge 2, Room 4106, Telephone Conference.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Clinical Sciences.

Date: May 15, 1998.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4106, Telephone Conference.

Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Behavioral and Neurosciences.

Date: June 24–26, 1998.

Time: 8:30 a.m.

Place: American Geophysical Union Building, Washington, DC.

Contact Person: Dr. David Simpson, Scientific Review Administrator, 6701 Rockledge Drive, Room 5192, Bethesda, Maryland 20892, (301) 435–1278.

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: April 3, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–9238 Filed 4–7–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 1998 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS), and Center for Substance Abuse Treatment (CSAT) announce the availability of FY 1998 funds for grants and cooperative agreements for the following activities. These activities are discussed in more detail under Section 4 of this notice. This notice is not a complete description of the activities; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA) before preparing an application.

Activity	Application deadline	Estimated funds available	Estimated number of awards	Project period (years)
State Indicator Pilot	06/08/98	$1.0M	10	3
National TA Centers	06/08/98	$1.1M	3	3
State Network Grants	06/08/98	$1.55M	31	3
Statewide Family Networks	06/08/98	$1.55M	31	3
Adolescent Treatment Models	06/08/98	$11.5	45–55	2.5
Addiction Technology Transfer Centers	06/08/98	$7.5	15	3
Treatment Outcome & Performance Pilot	06/08/98	$5.0	11–13	3

Note: SAMHSA also published notices of available funding opportunities for FY 1998 in the **Federal Register** on January 6, 1998, January 20, 1998, February 26, 1998, and on March 20, 1998.

The actual amount available for awards and their allocation may vary, depending on unanticipated program requirements and the volume and quality of applications. Awards are usually made for grant periods from one to three years in duration. FY 1998 funds for activities discussed in this announcement were appropriated by the Congress under Public Law 105–78. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The SAMHSA Centers' substance abuse and mental health services activities address issues related to Healthy People 2000 objectives of Mental Health and Mental Disorders; Alcohol and Other Drugs; Clinical Preventive Services; HIV Infection; and Surveillance and Data Systems. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: 202–512–1800).

GENERAL INSTRUCTIONS: Applicants must use application form PHS 5161–1 (Rev. 5/96; OMB No. 0937–0189). The application kit contains the GFA (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from the organization specified for each activity covered by this notice (see Section 4).

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. This is to ensure receipt of all necessary forms and information, including any specific program review and award criteria.

The PHS 5161–1 application form and the full text of each of the activities (i.e., the GFA) described in Section 4 are available electronically via SAMHSA's World Wide Web Home Page (address: http://www.samhsa.gov).

APPLICATION SUBMISSION: Unless otherwise stated in the GFA, applications must be submitted to: SAMHSA Programs, Center for Scientific Review, National Institutes of Health, Suite 1040, 6701 Rockledge Drive MSC–7710, Bethesda, Maryland 20892–7710*
(* Applicants who wish to use express mail or courier service should change the zip code to 20817.)

APPLICATION DEADLINES: The deadlines for receipt of applications are listed in the table above. Please note that the deadlines may differ for the individual activities.

Competing applications must be received by the indicated receipt dates to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and that date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing.

Applications received after the deadline date and those sent to an address other than the address specified above will be returned to the applicant without review.

FOR FURTHER INFORMATION CONTACT: Requests for activity-specific technical information should be directed to the program contact person identified for each activity covered by this notice (see Section 4).

Requests for information concerning business management issues should be directed to the grants management contact person identified for each activity covered by this notice (see Section 4).

SUPPLEMENTARY INFORMATION: To facilitate the use of this Notice of Funding Availability, information has been organized as outlined in the Table of Contents below. For each activity, the following information is provided:

- Application Deadline
- Purpose
- Priorities
- Eligible Applicants
- Grants/Cooperative Agreements/ Amounts
- Catalog of Federal Domestic Assistance Number
- Contacts
- Application Kits

Table of Contents

1. Program Background and Objectives
2. Special Concerns
3. Criteria for Review and Funding
   3.1 General Review Criteria
   3.2 Funding Criteria for Scored Applications
4. Special FY 1998 Substance Abuse and Mental Health Services Activities
   4.1 Grants
   4.1.1 State Indicator Pilot Grants
   4.1.2 Grants to Support Consumer and Consumer Supporter National Technical Assistance Centers (Short Title: National TA Centers)
   4.1.3 Statewide Consumer and Consumer Supporter Networking Grants (Short Title: State Network Grants)
   4.1.4 Statewide Family Network Grants (Short Title: Statewide Family Networks)
   4.1.5 Grants for Identification of Exemplary Treatment Models for Adolescents (Short Title: Adolescent Treatment Models)
   4.2 Cooperative Agreements
   4.2.1 Cooperative Agreements for Addiction Technology Transfer Centers (Short Title: ATTCs)
   4.2.2 Cooperative Agreements for State Treatment Outcomes and Performance Pilot Studies Enhancement (Short Title: TOPPS II)
5. Public Health System Reporting Requirements
6. PHS Non-use of Tobacco Policy Statement
7. Executive Order 12372

1. Program Background and Objectives

SAMHSA's mission within the Nation's health system is to improve the quality and availability of prevention, early intervention, treatment, and rehabilitation services for substance

abuse and mental illnesses, including co-occurring disorders, in order to improve health and reduce illness, death, disability, and cost to society.

Reinventing government, with its emphases on redefining the role of Federal agencies and on improving customer service, has provided SAMHSA with a welcome opportunity to examine carefully its programs and activities. As a result of that process, SAMHSA moved assertively to create a renewed and strategic emphasis on using its resources to generate knowledge about ways to improve the prevention and treatment of substance abuse and mental illness and to work with State and local governments as well as providers, families, and consumers to effectively use that knowledge in everyday practice.

SAMHSA's FY 1998 Knowledge Development and Application (KD&A) agenda is the outcome of a process whereby providers, services researchers, consumers, National Advisory Council members and other interested persons participated in special meetings or responded to calls for suggestions and reactions. From this input, each SAMHSA Center developed a ''menu'' of suggested topics. The topics were discussed jointly and an agency agenda of critical topics was agreed to. The selection of topics depended heavily on policy importance and on the existence of adequate research and practitioner experience on which to base studies. While SAMHSA's FY 1998 KD&A programs will sometimes involve the evaluation of some delivery of services, they are services studies and application activities, not merely evaluation, since they are aimed at answering policy-relevant questions and putting that knowledge to use.

SAMHSA differs from other agencies in focusing on needed information at the services delivery level, and in its question-focus. Dissemination and application are integral, major features of the programs. SAMHSA believes that it is important to get the information into the hands of the public, providers, and systems administrators as effectively as possible. Technical assistance, training, preparation of special materials will be used, in addition to normal communications means.

SAMHSA also continues to fund legislatively-mandated services programs for which funds are appropriated.

2. Special Concerns

SAMHSA's legislatively-mandated services programs do provide funds for mental health and/or substance abuse treatment and prevention services. However, SAMHSA's KD&A activities do not provide funds for mental health and/or substance abuse treatment and prevention services except sometimes for costs required by the particular activity's study design. Applicants are required to propose true knowledge application or knowledge development and application projects. Applications seeking funding for services projects under a KD&A activity will be considered nonresponsive.

Applications that are incomplete or nonresponsive to the GFA will be returned to the applicant without further consideration.

3. Criteria for Review and Funding

Consistent with the statutory mandate for SAMHSA to support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs, competing applications requesting funding under the specific project activities in Section 4 will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures.

3.1 General Review Criteria

As published in the **Federal Register** on July 2, 1993 (Vol. 58, No. 126), SAMHSA's ''Peer Review and Advisory Council Review of Grant and Cooperative Agreement Applications and Contract Proposals,'' peer review groups will take into account, among other factors as may be specified in the application guidance materials, the following general criteria:

- Potential significance of the proposed project;
- Appropriateness of the applicant's proposed objectives to the goals of the specific program;
- Adequacy and appropriateness of the proposed approach and activities;
- Adequacy of available resources, such as facilities and equipment;
- Qualifications and experience of the applicant organization, the project director, and other key personnel; and
- Reasonableness of the proposed budget.

3.2 Funding Criteria for Scored Applications

Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council (if applicable) review process.

Other funding criteria will include:

- Availability of funds.

Additional funding criteria specific to the programmatic activity may be included in the application guidance materials.

4. Special FY 1998 SAMHSA Activities

4.1 Grants

4.1.1 State Indicator Pilot Grants (GFA No. SM 98–010)

- Application Deadline: June 8, 1998.
- Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS), announces technical assistance grants to the State Mental Health Agencies (SMHAs) or the equivalent in the District of Columbia and United States Territories eligible for CMHS block grants, to support performance indicator pilots which will facilitate appropriate implementation of selected, comparable performance measures within and among States. Piloting of additional State specific performance measures will also be supported for State grantees that complete successful piloting of the initial framework of selected indicators. This Program effort emanates from the current environment of the State and national need for effective accountability systems which can identify the effects of mental health services within and among States. Accommodation is made to assist States to pilot refinements and modifications in performance indicator systems for individual State data system needs once the primary goal is successfully met. Needs supporting accountability in mental health systems are supported in the enactment of the Federal Government Performance and Results Act of 1993 (GPRA) and in existing reform mandates and activities among States experiencing system wide and managed care reform.

The primary purpose of this technical assistance grant Program is to facilitate the development and implementation of State performance indicator pilots that reflect the performance indicators selected in the 1997/98 Five State Feasibility Assessment Project funded by CMHS. The Five State Feasibility Assessment Project addressed the existing need for accountability and comparability in terms of mental health services performance within and among States. Selected States participated in the Five State project to identify performance indicators, specify their range of applicability, and determine potential feasibility. The objective was to select a set of performance indicators that can be applied by all States. The primary effort in this new Program will be the design, implementation, assessment, and refinement of the pilot experience in a sample of States. The

expected overall result is a completed pilot which can be implemented statewide at the conclusion of the grant period and potentially implemented by other States.

- Priorities: None.
- Eligible Applicants: Applicants must be SMHAs or the equivalent in the District of Columbia and U.S. Territories that receive CMHS block grant funds. Eligibility is restricted to SMHAs as the only appropriate entities for piloting performance indicators for national and interstate State comparability.
- Grants/Amounts: It is estimated that approximately $1,000,000 will be available to support approximately 10 awards under this GFA in FY 1998. The maximum award per grantee will be $100,000 total direct and indirect costs per year for a maximum of 3 years.
- Catalog of Federal Domestic Assistance Number: 93.119
- Application kits are being mailed to eligible entities. For programmatic or technical information regarding this grant, contact:

Olinda González, Ph.D., Public Health Advisor, Survey and Analysis Branch
or
Ronald W. Manderscheid, Ph.D., Chief, Survey and Analysis Branch, Division of State and Community Systems Development, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 15C–04, 5600 Fishers Lane, Rockville, MD 20857, Tel.(301) 443–3343 Fax 301–443–7926
E-mail addresses: ogonzale@samhsa.gov; rmanders@samhsa.gov

For grants management assistance, contact: Stephen Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 15C–05, 5600 Fishers Lane, Rockville, MD 20857, Tel. (301) 443–4456, shudak@samhsa.gov

4.1.2 Grants to Support Consumer and Consumer Supporter National Technical Assistance Centers (Short Title: National TA Centers—GFA No. SM 98–012)

- Application Deadline: June 8, 1998
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Mental Health Services announces the availability of funds to support three technical assistance centers, two to promote consumer self-help activities and one technical assistance center for supporters of consumers. The Program is intended to create technical assistance centers that act as resource centers for materials development and dissemination, training, skill development, interactive communication opportunities, networking and other technical assistance activities directed at facilitating self-help approaches, recovery concepts, and empowerment.

Specific objectives include:

(1) Strengthening of relationships among stakeholders and advocates in the mental health system through the use of innovative approaches, i.e., dispute resolution, networking, coalition building and modern information processing technology for the purpose of achieving their common goal.

(2) Facilitating the improvement and enhancement of skill development with an emphasis on business and management skills for self-help programs in the field to ensure success and growth.

(3) Supporting the Program: ''Grants to Promote Statewide Consumer and Consumer Supporter Networking.''

- Priorities: None
- Eligible Applicants: Applications for the Consumer National Technical Assistance Centers may only be submitted by consumer operated organizations. Applications for the Consumer Supporter National Technical Assistance Center may only be submitted by organizations of consumer supporters.

Eligibility is being restricted to these organizations because of Program Goal No. 4 which is to improve the capacity of both consumer and consumer supporter organizations to provide technical assistance to their respective communities.

- Grants/Amounts: It is estimated that approximately $1.1 million will be available to support three awards under this program in Fiscal Year 1998. The average award to support the two Consumer Technical Assistance Centers will be $400,000 in total costs (direct+indirect)per year. The average award for the Supporter Technical Assistance Center is expected to be $300,000 in total costs (direct+indirect).
- Catalog of Federal Domestic Assistance Number: 93.230.
- For programmatic or technical information contact: Risa S. Fox, Community Support Programs Branch, Division of Knowledge Development and Systems Change Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–22, Rockville, MD 20857, (301) 443–3653.

Questions regarding Grants Management issues may be directed to: Stephen J. Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, MD 20857, (301) 443–4456.

For application kits, contact: Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015, Voice: (800) 789–2647, TTY: (301) 443–9006, FAX: (301) 984–8796.

4.1.3 Statewide Consumer and Consumer Supporter Networking Grants (Short Title: State Network Grants—GFA No. SM 98–013)

- Application Deadline: June 8, 1998.
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Mental Health Services announces the availability of grants to increase the capacity of statewide consumer and/or consumer supporter networks to participate in the development of policies, programs, and quality assurance activities related to mental health.

Specific objectives include:

(1) Strengthening of organizational relationships among consumers, families, advocates, networks, and coalitions that are dedicated to empowering consumers and promoting their ability to participate in State and local mental health service-planning and health care reform policy activities;

(2) Fostering of leadership and management skills with an emphasis on leadership, business and management and fostering financial self-sufficiency of consumer and/or consumer supporter organizations (transition from Federal funding to other public and private resources) over the term of the Federal grant;

(3) Identification of technical assistance needs for consumer and/or consumer supporter organizations and the implementation of a strategy that meets those needs.

- Priorities: None.
- Eligible Applicants: Applications for the Statewide Consumer and Consumer Supporter Networking Grants may be submitted by units of State or local government and by domestic private nonprofit and for-profit organizations such as community-based organizations, universities, colleges, and hospitals, family and/or consumer operated organizations and volunteer mental health organizations.

Applicants must provide a brief history of the organization and documentation of activities, within the last year, that show that they are dedicated to the improvement of mental health services at the local and statewide levels (e.g., State-level policies).

- Grants/Amounts: It is estimated that approximately $1,550,000 will be

available to support approximately 31 awards in FY 1998. The average award is expected to range from $40,000 to $60,000, in total costs (direct+indirect) for statewide consumer organizations and statewide consumer supporter organizations. Within a State, a maximum of two awards can be made—one award may be for a consumer organization and one award may be for a consumer supporter organization.

- Catalog of Federal Domestic Assistance Number: 93.230.
- For programmatic or technical assistance contact: William McKinnon, Ph.D. or Santo J.(Buddy) Ruiz, Community Support Programs Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–22, Rockville, MD 20857, (301) 443–3653.
- Questions regarding Grants Management issues may be directed to: Stephen J. Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, MD 20857, (301) 443–4456.
- For application kits, contact: Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015, Voice: (800) 789–2647, TTY: (301)443–9006, FAX: (301)984–8796.

4.1.4 Statewide Family Network Grants (Short Title: Statewide Family Networks—GFA No. SM 98.014)

- Application Deadline: June 8, 1998.
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Mental Health Services (CMHS) announces the availability of grants to increase the capacity of statewide family networks to participate in the development of policies, programs, and quality assurance activities related to the mental health of children and adolescents with serious emotional disturbances and their families.

The goals of the Statewide Family Network Grant program are to:

1. Strengthen Organizational Relationships—Improve collaboration among families, advocates, networks, and coalitions that are dedicated to empowering families and strengthening their ability to participate in State and local mental health service-planning and health care reform policy activities on behalf of their children; and, to maintain effective working relationships with other State child-serving agencies including, health, education, child welfare, substance abuse, and juvenile justice.

2. Foster Leadership and Management Skills—Promote skills development with an emphasis on leadership, business and management and foster financial self-sufficiency of family-controlled organizations (transition from Federal funding to other public and private resources) over the term of the Federal grant;

3. Identify Technical Assistance Needs—Identify technical assistance needs for family-controlled organizations and implement a strategy that meets those needs.

- Priorities: None.
- Eligible Applicants: Only nonprofit private entities that have a board of directors or other controlling body comprised of no less than 51 percent family members of children with serious emotional, behavioral, or mental disorders, or other nonprofit entities which have provided written assurance that the project will be under the control of an autonomous subunit which is family-controlled, may apply. If the application is on behalf of the autonomous subunit, the charter granting full project autonomy to the family-controlled subunit, and the minutes of the meeting of the applicant's Board of Directors showing approval of full project autonomy must accompany the application.

CMHS is limiting eligibility to family-controlled organizations because the goals of this grant program are to: (1) Strengthen the capacity of family members to participate in State and local mental health service-planning and health care reform policy activities on behalf of their children; (2) promote leadership and management skills among family members which will foster self-sufficiency; and, (3) identify and implement technical assistance strategies to successfully meet program goals.

Evidence gathered over the past 14 years suggests that Statewide family networks are critical to achieving full participation of families in planning, implementing and evaluating systems of care for their children with serious emotional disturbances. The engagement of trained and empowered family members appears to be an essential component of the system of care and can lead to greater rates of family satisfaction and better health and related outcomes for the target population.

- Grants/Amounts: It is estimated that approximately $1,550,000 will be available to support approximately 31 awards in FY 1998. The average award is expected to range from $40,000 to $60,000 in total costs. CMHS will make no more than one award in any State.
- Catalog of Federal Domestic Assistance Number: 93.230.
- For programmatic or technical assistance contact: Gary De Carolis, M.Ed., Chief, Child, Adolescent, and Family Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Service Administration, 5600 Fishers Lane, Room 18–49, Rockville, MD 20857, (301) 443–1333.
- Questions regarding Grants Management issues may be directed to: Steve Hudak, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 15C–05, Rockville, MD 20857, (301) 443–4456.
- Grant application kits may be obtained from: Knowledge Exchange Network (KEN), P.O. Box 42490, Washington, DC 20015, Voice: (800) 789–2647, TTY: (301) 443–9006, FAX: (301) 984–8796.

The full text of the GFA is available via the KEN Electronic Bulletin Board 800–790–2647).

4.1.5 Grants for Identification of Exemplary Treatment Models for Adolescents (Short Title: Adolescent Treatment Models—GFA No. TI 98–007)

- Application Deadline: June 8, 1998.
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment (CSAT) announces a grant program designed to identify currently existing models of adolescent treatment that, when evaluated for client outcomes and cost, demonstrate effectiveness in treating adolescents. CSAT intends to make funds available for the documentation and evaluation of programs that appear to demonstrate sustained levels of effectiveness and that could be considered exemplary, but, heretofore, have not had the means to fully undertake these tasks. Funds are available for further evaluation and documentation; funds may not be expended for treatment By ''exemplary'', CSAT means programs which have been validated as exemplary through formal evaluation or research as evidenced by the availability of peer-reviewed empirical findings; have significant consensus among experts, including evaluators, policy-makers, providers, consumers and families that they are exemplary; have been or can be reasonably expected to be generalizable with adaptation to local circumstances; and are documented.

CSAT designed this program to stimulate States, local governments and private organizations to: (1) Identify

potentially exemplary treatment models for adolescents that currently exist, (2) develop an evaluation plan and produce short-term evaluation of outcome measures, (3) develop documentation for these models, and (4) offer these documented and evaluated treatment programs for possible replication. Programs identified for replication will be invited to exhibit at a conference to disseminate their findings and showcase their models.

- Priorities: The target population is adolescents who have a substance abuse problem, with priority being given to those programs that provide treatment for adolescent heroin abusers.
- Eligible Applicants: Applications may be submitted by units of State or local government and by domestic private nonprofit and for-profit organizations such as community-based organizations, universities, colleges, and hospitals.
- Grant/Amounts: It is estimated that approximately $11.5 million will be available to support approximately 45–55 awards under this GFA in FY 98. The average award is expected to range from $200,000 to $250,000 in total costs (direct+indirect).
- Catalog of Federal Domestic Assistance Number: 93.230
- For Programmatic Assistance Contact: Mr. Randolph Muck, M.Ed., Division of Practice and Systems Development, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Room 614, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6574.
- For grants management assistance contact: Ms. Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, Room 614, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–9666.
- Application Kits are available from: National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, MD 20847–2345, 1–800–729–6686, 1–800–487–4889.

4.2 Cooperative Agreements

Major activities for SAMHSA cooperative agreement programs are discussed below. Substantive Federal programmatic involvement is required in cooperative agreement programs. Federal involvement will include planning, guidance, coordination, and participating in programmatic activities (e.g., participation in publication of findings and on steering committees). Periodic meetings, conferences and/or communications with the award recipients may be held to review mutually agreed-upon goals and objectives and to assess progress. Additional details on the degree of Federal programmatic involvement will be included in the application guidance materials.

4.2.1 Cooperative Agreements for Addiction Technology Transfer Centers (Short Title: ATTCs—GFA No. TI 98–009)

- Application Deadline: June 8, 1998
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment (CSAT) announces the availability of cooperative agreements to support the creation, expansion, and/or enhancement of Addiction Technology Transfer Centers (ATTCs). This program is designed to: (1) Develop a network of ATTCs responsible for cultivating an interdisciplinary consortium of health care and related professionals, educators, organizations, and State and local governments knowledgeable about research-based, effective approaches to substance abuse treatment and recovery; (2) shape systems of care by replicating and testing science and translating substance abuse treatment research into clinical practice; (3) develop competent health care and related professionals reflective of the treatment population and who are prepared to function in managed care settings; and, (4) upgrade standards of professional practice for addictions workers in various settings.

This announcement is a modified reissuance of a prior announcement entitled ''Addiction Training Centers (ATCs),'' GFA No. TI 93–02. Applications are solicited for two types of awards: (1) ATTCs and (2) an ATTC Coordinating Center. An organization may submit an application for an ATTC and/or the ATTC Coordinating Center. A separate application is required for each function. The ATTC Coordinating Center must be set up as a separate entity with dedicated staff, a separate and independent project director, a separate budget, audit, and specific responsibilities.

- Priorities: None.
- Eligible Applicants: Applications may be submitted by units of State or local government and by domestic private nonprofit and for-profit organizations such as community-based organizations, universities, colleges, and hospitals.

Current CSAT ATTC grantees with a project period that ends on or before September 30, 1998, excluding extensions in time without additional funds, are also eligible applicants.

- Cooperative Agreement/Amounts: It is estimated that approximately $7.5 million will be available to support approximately 15 awards (including one Coordinating Center) under this GFA in FY 1998. The average award is expected to range from $200,000 to $500,000 for the ATTCs in total costs (direct + indirect). The award for the ATTC Coordinating Center is expected to be in the area of $300,000 in total costs (direct + indirect).
- Catalog of Domestic Federal Assistance Number: 93.230
- For programmatic or technical assistance contact: Susanne R. Rohrer, Office of Evaluation, Scientific Analysis, and Synthesis, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 840, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8521.
- For grants management assistance, contact: Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 630, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666.
- Application Kits are available from: National Clearinghouse for Alcohol and Drug Information, PO Box 2345, Rockville, Maryland 20847–2345, 1–800–729–6686, 1–800–487–4889, Via Internet: http://www.samhsa.gov

4.2.2 Cooperative Agreements for State Treatment Outcomes and Performance Pilot Studies Enhancement (Short Title: TOPPS II—GFA No. TI 98–005)

- Application Deadline: June 8, 1998.
- Purpose: The Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment (CSAT) announces the availability of cooperative agreements for States to develop a standardized approach that systematically measures the performance of Substance Abuse Prevention and Treatment Block Grant (SAPT BG) funded programs/providers and the treatment outcomes of clients as they progress through the State substance abuse treatment system. This program will support States to develop Outcomes Monitoring Systems (OMS) or to refine Management Information Systems (MIS) that measure performance and outcomes for substance abuse treatment. All States are eligible to apply. Awards will be granted to States who demonstrate that this program will assist in the State system development of outcomes measurements and for eventual development of a statewide MIS/OMS system.

This program is designed to support inter-State consensus based decision making regarding the development of

standardized AOD treatment performance and outcome measures. The program will support the development and evaluation of strategies for monitoring the impact and effectiveness of alcohol and other drug (AOD) treatment. To fulfill this objective, there are four phases: A planning/coordination phase, a developmental phase, an implementation phase, and an analysis/dissemination phase.

A Technical Assistance Center will be funded to provide overall coordination and support of the program, management of common data collected across Project States, and assumption of primary responsibility, in collaboration with CSAT and the States, for analyzing the consistency of the data across the States and producing inter-State findings.

- Priorities: None.
- Eligible Applicants: Applications will be accepted for two types of awards: Project States and a Technical Assistance Center. Project State applications may be submitted by State AOD Single State Authorities (SSAs). Eligibility is limited to the SSAs because this cooperative agreement program is designed to collect information on the treatment services funded by the SAPT Block Grant. The SSAs are the recipients of the SAPT Block Grants and they are the only parties that have access to MIS programs with the ability to collect necessary data. Technical Assistance Center applications may be submitted by units of State or local government and by domestic private nonprofit and for-profit organizations such as community-based organizations, universities, colleges, and hospitals.
- Cooperative Agreement/Amounts: It is estimated that approximately $5 million will be available to support 10 to 12 State awards and 1 Technical Assistance Center under this program in FY 98. Each project State award is estimated to be in the range of $300,000 to $500,000 per year in total costs (direct and indirect). The Technical Assistance Center is estimated to be $250,000 per year in total costs (direct and indirect).
- Catalog of Domestic Federal Assistance Number: 93.238
- Program Contact: For programmatic or technical assistance contact: Sheila Harmison, D.S.W., Division of State and Community Assistance, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 880, (301) 443–7524.
- For grants management assistance, contact: Ms. Peggy Jones, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 360, (301) 443–9666.

The mailing address for the individuals listed above is: 5600 Fishers Lane, Rockville, MD 20857.

- Application Kits are available from: National Clearinghouse for Alcohol and Drug Information, PO Box 2345, Rockville, Maryland 20847–2345, 1–800–729–6686, 1–800–487–4889, Via Internet: http://www.samhsa.gov

5. Public Health System Reporting Requirements

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements.

Application guidance materials will specify if a particular FY 1998 activity described above is/is not subject to the Public Health System Reporting Requirements.

6. PHS Non-use of Tobacco Policy Statement

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

7. Executive Order 12372

Applications submitted in response to all FY 1998 activities listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Office of Extramural Activities Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: April 3, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–9253 Filed 4–7–98; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following teleconference meeting of the SAMHSA Special Emphasis Panel II in April.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. The discussion could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

Committee name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: April 14, 1998, 2:00 p.m.–4:00 p.m.

Place: Parklawn Building, Room 16C–26—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed: April 14, 1998 2:00 p.m.–4:00 p.m.

Panel: FEMA—Crisis Counseling—New York.

Contact: Lionel Fernandez, Ph.D., Review Administrator, Room 17–89, Parklawn Building, Telephone: 301–443–4266 and FAX: 301–443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: April 2, 1998.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 98–9186 Filed 4–7–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4349–N–11]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for 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:* May 8, 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: April 1, 1998.

David S. Cristy,

Director, IRM Policy, and Management Division.

Title of Proposal: Procedures for Obtaining Certificates of Insurance for Development and Modernization Projects.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0046.

Description of The Need For the Information And Its Proposed Use: The Department requires public housing agencies to obtain certificates of insurance from contractors and subcontractors involved in construction work for development of a new public housing project or modernization of an existing project. These certificates are maintained on file during the course of the project.

Form Number: None.

Respondents: State, Local, or Tribal Government and Business or Other For-Profit.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Hours
Certificate	3,000		4		.50		6,000
Recordkeeping	3,000		1		2		6,000

Total Estimated Burden Hours: 12,000.

Status: Reinstatement, with changes, of a previously approved collection for which approval has expired.

Contact: Arthur Methvin, HUD, (202) 708–1872 X4037; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 1, 1998.

[FR Doc. 98–9112 Filed 4–7–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4196–N–07]

Notice of Funding Availability for FY 1997 Public and Indian Housing Tenant Opportunities Program Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Combined Notices of Funding Availability for FY 1997 for the Public and Indian Housing Economic Development and Supportive Services

Program and the Tenant Opportunities Program Announcement of Funding Awards. This announcement contains the names and addresses of the Tenant Opportunities Program award winners and amount of the awards.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Tenant Opportunities Program funding awards, contact the local HUD Field Office, Director, Office of Public Housing, Department of Housing and Urban Development (Appendix B of this Announcement). For questions concerning Native American program awards, please contact Tracy Outlaw, HUD National Office, Native American Programs (ONAP), 1999 Broadway, Suite 3390, Box 90, Denver, Colorado 80202, telephone (303) 675–1600. For the hearing and speech impaired these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The purpose of the competition was to provide direct funding on a competitive basis to duly-elected Resident Organizations to enable them to receive training and technical assistance for resident management, business development, and opportunities for other self-help initiatives with specific emphasis on welfare to work.

The recent passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 transformed the former Aid to Families with Dependent Children (AFDC) program into the Temporary Assistance to Needy Families (TANF) program. This dramatic change presents the public housing and Native American communities with a profound challenge and opportunity. The Tenant Opportunities Program (TOP) was restructured to maximize its effectiveness in helping the public and Native American communities meet the challenge of welfare reform. The primary focus of TOP in Fiscal Year 1997 was to move a substantial number of welfare dependent families to work. ''The TOP program enables resident entities to establish priorities, based on the efforts in their public and Indian housing communities, that are aimed at furthering economic uplift and independence.''

The 1997 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** Notice published on June 6, 1997 (62 FR 31272). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $8,041,700 was awarded to eighty-one grantees who have submitted comprehensive implementation plans with specific measurable goals to promote self sufficiency of public and Native American housing residents. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards in Appendix A of this document.

Dated: April 1, 1998.

Deborah Vincent,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A—Notice of Funding Availability for FY 1997 for the Public and Indian Housing Tenant Opportunities Program

Grantee	Award amount
Ms. Ruth Barkley, Cathedral Tenants United, Inc., 1472 Washington St. (Rear), Boston, MA 02118	$100,000
Ms. Adline Stallings, Mission Main Tenants Task Force, Inc., 18 St. Alphonsus St., Boston, MA 02129	100,000
Mr. Douglas Wolfson, Commonwealth Tenants Association, Inc., 35 Fidelis Way, Brighton, MA 01235	100,000
Ms. Maribel Santa, Fairfax Gardens Tenants Association, Inc., 99 Kilmer Ave., Taunton, MA 02780	100,000
Ms. Onetha Chisholm, Syracuse Citywide Council, Housing Residents, Inc., 516 Burt Street, Syracuse, NY 13202	100,000
Mr. Angel Danzy, MacGathan Townhomes, Resident Association, Inc., 155–D Jerry Street, Schenectady, NY 12304	91,900
Ms. Ann Bradshaw, Taft Tenants Organization, Inc., 65 East 112th Street, New York, NY 10029	100,000
Ms. Doris Jacobs, Redfern Houses Resident Council, Inc., 14–30 Redfern Avenue, Far Rockaway, NY 11691	100,000
Ms. Cornelia Taylor, Arverne Houses Resident Council, Inc., 339 Beach 54th Street, Far Rockaway, NY 11961	100,000
Ms. Louise Graham, Boston Secor Resident Council, Inc., 3555 Bivona Street, Bronx, NY 10475	100,000
Ms. Geraldine Lamb, Castle Hill Resident Association, Inc., 615 Castle Hill Road, Bronx, NY 10473	100,000
Ms. Ann Sullivan, Acorn Tenant Union Training Project, Inc., 845 Flatbush Avenue, Brooklyn, NY 11226	250,000
Ms. Mary Rone, New Jersey Public & Subsidized, Housing Residents, Inc., 303–309 Washington Street, Suite 300, Newark, NJ 07102	250,000
Mr. Kevin Smith, Woodbridge Garden Apartments, Resident Council, Inc., 5F Bunns Lane, Woodbridge, NJ 07095	100,000
Ms. Janice Johnson, Bright Hope Resident Council, Inc., 483 West King Street, Philadelphia, PA 19464	100,000
Ms. Barbara Pinchback, Pleasant View Tenant Association, Inc., 105 F. Pleasant View Ave., Danville, VA 24540	100,000
Ms. Velvamine Adams, Pecan Acres Resident Organization, Inc., 433 Pecan St., Petersburg, VA 23803	75,000
Ms. Doris B. Barbour, Waynesboro Resident Organization, Inc., 1700 New Hope Rd., P.O. Box 1138, Waynesboro, VA 22980	60,000
Ms. Brenda Harris, Association of Concerned Tenants of Fox Meadow, Inc., P.O. Box 1328 Memorial Drive, Lebanon, VA 24266	25,000
Ms. Betty Spikes, Dublin Resident Council, Inc., 500 West Mary St., Dublin, GA 31040	100,000
Ms. Constance Shamburger, Beacon Homes Resident Council, Inc., 801 Beacon Street, Laurel, MS 39440	100,000
Mr. Julius Adams, Key West Resident Management Corporation, Inc., 1400 Kennedy Drive, Key West, FL 33040	100,000
Ms. Lela Lyons, Ivey Green Resident Council Association, Inc., 2014 West 17th Ct., Riviera Beach, FL 33404–5002	100,000
Ms. Lyvonne Thompson, Lake Mann Resident Association, Inc., 624 Bethune Drive, Orlando, FL 32805	100,000
Mr. Clark Cox, Beecher Terrace Resident Corp., Inc., 466 S. 10th St. Bldg. #48, Louisville, KY	100,000
Ms. Danielle White, Parkway Place Resident Corp., Inc., 1611 S. 13th Street, Louisville, KY 40210	100,000
Ms. Dora Mobley, Williamsburg Housing Resident Council, Inc., 600 Brush Arbor, Williamsburg, KY 40769	100,000
Ms. Elizabeth Dixon, Spencer J. McCallie Homes Resident Association, Inc., 3601 Kirkland Ave., Chattanooga, TN 37410	100,000
Ms. Brenda J. Millsaps, Emma Wheeler Homes Resident Association, Inc., 5118 Woodland View Circle, Chattanooga, TN 37410	100,000
Mr. Osvaldo Bravo, Puerta del Sol Resident Council, Inc., Apartment 101 Aquadilla, Aquadilla, PR 00603	31,800
Ms. Lillian Lopez, Reparto San Antonio Resident Council, Inc., Reparto San Antonio Box A–15, Barranquitas, PR 00794	100,000
Ms. Awilda Marrero, Comite de Iniciativa, Villas del Rio, Inc., Villas del Rio Edificio 4, Apt. 56, Naguabo, PR 00781	68,000
Ms. Carmen Gonzalez, Jardines de Santa Elena Resident Council, Inc., Jardines de Santa Elena Unit E–02, Yabucoa, PR 00676	100,000
Ms. Nydia I. Diaz, Colinas de Magnolia Resident Council, Inc., Colinas de Magnolia Building L, Apt. 102, Juncos, PR 00777	100,000
Ms. Astrid M. Roldan, Dr. Victor Berrios Resident Council, Inc., Dr. Victor Berrios Edificio 15, Apt. 109, Yabucoa, PR 00767	100,000

Grantee	Award amount
Ms. Minerva Reyes, Jose Gautier Benitez Resident Council, Inc., Jose Gautier Benitez Building 30, Apt. 269, Caguas, PR 00726	100,000
Ms. Martiza Ortiz, Urbanizacion Jardines de Cidra, Resident Council, Inc., Jardines de Cidra Building 2, Apt. 40, Cidra, PR 00739	100,000
Ms. Lucrecia A. Alvarez, Pedro M. Descartes Resident Council, Inc., General Contreras St. Edif. #13, Santo Isabel, PR 00757	100,000
Mr. Jose Rosario, Luis Munoz Morales Resident Council, Inc., L. Munez Morales Project Building 12 Apt. 122, Cayey, PR 00736	100,000
Ms. Ana Mendoza, Enudio Negron Resident Council, Inc., Enudio Negron Bo Tierra Santa Carr 149 KM 57.9, Villalba, PR 00766	100,000
Ms. Claribel Oquendo, Aristides Chavier Resident Council, Inc., Block 13 Apartment 84 Res. Aristides Chavier, Ponce, PR 00731	100,000
Mr. Bienvenido A. Vega, Brisas de Bayamon Resident Council, Inc., Bldg. 18 Apt. 190 Res. Brisas de Bayamon, Bayamon, PR 00961	100,000
Ms. Violeta Ramirez Rios, La Alhambra Resident Council, Inc., Bldg 6 Apt. 65 Res. La Alhambra, Bayamon, PR 00961	100,000
Ms. Margarita Camacho Ruiz, Villa Valle Verde Resident Council, Inc., Bldg. 6 Apt. 76 Res. Villa Valle Verde A, Adjuntas, PR 00601	100,000
Ms. Gloricera Santiago, Brisas del Mar, Inc., Brisas del Mar Carr. 701 Bldg. 2, Apt. 16, Salinas, PR 00751	100,000
Mr. Angel R. Melendez-Rivera, Tomas Sorolla Resident Council, Inc., Bldg. 3, Apt. 7, Morovis, PR 00687	100,000
Ms. Carole Steele, Cabrini Rowhouse Tenant Management Council, Inc., 984 North Hudson, Chicago, IL 60610	60,000
Ms. Louise Moore, Martin Luther King Resident Management Corporation, Inc., 3731 South King Drive, Chicago, IL 60653	60,000
Mr. William Gilbert, Lakeside Terrace Resident Council, Inc., #5 Lakeside Terrace, Urbana, IL 61801	100,000
Ms. Betty Seldon, Desoto Bass Courts Resident Council, Inc., 1033 Dennison Avenue, Dayton, OH 45408	100,000
Ms. Sylvia J. Penn, Harriet Tubman Resident Council, Inc., 2450 W Grand Blvd. Apt. #1212, Detroit, MI 48208	100,000
Mr. Calvin Clark, CIRCLE, Inc., 733 North Maples Estates, Ann Arbor, MI 48103	100,000
Ms. Sharon Williams, Beechwood Resident Council, Inc., 2755 N Graham Avenue, Indianapolis, IN 46218	100,000
Ms. Sandra Bailey, Laurelwood Resident Management Corporation, Inc., 3348 Teakwood, Indianapolis, IN 46227	100,000
Ms. Christine Gibbs, Highland Park Resident Organization, Inc., 1275 North 17th Street, Milwaukee, WI 53205	100,000
Ms. Margaret Manke, Arlington Court Resident Organization, Inc., 1633 N. Arlington Place #1002, Milwaukee, WI 53202	100,000
Mr. Soua Yang, Dunedin Resident Council, Inc., 469 Ada Street, St. Paul, MN 55107	75,000
Ms. Pauline Thompson, Mount Airy Resident Council, Inc., 200 E. Arch Street, St. Paul, MN 55101	75,000
Ms. Gladis Moen, McDonough Resident Council, Inc., 1544 Timberlake Road, St. Paul, MN 55117	75,000
Ms. Diane Bronk, Roosevelt Resident Council, Inc., 1575 Ames, St. Paul, MN 55106	75,000
Ms. Maria Caballos, United Residents of Taylor Center, Inc., 791 Shannon, Las Cruces, NM 88001	100,000
Ms. Veronica Garcia, Vista del Cerro Family Resident Council, Inc., 108 South Cedar Street, Truth-Consequences, NM 87901	60,000
Mr. Richard Martinez, Wautonomah Resident Council, Inc., 624 East Laughlin, Tucumcari, NM 88401	100,000
Ms. Michelle Williams, Windemere Hills/Silver City Courts Residents, Inc., 701 West 18th Street, North Little Rock, AR 72114	100,000
Ms. Augusta Kerry, C.J. Peete Residents Council, Inc., 2514 Washington Ave., New Orleans, LA 70113	100,000
Ms. Paula Taylor, Imperial Drive Resident Council, Inc., 38 Imperial Drive Apt. A, New Orleans, LA 70122	100,000
Ms. Grace Jackson, Bogalusa Housing Authority, Citywide Residents, Inc., 925 East Fourth St. Apt. 88, Bogalusa, LA 70427	100,000
Ms. La Shonda Phillips, Clarence Resident Council, Inc., 100 Butler Street, Campti, LA 71411	100,000
Ms. Wilma Lawson, Pecan Grove Resident Council, Inc., 138 Linda Drive, Campti, LA 71411	100,000
Ms. Audrey Taylor, St. John the Baptist Resident Council, Inc., 396 East Historic Street, Garyville, LA 70051	100,000
Mr. Timothy Todd, Scotts Bluff Public Housing Resident Council, Inc., 89A Woodley Park Road, Gering, NE 69341	100,000
Mr. Richard Jennings, Residential Management Corporation, Inc., 1221 Billings Avenue, Helena, MT 59601	100,000
Mr. Mark Peniska, Northern Ponca Housing Resident Association, Inc., P.O. Box 2486 1405 Riverside Blvd., Norfolk, NE 68701	100,000
Ms. Florencia Lopez, Ramona Gardens Resident Advisory Council, Inc., 2850 Lancaster Ave. #355, Los Angeles, CA 90033	100,000
Mr. David Ochoa, Aliso Village Resident Advisory Council, Inc., 1331 Kearney St. #558, Los Angeles, CA 90033	100,000
Mr. Joseph E. Mckee, Coffelt Tenant Council, Inc., 1510 South 19th Avenue, Phoenix, AZ 85009	100,000
Ms. Nora Miller, Bayo Vista Resident Council, Inc., 23 California Street, Rodeo, CA 94572	100,000
Mr. Leroy Mitchell, Navajo Nation Regional Resident Organization, Inc., P.O. Box 572, Many Farms, AZ 86538	250,000
Ms. Doris Morgan, Holly Park Community Council, Inc., 7534 40th Avenue South #870, Seattle, WA 98118	100,000
Ms. Judith Minaker, Rainier Vista Leadership Team, Inc., 4648 Viburnum Court South #500, Seattle, WA 98108	100,000
Ms. Maira Castonen, Auburn Resident Council, 1102 9th Southwest, Auburn, Washington 98002	60,000

Appendix B—Names, Addresses and Telephone Numbers of Local HUD Field Offices

England

Connecticut State Office, Attention: Director, Office of Public Housing, First Floor, 330 Main Street, Hartford, CT 06106–1860, Telephone No. (203) 240–4523

Massachusetts State Office, Attention: Director, Office of Public Housing, Thomas P. O'Neill, Jr., Federal Building, 10 Causeway Street, Boston, MA 02222–1092, Telephone No. (617) 565–5634

New Hampshire State Office, Attention: Director, Office of Public Housing, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, NH 03101–2487, Telephone No. (603) 666–7681

Rhode Island State Office, Attention: Director, Office of Public Housing, Sixth Floor, 10 Weybosset Street, Providence, RI 02903–3234, Telephone No. (401) 528–5351

New York/New Jersey

New Jersey State Office, Attention: Director, Office of Public Housing, One Newark Center, Thirteenth Floor, Newark, NJ 07102–5260, Telephone No. (202) 622–7900

New York State Office, Attention: Director, Office of Public Housing, 26 Federal Plaza, Suite 3237, New York, NY 10278–0068, Telephone No. (212) 264–6500

Buffalo Area Office, Attention: Director, Office of Public Housing, Lafayette Court, Fifth Floor, 465 Main Street, Buffalo, NY 14203–1780, Telephone No. (716) 846–5755

Mid-Atlantic

District of Columbia Office, Attention: Director, Office of Public Housing, 820 First Street, NE, Washington, DC 20002–4205, Telephone No. (202) 275–9200

Maryland State Office, Attention: Director, Office of Public Housing, City Crescent Building, 5th Floor, 10 South Howard Street, Baltimore, MD 21201–2505, Telephone No. (410) 962–2520

Pennsylvania State Office, Attention: Director, Office of Public Housing, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390, Telephone No. (215) 656–0576 or 0579

Virginia State Office, Attention: Director, Office of Public Housing, The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, VA 23230–0331, Telephone No. (804) 278–4507

West Virginia State Office, Attention: Director, Office of Public Housing, 405 Capitol Street, Suite 708, Charleston, WV 25301–1795, Telephone No. (304) 347–7000

Pittsburgh Area Office, Attention: Director, Office of Public Housing, 339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222–2515, Telephone No. (412) 644–6571

Southeast/Caribbean

Alabama State Office, Attention: Director, Office of Public Housing, Beacon Ridge Tower, Suite 300, 600 Beacon Parkway, West, Birmingham, AL 35209–3144, Telephone No. (205) 290–7617

Caribbean Office, Attention: Director, Office of Public Housing, New San Juan Office Building, 159 Carlos E. Chardon Avenue, Room 305, San Juan, PR 00918–1804, Telephone No. (809) 766–6121

Georgia State Office, Attention: Director, Office of Public Housing, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303–3388, Telephone No. (404) 331–5136

Kentucky State Office, Attention: Director, Office of Public Housing, 601 West Broadway, P.O. Box 1044, Louisville, KY 40201–1044, Telephone No. (502) 582–5251

Mississippi State Office, Attention: Director, Office of Public Housing, Doctor A.H. McCoy Federal Building, Suite 910, 100 West Capitol Street, Jackson, MS 39269–1016, Telephone No. (601) 965–5308

North Carolina State Office, Attention: Director, Office of Public Housing, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707, Telephone No. (910) 547–4001

South Carolina State Office, Attention: Director, Office of Public Housing, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, SC 29201–2480, Telephone No. (803) 765–5592

Tennessee State Office, Attention: Director, Office of Public Housing, 251 Cumberland Bend Drive, Suite 200, Nashville, TN 37228–1803, Telephone No. (615) 736–5213

Jacksonville Area Office, Attention: Director, Office of Public Housing, Southern Bell Tower, Suite 2200, 301 West Bay Street, Jacksonville, FL 32202–5121, Telephone No. (904) 232–2626

Knoxville Area Office, Attention: Director, Office of Public Housing, John J. Duncan Federal Building, Third Floor, 710 Locust Street, Knoxville, TN 37902–2526, Telephone No. (615) 545–4384

Midwest

Illinois State Office, Attention: Director, Office of Public Housing, Ralph Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, Telephone No. (312) 353–5680

Indiana State Office, Attention: Director, Office of Public Housing, 151 North Delaware Street, Suite 1200, Indianapolis, IN 46204–2526, Telephone No. (317) 226–6303

Michigan State Office, Attention: Director, Office of Public Housing, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226–2592, Telephone No. (313) 226–7900

Minnesota State Office, Attention: Director, Office of Public Housing, 220 Second Street, South, Minneapolis, MN 55401–2195, Telephone No. (612) 370–3000

Ohio State Office, Attention: Director, Office of Public Housing, 200 North High Street, Columbus, OH 43215–2499, Telephone No. (614) 469–5737

Wisconsin State Office, Attention: Director, Office of Public Housing, Suite 1380, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, WI 53203–2289, Telephone No. (414) 297–3214

Cincinnati Area Office, Attention: Director, Office of Public Housing, 525 Vine Street, Suite 700, Cincinnati, OH 45202–3188, Telephone No. (513) 684–2533

Cleveland Area Office, Attention: Director, Office of Public Housing, Renaissance Building, Fifth Floor, 1350 Euclid Avenue, Cleveland, OH 44115–1815, Telephone No. (216) 522–4058

Grand Rapids Area Office, Attention: Director, Office of Public Housing, 50 Louis Street, N.W.—Third Floor, Grand Rapids, MI 49503, Telephone No. (616) 456–2127

Southeast

Arkansas State Office, Attention: Director, Office of Public Housing, TCBY Tower, 425 West Capitol Avenue, Little Rock, AR 72201–3488, Telephone No. (501) 324–5931

Louisiana State Office, Attention: Director, Office of Public Housing, 501 Magazine Street, Ninth Floor, New Orleans, LA 70130, Telephone No. (504) 589–7233

Oklahoma State Office, Attention: Director, Office of Public Housing, 500 West Main Street, Oklahoma City, OK 73102, Telephone No. (405) 553–7559

Texas State Office, Attention: Director, Office of Public Housing, 1600 Throckmorton, Post Office Box 2905, Fort Worth, TX 76113–2905, Telephone No. (817) 885–5401

Houston Area Office, Attention: Director, Office of Public Housing, Norfolk Tower, Suite 200, 2211 Norfolk, Houston, TX 77098–4096, Telephone No. (713) 834–3274

San Antonio Area Office, Attention: Director, Office of Public Housing, Washington Square, 800 Dolorosa, San Antonio, TX 78207–4563, Telephone No. (210) 229–6800

Great Plains

Iowa State Office, Attention: Director, Office of Public Housing, Federal Building, Room 29, 210 Walnut Street, Des Moines, IA 50309–2155, Telephone No. (515) 284–4512

Kansas/Missouri State Office, Attention: Director, Office of Public Housing, Gateway Tower II, Room 200, 400 State Avenue, Kansas City, KS 66101–2406, Telephone No. (913) 551–5462

Nebraska State Office, Attention: Director, Office of Public Housing, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955, Telephone No. (402) 492–3100

St. Louis Area Office, Attention: Director, Office of Public Housing, Robert A. Young Federal Building, 50 Louis, N.W., Third Floor, St. Louis, MO 63103–2836, Telephone No. (314) 539–6512

Rocky Mountains

Colorado State Office, Attention: Director, Office of Public Housing, 633—17th Street, 12th Floor, Denver, CO 80202–3607, Telephone No. (303) 672–5440

Pacific/Hawaii

Arizona State Office, Attention: Director, Office of Public Housing, 2 Arizona Center, Suite 1600, 400 North Fifth Street, Phoenix, AZ 85004–2361, Telephone No. (602) 379–4434

California State Office, Attention: Director, Office of Public Housing, Phillip Burton Federal Building, and U.S. Courthouse, 450 Golden Gate Avenue, Ninth Floor, San Francisco, CA 94102–3448, Telephone No. (415) 556–4752

Hawaii State Office, Attention: Director, Office of Public Housing, Seven Waterfront Plaza, Suite 500, 500 Ala Moana Boulevard, Honolulu, HI 96813–4918, Telephone No. (808) 522–8175

Los Angeles Area Office, Attention: Director, Office of Public Housing, AT&T Center, 611 West 6th Street, Suite 800, Los Angeles, CA 90017–3127, Telephone No. (213) 894–8000 ext. 3500

Sacramento Area Office, Attention: Director, Office of Public Housing, 777 12th Street, Suite 200, Sacramento, CA 95814–1997, Telephone No. (916) 551–1351

Northwest/Alaska

Alaska State Applicants submit applications to the Washington State Office in Seattle, WA (see below)

Oregon State Office, Attention: Director, Office of Public Housing, 400 Southwest Sixth Avenue, Suite 700, Portland, OR 97204–1596, Telephone No. (503) 326–2519

Washington State Office, Attention: Director, Office of Public Housing, Seattle Federal Office Building, Suite 200, 909 1st Avenue, Seattle, WA 98104–1000 Telephone No. (206) 220–5101

Office of Native American Program Offices

Serves East of the River (including all of Minnesota)

Eastern Woodlands Office of Native American Programs, Attention: Administrator, Office of Native American Programs, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, Telephone No. (800) 735–3239 [Toll Free] or (312) 886–3539

Serves: Louisiana, Missouri, Kansas, Oklahoma and Eastern Texas

Southern Plains Office of Native American Programs, Attention: Administrator, Office of Native American Programs, 500 West Main Street, Suite 400, Oklahoma City, OK 73102, Telephone No. (405) 553–7525

Serves: Colorado, Montana, The Dakotas, Nebraska, Utah and Wyoming

Northern Plains Office of Native American Programs, Attention: Administrator, Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, Telephone No. (303) 672–5465

Serves: California, Nevada, Arizona and New Mexico

Southwest Office of Native American Programs, Attention: Administrator, Office of Native American Programs, Two Arizona Center, Suite 1650, 400 North Fifth Street, Suite 1650, Phoenix, AZ 85004–2361, Telephone No. (602) 379–4156 or Albuquerque Division of Native American Programs, Albuquerque Plaza, 201 3rd Street, Suite 1830, Albuquerque, NM 87102–3368, Telephone No. (505) 766–1372

Serves: Iowa, Washington, Idaho and Oregon

Northwest Office of Native American Programs, Attention: Administrator, Office of Native American Programs, 909 1st Avenue, Suite 300, Seattle, WA 98104–1000, Telephone No. (206) 220–5270

Serves: Alaska

Alaska Office of Native American Programs, Attention: Administrator, Office of Native American Programs, University Plaza Building, 949 East 36th Avenue, Suite 401, Anchorage, AK 99508–4399, Telephone No. (907) 271–4633

Serves: National

Office of Native American Programs, 1999 Broadway, Suite 3390, Box 90, Denver, CO 80302, Telephone No. (303) 675–1600.

[FR Doc. 98–9110 Filed 4–7–98; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Satellite Land Remote Sensing Data Archive (NSLRSDA) Advisory Committee; Notice of Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), 5 U.S.C. App. (1988). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the National Satellite Land Remote Sensing Data Archive (NSLRSDA) Advisory Committee. NSLRSDA was established by Congress in the Land Remote Sensing Policy Act of 1992 (Public Law 102–555), 15 U.S.C. 5601.

The purpose of the Committee is to advise the U.S. Geological Survey, Earth Resources Observation Systems (EROS) Data Center (EDC) on guidelines or rules relating to NSLRSDA archival data deposit, maintenance, and preservation as well as access management policies and procedures. The Committee will be responsible for providing advice and consultation on a broad range of technical and policy topics in guiding development of NSLRSDA.

In order for the Secretary to be advised by a broad spectrum of remote sensing data users and producers, committee membership will be composed of 15 members, as follows: two from academia, with one being a laboratory researcher-data user and one a classroom educator; four from government, with one being a Federal data user, one a State data user, one a local data user, and one a science archivist; four from industry, with one being a data management technologist, one a licensed data provider, one a value-added or other data provider, and one an end user; five others, with one being a non-affiliated individual, one representing a non-governmental organization, one an international representative, and two at-large, from any data user or producer sector. Expertise in information science, natural science, social science and policy/law must be represented within the sectors listed above.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, 15 days from the date of publication of this notice.

Further information regarding the NSLRSDA Advisory Committee may be obtained from the Director, U.S. Geological Survey, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Certification of establishment is published below.

Certification

I hereby certify that the establishment of the National Satellite Land Remote Sensing Data Archive Advisory Committee is necessary and in the public interest in connection with the performance of duties by the Department of Interior mandated pursuant to the Land Remote Sensing Policy Act of 1992 (Public Law 102–555), 15 U.S.C. 5601.

Dated: March 24, 1998.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 98–9178 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–960–1060–02–24 1A]

OMB Approval Number 1004–0042; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) On January 12, 1998, BLM published a notice in the **Federal Register** (63 FR 1871) requesting comment on this proposed collection. The comment period ended on March 14, 1998. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0042), Office of Information and Regulatory Affairs, Washington, D.C., 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

Nature of Comments

We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Protection, Management and Control of Wild, Free-Roaming Horses and Burros.

OMB Approval Number: 1004–0042.

Abstract: The Bureau of Land Management is proposing to renew the approval of an information collection for the wild horse and burro adoption form (BLM Form Number 4710–10). Qualified individuals interested in adopting healthy, excess wild horses and burros from BLM fill out this form and receive the animal(s), subject to periodic contact with BLM employees to determine whether or not they are providing humane care and proper treatment to the animals. The adoption form serves as a mechanism for individuals to indicate their adoption interest to BLM and for BLM to determine their qualifications for adoption.

Bureau Form Number: 4710–10.

Frequency: Once to fill out the form. Once adopted, the adopter must make the animal(s) available for BLM inspection, at BLM's request, to determine their condition and status.

Description of Respondents: Respondents are private individuals who are interested in obtaining wild horses and burros.

Estimated Completion Time: 10 minutes per response.

Annual Responses: 30,000.

Annual Burden Hours: 5,000.

Information Collection Clearance Officer: Carole Smith, 202–452–0367.

Dated: March 30, 1998.

Carole Smith,

Bureau of Land Management Information Clearance Officer.

[FR Doc. 98–9143 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management—Interior

Meeting Notice

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise to discuss wildland fuel management and plans to complete the Owyhee Resource Management Plan.

DATES: May 20, 1998. The meeting will begin at 12:15 PM. Public comment periods will be held at 1:00 PM and 5:30 PM.

ADDRESSES: The meeting will be held at the Idaho Natural Resource Center, located at 1387 South Vinnell Way, Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Dated: March 27, 1998.

Howard Hedrick,

Acting District Manager.

[FR Doc. 98–8869 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–61–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council meeting, notice of meeting.

SUMMARY: This notice announces a meeting of the Arizona Resource Advisory Council. the meeting will be held May 13, 1998, beginning at 8:30 a.m. in the 1A conference Room at the Bureau of Land Management Arizona State Office, 222 North Central Avenue, Phoenix, Arizona. The agenda items to be covered at the one-day business meeting include review of previous meeting minutes; BLM State Director's Update on legislation, regulations and other statewide issues; BLM presentations on Clean Water Initiative, Hualapai Exchange Draft EIS, and Recreation and Tourism—Review of the published Arizona Recreation Strategy and next steps for Working Group's Involvement; Maricopa County Overview of Vision 2025; RAC Discussion and Approval on the Arizona Strip Rangeland Resource Team Vacancy and the other Proposed Field Offices Rangeland Resource Team Members; and Reports by the Standards and Guidelines, Recreation and Public Relations Working Groups; Reports from RAC members; Discussion on future meetings; and Tour of Public Lands Information Center. A public comment period will take place at 11:30 a.m. on May 13, 1998, for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah E. Stevens, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9215.

Denise P. Meridith,

State Director.

[FR Doc. 98–9180 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–00; IDI–32648]

Proposed Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 30,892.96 acres of public land for protection of the Mountain Home Air Force Base Enhanced Training in Idaho (ETI) site in aid of potential legislation for an Engle Act withdrawal application by the United States Air Force. This notice closes the lands for up to 2 years from surface entry, mining, and mineral leasing.

DATES: Comments must be received by July 7, 1998.

ADDRESSES: Comments should be sent to the Idaho State Director, BLM, 1387 S. Vinnell Way, Boise, Idaho 83709–1657.

FOR FURTHER INFORMATION CONTACT: Jon Foster (208) 373–3813, BLM Idaho State Office.

SUPPLEMENTARY INFORMATION: On April 2, 1998, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)) and the mineral leasing laws, subject to valid existing rights:

Boise Meridian

Alternative Site B: Clover Butte

T. 12 S., R. 8 E.,
sec. 10, SE¼SE¼;
sec. 11, S½S½;
sec. 12, S½S½;
sec. 13;
sec. 14;
sec. 15, E½E½;
sec. 22, E½E½;
secs. 23 to 26, inclusive;
sec. 27, E½E½;
sec. 34, E½E½;
sec. 35.
T. 12 S., R. 9 E.,
sec. 7, lot 4, SE¼SW¼, and S½SE¼;
sec. 8, S½S½;
secs. 17 to 20, inclusive;
secs. 29 to 32, inclusive.

Alternative Site C: Grasmere

T. 11 S., R. 4 E.,
secs. 25 to 27, inclusive;
sec. 34, N½, E½SW¼, and SE¼;
sec. 35.
T. 11 S., R. 5 E.,
secs. 30, lots 1 to 4, inclusive;
secs. 31, lots 1 to 4, inclusive.
T. 12 S., R. 4 E.,

secs. 1 to 4, inclusive;
sec. 9;
sec. 10, W½NE¼, SE¼NE¼, NW¼, and S½;
sec. 11, N½NE¼, SE¼NE¼, NE¼NW¼, and S½;
sec. 12;
sec. 13, NW¼NE¼, N½SW¼NE¼, N½NW¼, and N½S½NW¼;
sec. 14, N½N½ and N½S½N½;
sec. 15, N½N½ and N½S½N½.

Alternative Site D: Juniper Butte

T. 12 S., R. 9 E.,
sec. 35, E½SW¼, SE¼.
T. 12 S., R. 10 E.,
sec. 31, lots 3 and 4, E½SW¼, and SE¼;
sec. 32, S½.
T. 13 S., R. 9 E.,
sec. 1;
sec. 2, lot 1, SE¼NE¼, and E½SE¼;
sec. 11, E½E½;
sec. 12;
sec. 13;
sec. 14; E½E½E½;
sec. 23, E½E½E½;
sec. 24.
T. 13 S., R. 10 E.,
sec. 4, lots 3 and 4, S½NW¼, and S½;
secs. 5 to 9, inclusive;
secs. 17 to 21, inclusive.

No Drop Zones

ND–1 T. 9 S., R. 6 E., sec. 21.
ND–4 T. 12 S., R. 4 E., sec. 15, S½SE¼NE¼NE¼.
ND–5 T. 11 S., R. 4 E., sec. 23, W½SW¼NE¼SE¼.
ND–6 T. 13 S., R. 9 E., sec. 17, N½NE¼SE¼SE¼.
ND–7 T. 12 S., R. 9 E., sec. 19, W½SW¼ of lot 4.
ND–8 T. 13 S., R. 4 E., sec. 13, a portion of the W½SW¼ further described as, beginning at the southwest corner of said sec. 13, thence north 0°09′13″ east along the west line of said sec, 13 a distance of 1,948.85 feet; thence east, 866.61 feet to the TRUE POINT OF BEGINNING; thence south 0°07′39″ west, 1,700 feet; thence south, 89°52′21″ east, 150 feet, thence north, 0°07′39″ east, 1,700 feet; thence north, 89°52′21″ west, 150 feet to the TRUE POINT OF BEGINNING.

(Emitters)

BA T. T. 9 S., R. 8 E., sec. 26, NW¼NW¼SE¼NW¼.
BB T. 8 S., R. 9 E., sec. 34, SW¼NE¼NW¼SW¼.
BC T. 12 S., R. 8 E., sec. 2, NE¼SW¼SE¼NW¼.
BD T. 15 S., R. 6 E., sec. 21, SE¼SE¼NE¼NW¼.
BE T. 14 S., R. 10 E., sec. 29, NW¼NE¼NW¼SW¼.
BF T. 9 S., R. 6 E., sec. 15, SE¼SW¼NW¼SE¼.
BG T. 11 S., R. 5 E., sec. 32, NW¼NW¼NE¼NE¼.
BI T. 11 S., R. 4 E., sec. 23, SW¼NE¼SE¼SW¼.
BK T. 8 S., R. 13 E., sec. 7, a portion of lots 2 and 3, further described as, beginning at the northwest corner of sec. 7; thence south 89°46′57″ east along the south line of said sec. 7, a distance of 559.60 feet; thence north 1,332.48 feet to the TRUE POINT OF BEGINNING; thence south 89°28′50″ west, 100 feet; thence north 0°31′10″ west, 1,700 feet; thence north 89°28′50″ east 200 feet; thence south 0°31′10″ east 1,700 feet; thence south 89°28′50″ west 100 feet to the TRUE POINT OF BEGINNING.

The areas described aggregate 30,889.06 acres more or less in Owyhee County, and 3.90 acres in Twin Falls County.

The purpose of the proposed withdrawal is to protect the Mountain Home Air Force Base Enhanced Training in Idaho site. The training site is proposed to provide high-quality composite wing training for the 366th Wing near Mountain Home Air Force Base.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments or requests for further information in connection with the proposed withdrawal may send them in writing to the Idaho State Director at the address shown above.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with this withdrawal application shall not affect administration over the lands, and the segregation shall not have the effect of authorizing any use of the lands.

Dated: April 3, 1998.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 98–9336 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Continue a Food and Gift Shop Operation at the Bay Area Discovery Museum Within Golden Gate National Recreation Area

SUMMARY: The National Park Service intends to continue a food and gift shop operation to the public visiting the Bay Area Discovery Museum within Golden Gate National Recreation Area. All earnings from the sales directly go to supporting the youth education programs associated with the Bay Area Discovery Museum operation. This concession operates in conjunction with a Cooperative Agreement. The concession operation can not operate independently of the Cooperative Agreement and the Cooperative Agreement has not expired. It is the intent of the National Park Service to continue this type of operation, which is self perpetuating and provides needed funding to continue the youth education programs operating under a Cooperative Agreement. The visitor service operation will continue for seven (7) years under the concession authorization. The existing concessioner which has operated satisfactorily under the existing permit and has a right of preference in renewal pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20 *et seq.*) and 36 CFR 51.5.

SUPPLEMENTARY INFORMATION: Inquiries may be directed to Mr. Mac Foreman, Office of Concession Program Management at (415) 427–1368.

Dated: March 30, 1998.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 98–9183 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Meeting

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of meeting.

SUMMARY: Announcement of the second public meeting of the Advisory Council to the Partnership of the Boston Harbor Islands National Recreation Area.

DATES: April 16, 1998, 6:00 PM–8:00 PM.

ADDRESSES: The Coast Guard/Williams Building, Third Floor Conference Room, 408 Atlantic Avenue, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Mr. George Price, Project Manager, Boston Harbor Islands National Recreation Area, at 617–223–8666. Written comments can be addressed to George Price, Project Manager, Boston Harbor Islands National Recreation Area, 408 Atlantic Ave., Suite 228, Boston, MA, 02110–3316.

SUPPLEMENTARY INFORMATION: The twenty-eight member Advisory Council to the Partnership of the Boston Harbor Islands National Recreation Area will

hold its second official meeting on Thursday, April 16 from 6–8 PM at the Third Floor Conference Room at 408 Atlantic Avenue in Boston. The meeting is open to the public.

The Advisory Council members were appointed by the Director of the National Park Service and represent: Business, educational, cultural, and environmental entities; municipalities surrounding the harbor; and Native American interests. The Advisory Council was formed to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of the Integrated Management Plan and the operation of this new national park area. ''This Advisory Council is unique in that it is intended to provide assistance to the Partnership for the long term, not simply during the planning period. In addition, two of the members of the Advisory Council will become voting members of the Partnership with two additional people selected as voting alternates,'' said George Price, Project Manager.

In 1996 Congress created the Boston Harbor Islands National Recreation Area to recognize the rich natural and cultural resources and history found on the 30 islands located in Boston Harbor. The legislation (Pub. L. 104–333) established a thirteen-member partnership to jointly manage the Islands. The 13-member Partnership represents city, state, federal and private agencies with responsibilities for the harbor islands. Peter Webber, Chair of the Partnership said, ''we are very happy that the Advisory Council has now been officially appointed by the Director of the National Park Service. Much interest has been shown by many people to insure this was a representative group that cares deeply about the future of the Boston Harbor Islands. We look forward to a long and productive relationship with the members of the Advisory Council as we develop the plan and implement the programs for this new national park area.''

The focus of this meeting will be to accept by-laws and begin the process for selecting officers and nominations for representatives to the Boston Harbor Islands Partnership.

Dated: April 1, 1998.

George E. Price, Jr.,

Project Manager, Boston Harbor Islands National Recreation Area.

[FR Doc. 98–9185 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice; Request for Proposals (RFP)

SUMMARY: The National Park Service (NPS) proposes to issue a long-term lease of sufficient duration to enable a developer/operator to rehabilitate the historic Haslett Warehouse and adapt it to an appropriate commercial application. The Haslett Warehouse is a 198,000 square foot 4-story brick structure located in San Francisco's Fisherman's Wharf area, and is listed on the National Register of Historic Places. The building is located at 680 Beach Street (at Hyde Street).

Currently, the building's condition can be considered fair, although lack of maintenance has resulted in some deterioration of the roof and brick walls. Lessee will be required to provide seismic bracing, repointing of exterior brickwork, fire sprinkler system, ADA modifications, window treatment, and other improvements as a condition of the lease.

SUPPLEMENTARY INFORMATION: This is an open leasing opportunity. NPS will consider all proposals for use of the building, without preference as to type of use, that are capable of generating a lease income to NPS equivalent to other proposals submitted, are legal under existing law, do not entail destruction or unacceptable alteration of the structure's historic fabric, and meet all other RFP requirements. Minimum annual lease payment is expected to be approximately $300,000. Actual duration of the lease will be based on the intended use set forth in the selected proposal. Proposals are due at the below address ninety (90) days after publication of this notice.

Prospective applicants are encouraged to inspect the Haslett Warehouse prior to submitting proposals. Applicants may arrange tours of the building with Mr. Marc Hayman, Chief of Interpretation and Resource Management for San Francisco Maritime National Historical Park, by leaving a telephone number on his pager at (415) 764–5887.

The cost for purchasing a Prospectus is $50.00. Parties interested in obtaining a copy should send a check (NO CASH) made payable to ''National Park Service'' to the following address: National Park Service, Pacific Great Basin Support Office, Office of Concession Program Management, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372. A Tax Identification Number (TIN) OR Social Security Number (SSN) MUST be provided on all checks. The front of the envelope should be marked ''Attention: Office of Concession Program Management—Mail Room Do Not Open''. Please include in your request a mailing address indicating where to send the Prospectus. Inquiries may be directed to Ms. Teresa Jackson, Office of Concession Program Management at (415) 427–1369.

Dated: March 30, 1998.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 98–9184 Filed 4–7–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; FY 1998 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of Availability.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (''COPS'') announces the availability of grants for agencies serving small jurisdictions to help pay for a portion of the fourth year salary and benefits of existing COPS-funded officers. These one-time grants are specifically for the retention of police officer positions meeting all of the following criteria: funded by a COPS Phase I, FAST or UHP grant that will expire before October 1, 1998; hired by jurisdictions serving populations under 50,000; hired between October 1, 1994, and September 30, 1995; and supporting public safety and crime prevention projects in jurisdictions serving populations under 50,000. Applicants to the Small Community Grant Program must demonstrate a specific financial hardship that has impacted their ability to retain their COPS-funded officer(s) and establish a formal plan to retain the position(s) after the fourth-year funding has ended.

DATES: Small Community Grant Program applications will be mailed to eligible agencies during the first week of April. The deadline for applications is April 30, 1998.

ADDRESSES: Small Community Grant Program Application Kits will be mailed to all eligible agencies. If you believe your agency meets the requirements listed above but has not received an application by April 15, 1998, an application may be obtained by writing to The Department of Justice Crime Bill Response Center, 6th Floor, 1100 Vermont Avenue, NW, Washington, DC,

20530, or by calling the Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Crime Bill Response Center, (202) 307–1480 or 1–800–421–6770 or your grant advisor.

SUPPLEMENTARY INFORMATION:

Overview

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322) authorizes the Department of Justice to make grants to increase deployment of law enforcement officers devoted to community policing on the streets and rural routes in this nation. The Small Community Grant Program is designed to provide funds for agencies serving small jurisdictions to help pay for a portion of the fourth-year salary and benefits of existing COPS-funded officers. These one-time grants are specifically for the retention of police officer positions in smaller communities with a population under 50,000. Many of these small communities have experienced the positive benefits of community policing by hiring officers under COPS grant programs. Even with only one or two new police officers, COPS grants have helped these departments increase their overall police force by 25 to 50 percent. However, unexpected financial hardships and a limited tax base have caused some of these smaller agencies to be concerned about their ability to retain their COPS-funded officers. As a result, the Small Community Grant Program will provide $100 million to assist these agencies in retaining the officers and continuing their community policing activities.

The COPS Office is providing these one-time grants specifically for the retention of police officer positions meeting the following criteria: funded by a COPS Phase I, FAST or UHP grant that will expire before October 1, 1998; hired by jurisdictions serving populations under 50,000; hired between October 1, 1994, and September 30, 1995; and supporting public safety and crime prevention projects in jurisdictions serving populations under 50,000.

Applicants must be in good standing with the COPS Office on their current Phase I, FAST, or UHP grant. In other words, the applicant must be up to date with required grant-related paperwork, such as Department Initial Reports, Department Annual Reports, Officer Progress Reports, Financial Status Reports (SF269A) and other applicable special conditions.

Awards under this program will be 20 percent of the original Phase I, FAST, or UHP grant amount. Funding is intended to assist the agency in paying the salary and benefits of the officer(s) hired under the above-mentioned programs, for a fourth year only. Applicants to the Small Community Grant Program must demonstrate a specific financial hardship that has impacted their ability to retain their COPS-funded officer(s) and establish a formal plan to retain the position(s) after the fourth-year funding has ended.

The deadline for applications is April 30, 1998. Agencies eligible to apply to this grant program will receive an application packet from the COPS Office during the first week of April.

If you believe your agency meets the requirements listed above but has not received an application by April 15, 1998, call the U.S. Department of Justice Response Center at 1–800–421–6770 or your grant advisor for additional information.

An award under the Small Community Grant Program will not affect the eligibility of an agency to receive awards under any other COPS program.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: April 1, 1998.

Joseph E. Brann,

Director.

[FR Doc. 98–9137 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622 (d), notice is hereby given that on March 10, 1998, the trustees for natural resources at the Tulalip Landfill Superfund Site on Ebey Island in Puget Sound, Washington (''the Site'') lodged with the United States District Court for the Western District of Washington a civil natural resource damages complaint against defendants Ace Tank Co., Bill Pierre Ford Co., Broadmoor Golf Club, Crowley Marine Services, Inc., Delta Marine, Inc., Evergreen-Washelli, Inc., Mehrer Drywall, Inc., McFarland Wrecking Co., People's National Bank, N.A., Sato Corporation, Seafood Processing, Inc., Seattle Golf Club, and Smith & Son, Inc., in the civil action styled *United States* v. *Ace Tank Co.,* Civil Action No. C98–0300–R. On the same day, the trustees lodged a consent decree resolving the claims stated against the defendants in the complaint.

The consent decree requires the defendants to compensate the trustees for natural resource damages resulting from the release of hazardous substances at the Site. The trustees consist of the State of Washington Department of Ecology, the Tulalip Tribes of Washington, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of Interior. Under the consent decrees, the defendants will pay a total of $22,276 for natural resource damages.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Act Tank Co.,* DOJ Ref. #90–11–3–1412E.

A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 / (202) 624–0892. In requesting copies please refer to the referenced case, specify the decree you would like to receive, and enclose a check payable to the Consent Decree Library in the amount of $12.00 (25 cents per page reproduction costs).

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–9149 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(i), notice is hereby given that a proposed Consent Decree in *United States* v. *William Davis, et. al.,* Civ. Action No. 90–0484–T, was lodged in the United States District Court for the District of Rhode Island on April 1, 1998. The proposed Consent Decree resolves the United States' claims against 26 third and fourth party defendants (''Settling Defendants''), under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), as amended, 42 U.S.C.

9607(a), concerning response actions at the Davis Liquid Waste Superfund Site located in Smithfield, Providence County, Rhode Island (the ''Davis Site'').

Under the terms of the Consent Decree, the Settling Defendants are required to pay $1,767,375 to the United States in partial reimbursement of the United States' past and future costs. In addition, the Settling Defendants are jointly and severally responsible along with United Technologies Corp. (''UTC'') and 53 other previous settlers for the source control portion of the remedy at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *William Davis, et al.*, Civ. Action No. 90–0484–T, DOJ #90–11–2–137B.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of Rhode Island, Westminster Square Building, 10 Dorrance Street, 10th Floor, Providence, Rhode Island 02903; at the Region I Office of the U.S. Environmental Protection Agency, 90 Canal Street, Boston, Massachusetts 02203; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail by the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $16.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–9136 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree and Stipulated Amendment Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and in accordance with Section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), notice is hereby given that on March 17, 1998, a proposed Second Consent Decree in *United States* v. *Lockheed Martin Corporation, et al.*, Case No. CV 91–4527 MRP (Tx) was lodged with the United States District Court for the Central District of California.

In this action the United States and State allege that the defendants are liable under CERCLA for costs incurred by the United States and State in conducting response actions at the Burbank Operable Unit Site, which is a part of the San Fernando Valley Superfund Site. In addition, the United States seeks injunctive relief for a portion of the remedy specified in the Record of Decision.

This consent decree represents a settlement for a partial remedy for the Burbank Operable Unit, San Fernando Valley Area 1 Superfund Site (''Site''), and the recovery of a substantial portion of costs. This is the second consent decree pertaining to the Burbank Operable Unit. This settlement between the United States and the Settling Defendants is for past and future costs, and the operation and maintenance of the remedy which was designed and constructed pursuant to the first consent decree which was entered in this action on March 25, 1992, as well as that part of the remedy which was designed and constructed pursuant to a unilateral order (''UAO'') issued under Section 106 of CERCLA. The decree also provides for the recovery of over $11 million in response costs and the recovery of all future site specific costs.

The Second Consent Decree changes some of the terms and conditions of the first consent decree. Therefore, a Stipulated Amendment to Consent Decree is also being lodged with the Court. The Stipulated Amendment ensures consistency between the first and second consent decrees.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Second Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Lockheed Martin Corporation, et al.* San Fernando Valley (Burbank Operable Unit Superfund Site), D.J. Ref. 90–11–2–442. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973(d).

The proposed Second Consent Decree and Stipulated Amendment to Consent Decree may be examined at the Office of the United States Attorney, Central District of California, 300 North Los Angeles Street, Los Angeles, California 90012, and at the Region IX, Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. The proposed Second Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, N.W., Washington, D.C. 20004 (202–347–2072). A copy of the proposed Second Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, N.W., Box 1097, Washington, D.C. 20004. In requesting a copy, please enclose a check in the amount of $56.25 (without exhibits), $125.75 (with exhibits) (25 cents per page reproduction cost) payable to the Treasurer of the United States. A copy of the Stipulated Amendment to Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, N.W., Box 1097, Washington, D.C. 20004. In requesting a copy, please enclose a check in the amount of $5.00 (25 cents per page reproduction cost) payable to the Treasurer of the United States.

Walker Smith,

Deputy Chief, Environment and Natural Resources Division.

[FR Doc. 98–9152 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Responses, Compensation, and Liability Act (CERCLA)

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on April 1, 1998, a proposed Consent Decree was lodged by the United States in *United States* v. *Marvin E. Prochnow, et al.*, Civil No. 95–C–0962, with the United States District Court for the Eastern District of Wisconsin. The proposed Consent Decree resolves the United States' pending cost-recovery claims under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, relating to the Marvin Prochnow Landfill Site (the ''Site'') located in Cedarburg, Wisconsin. The Consent Decree also resolves the Defendants'

crossclaims against each other and the Defendants' counterclaims against the United States Postal Service, for contribution under CERCLA Section 113(f), 42 U.S.C. 9613(f).

In 1992, the United States Environmental Protection Agency (''EPA'') conducted a removal action to address the threat from the presence of vinyl chloride, a carcinogen, in drinking-water wells near the Site. The removal action included the delivery of bottled water and air strippers, and the installation of a water line to connect residences and businesses to municipal water, at a cost of approximately $500,000. The United States' current unrecovered costs, including prejudgment interest, enforcement costs and other costs associated with EPA's removal, total approximately $700,000.

At a Court-ordered mediation proceeding in August 1997, the five Defendants agreed to pay $545,000 into an interest-bearing Court repository account by October 15, 1997, with $5,000 to be paid by the United States Postal Service after entry of a consent decree to EPA, for a total payment of $550,000 for the costs of the removal. The proposed Consent Decree memorializes this agreement, and also provides for Mr. Prochnow's land that is adjacent to the landfill to be sold at the direction of the Defendants, which will be Mr. Prochnow's share of the costs to be paid by the Defendants. The Defendants plan to use any proceeds from the sale of that realty to defray costs associated with the proper closure of the Site.

The Department of Justice will receive comments concerning the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Marvin E. Prochnow, et al.*, DOJ Number 90–11–2–1118.

The proposed Consent Decree may be examined at any of the following offices: (1) the Office of the United States Attorney, Eastern District of Wisconsin, Federal Building, Room 530, 517 East Wisconsin Avenue, Milwaukee, Wisconsin (414) 297–1700; (2) the U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd. Chicago, Illinois 60604, (312) 886–6842; and (3) the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the proposed Decree may be obtained by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005. for a copy of the Consent Decree please enclose a check for $8.25 ($.25 per page reproduction charge) payable to ''Consent Decree Library.''

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment & Natural Resources.

[FR Doc. 98–9140 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Asymmetrical Digital Subscriber Line Forum

Notice is hereby given that, on December 16, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Asymmetrical Digital Subscriber Line Forum (''ADSL'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies have joined ADSL: Diamond Lane Communications, Petaluma, CA; and Sun Microsystems, Mountain View, CA.

Siemens Stromberg-Carlson has changed its name to Siemens AG. US Robotics merged with 3Com. Nynex merged with Bell Atlantic; and Performance Telecom has merged with Digital Link.

No other changes have been made in the membership, nature or objectives of ADSL. Membership remains open, and ADSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, ADSL filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on August 12, 1997. A notice has not yet been published in the **Federal Register** for this filing.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9150 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corporation

Notice is hereby given that, on October 8, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C 4301 *et seq.* (''the Act''), microelectronics and Computer Technology Corporation (''MCC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the changes are as follows: The Central Intelligence Agency, McLean, VA and Intel Corporation, Santa Clara, CA; have joined MCC as Associate members. George Mason University, TradeWave Corporation, and US West Advanced Technologies have withdrawn their membership from MCC. Other changes in the membership are as follows: At&T has transferred its share to NCR. Nortel has signed up for the Quest project. NCR, Ceridian, and Texas Instruments have signed up for the InfoSleuth II Projects. Intel Corporation and 3M have agreed to participate in the Low Cost Portables project. Motorcola has signed up for the Object Infrastructure Project. Ceridian has agreed to participate in the SNT and Quest Projects. Hewlett Packard has signed up for the SNT project. Bellcore and Texas Instruments have agreed to participate in the Collaboration Management Infrastructure Project. Southwestern Bell has withdrawn from the Quest Project. TRW has agreed to participate in the HRM project.

No other changes have been made in either the membership or planned activity of MCC. Membership remains open and MCC intends to file additional written notifications disclosing all membership changes.

On December 21, 1984, MCC filed its original notification pursuant to § 6(b) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on January 17, 1985 (50 FR 2633). The last notification was filed with the Department on April 10, 1997 and

appeared in the **Federal Register** on May 19, 1997 (62 FR 27277).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–9151 Filed 4–7–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Parole Commission

[(Public Law 94–409) (5 U.S.C. Sec. 552b)]

Sunshine Act Meeting; Record of Vote of Meeting Closure

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately nine-thirty a.m. on Thursday, April 2, 1998, at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide one appeal from the National Commissioners' decisions pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Michael J. Gaines, Edward F. Reilly, Jr., and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 3, 1998.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 98–9331 Filed 4–6–98; 10:17 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Forms for Agricultural Recruitment System

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 Employment and Training Administration is soliciting comments concerning the proposed extension of the information collection of the Agricultural and Food Processing Clearance Order, Form ETA–790, Agricultural and Food Processing Clearance Memorandum, Form ETA–795, Migrant Worker Itinerary, Form ETA–785, and Job Service Manifest Record, Form ETA–785A.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before June 8, 1998. Written comments should evaluate whether the proposed information collection 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 submission of responses.

ADDRESSEE: Rogelio Valdez, U.S. Employment Service, Employment and Training Administration, Department of Labor Room N–4470, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–219–5257, extension 167. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The Migrant and Seasonal Farmworker regulations at 20 CFR 653.500 established procedures for agricultural clearance to all local offices to use the interstate clearance forms as prescribed by ETA. Local and State Employment offices use the Agricultural and Food Processing Clearance Order to extend job orders beyond their jurisdictions. Applicant holding local offices use the Agricultural Clearance Memorandum to give notice of action on a clearance order, request additional information, report results, and to accept or reject the extended job order. State agencies use the Migrant Worker Itinerary to transmit employment and supportive service information to labor-demand areas, and to assist migrant workers in obtaining employment. The Job Service Manifest Record shows names, addresses, and characteristics of all people named on the Migrant Work Itinerary.

II. Current Actions

This is a request for OMB approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A) of an extension to an existing collection of information previously approved and assigned OMB Control No. 1205–0134, and to address the OMB concerns of January 14, 1998. There is no change in burden.

Type of Review: Extension.

Agency: Employment and Training Administration, Labor.

Title: Agricultural and Food Processing Clearance Order, Agricultural Clearance Memorandum, Migrant Worker Itinerary, and Job Service Manifest Record.

OMB Number: 1205–0134.

Frequency: On occasion.

Affected Public: Individuals and households, employers, and State Governments.

Number of Respondents: 52.

Estimated Time Per Respondent:

Form	Volume per year	House per response	House per year
ETA–790	2,000	1.0	2,000

Form	Volume per year	House per response	House per year
ETA–795	3,000	.5	1,500
ETA–785	3,500	.5	1,750
ETA–785A	2,500	.5	1,250

Estimated Burden Hours: 6,500.

Total Estimated Cost: None.

Comments submitted in response to this 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: April 3, 1998.

John R. Beverly, III,

Director, U.S. Employment Service.

[FR Doc. 98–9230 Filed 4–7–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Work Opportunity and Welfare-to-Work Tax Credits ETA Handbook No. 408, First Edition, July 1997 Proposed Collection; Comment Request

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 Employment and Training Administration/U.S.Employment Service is soliciting comments concerning the proposed revision of the ETA Handbook No. 408, First Edition, July 1997.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 8, 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: John Beverly, Director, U.S. Employment Service, ETA, 200 Constitution Ave., NW, Rm. N–4470, Washington D.C. 20210, (202) 219–5257 (this is not a toll-free number) fax no. (202) 219–6643.

SUPPLEMENTARY INFORMATION:

I. Background

The Work Opportunity Tax Credit (WOTC) program created by the Small Business Job Protection Act of 1996 (P.L. 104–188) expired on September 30, 1997. The program was authorized for one year, becoming effective October 1, 1996, through September 30, 1997. In response to President Clinton's Welfare Reform initiative and efforts, the Congress on August 5, 1997, signed into law the Taxpayer Relief Act of 1997—the Act—(P.L. 105–34). This legislation reauthorized the WOTC program for nine additional months and created the Welfare-to-Work (WtW) tax credit, which became effective January 1, 1998, through April 30, 1999. The law required no changes in the type of data to be collected on the WOTC program.

II. Current Actions

►Data on the WOTC and the Welfare-to-Work credit will be collected by the State Employment Security Agencies (SESAs) and provided to the United States Employment Service (USES), Division of Planning and Operations, Washington, D.C. through the appropriate U.S. Department of Labor, Regional Office. The data will be used for program management, including monitoring, oversight and the identification of technical assistance and training requirements. The data is also provided to the Congress through an annual Training and Employment Report of the Secretary of Labor. The information reported on ETA Forms 9061–9063 and 9065, Individual Characteristics, Conditional Certification, Employer Certification, and Agency Declaration of Verification Results, required by P.L. 97–248 will be reported annually to the Committee House Ways and Means of the House of Representatives.

►WOTC Administrative and Quarterly Reporting Forms. WOTC administrative and reporting procedures are outlined in *ETA Handbook No. 408*, Work Opportunity Tax Credit (WOTC) Program, First Edition, July 1997. This information has been revised and updated to reflect the new changes and provisions introduced by the Act in an *Addendum*, dated February 1998, to the first edition of ETA Handbook No. 408, July 1997.

►In addition, the quarterly report forms are required to be used without modification to summarize and report to ETA regional offices—with copies to the national office—on conditional certifications issued (Report No. 1, ETA 9057), certification workload and characteristics of certified individuals (Report No. 2, ETA 9058) including certifications issued, and verification results achieved (Report No. 3, ETA 9059) during the reporting period stipulated for the respective forms.

Type of Review: Revision, with changes.

Agency: ETA.

Title: Work Opportunity and Welfare-to-work Tax Credits—ETA Handbook No. 408, First Edition, July 1997.

OMB Number: 1205–0371

Agency Number: ETA Forms 9061–9063 and 9065 and ETA Forms 9057, 9058, and 9059.

Recordkeeping: 52 States x 997 hours annually = 51,844 hours.

Affected Public: State Employment Security Agencies (SESAs), Other Federal or State Participating Agencies,

Private-for-Profit Employers and Jobseekers.

Total Respondents: 52.

CHART FOR MULTIPLE FORMS/INFORMATION COLLECTIONS

Cite/reference	Total respondents	Frequency	Total responses	Average time response	Burden hours
ETA Forms Nos. 9057, 9058, 9059.	52	Quarterly	624	8 hours	4,992
ERA Forms 9061, 9062, 9063 and 9065.	40/day	On an ''as needed basis''.	200/week	20 mins. per form	3,467
Totals			10,400/year		8,459

Total Burden Cost (capital/startup: 0.

Total Burden Cost (operating/maintaining): 0.

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: March 31, 1998.

John Beverly, III,

Director, U.S. Employment Service.

[FR Doc. 98–9231 Filed 4–7–98; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Leadership Initiatives Panel—Teleconference

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Panel (Millennium Section) to the National Council on the Arts will meet on April 27, 1998. The panel will convene by teleconference from 2:00 p.m. to 3:00 p.m. The teleconference will be held in Room 729 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants.

In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsections (c)(4) and (6) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: April 3, 1998.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 98–9236 Filed 4–7–98; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Application for a License to Export a Utilization Facility

Pursuant to 10 CFR 110.70 (b)(1) ''Public notice of receipt of an application'', please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR Part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility to be exported. The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION FOR A UTILIZATION FACILTY

Name of Applicant, Date of Application, Date Received, Application Number	Description of Facility	End use	Country of destination
General Atomics, March 6, 1998, March 11, 1997, XR166	TRIGA research reactor, 10MWt.	Production of medical isotopes	Thailand.

Dated this 3rd day of April 1998 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 98–9252 Filed 4–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes Renewal Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: This notice is to announce the renewal of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) for a period of two years.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) has determined that the renewal of the charter for the Advisory Committee on the Medical Uses of Isotopes for the two year period commencing on April 4, 1998, is in the public interest, in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the ACMUI is to provide advice to NRC on policy and technical issues that arise in regulating the medical use of byproduct material for diagnosis and therapy. Responsibilities include providing guidance and comments on current and proposed NRC regulations and regulatory guidance concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and evaluating training and experience of proposed authorized users. The members are involved in preliminary discussions of major issues in determining the need for changes in NRC policy and regulation to ensure the continued safe use of byproduct material. Each member provides technical assistance in his/her specific area(s) of expertise, particularly with respect to emerging technologies. Members also provide guidance as to NRC's role in relation to the responsibilities of other Federal agencies as well as of various professional organizations and boards.

Members of this Committee have demonstrated professional qualifications and expertise in both scientific and non-scientific disciplines including nuclear medicine; nuclear cardiology; radiation therapy; medical physics; radiopharmacy; State medical regulation; patient's rights and care; health care administration; medical research; medical dosimetry, and Food and Drug Administration regulation.

For further information please contact: Patricia Vacherlon, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 415–6376.

Dated: April 3, 1998.

Andrew L. Bates,

Federal Advisory Committee Management Officer.

[FR Doc. 98–9251 Filed 4–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Reactor Fuels, Onsite Fuel Storage, and Decommissioning

The ACRS Subcommittee on Reactor Fuels, Onsite Fuel Storage, and Decommissioning will hold a meeting on April 23 and 24, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, April 23, 1998—8:30 a.m. until the conclusion of business

Friday, April 24, 1998—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the basis of the proposed NRC fuel failure criterion for high burnup conditions, and the adequacy of NRC fuel codes to predict fuel behavior under accident conditions. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, Electric Power Research Institute, Westinghouse, Argonne National Laboratory, and other interested persons regarding this review.

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 the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 1, 1998.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 98–9195 Filed 4–7–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 6, 13, 20, and 27, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 6

There are no meetings the week of April 6.

Week of April 13—Tentative

There are no meetings the week of April 13.

Week of April 20—Tentative

There are no meetings the week of April 20.

Week of April 27—Tentative

Wednesday, April 29

11:30 a.m. Affirmation Session (PUBLIC MEETING) (if needed)

Thursday, April 30

9:00 a.m. Briefing on Investigative Matters (Closed—Ex. 5 and 7)
2:00 p.m. Discussion of Management Issues (Closed—Ex. 2 and 6)

Friday, May 1

8:30 a.m. *Briefing on Selected Issues Related to Proposed Restart of Millstone Unit 3. (PUBLIC MEETING) (Contact: Bill Travers. 301–415–1200)
1:00 p.m. (Continuation of Millstone meeting.)

***Note:** A follow-on meeting to discuss the remaining issues related to Millstone Unit 3 restart will be held at a later date

*THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers: if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary. Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

Secy Tracking Officer, Office of the Secretary, 4/03/98.

[FR Doc. 98–9345 Filed 4–6–98; 10:36 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 16, 1998, through March 27, 1998. The last biweekly notice was published on March 25, 1998.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 8, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the

following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: February 11, 1998.

Description of amendment request: The proposed amendment would modify the Pilgrim Nuclear Power Station (PNPS) Updated Final Safety Analysis Report (UFSAR) Section 10.7, Salt Service Water System, by identifying that certain single active failures do exist that could leave the Salt Service Water (SSW) system in a configuration with one SSW pump serving both SSW trains through open crossover (division) valves for the first 10 minutes of an accident.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation with one (1) SSW pump supplying two (2) SSW trains is not an accident or transient precursor and does not prevent the [Reactor Building Closed Cooling Water] RBCCW system from providing adequate cooling during an accident. Core cooling requires no SSW for the first ten minutes, and no containment cooling is assumed for the first ten minutes. Pump testing has proved no SSW pump damage will result from this configuration so there will be no effect on the containment cooling function. The current licensing basis includes operator action after ten minutes to align the SSW system to achieve containment cooling. This amendment does not affect operator action after ten minutes since pump and valve manipulations are already required to align containment cooling. Therefore, the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SSW system operating modes are not accident precursors. They cannot influence the types of accidents that can occur. The SSW pumps can withstand operation under the full range of conditions and for the time periods considered under a one pump, two train system configuration with no adverse effects. The SSW system is properly designed as a common header arrangement with five (5) pumps in which any combination of one to five pumps may operate without damaging effects.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Operation with one (1) SSW pump supplying two (2) SSW trains does not impact the ability to provide adequate core or containment cooling during an accident. Although SSW system flow will be diminished during the first ten minutes of the accident, no system flow at all is needed at that time. The current licensing basis credits operator action after ten minutes to align the [Residual Heat Removal] RHR, RBCCW, and SSW systems for containment cooling.

Operators are expected to isolate the SSW loops or start additional SSW pumps as necessary given the existing specific conditions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Cecil O. Thomas.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: February 20, 1998.

Description of amendment request: The proposed amendment would change the Pilgrim Nuclear Power Station Technical Specification (TS) 3/4.5.B and its Bases to incorporate the ultimate heat sink (UHS) temperature of 75°F, as required by Amendment No. 173. The introduction of a UHS temperature restriction requires new specifications, actions, and surveillances for the salt service water system.

The amendment would also replace existing Specification 3.5.B ''Containment Cooling System'' with new Specification 3/4.5.B.1 ''Residual Heat Removal (RHR) Suppression Pool Cooling,'' 3/4.5.B.2 ''Residual Heat Removal (RHR) Containment Spray,'' 3/4.5.B.3 ''Reactor Building Closed Cooling Water (RBCCW) System,'' and 3/4.5.B.4 ''Salt Service Water (SSW) System and Ultimate Heat Sink (UHS).'' The proposed new subsections will more clearly define the various subsystems that comprise the containment cooling system and the operating states in which they are applicable. The proposed changes also provide clarity with respect to the application of limiting conditions of operation (LCOs), actions, completion times, and surveillances for the containment cooling subsystems.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Operation of PNPS in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

Administrative Changes

These proposed changes (editorial rewording, reformatting, repagination, and renumbering) are made to restructure the section, accounting for the new specifications replacing Specification 3/4.5.B. These proposed administrative changes do not alter any existing requirements.

Technical Changes—More Restrictive

The proposed changes provide more stringent requirements than previously existed in the Technical Specifications. The more stringent requirements provide greater assurance that the affected systems will remain capable of providing the safety functions assumed in design basis accidents and transients. If anything, the new requirements may decrease the probability or consequences of an analyzed event. The change will not alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems, or components as described in the safety analyses.

Technical Changes—Relocations

This proposed change relocates requirements from the Technical Specifications to the Inservice Testing (IST) Program. The (IST) Program documents containing the relocated requirements must be maintained using the provisions of 10 CFR 50.55a and 10 CFR 50.59. Since any changes to the (IST) Program documents will be evaluated per 10 CFR 50.55a and 10 CFR 50.59, no increase in the probability or consequences of an accident previously evaluated will be allowed without NRC review.

Technical Changes—Less Restrictive

This change relaxes the current requirements to declare the affected RBCCW subsystem inoperable when one of the required RBCCW pumps is inoperable. Since the RBCCW system is not assumed as an initiator of any analyzed event, the proposed change will not affect the probability of an accident occurring. The safety function of the RBCCW system is to support the operability of the RHR suppression pool cooling and spray functions, and component cooling for the RHR and core spray pumps, and area coolers. With one required RBCCW pump inoperable, the remaining pump in the affected subsystem is capable of supporting the component cooling requirements for the RHR and core spray pumps, and area coolers, and the remaining OPERABLE subsystem is capable of supporting the suppression pool cooling and spray functions.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Operation of PNPS in accordance with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because of the following:

Administrative Changes

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing plant operation. The proposed changes will not impose any new or different requirements or eliminate any existing requirements.

Technical Changes—More Restrictive

The proposed more restrictive requirements will not alter the plant configuration (no new or different type of equipment will be installed) or change methods governing plant operation. The change does impose different requirements. However, the changes are consistent with assumptions made in the safety analyses.

Technical Changes—Relocations

This change relocates requirements to the (IST) Program. This change will not alter the plant configuration (no new or different type of equipment will be installed) or changes in methods governing plant operation. This change will not impose different requirements, and adequate control of information will be maintained. This change will not alter assumptions made in the safety analysis.

Technical Changes—Less Restrictive

The proposed change will not involve any physical changes to plant systems, structures, or components (SSC), or the manner in which these systems are operated, maintained, modified, tested, or inspected.

3. Does this change involve a significant reduction in a margin of safety?

Administrative Changes

Operation of PNPS in accordance with the proposed change will not involve a significant reduction in a margin of safety because of the following: safety analysis margin of safety.

The changes are administrative in nature and do not involve any technical changes. Since no technical changes (either actual or interpretational) were made, there is no impact on any safety analysis margin of safety.

Technical Changes—More Restrictive

The proposed more restrictive requirements will not alter assumptions relative to mitigation of an accident or transient event or alter the operation of process variables, structures, systems, or components as described in the safety analyses.

Technical Changes—Relocations

This change relocates requirements from the Technical Specifications to the Inservice Testing (IST) Program. The requirements to be transposed to the IST program are the same as the existing Technical Specifications. Since any changes to the (IST) Program documents will be evaluated per 10 CFR 50.55a and 10 CFR 50.59, no reduction in margin of safety previously approved will be allowed without NRC review.

Technical Changes—Less Restrictive

The 7 day completion time is consistent with the completion times for one inoperable loop of suppression pool cooling system or containment spray system, and the remaining pump in the affected subsystem is capable of supporting the component cooling requirements for the RHR and core spray pumps, and area coolers.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, Massachusetts 02199.

NRC Project Director: Cecil O. Thomas.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 12, 1998.

Description of amendment request: The proposed amendment revises Technical Specification (TS) 3/4.9.12, ''Fuel Handling Building Emergency Exhaust System.'' Specifically, Harris Nuclear Plant (HNP) proposes to delete Surveillance Requirement 4.9.12.d.4, which requires verifying that the filter cooling bypass valve for the Fuel Handling Building Emergency Exhaust System is locked in the balanced position at least once per 18 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Fuel Handling Building Emergency Exhaust System (FHBEES) is not an accident initiating system as described in the Final Safety Analysis Report. The proposed change allows the elimination of the filter cooling bypass flowpath for FHBEES units. Engineering calculations were performed which demonstrate this filter cooling path is not required to mitigate the consequences of a fuel handling accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

FHBEES is a ventilation system designed to limit off-site dose releases in the event of a fuel handling accident. FHBEES is not an accident initiating system as described in the Final Safety Analysis Report [FSAR]. The proposed change ensures the seismic and safety classification is maintained while not affecting another Structure, System, or Component.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change to FHBEES does not affect any of the parameters that relate to the margin of safety as described in the Bases of the TS or the FSAR. Accordingly, NRC Acceptance Limits are not affected by this change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Pao Tsin Kuo, Acting Director.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 3, 1997, as supplemented March 13, 1998.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to delete snubber operability requirements (Change A), action requirements for inoperable snubbers (Change B), and snubber testing requirements (Change E). The snubber testing requirements would be relocated to the Palisades Operating Requirements Manual (ORM). Each proposed change has been classified by the licensee as either Administrative, More Restrictive, or Less Restrictive.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

1. Administrative Change (Change A):

''Administrative'' changes make wording changes which clarify existing TS requirements, without affecting their technical content. Since ''Administrative'' changes do not alter the technical content of any requirements, they cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

2. More Restrictive Change (Change B):

''More Restrictive'' changes only add new requirements, or revise existing requirements to result in additional operational restrictions. The TS, with all ''More Restrictive'' changes incorporated, will still contain all of the requirements which existed prior to the changes. Therefore, ''More Restrictive'' changes cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

3. Less Restrictive Change (Change E):

Change E deletes the TS requirements for snubber testing, but adds identical requirements to a document (the ORM) controlled under 10 CFR 50.59.

10 CFR 50.59 specifically prohibits changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report (without prior NRC approval) ''if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, moving of a requirement from the TS to a document which is controlled under 50.59 cannot involve a significant increase in the probability or consequences of an accident previously evaluated.

Do the proposed changes create the possibility of a new or different kind of accident from any previously evaluated?

1. Administrative Change (Change A):

''Administrative'' changes make wording changes which clarify existing TS requirements, without affecting their technical content. Since ''Administrative'' changes do not alter the technical content of any requirements, they cannot create the possibility of a new or different kind of accident from any previously evaluated.

2. More Restrictive Change (Change B):

''More Restrictive'' changes only add new requirements, or revise existing requirements to result in additional operational restrictions. The TS, with all ''More Restrictive'' changes incorporated, will still contain all of the requirements which existed prior to the changes. Therefore, ''More Restrictive'' changes cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. Less Restrictive Change (Change E):

Change E deletes the TS requirements for snubber testing, but adds identical requirements to a document (the ORM) controlled under 10 CFR 50.59.

10 CFR 50.59 specifically prohibits changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report (without prior NRC approval) ''if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, relocation of a requirement from the TS to a document which is controlled under 50.59 cannot create the possibility of a new or different kind of accident from any previously evaluated.

Do the proposed changes involve a significant reduction in a margin of safety?

1. Administrative Change (Changes A):

''Administrative'' changes make wording changes which clarify existing TS requirements, without affecting their technical content. Since ''Administrative'' changes do not alter the technical content of any requirements, they cannot involve a significant reduction in a margin of safety.

2. More Restrictive Change (Change B):

''More Restrictive'' changes only add new requirements, or revise existing requirements to result in additional operational restrictions. The TS, with all ''More Restrictive'' changes incorporated, will still contain all of the requirements which existed prior to the changes. Therefore, ''More Restrictive'' changes cannot involve a significant reduction in a margin of safety.

3. Less Restrictive Change (Change E):

Change E deletes the TS requirements for snubber testing, but adds identical requirements to a document (the ORM) controlled under 10 CFR 50.59.

10 CFR 50.59 specifically prohibits changes to the facility as described in the safety analysis report, and to procedures described in the safety analysis report (without prior NRC approval) ''if the margin of safety as defined in the basis for any technical specification is reduced''. Since the conditions which limit changes performed under 50.59 are more restrictive than the conditions which define changes considered to involve a significant hazards consideration, relocation of a requirement from the TS to a document which is controlled under 50.59 cannot involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Cynthia A. Carpenter.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: December 15, 1997 (Reference NRC–98–0023).

Description of amendment request: The proposed amendment will add a subpart 3 to Part 2.B of the Enrico Fermi Atomic Power Plant, Unit 1 (Fermi 1), that would allow the licensee to receive, acquire, possess, use and transfer byproduct material without restriction to chemical or physical form for sample analysis, instrument calibration, or associated with radioactive apparatus, hardware, tools, and equipment, provided the cumulative radioactive material quantity of the byproduct material does not exceed the criteria contained in Section 30.72, Schedule C, ''Quantities of Radioactive Material Requiring Consideration of the Need for an Emergency Plan for Responding to a Release.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration using the standards in 10 CFR 50.92(c). The licensee's analysis is presented below:

(1) Does the proposed change significantly increase the probability or consequences of an accident previously evaluated?

The proposed amendment does not involve a significant increase in the probability or consequences of an accident. Using slightly contaminated apparatus or a small non-exempt radioactive source cannot affect the probability of the analyzed sodium or liquid waste accidents. The ability to possess such equipment does not in itself change any methods of handling liquid waste or sodium. Use of

contaminated equipment could potentially increase the consequences of an accident if it was in use or in the vicinity if an accident occurs. However, the increase in consequences would not be significant due to the limitations on radioactivity content of such equipment. The limit was selected to be that in 10 CFR Part 30.72, Schedule C, as the threshold beyond which offsite emergency plans are required. Since the quantity is below that requiring an offsite emergency plan, even if all the byproduct material allowed to be possessed by the proposed amendment were released during a postulated accident, the consequences would be significantly increased. The quantity contained in any specific piece of contaminated apparatus or a source would be expected to be even less. Therefore, this amendment does not involve a significant increase in the probability or consequences of an accident.

(2) Will the proposed amendment create the possibility of a new or different kind of accident from any accident previously analyzed?

The proposed amendment does not create the possibility of a new or different type of accident from any previously evaluated. Allowing possession of contaminated apparatus, tools, or equipment does not change methods of monitoring the facility or operation or surveillance of any system at Fermi 1. While possession of a different source will permit other instruments to be calibrated, source checked, or tested at Fermi 1, testing of instrumentation is routine, ordinary activity. It is not an activity which creates the possibility of a new or different type of accident.

(3) Will the proposed change significantly reduce the margin of safety at the facility?

The proposed amendment does not involve a significant reduction in the margin of safety at Fermi 1. No change to any system or the status of any systems or structures, are created by this amendment. Being able to have limited amounts of additional radioactive material at Fermi 1 in the form of contaminated apparatus, tools, equipment or hardware or non-exempt radioactive sources will not significantly reduce the margin of safety because a 10 CFR Part 20 program is already in place and the amount of radioactive material is being limited below the amount in 10 CFR Part 30.72, Schedule C. For these reasons, this amendment will not significantly reduce the margin of safety at Fermi 1.

NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esquire, Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Branch Chief: John W. N. Hickey.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No 2, St. Lucie County, Florida

Date of amendment request: March 3, 1998.

Description of amendment request: The amendment request proposes to revise the applicability of the St. Lucie Unit 2 technical specifications (TSs) to be consistent with St. Lucie Unit 1 TSs for reactor coolant system (RCS) chemistry. In addition, the amendment request proposes to modify the St. Lucie Unit 2 TSs by making administrative changes to the TS discussion of the criticality design features for fuel storage, and administrative changes to the technical review responsibilities under the cognizance of the Company Nuclear Review Board.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS 3.4,7 will replace the existing applicability statement of ''At all times'' with ''All MODES.'' This revision will obviate the burden and personnel radiation exposures associated with sampling the RCS for chloride and fluoride concentrations during low temperature, defueled conditions. The existing limits, corrective actions for above limit conditions, and sampling requirements will be applicable for all operational MODES defined in the TS. The proposed applicability will continue to assure consistency with the bases for the RCS chemistry specification, and the potential for occurrence, initial conditions, or consequences of events considered in the safety analyses are not changed. The revisions proposed for TS 5.6.1.a.1 and 6.5.2.9.d are administrative in nature, and assure consistency with the bases for previously approved license amendments. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not change the physical plant or the operational MODES defined in the facility license. The changes do not involve the addition of new equipment or the modification of existing equipment, nor do they alter the design of St. Lucie plant systems. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed revision to TS 3.4.7 will not change the existing RCS chemistry requirements that are applicable to the operational MODES defined in the technical specifications. However, the change will allow the chloride and fluoride concentrations to go unmonitored during certain refueling operations when there is no fuel in the reactor vessel. For the limited time intervals associated with this defueled condition, the RCS is depressurized, coolant temperature is near ambient, it is unlikely that the chloride and fluoride concentrations could be significantly increased above the concentrations that existed during MODE 6 prior to the core off-load, and susceptibility to corrosive attack from these halides is, therefore, significantly reduced. The existing bases for the RCS chemistry limiting conditions for operation are not changed, and both the bases and the proposed specification are consistent with the corresponding TS at St. Lucie Unit 1. The proposed revisions to TS 5.6.1.a.1 and TS 6.5.2.9.d are administrative in nature and ensure that descriptions contained therein are consistent with the bases for previously approved license amendments. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34981–5596.

Attorney for licensee: M. S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Project Director: Frederick J. Hebdon.

Florida Power and Light Company, Dockets Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: March 12, 1998

Description of amendment request: The licensee proposed to amend Turkey Point Unit 3 Facility Operating License DPR–31 to delete license conditions 3.I, ''Steam Generator Repair Program,'' 3.K, ''Integrated Schedule,'' and Section 4 of the Operating License Conditions and renumber Section 5 to Section 4; and to amend Turkey Point Unit 4 Facility Operating License DRP–41 to delete license conditions 3.H, ''Steam Generator Repair Program,'' and 3.K, ''Integrated Schedule''. In addition, the proposed amendments would modify Appendix A of Facility Operating Licenses DPR–31 and DPR–41 of the Turkey Point Units 3 and 4 Technical Specifications (TS) to delete outdated references from TS Figure 5.1–2, ''Plant Area Map'' and to incorporate a recent organization change in TS 6.5.1.2, and 6.5.3.1.a.

The proposed changes are administrative in nature because they would remove fulfilled license conditions and outdated TS references, and incorporate an organizational change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative in nature removing fulfilled license conditions, outdated Technical Specification referenced material, and reflecting an organizational change. These amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated because they do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The use of the modified specifications cannot create the possibility of a new or different kind of accident from any previously evaluated since the proposed amendments will not change the physical plant or the modes of plant operation defined in the facility operating license. No new failure mode is introduced due to the administrative changes since the proposed changes do not involve the addition or modification of equipment nor do they alter the design or operation of affected plant systems, structures, or components.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The operating limits and functional capabilities of the affected systems, structures, and components are unchanged by the proposed amendments. The organizational change from Services Manager to Protection Services Manager maintained the associated level of management controls and the required qualifications. The proposed changes to the Facility Operating License Conditions and to the Technical Specifications are administrative and do not significantly reduce any of the margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Library, Florida International University, University Park Campus, Miami, Florida 33199.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Project Director: Frederick J. Hebdon.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 2, 1998.

Description of amendment request: The proposed change would revise Technical Specification (TS) 4.5.2.b.1 to delete the requirement to vent the operating chemical volume and control system (CVCS) centrifugal charging pump casing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not affect accident initiators or precursors and does not alter the design assumptions affecting the ability of the ECCS [emergency core cooling system] pumps to mitigate the consequences of an accident.

The proposed change will align the surveillance requirements with the installed system design and normal operating conditions. The intent of the surveillance requirement ensures operability of the CVCS centrifugal charging pumps by verifying that the ECCS pumps and piping is full of water and not subjected to gas binding or hydraulic transients.

Excluding the venting of the operating CVCS centrifugal charging pump will not effect pump operation nor subject the high head safety injection portion of the ECCS to potential hydraulic transients. Venting the operating pump under a dynamic condition at high system pressure is ineffective.

The design and installation of the CVCS centrifugal charging pumps is such that significant non-condensable gasses do not collect in the pumps, whether they are running or not. Therefore, it is unnecessary to require periodic pump casing venting to ensure the pumps will remain operable. Venting of the non-operating centrifugal charging pump will continue to be performed, as required by TS 4.5.2b.1.

Therefore, the proposed change does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change will not result in new failure modes because no new components or physical changes are involved with this change nor are the components operated in a new or different manner. The proposed change does not alter the ability of the CVCS centrifugal charging pumps to perform their intended function to mitigate the consequences of an initiating event within the acceptance limits assumed in the Updated Final Safety Analysis Report (UFSAR). The proposed change has no impact on component or system interactions, or the plant design basis. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed change does not involve a significant reduction in a margin of safety.

There is no impact on equipment design or operation and there are no changes being made to the Technical Specification required safety limits or safety system settings that would adversely affect plant safety. The CVCS centrifugal charging pumps are designed and installed to be self-venting, such that, accumulation, if any, of non-condensable gasses would have no significant impact on pump operation. Since the proposed change will not result in new failure modes, then, the designed margins of safety to minimize/preclude the consequences of a radiological event resulting from a design basis accident remain unchanged. Therefore, the proposed change to eliminate the requirement to vent the operating CVCS centrifugal charging pump casing does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Cecil O. Thomas.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 30, 1998.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) by relocating pressure-temperature (P–T) curves, predicted radiation induced NDTT shift curves, and the low temperature overpressure protection (LTOP) limits and values from the TS to an OPPD controlled document.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes relocate the reactor coolant system (RCS) pressure-temperature (P–T) curves, the predicted radiation induced NDTT shift curve and the low temperature overpressure protection (LTOP) limits to the Fort Calhoun Station Unit No. 1 RCS Pressure-Temperature Limits Report (PTLR).

Compliance with these curves and limits continues to be required by the Technical Specifications. Changes to the curves and limits will be controlled by TS 5.9.6, and must be in accordance with the NRC and ASME approved methodologies listed there and with 10 CFR 50.59.

The FCS PTLR in combination with the limitations imposed by the TS, will ensure the integrity of the reactor vessel pressure boundary. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration (no new or different equipment is being installed). No changes in operating modes or limits are proposed. The TS retain requirements to maintain the RCS within acceptable operational limits established in accordance with NRC and ASME approved methodologies and assure operability of the LTOP system. As such, the TS will continue to require compliance with the limitations being relocated to the FCS PTLR. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

This proposed change to the FCS TS is administrative in nature relocating the P–T curves, NDTT curve, LTOP limits and associated TS requirements to the FCS PTLR in accordance with GL 96–03. Future updates of the FCS PTLR will be conducted under the 10 CFR 50.59 process utilizing NRC and ASME approved methodologies (as described in FCS Unit No. 1 PTLR, Rev. 0 and CEOG Task 942, Report CE NPSD–683, Rev. 02). Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William H. Bateman.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 30, 1998.

Description of amendment request: The proposed amendment would revise Facility Operating License No. DPR–40 to delete the License Term based on a reevaluation of the end of license fluence.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The previously evaluated accidents affected by this change are limited to the pressurized thermal shock (PTS) events. Vessel embrittlement due to fast neutron associated damage to the limiting beltline region reactor vessel material, which for Fort Calhoun Station is the lower course axial welds, is a

component in the PTS analysis. The fast neutron, thermal neutron and dpa values of the FCS reactor vessel were recalculated using actual power history values for Cycles 1 through 14 rather than conservative estimates, with the revised BUGLE–93 cross sections from the ENDF/B–VI cross section library to appropriately account for the iron atoms in the thermal shield and a methodology that the NRC has previously approved for neutron fluence calculations performed by Westinghouse. The evaluation included data from the three surveillance capsules (W–225, W–265, and W–275) previously removed and analyzed. The evaluation results indicate that the FCS reactor vessel is able to reach current licensed life without exceeding the 10 CFR 50.61 screening criteria for RTPTS of 270°F for limiting axial welds.

In accordance with 10 CFR 50.61, this assessment must be updated whenever there is a significant change in projected values of RT_{PTS} or upon request for a change in the expiration date of the facility. Since these requirements are contained in 10 CFR 50.61, Section 3.E can be deleted from Operating License No. DPR–40 without resulting in a significant increase in the probability or consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not physically alter the configuration of the plant and no new or different mode of operation is proposed. Increasing the long term load factor from 0.77 to 0.85 more accurately projects RT_{PTS} by accounting for improvement in FCS operating cycle efficiency. Requirements for assessing and reporting RT_{PTS} are contained in 10 CFR 50.61 and therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is defined by the draft regulatory guide DG–1053 for neutron fluence calculations which requires the methodology to be capable of providing best estimate fluence evaluations within plus or minus 20 percent (1σ). The analysis shows that the applicable regulatory criteria are met and therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William H. Bateman.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 18, 1998.

Description of amendment request: The proposed amendment would revise the technical specifications by changing the title of the Shift Supervisor to Shift Manager.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

OPPD proposes to change the title of the Shift Supervisor to Shift Manager. The qualifications required of these individuals and the duties they perform are unchanged. The title of Shift Manager better conveys the appropriate level of responsibility and authority required of the position. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration (no new or different equipment is being installed). No changes in operating modes or limits are proposed. The qualifications required of these individuals and the duties they perform are unchanged. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change in the title of the Shift Supervisor to Shift Manager is strictly administrative. The qualifications required of these individuals and the duties they perform are unchanged. The title of Shift Manager better conveys the appropriate level of responsibility and authority required of the position. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William H. Bateman.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne Count, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for: (1) the standby liquid control (SLC) system that ensures that there is a functioning flow path from the boron injection tank to the reactor pressure vessel, and (2) the scram discharge volume (SDV) that verifies system performance of the vent and drain valves. Specifically, the interval for SLC testing is being increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period; and, from once every 36 months to once every 48 months for those surveillances on a staggered test basis. The frequency for testing the SDV vent and drain valves would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or

consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Since the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for performance of channel calibrations on: (1) the reactor protection system (RPS) instrumentation, (2) the source range monitor (SRM) instrumentation, (3) the feedwater–main turbine high-water-level trip instrumentation, (4) the post accident monitoring (PAM) instrumentation, (5) the remote shutdown system instrumentation, (6) the end-of-cycle recirculation pump trip (EOC–RPT) instrumentation, (7) the anticipated transient without scram recirculation pump trip (ATWS–RPT) instrumentation, (8) the emergency core cooling system (ECCS) instrumentation, (9) the rector core isolation cooling (RCIC) system instrumentation, (10) the primary containment isolation instrumentation, (11) secondary containment isolation instrumentation, (12) the control room emergency outside air supply (CREOAS) system instrumentation, (13) the loss of power (LOP) instrumentation, and (14) the RPS electric power monitoring instrumentation. Specifically, the intervals for the associated channel calibration would be increased from either once every 18 months or refueling cycle to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR. Furthermore, the instrument drift has been evaluated and found to be acceptable for the extended operating cycle[.] Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal and instrument drift over the extended operating cycle has been evaluated and found to be acceptable. Since the impact on the systems and from instrument drift is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library,

Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for: (1) the integrated leak test of each system listed as a primary coolant source outside containment, and (2) the engineered safety feature filter ventilation systems in the ventillation filter testing program. Specifically, the interval for these tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR [safety analysis report]. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Because the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for the AC and DC electrical power system sources. Specifically, the intervals for various functional tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the [safety analysis report] SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Because the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would lower the minimum allowable low power setpoint for the control rod block instrumentation rod worth minimzer (RWM) from less than or equal to 20 percent rated thermal power (RTP) to less than or equal to 10 percent RTP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change establishes the minimum allowable low power setpoint of the RWM as less than or equal to 10% RTP. This change will not result in a significant increase in the probability of an accident previously evaluated because the Operability of the RWM not considered an initiator for any accidents previously analyzed. This change will not result in a significant increase in the consequences of an accident previously evaluated because, as documented in Amendment 17 to NEDE–24011–P–A (GESTAR–II) and the associated NRC SER [safety evaluation report], if core power level exceeds 10% RTP, no control rod pattern can generate rod worths such that the fuel enthalpy would exceed the 280 cal/gm fuel enthalpy limit during the worst RDA [rod drop accident].

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SSC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change does not involve a significant reduction in a margin of safety because, as documented in Amendment 17 to NEDE–24011–P–A (GESTAR–II) and the associated NRC SER, if core power level exceeds 10% RTP, no control rod pattern can generate rod worths such that the fuel enthalpy would exceed the 280 cal/gm fuel enthalpy limit during the worst RDA.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for the: (1) drywell-to-suppression chamber vacuum breaker leakage test, (2) the primary containment isolation valves functional tests, (3) each reactor instrumentation line excess flow check valve (EFCV) functional tests, (4) the suppression chamber-to-drywell vacuum breaker opening setpoint test, (5) the system functional test, visual examination, and heater phase resistance to ground tests for the drywell and suppression chamber hydrogen recombiners, (6) the secondary containment vacuum tests of the standby gas treatment (SGT) subsystem, (7) the seconday containment isolation valves (SCIVs) functional tests, and (8) the SGT subsytem functional tests. Specifically, the intervals for these tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the [Safety Analysis Report] SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Since the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the

subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for: (1) the system functional test of the core spray and low pressure coolant injection system, and (2) the high pressure coolant injection (HPCI) and the low pressure HPCI flow test. Specifically, the intervals for system functional tests and response time tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period. Additionally, the surveillance test intervals for: (1) the system functional test of the automatic depressurization system (ADS), and (2) the system functional test and low pressure flow test of the reactor core isolation cooling (RCIC) system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Since the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test interval for the channel calibration of the reactor coolant system leakage detection instrumentation. The surveillance test interval would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the [S]urveillance Frequency from 18 months to 24 months. The change in [S]urveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR [safety analysis report]. Furthermore, the instrument drift has been evaluated and found to be acceptable for the extended operating cycle. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal and instrument drift over the extended operating cycle has been evaluated and found to be acceptable. Since the impact on the systems and from instrument drift is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant

systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would remove the operability requirement for the 480 volt engineered safeguards systems bus 0565 undervoltage relay (degraded voltage 65 percent and 92 percent) in the loss of power instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes remove from the SSES CTS [Susquehanna Steam Electric Station current technical specifications] items that are informational or implementing details that are adequately and more appropriately controlled by the licensee. Additionally, the proposed changes remove from the SSES CTS items that are contained in the Code of Federal Regulations or other regulatory documents and, therefore, do not need to be repeated in the SSES ITS [improved technical specifications]. These requirements being moved to another controlled document or removed from Technical Specifications are not deleted or changed. Therefore, these changes will not result in any changes to the requirements specified in the SSES CTS, but will reduce the level of regulatory control on the identified requirements. The level of regulatory control has no impact on the probability or the consequences of an accident previously evaluated, therefore, these changes have no impact on the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will not involve any physical changes to plant systems, structures, or components (SSC), or the manner in which these SSC are operated, maintained, modified, tested, or inspected. The proposed changes will not impose or eliminate any requirements. Therefore, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety as defined in the bases of any Technical Specification is not reduced. The requirements being moved to another controlled document or removed from Technical Specifications remain the same as stated in the SSES CTS. Therefore, no reduction in a margin of safety will be permitted.

Removal of these items from SSES CTS eliminates the requirement for NRC review and approval of revisions in accordance with 10 CFR 50.92. Elimination of this administrative process does not have a margin of safety that can be evaluated. However, the proposed changes are consistent with the BWR [Boiling-Water Reactor] Standard Technical Specification, NUREG–1433, Rev. 1, which was approved by the NRC. Revising the Technical Specifications to reflect the approved level of detail ensures no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996.

Description of amendment request: The change would increase the surveillance test intervals for: (1) the reactor protection system (RPS) instrumentation, (2) the feedwater-main turbine high-water-level trip instrumentation, (3) the end of cycle recirculation pump trip (EOC–RPT) instrumentation, (4) the anticipated transient without scram recirculation pump trip (ATWS–RPT) instrumentation, (5) the emergency core cooling system (ECCS) instrumentation, (6) the reactor core isolation cooling (RCIC) system instrumentation, (7) RPS electric power monitoring system instrumentation, (8) primary containment isolation instrumentation, (9) secondary containment isolation instrumentation, (10) the control room emergency outside air supply (CREOAS) system instrumentation, and (11) the loss of power (LOP) instrumentation. Specifically, the intervals for various logic system functional tests and response time tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Since the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996, and March 2, 1998.

Description of amendment request: The change would increase the surveillance test interval for the: (1) emergency service water (ESW) system functional test, (2) the control room emergency outside air supply (CREOAS) system functional test and control room pressurization test, and (3) the main turbine bypass system functional and response time tests. Specifically, the interval for these tests would be increased from once every 18 months to once every 24 months for a maximum interval of 30 months including the 25 percent grace period.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve a change in the surveillance Frequency from 18 months to 24 months. The change in surveillance Frequency is not assumed to be an accident initiator for any accidents previously evaluated in the [safety analysis report] SAR. Therefore, this change will have no impact on the probability of an accident previously evaluated. By changing the Surveillance Frequency from 18 months plus grace to a maximum of 30 months, the consequences of an accident previously evaluated in the SAR are not significantly increased. This is based on the fact that the evaluation of the subject changes demonstrated that the overall impact, if any, on the systems availability is minimal. Since the impact on the systems is minimal, it can be concluded that the overall impact on the plant accident analysis is negligible. Furthermore, it is shown that the performance history for the subject systems does not indicate any failures which would invalidate the conclusions reached in this evaluation.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

This proposed change will not involve any physical changes to plant systems, structures, or components (SCC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety has not been significantly reduced. Although, there will be an increase in the interval between the subject surveillance tests, the evaluation of the changes demonstrates that there is no evidence of any failures which would impact the subject systems availability. Based on the fact that the increased testing interval has a minimal impact on the subject systems, it can be concluded that the assumptions in the licensing basis are not impacted by the changes in the subject requirements and commitments.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996, and March 2, 1998.

Description of amendment request: The change would add a surveillance requirement and acceptance criteria to verify the source range monitor (SRM) count rate versus the signal to noise ratio of the SRMs. This change also incorporates a new SRM count rate to signal to noise ratio curve which is based on General Electric Service Information Letter (SIL) 478.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes provide requirements determined to be more conservative than the existing requirements for operation of the facility.

Therefore, these changes establish or maintain adequate assurance that components are operable when necessary for the prevention or mitigation of accidents or transients and that plant variables are maintained within limits necessary to satisfy the assumptions for initial conditions in the safety analysis. Therefore, these changes do not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will not involve any physical changes to plant systems, structures, or components (SSC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The imposition of more restrictive requirements either has no impact on or increases the margin of plant safety. As provided in the discussion of each of the changes, each change in this category provides additional requirements designed to enhance plant safety. Each of the changes maintains requirements within the safety analyses and licensing basis. Therefore, these changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 1, 1996, as supplemented March 2, 1998.

Description of amendment request: The change would reduce the allowable values for the reactor protection system instrumentation scram discharge volume water level—high scram setpoints: (1) for the level transmitter from less than or equal to 88 gallons to less than or equal to 66 gallons, and (2) for the float switch from less than or equal to 88 gallons to less than or equal to 62 gallons in order to be consistent with the design setpoint calculations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes provide requirements determined to be more conservative than the existing requirements for operation of the facility. Therefore, these changes establish or maintain adequate assurance that components are operable when necessary for the prevention or mitigation of accidents or transients and that plant variables are maintained within limits necessary to satisfy the assumptions for initial conditions in the safety analysis. Therefore, these changes do not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes will not involve any physical changes to plant systems, structures, or components (SSC). The changes in normal plant operation are consistent with the current safety analysis assumptions. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The imposition of more restrictive requirements either has no impact on or increases the margin of plant safety. As provided in the discussion of each of the changes, each change in this category provides additional requirements designed to enhance plant safety. Each of the changes maintains requirements within the safety analyses and licensing basis. Therefore, these changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Southern Nuclear Operating Company, Inc, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: December 30, 1997.

Description of amendments request: The proposed amendments would revise the Technical Specification surveillance requirements for the Auxiliary Building and Service Water Building batteries to remove the existing 1.75 volt minimum individual cell voltage associated with the ''service test'' acceptance criterion and replace it with a reference to the battery load profile specified in the Final Safety Analysis Report, Section 8.3.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes to remove and replace specific acceptance criterion in the Technical Specifications with a reference to more detailed and bounding criteria in the FSAR [Final Safety Analysis Report] for service tests on the batteries do not involve a significant increase in the probability or consequences of an accident previously evaluated in the Farley FSAR. The AB [Auxiliary Building] and SWB [Service Water Building] batteries do not initiate any accident. Clarification of testing acceptance criteria does not adversely affect the batteries ability to mitigate the consequences of any accident in the

Farley FSAR. No new accident initiators are identified as a result of this proposed revision. No new performance requirements for any system that is used to mitigate dose consequences have been imposed by this proposed change. No input assumptions to any dose consequence calculations are affected by this proposed change. All previously reported dose consequences remain bounding. Therefore, the radiological consequences resulting from any accident previously evaluated in the FSAR are not increased.

2. The proposed changes to remove and replace specific acceptance criterion in the Technical Specifications with a reference to more detailed and bounding criteria in the FSAR for service tests on the batteries do not create the possibility of a new or different kind of accident from any previously evaluated in the Farley FSAR. No new accident scenarios, failure mechanisms or limiting single failures are introduced as a result of the clarifications to the battery service test acceptance criteria. No new challenges to the safety-related AB or SWB 125VDC Distribution Systems have been identified. The 125VDC Systems including the batteries have not been modified. Farley will continue to perform service discharge surveillance tests in accordance with the frequency requirements of the Technical Specifications to demonstrate battery operability. Previously identified accident scenarios remain bounding because the performance requirements of the batteries have not been changed. Therefore, the possibility of a new or different kind of accident is not created.

3. The proposed changes to remove and replace specific acceptance criterion in the Technical Specifications with a reference to more detailed and bounding criteria in the FSAR for service tests on the batteries do not involve a significant reduction in the margin of safety. All previously established acceptance limits continue to be met for all events since the battery function is to provide power during the time between LOSP [loss of offsite power] & D/G [diesel generator] start and in the event of battery charger failure to mitigate the consequences of any accident scenario. Relocating and clarifying service test acceptance criteria will not invalidate the battery function. There are no physical modifications required to the AB or SWB 125VDC Distribution Systems or the batteries. This change will not affect the operation of the batteries or any other safety-related equipment. Applicable values, reflected in the governing electrical design calculations, will be incorporated into the FSAR and will remain or be included in the surveillance test procedures. Since current battery performance acceptance limits will continue to be met, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama.

NRC Project Director: Herbert N. Berkow.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 13, 1998 (TS 97–04).

Brief description of amendments: The amendments change the Sequoyah (SQN) Technical Specifications (TS) by relocating the mechanical snubber requirements from Section 3.7.9 of the TS to the SQN Technical Requirements Manual.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TS, does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the TS relocates the requirements for SQN snubbers without changing the current requirements and deletes an obsolete License Condition. TVA does not consider the snubbers to be the source of any accident; therefore, this administrative relocation of the requirements and License Condition deletion will not increase the possibility of an accident. The capability of the snubbers will continue to provide the same function in support of accident mitigation. Changes to the relocated requirements will be processed, in accordance with 10 CFR 50.59, to ensure the snubber functions will be properly maintain[ed]. Therefore, the proposed relocation of the snubber requirements and License Condition deletion will not increase the consequences of an accident.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SQN safety-related snubbers provide support for mitigation functions associated with previously evaluated accidents and are not the initiator of any accident. The proposed change does not alter the current functions of the snubbers; therefore, it will not create the possibility of a new or different kind of accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The requirements for SQN safety-related snubbers are unchanged by the proposed relocation of the requirements to the SQN TRM [Technical Requirements Manual] and the License Condition deletion. The function of the snubbers and surveillances to ensure operability will remain the same as currently required by the TS. Changes to these requirements will be evaluated, in accordance with 10 CFR 50.59, to ensure acceptability and NRC review as required. Therefore, the proposed change will not result in a reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: February 25, 1998 (TS 97–06).

Brief description of amendments: The amendments change the Sequoyah

(SQN) Technical Specifications (TSs) for the emergency diesel generators (D/Gs) by 1) incorporating vendor-recommended changes to the D/G inspection program, 2) revising the D/G surveillance program, and 3) changing the allowable D/G steady-state voltage range.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TSs (or operating license[s]), does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

Part 1—Vendor Recommended Inspections:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to the TS deletes the requirements for 18-month inspections from the TS. TVA does not consider the inspections to be the source of any accident; therefore, this deletion will not increase the possibility of an accident. The D/Gs come within the purview of 10 CFR 50.65, which monitors the effectiveness of maintenance at nuclear power plants. The capability of the D/Gs to provide the required safety function in support of accident mitigation will be unaffected. Therefore, the proposed deletion of the inspection requirements will not increase the consequences of an accident.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The emergency D/Gs provide support for mitigation functions associated with previously evaluated accidents and are not the initiator of any accident. The proposed change does not alter the current functions of the D/Gs; therefore, it will not create the possibility of a new or different kind of accident.

The proposed amendment does not involve a significant reduction in a margin of safety.

The requirements for emergency D/Gs are unchanged by the proposed deletion of the requirements from TSs. The function of the emergency D/Gs and surveillances to ensure operability will remain the same as currently required by the TS. NRC will continue to monitor the effectiveness of D/G maintenance as required by 10 CFR 50.65. Therefore, the proposed change will not result in a reduction in a margin of safety.

Part 2—D/G Online Testing:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment to allow the load rejection tests and the 24-hour D/G endurance run to be conducted during any mode of operation does not significantly increase the probability or consequences of an accident previously evaluated in Chapter 15 of the Final Safety Analysis Report (FSAR) since the capability to safely shutdown the plant following a LOOP [loss of offsite power], LOCA [loss of coolant accident] or LOCA/LOOP coincident with a single failure is maintained throughout the surveillance test. Other aspects of D/G parallel testing (protective devices, risks interactions with offsite power capabilities, and operation) are unaffected by the proposed TS change. Required Class-lE onsite power operability during normal operation, shutdown cooling, LOOP, and accident conditions will be the same.

Performance of the new SR [Surveillance Requirement] 4.8.1.1.2.g.4 requires the D/Gs to be at the same system conditions prior to the test (stabilized operating temperature) as previously required. The LOOP start will continue to be performed as required by SR 4.8.1.1.2.d.4.b.

In addition, the performance of proposed SRs 4.8.1.1.2.g.1, 4.8.1.1.2.g.2, 4.8.1.1.2.g.3, or 4.8.1.1.2.g.4 during Modes 1, 2 or 3 will not significantly increase the consequences of perturbations to any of the electrical distribution systems that could result in a challenge to steady state operation or to plant safety systems.

Performance of proposed SR 4.8.1.1.2.g.1, 4.8.1.1.2.g.2, or 4.8.1.1.2.g.3 during Modes 1, 2 or 3 or failure of the surveillance, will not cause, or result in, an anticipated operational occurrence with attendant challenges to plant safety systems that has not been previously analyzed for the existing monthly surveillances.

Therefore, TVA concludes that the above change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The requested changes do not result in a new or different kind of accident from that previously analyzed in SQN's FSAR. The changes propose to eliminate restrictions of the plant operating modes in which standby D/G system testing may be performed, but does not change the type of testing performed and are not due to modification of the system design. NRC's assessment of the testing of the D/Gs in the configuration proposed is documented in Section 8.3.1, Supplement 1 of the SER (NUREG–0011).

The proposed amendment does not involve a significant reduction in a margin of safety.

As previously stated, performance of proposed SRs 4.8.1.1.2.g.1, 4.8.1.1.2.g.2, 4.8.1.1.2.g.3, or 4.8.1.1.2.g.4 during Modes 1, 2 or 3 will not cause, or result in, an anticipated operational occurrence with attendant challenges to plant safety systems that has not been previously analyzed for the existing monthly surveillances. It also does not change any setpoints or limits established for accident mitigation. Therefore, implementation of the proposed amendment will not reduce the margin of safety for this system.

Part 3—D/G Steady State Allowable Voltage Range:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to the SRs conservatively restrict the allowable range of the D/G steady state voltage. The capability of the D/Gs to provide the required safety function, in support of accident mitigation, will be unaffected or enhanced. Therefore, the proposed revision of the SRs will not increase the consequences of an accident.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not alter the current functions of the D/Gs; therefore, they will not create the possibility of a new or different kind of accident.

The proposed amendment does not involve a significant reduction in a margin of safety.

The requirements for emergency D/Gs are unchanged by the conservative revision of the allowable range of the D/G steady state voltage or clarification of the required voltage and frequency after 10 seconds. The function of the emergency D/Gs and surveillances to ensure operability will remain the same as currently required by the TS. Therefore, the proposed changes will not result in a reduction in a margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: February 25, 1998.

Description of amendment request: Requests Technical Specifications changes to permit use of Option B of 10 CFR 50, Appendix J, for containment leakage testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the KNPP in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes do not involve any physical or operational changes to structures, systems or components. The current safety analysis and design basis for the accident mitigation functions of the containment, the airlocks, and the containment isolation valves are maintained. On-site and off-site dose consequences remain unaffected. Containment leakage rate testing is not an accident initiator.

2. The proposed license amendment request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The accidents considered are found in the Safety Analysis, Section 14 of the USAR. The proposed change does not involve a change to the plant design (structures, systems or components) or operation. No new failure mechanisms beyond those already considered in the current plant Safety Analysis are introduced. No new accident is introduced and no safety-related equipment or safety functions are altered. The proposed change does not affect any of the parameters or conditions that contribute to initiation of any accidents.

3. The proposed license amendment does not involve a significant reduction in the margin of safety.

The implementation of Option B potentially affects the frequency of Type A, B, and C containment testing. Except for the determination of test frequency, the methods for performing the actual tests are not changed. NUREG–1493, ''Performance-Based Containment Leak-Test Program'', dated September, 1995, which forms the basis for the Appendix J revision, concludes that adoption of performance-based testing will not significantly reduce the margin of safety. Therefore, the proposed TS amendment will not involve a significant reduction in a margin of safety and will continue to support the design and licensing basis of ensuring an essentially leak-tight containment boundary.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Project Director: Richard P. Savio.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: March 4, 1998.

Description of amendment request: Requests Technical Specifications changes to provide a one hour Limiting Condition for Operation (LCO) that will permit a safety injection pump to be used for addition of make-up fluid to safety injection accumulators during power operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the KNPP in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

While filling a safety injection (SI) accumulator, the large break loss of coolant accident (LOCA) would be the bounding accident for pump runout concerns. The proposed LCO would allow relaxation of a single failure being assumed during the short duration of the accumulator fill. The SI pump filling the SI accumulator will be considered to be operable while filling the accumulator.

Using current KNPP PRA methods, this configuration results in a core damage frequency (CDF) of $5x10^{-5}$/year during the five minutes it exists. The increased core damage probability (CDP) due to an accumulator fill is $8x10^{-11}$. Conservatively assuming that the accumulator fill occurs every three weeks, the total CDP increase is $1.3x10^{-9}$ in a year. The configuration specific DF and CDP increase are well below the limits of $1.0x10^{-3}$/year and $1.0x10^{-6}$, respectively, in the Electric Power Research Institute's PRA Applications Guide. The increase in probability is extremely low and well within industry PRA limits.

With entry into a one hour action statement, the single failure criterion is relaxed (i.e., a postulated failure of an SI pump is not required) and both SI pumps will provide the required flow to ensure accident mitigation and prevent pump run out. By assuming both SI pumps are available, there is no impact on the accident analysis.

By remaining within the bounds of the accident analysis and the extremely low increase in the probability of a LOCA concurrent with an accumulator fill, WPSC concludes that this change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed license amendment requests does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change allows relaxation of single failure criteria during the short time an SI accumulator would be filled. The SI pump filling the accumulator will be available during the short filling period.

With entry into a one hour action statement, the single failure criterion is relaxed (i.e., a postulated failure of an SI pump is not required) and both SI pumps will provide the required flow to ensure accident mitigation and prevent pump runout.

The proposed change is not a result of a hardware change, and with one SI pump considered to be available during an accumulator fill, all the accident analysis requirements are satisfied. Therefore, WPSC concludes that this

proposed change does not create the possibility of a new or different kind of accident.

3. The proposed license amendment does not involve a significant reduction in the margin of safety.

With both SI pumps available during an accumulator fill, there is not an SI pump runout concern and all the requirements of the accident analysis are met. Due to the infrequent occurrence, short duration and extremely low probability of LOCA occurring during an accumulator fill, WPSC concludes there is not significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI 54311–7001.

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Project Director: Richard P. Savio.

Previously Published Notices of Consideraton of Issuance of Amendments to Facility Operating Licenses, proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket No. 50–237, Dresden Nuclear Power Station, Unit 2, Grundy County, Illinois

Date of amendment request: March 19, 1998.

Description of amendment request: The proposed amendment would reflect a change in the Dresden, Unit 2, minimum critical power ratio (MCPR) Safety Limit and revise footnotes in Technical Specifications (TS) Section 5.3, to allow the use of Siemens Power Corporation (SPC) ATRIUM–9B fuel.

Date of publication of individual notice in **Federal Register**: March 26, 1998 (63 FR 14735).

Expiration date of individual notice: April 27, 1998.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: March 16, 1998.

Brief description of amendment request: These amendments add a new Limiting Condition for Operation (LCO) 3.0.6 to TS Section 3/4.0, ''APPLICABILITY.'' The new LCO 3.0.6 provides specific guidance for returning equipment to service under administrative control to perform testing required to demonstrate OPERABILITY.

Date of publication of individual notice in **Federal Register**: March 24, 1998 (63 FR 14142).

Expiration date of individual notice: Comment period April 7, 1998, and hearing period April 23, 1998.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 13, 1998.

Description of amendment request: The proposed amendment would revise Section 2.1.A of the Technical Specifications (TS) to change the safety limit minimum critical power ratio (SLMCPR) values from 1.08 to 1.10 for two recirculation pump operation, and from 1.09 to 1.11 for single loop operation. The amendment would also revise pages 6 and 249b of the TS to indicate that the revised SLMCPR values are applicable only to operating cycle 19.

Date of individual notice in the **Federal Register**: March 20, 1998 (63 FR 13704).

Expiration date of individual notice: April 20, 1998.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: March 12, 1998, TXX–98076.

Description of amendment request: The proposed amendment would provide a temporary Technical Specification change for SRs 4.8.1.1.2f.4)b) and 4.8.1.1.2f.6)b) to allow the verification of the auto connected shut-down loads through the load sequencer to be performed at power for fuel cycle 6 on Unit 1 and fuel cycle 4 on Unit 2.

Date of individual notice in the **Federal Register**: March 27, 1998 (63 FR 14974).

Expiration date of individual notice: April 13, 1998.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Windham County, Vermont

Date of amendment request: March 20, 1997.

Description of amendment request: The licensee requested to modify their licensing basis by limiting the time the large (18'') purge and vent valves may be open to containment.

Date of publication of individual notice in **Federal Register**: March 27, 1998. (63 FR 14976).

Expiration date of individual notice: April 27, 1998.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating

License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items 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 rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: December 17, 1997.

Brief description of amendment: These amendments modify the technical specifications (TS) to remove the reference to Exide batteries with a generic reference to low specific gravity cell batteries.

Date of issuance: March 16, 1998.

Effective date: March 16, 1998.

Amendment No.: Unit 1—116; Unit 2—109; Unit 3—88.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 14, 1998 (63 FR 2272).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 22, 1997.

Brief description of amendments: The amendments change the Technical Specifications (TSs) to incorporate both steady state and transient degraded voltage setpoints as opposed to the current single degraded voltage setpoints. Additionally, the TS decreases the 4 kV voltage range of the emergency diesel generators to assure that the new steady state degraded voltage relays are not actuated during testing.

Date of issuance: March 17, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 226 and 200.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 19, 1997 (62 FR 61838).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: November 6, 1997, as supplemented by letters dated January 27, March 3, March 6, March 13, and March 18, 1998.

Brief Description of amendments: The amendments change the Technical Specifications (TS) for the Brunswick Steam Electric Plant (BSEP) Units 1 and 2 to allow three 18-month diesel generator (DG) surveillance requirements (SR) to be performed during both plant operation (Operational Conditions 1 and 2) and shutdown (Operational Conditions 3, 4, and 5) rather than, as currently required, only during shutdown. The first SR is an inspection of the DG involving a partial disassembly. The second ensures that non-critical DG protective functions are bypassed on an Emergency Core Cooling system actuation signal. The third verifies that the DG operates for greater than or equal to 60 minutes while loaded to at least 3500 kw, which bounds the maximum expected post-accident DG loading. The proposed amendments additionally remove an expired footnote from the BSEP Unit 2 DG TS.

Date of issuance: March 26, 1998.

Effective date: March 26, 1998

Amendment Nos.: 192 and 223.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments authorize changes to the facility's Technical Specifications.

Date of initial notice in **Federal Register**: December 3, 1997 (62 FR 63971). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: April 23, 1997.

Brief description of amendment: This amendment changes the Technical Specifications Surveillance Requirements for TS 4.3.2.1.1.a, 4.3.2.1.4.b, 4.3.2.1.10.a, 4.3.2.1.10.b, and 4.7.3.b.3. to provide more specific information about the tests performed and the components tested.

Date of issuance: March 18, 1998.

Effective date: March 18, 1998.

Amendment No.: 76.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1997 (62 FR 33119).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 18, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: September 29, 1997 (NRC–97–0089), as supplemented on March 10, 1998 (NRC–98–0036).

Brief description of amendment: The amendment revises the technical specifications by relocating the requirements for selected

instrumentation and the associated Bases from the technical specifications (TS) to the updated final safety analysis report. The affected instrumentation is seismic monitoring (TS 3.7.2), meteorological monitoring (TS 3.7.3), the traversing in-core probe system (TS 3.7.7), the chlorine detection system (TS 3.7.8), and the loose-parts detection system (TS 3.7.10). The TS index and list of tables are also revised to reflect the relocation of these TS and associated Bases. NRC Generic Letter 95–10, ''Relocation of Selected Technical Specification Requirements Related to Instrumentation,'' dated December 15, 1995, provided information concerning relocation of the requirements for these instruments.

Date of issuance: March 17, 1998.

Effective date: March 17, 1998, with full implementation within 90 days.

Amendment No.: 115.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: October 22, 1997 (62 FR 54870). The March 10, 1998, supplement requested a change in the implementation period and was not outside the scope of the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 24, 1997.

Brief description of amendment: The amendment modifies Technical Specification (TS) 3/4.7.4, Ultimate Heat Sink, Table 3.7–3, by incorporating more restrictive dry cooling tower fan requirements, and changes the wet cooling tower water consumption in the TS Bases.

This amendment modifies the TS to be consistent with revised design-basis calculations.

Date of issuance: March 23, 1998.

Effective date: March 23, 1998, to be implemented within 60 days.

Amendment No.: 139.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 18, 1997 (62 FR 33123).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date application for amendment: July 31, 1997.

Brief description of amendment: This amendment changes Action Statement 36 to TS Table 3.3.3–1, ''Emergency Core Cooling System Actuation Instrumentation,'' to include actions to be taken if more than one channel per trip function should be inoperable in the high-pressure core spray drywell pressure and reactor water level instrumentation.

Date of issuance: March 16, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 79.

Facility Operating License No. DPR–63: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 27, 1997 (62 FR 45460).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 16, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 16, 1996.

Description of amendment request: The amendment revises the Technical Specifications (TSs) relating to the requirements for AC power sources. The amendment changes certain requirements stated in TS 3/4.8.1, ''AC Sources.'' The requirements are related to the emergency diesel generators.

Date of issuance: March 17, 1998.

Effective date: As of the date of issuance, with full implementation within 60 days.

Amendment No.: 54.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 18, 1996 (61 FR 66711).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 12, 1997.

Description of amendment request: The amendment modifies Technical Specification (TS) Section 6.0 ''Administrative Controls,'' to reflect recent organizational changes and changes to the approval title for the Station Qualified Reviewer Program and corrects an incorrect reference in TS 6.4.3.9.b.

Date of issuance: March 26, 1998.

Effective date: As of its date of issuance, to be implemented within 60 days.

Amendment No.: 55.

Facility Operating License No. NPF–86. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 21, 1997 (62 FR 27797).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: July 25, 1997, as supplemented by letters dated November 21, 1997, and March 3, 1998.

Brief description of amendment: The amendment revises Technical Specifications (TS) 3.5(2), 3.5(3) through 3.5(7), 5.19 and associated Basis to implement Option B of 10 CFR 50 Appendix J.

Date of issuance: March 23, 1998.

Effective date: March 23, 1998, to be implemented within 30 days from the date of issuance.

Amendment No.: 185.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 5, 1997 (62 FR 59919).

The November 21, 1997, and March 3, 1998, supplemental letters provided additional clarifying information that did not change the original no significant hazards determination consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 26, 1997, as supplemented by letters dated December 23, 1997, January 30, 1998, and February 9, 1998.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to change TS 3/4.4.5 and 3.4.6.2, including associated Bases 3/4.4.5 and 3/4.4.6.2, to allow the implementation of steam generator (SG) tube voltage based repair criteria for outside diameter stress corrosion cracking (ODSCC) indications at tube-to-tube support plant (TSP) intersections. The allowed primary-to-secondary operational leakage from any one SG would be reduced from 500 gpd to 150 gpd.

Date of issuance: March 12, 1998.

Effective date: March 12, 1998, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–124; Unit 2–122.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 4, 1997 (62 FR 17239).

The December 23, 1997, January 30, 1998, and February 9, 1998, supplemental letters provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 12, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: March 4, 1997.

Brief description of amendments: These amendments revise the emergency core cooling system surveillance test acceptance criteria in Technical Specification 3/4.5.2 for the centrifugal charging and safety injection pumps. Specifically, the change would reduce the maximum specified flow rate values for system alignments that affect the suction pressure to the pumps. In the recirculation mode, increased system flow occurs when the charging and safety injection pumps take suction from the discharge of the residual heat removal pumps.

Date of issuance: March 12, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos: 208 and 189.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 23, 1997 (62 FR 19834).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 12, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Public Service Electric & Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: October 29, 1997, as supplemented on January 27, 1998.

Brief description of amendment: The amendment provides a one-time change to Technical Specification 3/4.4.6, ''Steam Generators,'' to require that the next inspection be performed within 24 months from initial criticality for fuel cycle 10, or during the next refueling outage, whichever is first for fuel cycle 10. In addition, the amendment eliminates a description of an alternate steam generator tube sampling plan that was applicable only during the fourth refueling outage.

Date of issuance: March 19, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No: 190.

Facility Operating License No. DPR–75: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66142).

The January 27, 1998, supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: November 4, 1997.

Brief description of amendments: These amendments revise the containment systems surveillance test acceptance criteria in Technical Specification 3/4.6.2 for the containment spray pumps. Specifically, the change would replace the Salem Unit 2 minimum specified discharge pressure requirement with an acceptance criterion based on pump differential pressure, and add this surveillance as a new requirement on Salem Unit 1.

Date of issuance: March 24, 1998.

Effective date: As of the date of issuance, to be implemented within 60 days Amendment Nos.: 209 and 191.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 17, 1997 (62 FR 66141).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: February 9, 1998.

Brief description of amendment: The amendment revises the Virgil C. Summer Nuclear Station Technical Specifications (TS) to remove

emergency diesel generator (1) accelerated testing requirements (TS 3/4.8.1, Table 4.8–1), and (2) special reporting requirements (TS Surveillance Requirement 4.8.1.1.3) in accordance with NRC Generic Letter (GL) 94–01, ''Removal of Accelerated Testing and Special Reporting Requirements for Emergency Diesel Generators.''

Date of issuance: March 30, 1998.

Effective date: March 30, 1998.

Amendment No.: 139.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: February 25, 1998 (63 FR 9614) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: April 24, 1997, as supplemented by letters dated June 6, 1997, and June 27, 1997.

Brief description of amendment: The amendment revises Section 6.0 of the Callaway Plant, Unit 1 Technical Specifications to change the title ''Senior Vice President Nuclear'' to ''Vice President and Chief Nuclear Officer.''

Date of issuance: March 23, 1998.

Effective date: March 23, 1998.

Amendment No.: 122.

Facility Operating License No. NPF–30: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 30, 1997 (62 FR 40859).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Missouri-Columbia, Elmer Ellis Library, Columbia, Missouri 65201–5149.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: October 10, 1997, as supplemented on October 31, 1997.

Brief description of amendment: The amendment revises and clarifies the offsite power requirements.

Date of Issuance: March 24, 1998.

Effective date: March 24, 1998, to be implemented within 60 days.

Amendment No.: 155.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68319).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: January 21, 1997, as supplemented on December 15, 1997.

Brief description of amendments: These amendments revise TS Section 15.6.11, ''Radiation Protection Program,'' references to Title 10, Code of Federal Regulations, Part 20.

Date of issuance: March 17, 1998.

Effective date: March 17, 1998, with full implementation within 45 days.

Amendment Nos.: 182 and 186.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 23, 1997 (62 FR 19837) The December 15, 1997, supplement provided clarifying information and modified proposed language within the scope of the original application and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 17, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: November 17, 1995 (TSCR 182), as supplemented on July 29, 1996, and December 15, 1997.

Brief description of amendments: These amendments revise Technical Specifications 15.6.3.2, 15.6.3.3, and 15.6.5 designation of health physics manager to health physicist.

Date of issuance: March 24, 1998.

Effective date: March 24, 1998, with full implementation within 45 days.

Amendment Nos.: 183 and 187.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 11, 1996 (61 FR 47983).

The December 15, 1997, letter provided additional clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards considerations determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Dated at Rockville, Maryland, this 1st day of April 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–9040 Filed 4–7–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23097; International Series Release No. 1128; File No. 812–11072]

B.A.T. Industries p.l.c.; Notice of Application

April 2, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting relief from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant, B.A.T. Industries p.l.c., requests an order under section 6(c) of the Act exempting Allied Zurich p.l.c. from all provisions of the Act.

FILING DATES: The application was filed on March 17, 1998 and amended on March 30, 1998.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 24, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, B.A.T. Industries p.l.c., Windsor House, 50 Victoria Street, London SW1H ONL, England.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, 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 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant is a public limited company organized under the laws of England. On December 22, 1997, Zurich Insurance Company (''ZIC''), a Swiss corporation, and applicant entered into a merger agreement pursuant to which the financial services businesses of applicant will be combined with ZIC's financial services businesses, through a series of transactions. (collectively, the ''Transaction'').

2. Allied Zurich p.l.c. (''AZ'') will be organized as a public limited company under the laws of England in order to effect the Transaction. AZ will become a holding company for substantially all of applicant's financial services subsidiaries. AZ will exchange the ordinary shares of applicant's former financial services subsidiaries for 43% of the equity of Zurich Financial Services (''ZFS''), a newly created Swiss subsidiary of Zurich Allied AG (''Zurich''), a Swiss corporation.

3. Applicant will distribute to its current shareholders shares of AZ. Applicant intends that AZ will be listed and publicly traded on the London Stock Exchange. In addition, it is currently under consideration whether or not an American Depositary Receipt facility will be created in the United States for AZ's ordinary shares.

4. Concurrently with applicant's restructuring, ZIC will reorganize its existing corporate structure by establishing a new holding company, Zurich, which will be owned by the former shareholders of ZIC.

5. As a result of these transactions and reorganizations, ZFS will own the financial services businesses of applicant and ZIC. AZ will own 43% and Zurich will own 57% of the voting stock of ZFS. AZ also will hold one series of non-equity shares of ZFS that will not be entitled to vote and will receive dividends declared on the series. In addition, to facilitate tax efficient dividend payments, AZ will directly hold non-equity shares in Allied Zurich Holdings Limited (''AZH''), which will be a wholly-owned subsidiary of AFS. AZH will be a holding company for several of applicant's former financial services subsidiaries. Neither AZH nor ZFS will be an investment company under section 3(a) of the Act, and neither will rely on an exemption from the definition of ''investment company'' under sections 3(c)(1) or 3(c)(7) of the Act.

6. AZ and Zurich (collectively, the ''Topcos'') will be holding companies for ZFS, a corporate structure sometimes referred to as ''dual listed holding companies.'' The dual listed holding company structure will be employed to achieve a unified governance structure that will enable ZFS and its subsidiaries (collectively, the ''ZFS Group'') to be operated as a fully merged enterprise. Under the dual listed holding company structure, the Transaction can be accounted for as a ''pooling of interests'' under International Accounting Standards. The dual listed holding company structure also will allow dividends to be upstreamed from ZFS's operating subsidiaries in a tax efficient manner. Through the use of non-equity shares, ZFS can make dividends from its United States operating subsidiaries directly to AZ (rather than through ZFS, which would subject the dividends to Swiss withholding tax).

7. The sole assets of each Topco will be the equity securities of ZFS and other related assets, such as cash received from the ZFS Group as dividends prior to distribution to the Topco's shareholders. Neither Topco may, without the consent of the other, engage in any activities unrelated to its investment in ZFS or transfer or otherwise encumber the ZFS shares owned by it.

Applicant's Legal Analysis

1. Section 3(a)(1)(C) of the Act defines ''investment company'' to include any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of that issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Under section 3(a)(2), ''investment securities'' includes all securities except (i) Government securities and (ii) securities issued by (a) employee's securities companies or (b) certain majority-owned subsidiaries.

2. Applicant states that because ZFS is not a majority-owned subsidiary of AZ, the ZFS shares owned by AZ could be deemed to be ''investment securities'' within the meaning of section 3(a)(2). Applicant also submits that because virtually all of AZ's assets will consist of ordinary and non-equity shares of ZFS and non-equity shares of AZH, AZ may be deemed to be an investment company under section 3(a)(1)(C) of the Act.

3. Section 6(c) of the Act provides, in part, that the Commission may exempt any persons from any provision of the Act or any rule under the Act if and to the extent the exemption is necessary or appropriate in the pubic interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants requests an order under section 6(c) exempting AZ from all provisions of the Act.

4. Applicant contends that because AZ will be solely a holding company of ZFS, AZ does not raise the concerns underlying the Act and is not the type of entity intended to be covered by the Act. Applicant also states that the dual listed holding company structure is an accepted form of organizing an international enterprise. Applicant submits that the corporate form employed by these types of companies does not implicate the concerns underlying the Act. Applicants also states that such companies function as fully merged business enterprises with diverse international public ownership.

5. Applicant states that AZ, Zurich and ZFS will be operated as a fully merged enterprise in a manner similar to that employed by other dual listed holding companies. Applicant submits that, from the perspective of an investor, AZ will be no different than a traditional holding company. Applicant believes that exempting AZ from the provisions of the Act would be consistent with the protection of investors and the legislative purpose of the Act.

6. Applicant contends that AZ's assets are not of the sort that Congress was concerned about in creating the Act. Applicant submits that, rather than being liquid, mobile and readily negotiable or large pools of funds, AZ's sole assets will be the ordinary shares and a series of non-equity shares of ZFS, together with certain related assets (such as non-equity shares in AZH and dividends received from ZFS and AZH prior to distribution to AZ's shareholders). Applicant states that AZ is prohibited from engaging in any activities unrelated to its investment in ZFS or transferring or otherwise encumbering the ZFS securities without the consent of Zurich. Applicant submits that AZ's business does not entail the types of risk to public investors that the Act was designed to eliminate or mitigate.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. AZ will not hold itself out as being engaged in the business of investing, reinvesting, or trading in securities.

2. AZ will not acquire any investment securities as that term is defined in section 3(a)(2) of the Act, except securities of ZFS and its majority-owned subsidiaries that are neither investment companies nor relying on section 3(c)(1) or 3(c)(7) of the Act and for cash management purposes, certificates of deposit, banker's acceptances, and time deposits maturing within 180 days from the date of acquisition thereof, securities issued or guaranteed by a foreign government with a maturity not exceeding one year, and shares of money market mutual funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9125 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23098; 812–11052]

CoreFunds, Inc. and CoreStates Investment Advisers, Inc.; Notice of Application

April 2, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the implementation, without prior shareholder approval, of an interim investment advisory agreement and sub-advisory agreements (collectively the ''Interim Agreements'') between CoreFunds, Inc. (''Fund'') and CoreStates Investment Advisers, Inc. (''Adviser'') and sub-advisers, in connection with the merger of CoreStates Financial Corp. (''CoreStates'') with and into First Union Corporation (''First Union''). The order would cover a period of up to 150 days following the date of the consummation of the merger (but in no event later than September 30, 1998) (''Interim Period''). The order also would permit the Adviser and sub-advisers to receive all fees earned under the Interim Agreements during the Interim period, following shareholder approval.

APPLICANTS: The Funds, or behalf of its separate investment portfolios, Equity Index Funds, Core Equity Fund, Growth Equity Fund, Special Equity Fund, International Growth Fund, Balanced Fund, Short-Term Income Fund, Short-Intermediate Bond Fund, Government Income Fund, Bond Fund, Global Bond Fund, Intermediate Municipal Bond Fund, Pennsylvania Municipal Bond Fund, New Jersey Municipal Bond Fund, Treasury Reserve Fund, Cash Reserve Fund, Tax-Free Reserve Fund, Elite Cash Reserve Fund, Elite Treasury Reserve Fund, Elite Tax-Free Reserve Fund (collectively the ''Portfolios'') and the Adviser.

FILING DATES: The application was filed on March 6, 1998. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 1998, and should be accompanied by proof of service on 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. CoreFunds, Inc., c/o John A. Dudley, Esq., 1025 Connecticut Avenue, N.W., Washington, D.C. 20036 and James W. Jennings, Esq., 2000 One Logan Square, Philadelphia, PA 19103–6993, CoreStates Investment Advisers, Inc., c/o Mark E. Stalnecker, 1500 Market Street, (FC–1–3–86–11), Philadelphia, Pennsylvania 19102.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Fund is a Maryland corporation registered under the Act as an open-end management investment company and is organized as a series company offering the Portfolios. The Adviser is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is a wholly-owned subsidiary of CoreStates. The Adviser serves as investment adviser to each of the Portfolios. The Fund and the Adviser also have sub-advisory agreements for certain Portfolios with advisers registered under the Advisers Act.[1]

2. CoreStates, which is a bank holding company, has agreed to merge with and into First Union or a designated subsidiary of First Union (the ''Transaction''). Applicants currently expect the Transaction to close on April 30, 1998. As a result of the Transaction, the Adviser will come under the control of First Union.

3. Applicants believe that the Transaction will result in an assignment and thus automatic termination of the existing investment advisory and sub-advisory agreements between the Fund and the Adviser and the sub-advisers (collectively, ''Existing Agreements''). Applicants request an exemption: (i) to

[1] The following firms serve as sub-advisers to the respective Portfolios under sub-advisory agreements with the Adviser: Martin Currie, Inc. (for the International Growth Fund); Aberdeen Fund Managers, Inc. (for the International Growth Fund); and Analytic TSA International, Inc. (for the Global Bond Fund).

permit the implementation, prior to shareholder approval, of the Interim Agreements; and (ii) to permit the Adviser and sub-advisers, upon shareholder approval, to receive any and all fees earned under the Interim Agreements during the Interim Period. Applicants state that the Interim Agreements will be identical in substance to the Existing Agreements, except for their effective and termination dates. The Fund and the Adviser also will have an escrow arrangement as described below.

4. On February 6, 1998, the Fund's board of directors (''Board'') met in-person and considered the Interim Agreements. At the meeting, a majority of the Board, including a majority of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Independent Directors''), voted in accordance with section 15(c) of the Act and (i) approved the Interim Agreements after evaluating whether the terms were in the best interests of the Portfolios and their shareholders, and (ii) agreed to recommend approval of the Interim Agreements to shareholders of the Portfolios. A vote of the shareholders of the Portfolios is scheduled for July 17, 1998.

5. Applicants propose to enter into an escrow arrangement with an unaffiliated bank (''Escrow Agency''). The fees payable to the Adviser and sub-advisers under the Interim Agreements during the Interim Period will be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including interest earned on such paid fees) will be paid to the Adviser and, if applicable, sub-advisers only if Portfolio shareholders approve the Interim Agreements. If the Interim Period has ended and shareholders of any Portfolio have failed to approve the Interim Agreements, the Escrow Agent will pay to the Portfolio the escrow amounts (including any interest earned). Before the release of any such escrow amounts, the Fund's Independent Directors will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a)(4) of the Act further requires that such written contract provide for automatic termination in the event of its ''assignment.'' Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that, upon completion of the Transaction, indirect control of the Adviser will transfer to First Union. Accordingly, the Transaction will result in an assignment of the Existing Agreements and the Existing Agreements will terminate by their terms upon consummation of the Transaction.

3. Rule 15a–4 provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by an assignment in which the adviser does not directly or indirectly receive a benefit, the adviser may continue to act as such for the company for 120 days under a written contract that has been approved by the company's shareholders, provided that: (a) the new contract is approved by that company's board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser nor any controlling person of the adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. Applicants state that they cannot rely on rule 15a–4 because of the benefits CoreStates, the Adviser's parent, will receive from the Transaction.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants assert that the requested relief meets this standard.

5. Applicants submit that the terms and timing of the Transaction arose primarily out of business considerations unrelated to the Fund and the Adviser. Applicants state that the requested relief would permit the continuity of investment management for the Fund, without interruption, during the period following the Transaction. Applicants also state that there is not sufficient time to make an adequate solicitation of fund shareholders prior to the closing of the Transaction.

6. Applicants submit that the scope and quality of investment advisory services provided for the Fund during the Interim Period will not be diminished. During the Interim Period, the Adviser and sub-advisers will operate under the Interim Agreements, which the Board has approved and which will be substantively the same as the Existing Agreements, except for their effective and termination dates. In addition, there will be an escrow agreement as discussed above. Applicants are not aware of any material changes in the personnel that will provide investment management services during the Interim Period. Accordingly, the Fund should receive, during the Interim Period, the same investment advisory services, at the same fee levels, provided in the same manner as the Fund received before the Transaction. Applicants state that, in the event that a material change in the personnel of the Adviser or sub-adviser occurs during the Interim Period, the Adviser or sub-adviser will apprise and consult the Board, including the Independent Directors, to assure that the Board and the Independent Directors are satisfied that the services provided by the Adviser or sub-adviser will not be diminished in scope and quality.

7. Applicants assert that to deprive the Adviser or sub-advisers of fees during the Interim Period would be unduly harsh and an unreasonable penalty to attach to the Transaction. Applicants submit that adequate safeguards exist in that the fees payable to the Adviser and sub-advisers under the Interim Agreements during the Interim Period will be maintained in an interest-bearing escrow account by the Escrow Agent and that such fees will not be released by the Escrow Agent without notice to the Independent Directors and appropriate certification that the Interim Agreements have been approved by the shareholders of the Portfolios.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The Interim Agreements will be identical in substance to the Existing Agreements with the exception of the effective and termination dates.

2. Fees earned by the Adviser and sub-advisers during the Interim Period in accordance with the Interim Agreements will be maintained in an interest-bearing escrow account with an unaffiliated bank, and amounts in the account (including interest earned on such paid fees) will be paid to the Adviser, and if applicable, sub-adviser, only upon approval of the related Portfolio shareholders, or, in the

absence of such approval, to the related Portfolio.

3. The Fund will hold meetings of shareholders to vote on approval of the Interim Agreements on or before the 150th day following the termination of the Existing Agreements (but in no event later than September 30, 1998).

4. First Union will bear the costs of preparing and filing the application and the costs relating to the solicitation of shareholder approval of the Portfolios necessitated by the Transaction.

5. The Adviser and sub-advisers will take all appropriate steps so that the scope and quality of advisory and other services provided to the Portfolios during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Directors, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, the Adviser or any sub-adviser will apprise and consult with the Board to assure that the Directors, including a majority of the Independent Directors of the Fund, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9124 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39823; File No. SR–CHX–98–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 by the Chicago Stock Exchange, Incorporated Relating to the Trading of Nasdaq/NM Securities on the CHX

March 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 3, 1998, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change. The Exchange filed Amendment No. 1 to the proposal on March 25, 1998. The proposal, as amended, is described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

The Exchange requests a three month extension of the pilot program relating to the trading of Nasdaq/NM Securities on the Exchange that is currently due to expire on March 31, 1998. Specifically, the pilot program amended Article XX, Rule 37 and Article XX, Rule 43 of the Exchange's Rules and the Exchange proposes that the amendments remain in effect on a pilot basis through June 30, 1998.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 4, 1987, the Commission approved certain Exchange rules and procedures relating to the trading of Nasdaq/NM securities on the Exchange.[2] Among other things, these rules made the Exchange's BEST Rule guarantee (Article XX, Rule 37(a)) applicable to Nasdaq/NM securities and made Nasdaq/NM securities eligible for the automatic execution feature of the Exchange's Midwest Automated Execution System (''MAX system'').[3]

On January 3, 1997, the Commission approved,[4] on a one year pilot basis, a program that eliminated the requirement that CHX specialists automatically execute orders in Nasdaq/NM securities when the specialist is not quoting at the national best bid or best offer (''NBBO'').[5] When the Commission approved the program on a pilot basis, it noted that during the pilot program it was expected that the Exchange would effectuate a linkage between the CHX systems and Nasdaq systems in order to permit market makers in each market to route orders to the other market center.

The Commission also requested that the Exchange submit a report to the Commission describing the Exchange's experience with the pilot program. The Commission stated that the report should include at least six months worth of trading data. Due to programming issues, the pilot program was not implemented until April, 1997. Six months of trading data did not become available until November, 1997. As a result, the Exchange requested an additional three month extension to collect the data and prepare the report for the Commission.

On December 31, 1998, the Commission extended the pilot program for an additional three months to give the Exchange additional time to prepare and submit the report and to give the Commission adequate time to review the report prior to approving the pilot on a permanent basis.[6] The Exchange submitted the report to the Commission on January 30, 1998.

The current proposal, filed February 3, 1998 and amended March 24, 1998,[7] is for a continuation of the current pilot program through June 30, 1998.

Under the pilot program, specialists must continue to accept agency [8] market order or marketable limit orders, but only for orders of 100 to 1000 shares in Nasdaq/NM securities rather than the

[1] 15 U.S.C. § 78s(b)(1).

[2] *See* Securities Exchange Act Release No. 24424 (May 4, 1987), 52 FR 17868 (May 12, 1987) (order approving File No. SR–MSE–87–2). *See* Securities Exchange Act Release Nos. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990) (order expanding the number of eligible securities to 100); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995) (order expanding the number of eligible securities to 500).

[3] The MAX system may be used to provide an automated delivery and execution facility for orders that are eligible for execution under the Exchange's BEST rule and certain other orders. *See* CHX, Art. XX, Rule 37(b). A MAX order that fits under the BEST parameters is executed pursuant to the BEST Rule via the MAX system. If an order is outside the BEST parameters, the BEST Rule does not apply, but MAX system handling rules do apply.

[4] *See* Securities Exchange Act Release No. 38119.

[5] The NBBO is the best bid or offer disseminated pursuant to SEC Rule 11Ac1–1.

[6] *See* Securities Exchange Act Release No. 39512 (December 31, 1997), 62 FR 1517 (January 9, 1998).

[7] *See* Letter from David T. Rusoff, Foley & Lardner, to Gail A. Marshall, Division of Market Regulation, dated March 24, 1998.

[8] The term ''agency order'' means an order for the account of a customer, but shall not include professional orders as defined in CHX, Article XXX, Rule 2, interpretation and policy .04. The Rule defines a ''professional order'' as any order for the account of a broker-dealer, the account of an associated person of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest.

2099 share limit previously in place.[9] Specialists, however, must accept all agency limit order in Nasdaq/NM securities from 100 up to and including 10,000 shares for placement in the limit order book. As described below, however, specialists are required to automatically execute Nasdaq/NM order only if they are quoting at the NBBO when the order was received.

The pilot program requires the specialist to set the MAX auto-execution threshold at 1000 shares of greater for Nasdaq/NM securities. When a CHX specialist is quoting at the NBBO, orders for a number of shares less than or equal to the auto-execution threshold set by the specialist will be automatically executed (in an amount up to the size of the specialist's quote). Orders in securities quoted with a spread greater than the minimum variation are executed automatically after a fifteen second delay from the time the order is entered into MAX. The size of the specialist's bid or offer is then automatically decremented by the size of the execution. When the specialist's quote is exhausted, the system will generate an autoquote at an increment away from the NBBO, as determined by the specialist from time to time, for either 100 or 1000 shares, depending on the issue.[10]

When the specialist is not quoting a Nasdaq/NM security at the NBBO, it can elect, on an order-by-order basis, to manually execute orders in that security. If the specialist does not elect manual execution, MAX market and marketable limit orders in that security that are of a size equal to or less than the auto-execution threshold will automatically be executed at the NBBO after a twenty second delay.[11] If the specialist elects manual execution, the specialist must either manually execute the order at the NBBO or a better price or act as agent for the order in seeking to obtain the best available price for the order on a marketplace other than the Exchange. If the specialist decides to act as agent for the order, the pilot program requires the specialist to use order-routing systems to obtain an execution where appropriate. Market and marketable limit orders that are for a number of shares greater than the auto-execution threshold are not subject to these requirements, and may be canceled within one minute of being entered into MAX or designated as an open order.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those than may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the Exchange. All submissions should refer to file number SR–CHX–98–03 and should be submitted by April 29, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the Exchange's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires that an exchange have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Section 11A(a)(1)(C) and 11A(a)(1)(D) of the Act because the Exchange's proposal conforms CHX specialist obligations to those applicable to OTC market makers in Nasdaq/NM securities, while CHX provides a separate, competitive market for Nasdaq/NM securities.

The Commission notes however, that, while the Exchange has been working towards establishing a linkage, specialists and OTC market makers do not yet have an effective method of routing orders to each other. The Commission expects the Exchange to continue to work towards establishing a linkage with the Nasdaq systems as requested in the January 3, 1997 order.[13] The Commission is approving the extension of the pilot so that the rules of the exchange will operate without interruption.

The Commission therefore finds good cause for approving the proposed rule change (SR–CHX–98–03) prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2),[14] that the proposed rule change be, and hereby is, approved through June 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9127 Filed 4–7–98; 8:45 am]

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[9] The 100 to 2099 share auto-acceptance threshold previously in place continues to apply to Dually Listed securities (those issues that are traded on the CHX and are listed on either the New York Stock Exchange or American Stock Exchange).

[10] Specifically, the autoquote is currently for one normal unit of trading (usually 100 shares) in issues that became subject to mandatory compliance with SEC Rule 11Ac1–4 on or prior to February 24, 1997, and for 1000 shares in other issues.

[11] The twenty second delay is designed, in part, to provide an opportunity for the order to receive price improvement from the specialist's displayed quote.

[12] 15 U.S.C. § 78f(b)(5).

[13] *See* Securities Exchange Act Release No. 38119 (January 3, 1997), 62 FR 1788 (January 13, 1997).

[14] 15 U.S.C. § 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39822; File No. SR–CHX–98–5]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Utilization of Exempt Credit by Market Makers

March 31, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 18, 1998, the Chicago Stock Exchange, Inc. (''CHX'' or '''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend an interpretation to Article XXXIV, Rule 16 of its rules relating to registered market makers' utilization of exempt credit.[2]

II. Self Regulatory Organization's Statement of the Purpose of, and Statutory basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Self-regulatory Organization's Statement of the Purpose of, and Statutory basis for the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify an interpretation regarding market makers and exempt credit. Interpretation .01 to Article XXXIV, Rule 16 sets forth certain parameters that market makers must satisfy to obtain exempt credit for financing their market maker transactions. The Interpretation specifies that 50% of the quarterly share volume which creates or increases a position in a market maker account must result from transactions consummated on the Exchange or sent from the Exchange floor for execution in another market via the Intermarket Trading System (''ITS''). The Exchange seeks to modify this interpretation by eliminating the reference to ''creating or increasing a position,'' thereby including all transactions consummated on the Exchange or sent from the Exchange floor via ITS in determining a market maker's ability to use exempt credit.

In providing assistance in maintaining a fair and orderly market, a market maker may be required to decrease either a long or a short position in a particular security. Thus, a market maker may from time to time engage in transactions that decrease its position which contributes to the depth and liquidity of the market. The proposed change in interpretation would make it clear that transactions that decrease a position in a market maker account will be treated the same way as those that create or increase a position for purposes of determining compliance with the 50% volume requirement in order to obtain exempt credit.

The proposed interpretation is consistent with the policies of other exchanges. For example, both the Pacific Exchange and the Chicago Board Options Exchange consider *total* transactions in determining whether a market maker has executed a certain percentage of its transactions in person.[3]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5)[4] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the submission is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room 450 Fifth Street, N.W., Washington, D.C. 25049. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–98–5 and should be submitted by April 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–9131 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] The Board of Governors of the Federal Reserve System is authorized, pursuant to Section 7 of the Act, to establish initial margin requirements and credit restrictions on margin financing. 12 CFR § § 220 and 221. Bona fide market making activity, however, may be exempt from these credit restrictions. As a result, a market maker may arrange for margin financing on the basis of its credit worthiness.

[3] *See* Pacific Exchange Rule 6.32, Commentary .02; and Chicago Board Options Exchange Rule 8.7, Interpretation .03.

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.20–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39824; File No. SR–DCC–98–03]

Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Order Granting Accelerated, Temporary Approval of a Proposed Rule Change Relating to Margin Requirements for Overnight Repurchase Agreements

April 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 20, 1998, Delta Clearing Corp. (''DCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been primarily prepared by DCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change through March 31, 1999.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to extend the temporary approval for DCC's rules regarding the collection of margin for overnight repurchase and reverse repurchase agreements (''overnight repos'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DCC included statements concerning the purpose of and basis for the proposed rule change and any comments received by DCC on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DCC seeks an extension of the temporary approval of its rules relating to the collection of margin for overnight repos. On April 2, 1997, the Commission granted approval of DCC's overnight repo margining rules through September 30, 1997.[3] On September 30, 1997, the Commission granted accelerated approval of DCC's overnight repo margining rules through March 31, 1998.[4]

Prior to the proposed rule change, DCC calculated each participant's margin requirement for all repos, including overnight repos, at the end of each business day and required margin to be deposited by 11:00 a.m. the next business day. DCC does not believe that this procedure is appropriate for overnight repos because overnight repos terminate on the following day. As a result, DCC amended its procedures for calculating and collecting margin for overnight repos.[5]

These procedures require each participant which engages in overnight repos to deposit with DCC as core margin either $1 million or a greater amount as determined by DCC at the end of each week based upon the participant's daily overnight repo exposures during the eight prior weeks.[6] If DCC determines as a result of any weekly calculation that a participant is required to maintain a higher core margin amount on deposit with DCC, DCC will notify the participant of such higher core margin requirement by 3:00 p.m. on that date of the calculation, and the participant is required to deposit by 11:00 a.m. on the following business day margin whose value equals or exceeds the participant's additional margin requirement. Such deposit must be in cash or U.S. Treasury securities.

In addition to the weekly calculation described above, DCC calculates on each business day each participant's mark-to-market exposure from overnight repos. If a participant's exposure from overnight repos exceeds 65 percent of the participant's core margin requirement, DCC requires the participant to deposit additional margin equal to the amount of such excess. Such additional margin must be deposited with DCC no later than 5:00 p.m. on the applicable business day. If additional margin is required, DCC may apply towards a participant's exposures on overnight repos excess margin maintained by the participant with DCC which is not then being used to collateralize other margin obligations to DCC. However, DCC may not apply a participant's core margin amount maintained with DCC towards other margin obligations to DCC arising from options transactions or term repos.

In connection with the proposed rule change, DCC agreed that during the temporary approval period, the Commission may request reports detailing the operation of the margining system for overnight repos. DCC instituted the new margining system on July 1, 1997, and has been periodically providing reports to the Commission since that time.

DCC believes the proposed extension of the temporary approval of the proposed rule change is consistent with the requirements of Section 17A of the Act[7] and the rules and regulations promulgated thereunder because the proposed rule change will better enable DCC to safeguard the funds and securities under its possession and control by giving DCC procedures to help assure that it has adequate collateral to address a participant's default or insolvency.

B. Self-Regulatory Organization's Statement on Burden on Competition

DCC does not believe that the proposed rule change will impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A (b)(3)(F)[8] of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that DCC's proposed rule change is consistent with this obligation because the proposal provides for: (1) a minimum core margin requirement to reflect DCC's exposure to each participant's overnight repo activity and (2) an intraday margin requirement that is triggered if a participant's mark-to-market exposure is valued at more than 65 percent of the core requirement. Therefore, the

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DCC.

[3] Securities Exchange Act Release No. 38471 (April 2, 1997), 62 FR 17257.

[4] Securities Exchange Act Release No. 39174 (October 7, 1997), 62 FR 52368.

[5] For a detailed description of DCC's overnight repo margin procedures, refer to Securities Exchange Act Release No. 38471 (April 2, 1997), 62 FR 17257.

[6] Overnight repos are defined as repo agreements whose off-date is the immediately succeeding business day following the on-date for such transactions. Term repos are defined as repos agreements whose off-date is two or more business days following the on-date for such transactions.

[7] 15 U.S.C. 78q-1

[8] 15 U.S.C. 78q–1(b)(3)(F)

Commission believes that the proposal should provide to DCC margin in an amount that will assist DCC in meeting its obligation to safeguard securities and funds.

Currently, DCC has operated its new margining system for only nine months. Therefore, the Commission believes that it is appropriate to extend temporary approval of the proposal in order that the Commission and DCC will have opportunity to further monitor the effectiveness of the new system in practice. Accordingly, the Commission is temporarily approving the proposed rule change through March 31, 1999. During this temporary approval period, upon the Commission's request DCC will submit reports detailing its analysis of its overnight repo margining system.

DCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because accelerated approval will allow DCC to continued to use its overnight repo margining procedures without interruption when the current temporary approval period expires on March 31, 1998.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the File No. SR–DCC–98–03 and should be submitted by April 29, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DCC–98–03) be, and hereby is, approved through March 31, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9129 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39825; File No. SR–PCX–98–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Relating to a Supervisory Specialist Pilot Program

April 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to adopt a pilot program, effective for one year, under which PCX specialist firms may operate two specialist posts based upon one Exchange membership.[3] The text of the proposed rule change is available at the Office of the Secretary, PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In an effort to streamline the way business is conducted on the Equities Floors of the PCX, and to provide Specialist Firms with greater control over the management and costs of their operations, the Exchange is proposing to adopt the Supervisory Specialist Pilot Program (''Program''). The Exchange's Executive Committee will permit qualified Specialist Firms to participate in the Program during the pilot, which is set to expire one year from the date of SEC approval. Throughout the course of the Program, the Executive Committee will seek to assure an orderly transition of Specialist Firms into the Program. The Program will apply to trading on the Equities Floors only and will not apply to trading on the Options Floor.

Under the Program, a Specialist Firm may operate two specialist posts based upon one Exchange membership, provided that both posts will be staffed by Specialists who have been qualified by the Exchange as Registered Specialists under the rules of the Exchange.[4] The Program will permit one specialist post to be staffed by a Member who is registered as the supervising specialist (the ''Supervisory Specialist''), while the other post is staffed by an Associated Person of the Specialist Firm who is otherwise qualified to act as a Registered Specialist (the ''Associate Specialist''). Under the Program, the Supervisory Specialist will act as supervising specialist over the Associate Specialist.

Under the Program, both the Supervisory Specialist and the Associate Specialist will be obligated to pay the dues, fees and charges as specified in the Exchange's Schedule of Fees and Charges for Exchange Services.

Specialist Firms may apply to participate in the Program by submitting an application to the Executive Committee. In determining whether to approve an application, the Executive Committee will take into account certain relevant factors including those specified below. The Executive

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved, on an accelerated basis, the Exchange's companion filing of a proposed rule change for a temporary, ninety day, Supervisory Specialist Pilot Program. *See* Securities Exchange Act Release No. 34–39787 (March 24, 1998).

[4] *See e.g.*, PCX Rule 5.27.

Committee may, at its discretion, approve a Specialist Firm to participate in the Program based on the following primary factors: the applicant Specialist Firm's current cost of operating its specialist posts, including the rental cost (if any) of each seat; whether the value and revenue stream from existing specialist posts will be retained if the application is approved; and whether the long-term viability of the business and trading volume of a specialist post will be retained if the application is approved. The Executive Committee will also take into account the following secondary factors in reviewing an application: the past experience of individuals who are proposed to serve as Specialists under the Program; recent specialist performance ratings of individuals who are proposed to serve a Specialists under the Program (these ratings should include evaluation scores for the last eight quarters, if they are available); [5] the disciplinary history of the Specialist Firm and the individuals who are proposed to serve as Specialists under the Program; and other relevant factors that the applicant wishes the Executive Committee to consider.

The Executive Committee will oversee the implementation of the Program and will study the impact of the Program on the quality of markets at specialist posts operating under the Program. Based on this study, the Executive Committee may adopt more specific standards and procedures for operating the Program. The Executive Committee is not required to approve any number of applicants, and there are no limits on the number of applicants who may be approved under the Program. Applicants, however, are restricted to Exchange Members with seats on the Equity floor, and no more than two specialist posts may be operated per membership.[6]

Under the Program, a Specialist Firm may operate two trading posts based upon one membership, provided that the following conditions are met:

a. The two trading posts must be contiguous.

b. Each post must be operated by a person who meets all of the qualifications of a Registered Specialist. Specifically, each Associate Specialist must achieve a passing grade of at least 80% on a written examination for Registered Specialists prepared by the Exchange. This is the same examination and the same passing score required for all Registered Specialists, as provided in PCX Rule 5.27(c)(ii).

c. The Supervisory Specialist must be registered with the Exchange as a ''Member'' as defined in PCX Rule 1.1(i). The Associate Specialist must be an ''Associated Person'' of the Specialist Firm as defined in PCX Rule 1.1(d) and must meet the requirements of PCX Rule 5.27(b)(3) (''Associate Specialist Defined'').

d. The Supervisory Specialist will act as supervising specialist over the Associate Specialist.

e. The performance of the Supervising Specialist and the Associate Specialist will be evaluated individually pursuant to PCX Rule 5.37 (''Evaluation of Specialist Performance'').

Under the Program, an Associate Specialist will be deemed to be a Registered Specialist for all purposes under the rules of the Exchange, unless otherwise specified herein.[7]

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)[8] of the Act, in general, and Section 6(b)(5),[9] in particular, in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–13 and should be submitted by April 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9128 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

[5] Supervisory and Associate Specialists will be evaluated pursuant to the criteria set forth in PCX Rule 5.37(a). The five separate measures of performance are (1) Executions, (2) Specialist Evaluation Questionnaire Survey, (3) Book Display Time, (4) Post 1 P.M. Parameters and (5) Quote Performance.

[6] Telephone conversation between Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, and Marc McKayle, Attorney, Division of Market Regulation, Commission (March 23, 1998).

[7] In addition to the Exchange requirements as discussed above, the Associate Specialist (as well as the Supervisory Specialist) must comply with all applicable federal securities law requirements. *See e.g.*, Exchange Act section 15 (requiring broker-dealers to register with the Commission).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39818; File No. SR–PCX–98–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Relating to the Treatment of PMP Orders Generated Through the Matching of Profiles by the PCX Application of the OptiMark System

March 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 2, 1998, the Pacific Exchange (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is filing a proposed rule change to amend its interpretation of Rule 5.32(a) ''PMP-Only'' of its Rules of Board of Governors so that it will clarify how PMP orders will be treated when generated from the matching of Profiles through the PCX Application of the OptiMark System (''PCX Application'').[3] A new commentary has been added to Rule 5.32(a) and is attached as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. § 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] For a description of the PCX Application of the OptiMark System, *see* Securities Exchange Act Release No. 39086 (Sept. 17, 1997), 62 FR 50036 (Sept. 24, 1997) (Commission order granting approval for the PCX Application).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PCX will modify the interpretation of its Rule 5.32(a) so that executions resulting from the operation of the PCX Application would be considered as a part of the ''primary market'' for the purposes of execution of orders marked ''PMP.'' The purpose of the proposed interpretation of the rule is to respond to the SEC staff's request to clarify the Rule 5.32(a) ''PMP Only.'' Through the addition of proposed Commentary .01, Rule 5.32(a) would be interpreted as meaning that during regular ''primary'' market trading hours, an order specifically marked ''PMP'' would receive primary market protection, which would include not only the traditional primary markets (*e.g.*, New York markets) but also matches resulting from the PCX Application. Accordingly, executions resulting from the PCX Application may trigger the execution of an order marked ''PMP Only,'' even if the markets in New York have not traded at that price. Similarly, a PMP order reflected *into* the PCX Application as a Profile, which is matched in the PCX Application and results in an execution, would require that such PMP limit order be filled, even if the price is out of range from an otherwise existing ''primary'' market, however defined. This would then be consistent with the overall premise that under no circumstance can a specialist accept an execution arising out of orders generated from a cycle of the PCX Application, without also executing any eligible booked orders that were put in the book before the cycle began.

The proposed rule change interpretation is consistent with the provisions of Section 6(b)(5) of the Exchange Act in that the PCX Application is a facility that is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the PCX believes that the proposed rule change is consistent with provisions of Section 11A(a)(1)(B) of the Exchange Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–12 and should be submitted by April 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

Exhibit A—Additions are in italics Text of Rule 5.32(a) PMP Round Lots

¶ 4279

PMP-Only

Unless otherwise designated all round lot orders in PMP stocks will be executed against primary market prices only and such orders will not be effective when the primary market is closed.

Commentary .01. During regular ''primary'' market trading hours, an order specifically marked ''PMP'' shall receive primary market protection based on the first applicable transactions in the traditional primary markets (e.g., New York Stock Exchange and American Stock Exchange) or matches resulting from the PCX Application of the OptiMark System.

[FR Doc. 98–9130 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39826; File No. SR–PTC–98–01]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to a Decrease in the Number of Directors

April 1, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 17, 1998, the Participants Trust Company (''PTC'') filed with the Securities and exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by PTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change. The staff of the Board of Governors of the Federal Reserve System concurred with the Commission's granting of accelerated approval.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] Telephone conversation with John Rudolph, Supervisory Trust Analyst, Board of Governors of the Federal Reserve Board.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves an amendment to PTC's by-laws to reduce the number of directors on its board from fifteen to twelve.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will amend Section 3.2 of Article 3 of PTC's by-laws. Under the proposed rule change, the number of directors on PTC's board will be reduced from fifteen to twelve. This amendment will also reduce the number of directors in each of the three classes from five to four.

PTC believes that the decrease in the number of directors is desirable because of consolidations and shifts in the broker-dealer and banking industries and reductions in the number of PTC participants and institutions seeking representation on PTC's board. Additionally, PTC believes this rule change is desirable due to the difficulty in finding qualified individuals to serve a three-year term on the board. Because PTC's board currently has three vacancies, the decrease in director positions will neither eliminate any incumbent director nor shorten the term of any director.

PTC believes that the proposed rule change provides for the fair representation of shareholders and participants in the selection of PTC's directors and the administration of PTC's affairs and therefore that it is consistent with Section 17A(c)(3)(C) of the Act and the rules and regulations thereunder applicable to PTC.[4]

[3] The Commission has modified the text of the summaries prepared by PTC.

[4] 15 U.S.C. 78q–1(b)(3)(C).

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

PTC has not solicited and does not intend to solicit comments on this proposed rule change. PTC has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(C) provides that the rules of a clearing agency must provide for the fair representation of its shareholders or members and participants in the selection of directors. The Commission believes that the board of a clearing agency should be representative of its members and that no single member should dominate the board. As a result of consolidations in the industry, there is a smaller pool of qualified individuals available and willing to fill the vacancies on PTC's board. The Commission believes that PTC's reduction of the size of its board is consistent with the Act's fair representation requirements because the resized board should allow the board to more accurately reflect PTC's membership.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in order that this reduction be implemented with the election of directors held at PTC's 1998 annual stockholders meeting which is scheduled for April 9, 1998. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval will give PTC adequate time to send out proxy statements to participants for its April 9, 1998, annual board meeting.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W.,

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–98–01 and should be submitted by April 29, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–PTC–98–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–9126 Filed 4–7–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 98–01–32 established the currently effective two-month SFFL applicable through March 31, 1998.

In establishing the SFFL for the two-month period beginning April 1, 1998, we have projected non-fuel costs based on the year ended December 31, 1997 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 98–4–5 fares may be increased by the following adjustment factors over the October 1979 level:
Atlantic: 1.3794
Latin America: 1.5089
Pacific: 1.5764

FOR FURTHER INFORMATION CONTACT: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation:

Dated: April 2, 1998.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 98–9132 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–13–P

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Dade, Broward, Palm Beach, Martin, Okeechobee, Saint Lucie, Indian River, Brevard, Oceola, Orange, Polk, and Hillsborough Counties in Florida

AGENCIES: Federal Highway Administration (FHWA) and Federal Railroad Administration (FRA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA and FRA are issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed Florida High Speed Rail project between Miami, Orlando, and Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: George Hadley, Environmental Coordinator, Federal Highway Administration, 227 North Bronough Street, Tallahassee, Florida 32301, (850) 942–9594 and/or Mark Yachmetz, RDV–13, Chief of Passenger Programs, Federal Railroad Administration, 400 Seventh Street, S.W., MS–20, Washington D.C. 20590, (202) 632–3855.

SUPPLEMENTARY INFORMATION: The FHWA and FRA in cooperation with the Florida Department of Transportation, will prepare an EIS for a proposal to construct a high speed rail project between Miami, Orlando, and Tampa, Florida. The project would be approximately 320 miles long. The proposed project includes acquisition of right of way, construction of guide way structures and track, stations, park and ride lots, storage and maintenance facilities, and other ancillary facilities. The facilities would be built to allow trains to operate at speeds up to 200 miles per hour. The high speed rail would provide service to business and tourist travelers.

Alternatives under consideration include: (1) the ''no build alternative; and, (2) build alternatives in a variety of corridors. The corridor alternatives traverse areas where various social, economical, and environmental resources and issues are believed to exist. The resources and issues include but are not limited to: wetlands, cultural resources, water quality issues including sole source aquifers, safety, residential and business relocations, wildlife and habitat, farmland, and land use planning, parklands, economic, and floodplains.

Notices describing the proposed action and soliciting comments have been and will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have expressed an interest in this proposal. Interagency and public meetings and public hearings will be held in several locations in the project area. Information on the time and place of the public meetings and hearings will be provided in the appropriate local news media. There are tentative plans to hold a scoping meeting in or near Orlando, Florida on May 12, 1998.

Comments and suggestions are invited from all interested parties to insure the full range of issues related to the proposed action and alternatives are addressed and all significant issues are identified. Comments and questions concerning the proposed action should be directed to the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued: March 31, 1998.

J.R. Skinner,

Division Administrator, Federal Highway Administration.

[FR Doc. 98–9121 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Sunday, May 3, 1998. The following designations are made for each item: (A) is an ''action'' item; (I) is an ''information item;'' and (D) is a ''discussion'' item. The agenda includes the following: (1) Call to Order and Introductions (I); (2) Statements of Anti-Trust Compliance and Conflict of Interest (A); (3) Approval of Last

Meeting's Minutes (A); (4) Federal Report (I&D); (5) ITS America IVI Activities; (6) Update on Board Governance Policy Task Force; (7) Report of the Planning Committee: Strategic Plan Update/National Research Agenda (D); (8) ITS in Nagano Winter Olympic Games (I/D); (9) Professional Capacity Building Update (I); (10) FCC Frequency Petition Update (I); (11) ITS America Web Site; (12) Report on the ITS World Congresses (I/D); (13) ISTEA Reauthorization Update (I/D); (14) APTA/ITS America Memorandum of Understanding (I/D); (15) ITS America 8th Annual Meeting Update (I/D); (16) Roundtable Discussion of Committee and Task Force Activities—Committee and Task Force Chairs (I/D); (17) Other Business. *Additional Information:* DSRC Status Report and Coordinating Council Meeting Dates.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Sunday, May 3, 1998, from 1 p.m. to 5 p.m. (Eastern Standard time).

ADDRESSES: The Westin Hotel, Renaissance Center, Detroit, Michigan, 48243. (No street address provided). Mackinac Ballroom. Phone: (313) 568–8000 and Fax: (313) 568–8118.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue, SW., Suite 800, Washington, D.C. 20024. Persons needing further information or to request to speak at this meeting should contact Kenneth Faunteroy at ITS AMERICA by telephone at (202) 484–4130, or by FAX at (202) 484–3483. The DOT contact is Mary Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5:00 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: April 3, 1998.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 98–9254 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Wednesday, May 6, 1998. The meeting begins at 1:00 p.m. The letter designations that follow each item mean the following: (I) Is an information item; (A) is an action item; (D) is a discussion item. The General Session includes the following items: (1) Introductions and ITS America Antitrust Policy and Conflict of Interest Statements; (2) Review and Approval of Previous Meeting's Minutes (A); (3) Review and Acceptance of Election Results: Installation of New Board Members (A); (4) Election of New Officers of the Board of Directors (A). Then, there will be a transfer of the gavel from the outgoing Chairman to the incoming Chairman. (5) Federal Report (A); (6) Appointment of At-large Coordinating Council Members (A); (7) Appointment of State Chapters Council Officers (A); (8) Coordinating Council Report (I/D); (9) State Chapters Council Report (I/D); (10) President's Report (I/D); (11) Eighth Annual Meeting Update and Report of the World Congresses (I); (12) Plans for Board of Directors Workshop (August 4–5, 1998) (I/D); (13) Report on ITS in Japan; (14) ISTEA Reauthorization Update; (15) ITS Awareness Program Plans (I/D); (16) Other Program Business.

4 p.m. Business Session (Board Members, ITS America Members, and Staff only.) (17) President Search Committee Report (I); (18) Report of the Membership Committee (I); (19) Report of the Administrative Policy and Finance Committee (I/D); (20) Bylaws Committee Report (A); (21) Governance Policy Discussion (I/D); (22) New Board of Directors Committee Assignments (A); (23) Other Business; (24) Adjournment until August 4–5, 1998, Board of Directors Workshop in Savannah, GA.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Wednesday, May 6, 1998, from 1:00 p.m.–5:00 p.m.

ADDRESSES: The Westin Hotel, Renaissance Center, Detroit, Michigan 48243. (No street address provided.) The Mackinac Ballroom, Level 5. Phone: (313) 568–8000 and fax: (313) 568–8118.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, D.C. 20024. Persons needing further information or who request to speak at this meeting should contact Kenneth Faunteroy at ITS AMERICA by telephone at (202) 484–4130 or by FAX at (202) 484–3483. The DOT contact is Mary C. Pigott, FHWA, HVH–1, Washington, D.C. 20590, (202) 366–9230. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: April 3, 1998.

Jeffrey Paniati,

Deputy Director, ITS Joint Program Office.

[FR Doc. 98–9255 Filed 4–7–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Assistant Secretary for Management and Chief Financial Officer, IRS Citizen Advocacy Panel; Notice of Solicitation of Panel Members for the South Florida Tax District

The Department of the Treasury is establishing IRS Citizen Advocacy Panels to provide independent monitoring of the quality of IRS customer service and to make recommendations to improve that service throughout the country. The first Citizen Advocacy Panel (CAP) will for formed in the South Florida Tax District which includes the counties of Broward, Dade, Monroe, Charlotte, Collier, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Sarasota, Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie. An independent consulting firm, Booz-Allen and Hamilton, Inc., is accepting applications for membership in the South Florida CAP between April 6 and April 24, 1998. The South Florida CAP will be operational in the spring of 1998.

The mission of the Panel is to provide citizen input into enhancing IRS

customer service by identifying problems and making recommendations for improvement of IRS systems and procedures; elevate the identified problems to the appropriate IRS official and monitor the progress to effect change; and refer individual taxpayers to the appropriate IRS office for assistance in resolving their problems. The South Florida Panel will consist of 7–12 volunteer members who serve at the pleasure of the Secretary of the Treasury and will function solely as an advisory body.

The Panel is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 100 hours a year, and a desire to help improve IRS customer service. To the extent possible, the IRS would like to ensure a balanced membership representing a cross-section of the tax paying public in the South Florida Tax District. Potential candidates must be US citizens, legal residents of one of the counties in the South Florida Tax District, compliant with Federal, State, and Local taxes, and pass an FBI background check.

For the South Florida CAP to be most effective, members should have experience in some of the following areas: community affairs; development of effective communications networks within the community; representing the interests of diverse groups; communicating in a multi-cultural/multi-lingual environment; listening, communicating, negotiating, and resolving conflicts; formulating, developing, and presenting proposals; and customer service.

Booz-Allen & Hamilton, Inc., will manage the selection process. Interested applicants should first call the following toll free number, 1–888–449–1071, and complete an initial phone screen. If the applicant passes the phone screen, an application package will be sent to them directly. Completed applications will be reviewed, tax background checks and FBI checks will be conducted, and panel interviews will be scheduled for the most qualified candidates. Final candidates will be ranked by skills/experience and suitability. The Secretary of the Treasury will review the candidates and make final selections.

Questions regarding the establishment and selection of the IRS South Florida Citizen Advocacy Panel may be directed to Michael Lewis, Director, IRS Citizen Advocacy Panel, Office of the Assistant Secretary for Management and Chief Financial Officer, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Room 2426, Washington, DC 20220 (202) 622–3068.

Angel E. Ray,

Committee Management Officer.

[FR Doc. 98–9133 Filed 4–7–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 98–27

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 98–27, Qualified Intermediaries (QI).

DATES: Written comments should be received on or before June 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Intermediaries (QI).

OMB Number: 1545–1597.

Revenue Procedure Number: Revenue Procedure 98–27.

Abstract: This revenue procedure gives guidance for entering into a withholding agreement with the IRS to be treated as a Qualified Intermediary (QI) under regulation section 1.1441-1(e)(5). It describes the application procedures for becoming a QI and the terms that the IRS will ordinarily require in a QI withholding agreement. The objective of a QI withholding agreement is to simplify withholding and reporting obligations with respect to payments of income made to an account holder through one or more foreign intermediaries.

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: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 88,504.

Estimated Time for QI Account Holder: 30 minutes.

Estimated Time for a QI: 2,093 hours.

Estimated Total Annual Reporting/Recordkeeping Hours: 301,393.

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: April 2, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–9249 Filed 4–7–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Late Paid Schedule C Health Care Study

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Late Paid Schedule C Health Care Study.

DATES: Written comments should be received on or before June 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Late Paid Schedule C Health Care Study.

OMB Number: To be assigned later.

Abstract: This is a survey for quantitative research to identify potential causes and remedies for late payment of federal income taxes by Form 1040 Schedule C filers in the health care industry. The data developed in this research will be used to formulate strategies for reducing late tax payments by health care sole proprietors.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,430.

Estimated Time Per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 170.

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: April 2, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–9250 Filed 4–7–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''ALEKSANDER RODCHENKO'' (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Museum of Modern Art from June 25 to October 6, 1998 is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: April 2, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–9141 Filed 4–7–98; 8:45 am]

BILLING CODE 8320–01–M

[1] A copy of this list may be obtained by contacting Ms. Jacqueline Caldwell, Assistant General Counsel, at (202) 619–6982. The address is U.S. Information Agency, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Federal Register

Wednesday
April 8, 1998

Part II

Department of Energy

10 CFR Part 625

Price Competitive Sale of Strategic Petroleum Reserve Petroleum, Standard Sales Provisions; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 625

RIN Number 1901–AA81

Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions

AGENCY: Department of Energy.

ACTION: Proposed rule and request for comments.

SUMMARY: On December 21, 1983, the Department of Energy (DOE) published in the **Federal Register** a final rule governing the price competitive sales of petroleum from the Strategic Petroleum Reserve (SPR) in the event that the SPR is drawn down to respond to a severe energy supply interruption or to meet obligations of the United States under the Agreement on an International Energy Program. The final rule provided for the publication and periodic update in the **Federal Register**, as an appendix thereto, of Standard Sales Provisions (SSPs) containing or describing contract clauses, terms and conditions of sale, and performance and financial responsibility measures, which may be applicable to a particular sale of SPR petroleum. First published in interim final form on January 20, 1984, the SSPs have since been updated several times, with the latest version published in the **Federal Register** on December 11, 1992. DOE is now proposing revised SSPs that would supersede the 1992 SSPs, and DOE solicits written comments with respect to these proposed revised SSPs.

DATES: Interested persons are invited to submit written comments at the address below by May 26, 1998.

ADDRESSES: Send comments to: Nancy T. Marland, U.S. Department of Energy, Strategic Petroleum Reserve, FE–43, Room 3G–070, 1000 Independence Ave., SW., Washington, DC 20585–0340.

Comments may also be submitted by use of the Internet by linking to the DOE Fossil Energy web site at: http://www.fe.doe.gov/spr.html

FOR FURTHER INFORMATION CONTACT:

Nancy T. Marland, U.S. Department of Energy, Strategic Petroleum Reserve, FE–43, Room 3G–070, 1000 Independence Ave., SW., Washington, DC 20585–0340, Phone: (202) 586–4691, Fax: (202) 586–7919, Internet: nancy.marland@hq.doe.gov

Gary C. Landry, FE–4451, U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, 900 Commerce Road East, New Orleans, LA 70123, Phone: (504) 734–4660; *Fax:* (504) 734–4947; *Internet:* gary.landry@spr.doe.gov

Lot H. Cooke, U.S. Department of Energy, Office of Assistant General Counsel for Fossil Energy, GC–40, Room 6E–042, 1000 Independence Ave., SW., Washington, DC 20585–0103, Phone: (202) 586–6667; Fax: (202) 586–0971; lot.cooke@hq.doe.gov

SUPPLEMENTARY INFORMATION:

I. Background
- A. The Strategic Petroleum Reserve Drawdown Plan and Sales Rule
- B. General Sales Procedures

II. The Revised Standard Sales Provisions
- A. Major Revisions
- B. Revised Provisions

III. Procedural Requirements
- A. Review Under Executive Order 12866
- B. Review Under the National Environmental Policy Act
- C. Review Under Regulatory Flexibility Act
- D. Review Under the Paperwork Reduction Act of 1995
- E. Review Under Executive Order 12612
- F. Review Under the Unfunded Mandate Reform Act of 1995
- G. Review Under Executive Order 12988

I. Background

A. The Strategic Petroleum Reserve Drawdown Plan and Sales Rule

The Strategic Petroleum Reserve (SPR) was established by the Energy Policy and Conservation Act of 1975 (EPCA), P.L. 94–163, to store petroleum to diminish the impact of disruptions on petroleum supplies and to carry out the obligations of the United States under the International Energy Program. EPCA required the preparation of an ''SPR Plan'' detailing proposals for the development of the SPR. The SPR Plan was to include a Distribution Plan setting forth the methods for drawing down and distributing the SPR in the event of an emergency. In 1979, a detailed Distribution Plan was transmitted to Congress as Amendment No. 3 to the SPR Plan. This Distribution Plan set out a number of alternative distribution methods, ranging from allocation to price competitive sales.

In the Energy Emergency Preparedness Act of 1982, P.L. 97–229, Congress required a new ''Drawdown'' (Distribution) Plan. The new plan, SPR Plan Amendment No. 4, was transmitted to Congress on December 1, 1982, and provided that the principal method of distributing SPR oil would be price competitive sale.

On March 16, 1983, DOE published a notice of proposed rulemaking (48 FR 11125) to establish a framework for implementing the policies and procedures set out in SPR Plan Amendment No. 4. The final SPR sales rule (published at 48 FR 56538, December 21, 1983), adopted after consideration of public comments, provides for the establishment of Standard Sales Provisions (SSPs), containing contract terms and conditions expected to be contained in contracts for the sale of SPR petroleum. The final SPR sales rule is at 10 CFR Part 625. The rule calls for the publication of the SSPs in the **Federal Register** and the Code of Federal Regulations as an appendix to the rule. The rule also provides for the periodic review and republication of the SSPs in the **Federal Register**, including any revisions to such provisions.

Upon a Presidential decision to draw down the SPR, DOE would issue a Notice of Sale, announcing the amounts and types of the SPR petroleum to be sold, the delivery locations and modes, and other pertinent information. The rule provides that the Secretary of Energy or his designee would specify in the Notice of Sale, by referencing the latest version of the SSPs, which of the terms and conditions in the SSPs would or would not apply to a particular sale. In addition, in the Notice of Sale, the Secretary could revise the terms and conditions, or add new ones applicable to that sale. It should be noted that the latest revision of the SSPs, published in the **Federal Register** on December 11, 1992 (57 FR 58872), was never codified as an appendix to the rule in the Code of Federal Regulations. The changes noted in the revisions below are changes to that latest **Federal Register** version and, if promulgated, will supersede the 1992 SSPs.

In the event that an SPR sale does occur before the proposed SSP revisions herein are formally adopted, the Notice of Sale could specify some or all of these revisions for use.

B. General Sales Procedures

Under the current SSPs, the first step in the SPR competitive sales process is the issuance of a Notice of Sale which lists the volume, characteristics, and location of the petroleum for sale, delivery dates and procedures for submitting offers, as well as measures for assuring performance and financial responsibility.

Over the course of a drawdown, several Notices of Sale may be issued, each covering a sales period of one to two months. Offerors may have only seven days from the date of issuance until offers are due, and thirty days or less until purchasers must begin accepting delivery of the oil, although a less compressed schedule may become more feasible after the initial stages of drawdown. Because of the possible short lead time and as provided in the

SSPs, DOE maintains a list of prospective offerors who will receive all Notices of Sale.

The next step in the sales process is for prospective purchasers to submit offers, as specified in the Notice of Sale. Offerors must unconditionally accept all terms and conditions in the Notice of Sale, submit an offer guarantee, and offer at least the minimum price, if any, specified in the Notice of Sale. After submission, the offers are evaluated and ''apparently successful offerors'' are selected. The offer evaluation process is structured so that the offerors bidding the highest prices determine their method of delivery, up to the limits of the distribution system, with specific delivery arrangements negotiated later in the process.

All apparently successful offerors are required, within five business days of being notified, to provide a letter of credit as a guarantee of performance and payment of amounts due under the contract. Upon timely receipt of the letters of credit, and a final determination by the Contracting Officer that offers are responsive and offerors responsible, the DOE issues the Notices of Award. Deliveries then commence to the purchasers, consistent with their arrangements for commercial pipeline or marine vessel transportation. Purchasers are invoiced following crude oil deliveries.

II. The Revised Standard Sales Provisions

A. Major Revisions

The SSPs are being revised in accordance with the SPR sales rule. The revisions reflect a number of events, including experience gained through various sales, the relocation of inventory within the SPR, commercialization of SPR distribution facilities, the addition of new distribution points, the growth of electronic communications, and changes to the legal and regulatory framework under which a drawdown would be conducted. Although the revised SSPs do not reflect any major changes to the elemental competitive sales process, a conscious effort to conduct SPR business more closely in alignment with standard commercial terms underpins many of these revisions.

Since the last revision of the SSPs, due to geotechnical problems, crude oil at the SPR's Weeks Island site was relocated to the Bayou Choctaw and Big Hill sites, consequently deleting the crude oil stream known as Weeks Island Sour, Master Line Item 006. The addition of distribution points at UNOCAL Terminal in Nederland, Texas, and at the Texaco Pipeline, Inc. 20-inch pipeline near Winnie, Texas, to serve the Big Hill site enabled the definition of two new streams, Big Hill Sweet and Big Hill Sour, Master Line Items 009 and 010, respectively. These two new streams may also be delivered through the Sun Terminal in Nederland by tanker, barge and pipeline.

In order to reduce operational costs and generate revenues, DOE has initiated a program to lease the use of designated SPR distribution facilities, including the DOE St. James Terminal and approximately 240 miles of off-site crude oil pipelines. While commercialization of these facilities does not affect their availability for drawdown, future commercialization activities may affect the distribution alternatives and capabilities available at any time. The revised SSPs acknowledge and allow for this variability of available crude oil streams and delivery line items.

Experience with recent sales of SPR oil has led to the proposed revision in payment methods and terms. Currently, purchasers of SPR crude have two options: advance payment or payment under a commercial letter of credit payable by draft through the Federal Reserve Bank's FEDWIRE system. Under the revised SSPs, this has been changed to more standard commercial billing and payment terms, requiring purchaser payment of DOE invoices via wire transfer of funds or cash wire deposit to the U.S. Treasury, with a standby letter of credit used to assure payment and performance. Alternative networks for the wire transfer of funds have eliminated the requirement that the participating banks be members of the Federal Reserve Bank's FEDWIRE system. Changes by the International Chamber of Commerce in their 1993 revision of the Uniform Customs and Practice for Documentary Credits (UCP 500), reducing the risk of nonpayment, facilitated this change to more standard commercial practice while maintaining the SPR's objective of assuring purchaser performance.

Recent experience with sales of SPR oil, as well as the conduct of other SPR business, have emphasized the efficiencies achieved through electronic communications. Several SSPs have been revised to allow for electronic communication throughout the sales solicitation, offer, award and delivery processes.

The legal and regulatory framework, particularly concerning export controls and environmental compliance, has been updated since the 1992 version in ways that specifically and generally affect SPR purchasers. In 1990, Congress amended EPCA to give the President discretionary power to waive export control laws with regard to SPR oil in connection with refining or exchange of SPR oil to obtain refined products for the U.S. market. The revised SSPs identify the Department of Commerce revised Short Supply Controls applicable to exports of SPR crude oil in connection with refining or exchange for refined products. In addition, many changes in U.S. environmental legislation and international environmental agreements affect purchaser responsibilities in contracting for transport from the SPR, particularly by vessel. The revised SSPs contain a matrix identifying currently applicable statutes governing environmental and financial responsibility requirements for tankships transporting oil in the United States.

Several exhibits have also been substantially revised. A form to be included with an offer submission has been simplified. The form for the presentation of the SPR crude oil assays has been modified. The sample letters of credit for the offer guarantee, and payment and performance guarantee have been revised to reflect the use of new electronic funds transfer mechanisms and the new billing and payment procedure. Information for the SPR delivery terminals has been expanded to include the new delivery points.

The following is a provision-by-provision discussion of the significant changes in the revised SSPs.

B. Revised Provisions

SSP No. A.1 List of Abbreviations

The abbreviation ''SOML'' for ''Sales Offerors Mailing List'' was added.

SSP No. A.3 Standard Sales Provisions (SSPs)

The required offeror's agreement to all sales provisions may be submitted on offer forms generated by electronic means as specified by DOE in the Notice of Sale.

SSP No. A.5 Sales Offerors' Mailing List (SOML)

A potential offeror may now be added to the SOML by providing pertinent information by means of electronic mail to the address specified in this provision.

SSP No. A.6 Publicizing the Notice of Sale

The Internet and other media were added to the options for distribution of the Notice of Sale to interested parties.

SSP No. A.7 Penalty for Making False Statements in Offers To Buy SPR Petroleum

This provision has been revised to caution offerors concerning the applicability of the United States Sentencing Guidelines to violations of 18 U.S.C. § 1001.

SSP No. B.1 Requirements for a Valid Offer—Caution to Offerors

This provision now provides that offer forms may be generated by electronic means specified by DOE in the Notice of Sale. In addition, Standard Form 33, previously required to be submitted with an offer, has been replaced by SPRPMO Form 33S, which is provided in a new Exhibit C.

SSP B.6 Export Limitations and Licensing—Caution to Offerors

This provision has been revised to identify the sections of the Department of Commerce Short Supply Controls governing applications to export SPR crude oil in connection with arrangements to obtain refined petroleum for the U.S. market.

SSP B.8 Submission of Offers and Modification of Previously Submitted Offers

1. This provision now provides for the electronic submission or modification of offers, reserving the right of the Contracting Officer to request submission of a complete signed original document.

2. The conditions under which the Government will not be responsible for the unsuccessful electronic transmission of an offer or modification are delineated.

SSP B.9 Acknowledgment of Amendments to a Notice of Sale

The provision provides for acknowledgment of amendments on new Form SPRPMO 33S or electronically, as specified in the NS.

SSP B.10 Late Offers, Modification of Offers and Withdrawal of Offers

This provision identifies the conditions under which late offers which had been submitted via a commercial express service will be considered. A late offer which is the only offer received will also be considered.

SSP B.11 Offer Guarantee

1. A certified check is no longer acceptable as an offer guarantee.

2. Offer guarantees submitted by cash wire deposit or electronic funds transfer must follow new submission instructions detailed in SSP No. C.23.

3. The requirement that a standby letter of credit submitted as an offer guarantee conform without exception to the sample form provided in Exhibit F has been changed to require substantive compliance with Exhibit F. The requirement that the issuing bank maintain an account with the Federal Reserve Bank has been eliminated.

4. In line with the revised procedures for invoicing and payment (see SSP C.22), a successful offeror's cash wire deposit offer guarantee may be applied toward the first delivery invoice under the resultant contract.

SSP B.16 SPR Crude Oil Streams and Delivery Points

The UNOCAL terminal at Nederland, Texas, and a meter station on the Texaco Pipeline Inc. 20-inch pipeline in Jefferson County, Texas have been added as delivery points for the new SPR Big Hill Sweet and SPR Big Hill Sour crude oil streams.

SSP B.17 Notice of Sale Line Item Schedule—Petroleum Quantity, Quality and Delivery Method

Due to the addition of the two new streams at the Big Hill site and the deletion of the stream from the Weeks Island site, and the attendant changes in feasible delivery points, this provision has been changed in various places to accommodate the expansion and variability of possible line item offerings.

SSP C.4 Environmental Compliance

This provision has been updated to reflect the current applicable regulations with which vessels used to transport SPR oil must comply, as well as the financial responsibility requirements for vessel owners or operators.

SSP C.5 Delivery and Transportation Scheduling

This provision has been revised to require that purchasers scheduling deliveries by pipeline initially specify five-day shipment ranges for which deliveries are to be tendered to the pipeline and the quantity to be tendered for each date range.

SSP C.6 Application Procedures for ''Jones Act'' and Construction Differential Subsidy Waivers

This provision has been restructured by revising and regrouping the order in which the addressees for original Jones Act and Construction Differential Subsidy waiver requests, and copies thereof, are presented.

SSP C.12 Pipeline Delivery Procedures

In consonance with the requirement established in SSP NO. 5, the purchaser will establish five-day shipment ranges with pipeline carrier. Three days prior to the beginning of the specified range, the purchaser will provide DOE the firm date within the range on which delivery is to begin.

SSP C.17 Determination of Quality

This provision reflects the latest SPR and industry preferred tests for the determination of sediment and water, sulfur and API gravity. One new primary test for API gravity has been added and several formerly acceptable alternate tests for all three categories have been deleted.

SSP C. 21–23 Payment Procedures

1. These provisions replace former SSPs C.21–26, under which the buyer had two options: advance payment or payment under a commercial letter of credit payable through the Federal Reserve Banks's FEDWIRE system. The new provisions delete the advance payment option and implement a procedure for billing and payment following standard industry practice, using a standby letter of credit to assure payment and performance.

2. SSP C.21 requires the purchaser to provide an irrevocable standby letter of credit for 100 percent of the contract award value before DOE will execute a contract award. The letter of credit must be in substantive compliance with the example provided in Exhibit G. DOE will authorize cancellation of the letter of credit within 30 days after receipt of final payment under the contract.

3. SSP C.22 provides for the purchaser to be invoiced after each delivery under the contract , with payment due in full on the 20th day of the month after the month of delivery. Options available to the Government if payment is not received include drawing against the letter of credit, withholding future deliveries or contract termination.

4. SSP C.23 provides for payment by either a deposit to the account of the U.S. Treasury by wire transfer of funds over the Fedwire Deposit System Network or electronic funds transfer through the Automated Clearing House network, using the Federal Remittance Express Program.

5. DOE may draw against the standby letter of credit at any time for other monies due under the contract and remaining unpaid in violation of the terms of the contract.

Exhibit A SPR Sales Offer Form

This form, provided as an alternative to any other electronic means that may

be provided by DOE for preparation and submission of offers, has been expanded to include the Big Hill Sweet and Big Hill Sour crude oil streams.

Exhibit B Sample Notice of Sale

This exhibit has been slightly revised to be more illustrative of the SSPs as now written.

Exhibit C SPRPMO Form 33S

This form, replacing Standard Form 33, has been streamlined to include only those elements pertinent to the SPR sales contracting process.

Exhibit D SPR Crude Oil Stream Characteristics

This exhibit contains an example of the assay format used for SPR crude oil stream characteristics. Updated assay data for all nine SPR crude oil streams will be included in any future Notice of Sale.

Exhibit E SPR Delivery Point Data

This exhibit contains the information for the UNOCAL Terminal at Nederland, Texas, and the Texaco Pipeline, Inc. 20-inch pipeline meter station in Jefferson County, Texas, for delivery of Big Hill Sweet and Big Hill Sour streams.

Exhibit F Offer Standby Letter of Credit

The letter of credit has been revised to specify payment through the Federal Deposit Network System, or the Automated Clearing House Network using the Federal Remittance Express Program.

Exhibit G Payment and Performance Letter of Credit

The letter of credit has been changed from a commercial letter of credit to an irrevocable standby letter. Drawings against the letter of credit will only be made due to purchaser's failure to pay or perform. Payments will be made through the same means specified in Exhibit F.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's action does not constitute a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

B. Review Under the National Environmental Policy Act

In today's notice DOE proposes revisions to the SSPs that may be incorporated into sales contracts following a Presidential decision to draw down the Strategic Petroleum Reserve. The SSPs are not binding upon DOE or bidders until they are included in particular Notices of Sale. The proposed amendments are procedural in nature and will not result in environmental impacts. The Department, therefore, has determined that the proposed revisions are covered under the Categorical Exclusion found at paragraph A.6 of Appendix A to Subpart D, 10 CFR Part 1021, which applies to such procedural rulemakings. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that a federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because DOE is not required by the Administrative Procedure Act (APA) or other law to publish proposed revisions to the Standard Sales Provisions for public comment. The Standard Sales Provisions, which are included as Appendix to 10 CFR Part 625, are not binding upon DOE unless they are incorporated into a Notice of Sale, and DOE may revise or supplement the Standard Sales Provisions in a Notice of Sale. 10 CFR 625.3. Thus, the Standard Sales Provisions, and revisions thereof, are non-binding provisions that are covered under the APA's exemption from notice and comment rulemaking requirements at 5 U.S.C. 553(b)(B).

D. Review Under the Paperwork Reduction Act of 1995

The proposed revisions of Standard Sales Provisions would impose no new collection of information requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and the procedures implementing that Act, 5 CFR Part 1320.

E. Review Under Executive Order 12612

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987), requires the review of regulations, rules, legislation, and any other policy actions for any substantial direct effects on States, on the relationship among the federal government and the states, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federal assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has analyzed this proposed rule in accordance with the principles and criteria in Executive Order 12612, and has determined that the rule would not have a substantial direct effect on the institutional interests or traditional functions of states.

F. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531 *et seq.*, requires each federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any federal mandate in an agency rule that may result in the expenditure by state, local, tribal governments, in the aggregate or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The revisions of Standard Sales Provisions today would not impose a federal mandate on state, local, and tribal governments or on the private sector. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

G. Review Under Executive Order 12988

Section 3 of Executive Order 12988, Civil Justice Reform, 61 FR 4729 (February 7, 1996), instructs each agency to adhere to certain requirements when promulgating new regulations and reviewing existing regulations. These requirements, set forth in paragraphs 3(a) and (b)(2) of the Executive Order, include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, describes any administrative proceedings, and defines key terms. The Department has determined that the proposed rule meets the requirements of paragraphs 3(a) and (b) of Executive Order 12988.

List of Subjects in 10 CFR Part 625

Government contracts, Oil and gas reserves, Strategic and critical materials.

Issued in Washington, D.C. on March 27, 1998.

R.D. Furiga,

Deputy Assistant Secretary, Strategic Petroleum Reserve.

For the reasons set forth in the preamble, 10 CFR part 625 is proposed to be amended as follows:

PART 625—PRICE COMPETITIVE SALE OF STRATEGIC PETROLEUM RESERVE PETROLEUM

1. The authority citation for part 625 continues to read as follows:

Authority: 15 U.S.C. 761; 42 U.S.C. 7101; 42 U.S.C. 6201.

2. Appendix A to part 625 is revised to read as follows:

Appendix A to Part 625—Standard Sales Provisions Index

Section A—General Pre-Sale Information

A.1 List of abbreviations
A.2 Definitions
A.3 Standard Sales Provisions
A.4 Periodic revisions of the Standard Sales Provisions
A.5 Sales Offerors' Mailing List
A.6 Publicizing the Notice of Sale
A.7 Penalty for false statements in offers to buy SPR petroleum

Section B—Sales Solicitation Provisions

B.1 Requirements for a valid offer—caution to offerors
B.2 Price indexing
B.3 Certification of independent price determination
B.4 Requirements for vessels—caution to offerors
B.5 ''Superfund'' tax on SPR petroleum—caution to offerors
B.6 Export limitations and licensing—caution to offerors
B.7 Issuance of the Notice of Sale
B.8 Submission of offers and modification of previously submitted offers
B.9 Acknowledgment of amendments to a Notice of Sale
B.10 Late offers, modifications of offers, and withdrawal of offers
B.11 Offer guarantee
B.12 Explanation requests from offerors
B.13 Currency for offers
B.14 Language of offers and contracts
B.15 Proprietary data
B.16 SPR crude oil streams and delivery points
B.17 Notice of Sale line item schedule—petroleum quantity, quality, and delivery method
B.18 Line item information to be provided in the offer
B.19 Mistake in offer
B.20 Evaluation of offers
B.21 Procedures for evaluation of offers
B.22 Financial statements and other information
B.23 Resolicitation procedures on unsold petroleum
B.24 Offeror's certification of acceptance period
B.25 Notification of Apparently Successful Offeror
B.26 Contract documents
B.27 Purchaser's representative
B.28 Procedures for selling to other U.S. Government agencies

Section C—Sales Contract Provisions

C.1 Delivery of SPR petroleum
C.2 Compliance with the ''Jones Act'' and the U.S. export control laws
C.3 Storage of SPR petroleum
C.4 Environmental compliance
C.5 Delivery and transportation scheduling
C.6 Contract modification—alternate delivery line items
C.7 Application procedures for ''Jones Act'' and Construction Differential Subsidy waivers
C.8 Vessel loading procedures
C.9 Vessel laytime and demurrage
C.10 Vessel loading expedition options
C.11 Purchaser liability for excessive berth time
C.12 Pipeline delivery procedures
C.13 Title and risk of loss
C.14 Acceptance of crude oil
C.15 Delivery acceptance and verification
C.16 Price adjustments for quality differentials
C.17 Determination of quality
C.18 Determination of quantity
C.19 Delivery documentation
C.20 Contract amounts
C.21 Payment and Performance Letter of Credit
C.22 Billing and payment
C.23 Method of payments
C.24 Interest
C.25 Termination
C.26 Other Government remedies
C.27 Liquidated damages
C.28 Failure to perform under SPR contracts
C.29 Government options in case of impossibility of performance
C.30 Limitation of Government liability
C.31 Notices
C.32 Disputes
C.33 Assignment
C.34 Order of precedence
C.35 Gratuities

Exhibits:

A—SPR Sales Offer Form
B—Sample Notice of Sale
C—SPRPMO Form 33S
D—SPR Crude Oil Comprehensive Analysis
E—SPR Delivery Point Data
F—Offer Standby Letter of Credit
G—Payment and Performance Letter of Credit
H—SPR Crude Oil Delivery Report—SPRPMO–F–6110.2–14b/REV.8/91
I—Instruction Guide for Return of Offer Guarantees by Electronic Transfer or Treasury Check
J—Offer Guarantee Calculation Worksheet

Section A—General Pre-Sale Information

A.1 List of abbreviations

(a) ASO: Apparently Successful Offeror
(b) DLI: Delivery Line Item
(c) DOE: U.S. Department of Energy
(d) MLI: Master Line Item
(e) NA: Notice of Acceptance
(f) NS: Notice of Sale
(g) SOML: Sales Offerors Mailing List
(h) SSPs: Standard Sales Provisions
(i) SPR: Strategic Petroleum Reserve
(j) SPRCODR: SPR Crude Oil Delivery Report (Exhibit H)
(k) SPR/PMO: Strategic Petroleum Reserve Project Management Office

A.2 Definitions

(a) *Affiliate.* The term ''affiliate'' means associated business concerns or individuals if, directly or indirectly, (1) either one controls or can control the other, or (2) a third party controls or can control both.

(b) *Business Day.* The term ''business day'' means any day except Saturday, Sunday or a U.S. Government holiday.

(c) *Contract.* The term ''contract'' means the contract under which DOE sells SPR petroleum. It is composed of the NS, the NA, the successful offer, and the SSPs incorporated by reference.

(d) *Contracting Officer.* The term ''Contracting Officer'' means the person executing sales contracts on behalf of the Government, and any other Government employee properly designated as Contracting Officer. The term includes the authorized representative of a Contracting Officer acting within the limits of his or her authority.

(e) *Government.* The term ''Government'', unless otherwise indicated in the text, means the United States Government.

(f) *Head of the Contracting Activity.* The term ''Head of the Contracting Activity'' means Project Manager, Strategic Petroleum Reserve Project Management Office.

(g) *Notice of Acceptance (NA).* The term ''Notice of Acceptance'' means the document that is sent by DOE to accept the purchaser's offer to create a contract.

(h) *Notification of Apparently Successful Offeror (ASO).* The term ''notification of apparently successful offeror'' means the notice, written or oral, by the Contracting Officer to an offeror that it will be awarded a contract if it is determined to be responsible.

(i) *Notice of Sale (NS).* The term ''Notice of Sale'' means the document announcing the sale of SPR petroleum, the amount, characteristics and location of the petroleum being sold, the delivery period and the procedures for submitting offers. The NS will specify what contractual provisions and financial and performance responsibility measures are applicable to that particular sale of petroleum and provide other pertinent information. (See Exhibit B, Sample Notice of Sale)

(j) *Offeror.* The term ''offeror'' means any person or entity (including a government agency) who submits an offer in response to a NS.

(k) *Petroleum.* The term ''petroleum'' means crude oil, residual fuel oil, or any refined product (including any natural gas liquid, and any natural gas liquid product) owned or contracted for by DOE and in storage in any permanent SPR facility, temporarily stored in other storage facilities, or in transit to such facilities (including petroleum under contract but not yet delivered to a loading terminal).

(l) *Project Management Office (SPR/PMO).* The term ''Project Management Office''

means the DOE personnel and DOE contractors located in Louisiana and Texas responsible for the operation of the SPR.

(m) *Purchaser.* The term ''purchaser'' means any person or entity (including a government agency) who enters into a contract with DOE to purchase SPR petroleum.

(n) *Standard Sales Provisions (SSPs).* The term ''Standard Sales Provisions'' means this set of terms and conditions of sale applicable to price competitive sales of SPR petroleum. These SSPs constitute the ''standard sales agreement'' referenced in the Strategic Petroleum Reserve ''Drawdown'' (Distribution) Plan, Amendment No. 4 (December 1, 1982, DOE/EP 0073) to the SPR Plan.

(o) *Strategic Petroleum Reserve (SPR).* The term ''Strategic Petroleum Reserve'' means that DOE program established by Title I, Part B, of the Energy Policy and Conservation Act, 42 U.S.C. Section 6201, *et seq.*

(p) *Vessel.* The term ''vessel'' means a tankship, an integrated tug-barge (ITB) system, a self-propelled barge, or other barge.

A.3 Standard Sales Provisions (SSPs)

(a) These SSPs contain pre-sale information, sales solicitation provisions, and sales contract clauses setting forth terms and conditions of sale, including purchaser financial and performance responsibility measures, or descriptions thereof, which may be applicable to price competitive sales of petroleum from the SPR in accordance with the SPR Sales Rule, 10 CFR Part 625. The NS will specify which of these provisions shall apply to a particular sale of such petroleum, and it may specify any revisions therein and any additional provisions which shall be applicable to that sale. (See Exhibit B, Sample Notice of Sale)

(b) All offerors must, as part of their offers for SPR petroleum in response to a NS, agree without exception to all sales provisions of that NS. Offerors shall indicate their agreement by signing the Sales Offer Form (Exhibit A) or other form generated from electronic media used for submitting offers as specified by DOE in the NS. The Government will not award a contract to an offeror who has failed to so agree.

A.4 Periodic Revisions of the Standard Sales Provisions

DOE will review the SSPs periodically and republish them in the **Federal Register**, with any revisions. When an NS is issued, it will cite the **Federal Register** and the Code of Federal Regulations (if any) in which the latest version of the SSPs was published. Offerors are cautioned that the Code of Federal Regulations may not contain the latest version of the SSPs published in the **Federal Register**. Interested persons may obtain a copy of the current SSPs by contacting the SPR/PMO at the address set forth in Provision No. A.5.

A.5 Sales Offerors' Mailing List (SOML)

(a) The SPR/PMO will maintain a Sales Offerors Mailing List (SOML) of those potential offerors who wish to receive an NS whenever one is issued. In order to assure that prospective offerors will receive the NS or offer forms in a timely fashion, all potential offerors are encouraged to submit the information in paragraph (d) of this provision as soon as possible. An NS may be issued with a week or less allowed for the receipt of offers. While DOE will use its best efforts to timely supply copies of the NS to persons not on the list who request the NS at the time an SPR petroleum sale is announced, this may not always be feasible in light of the short amount of time available before offers must be received.

(b) Any firm or individual may request to be on the SOML by providing the information in paragraph (d) of this provision by letter, telephone or electronic means to: Sales Offerors Mailing List (SOML), U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Acquisition and Sales Division, Mail Stop FE–4451, 900 Commerce Road East, New Orleans, Louisiana 70123, Telephone Number (504) 734–4249/4201, Facsimile (504) 734–4427, e-mail: soml@spr.doe.gov. Any envelope should be marked ''SPR Sales Offerors' Mailing List.''

(c) Copies of the SSPs and the NS, when one is issued, may also be obtained from this address.

(d) A request to be placed on the SOML should include the following information: Name of firm; Mailing address (Street and P.O. Box); City, State, Zip Code; Name of authorized agent and alternate authorized agent; Telephone numbers for agent and alternate including area code; Agent address, if different from firm represented; Internet address; Telephone number for facsimile transmission, including area code Telephone number for verification of message receipt, including area code; Dun's number. As DOE may use express mail, which cannot be delivered to a Post Office box, failure to provide a street address could result in untimely receipt of the NS and will be at the offeror's risk.

A.6 Publicizing the Notice of Sale

(a) The NS will be sent to names on the SOML referenced in Provision No. A.5. Interested persons may send a representative to the address in Provision No. A.5 to obtain a copy of the NS.

(b) In addition to those on the SOML, the NS will also be sent to anyone requesting it when a sale is announced.

(c) A DOE press release, which will include the salient features of the NS, will be made available to all news agencies.

(d) At the option of the Contracting Officer, advertisements may be placed in publications or media (including the Internet) likely to reach interested parties. The advertisements will contain the salient features of the NS and a point of contact at the SPR/PMO for further information.

A.7 Penalty for False Statements in Offers To Buy SPR Petroleum

(a) Making false statements in an offer to buy SPR petroleum may expose an offeror to a penalty under the False Statements Act, 18 U.S.C. Section 1001, which provides: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Under 18 U.S.C. § 3571, the maximum fine to which an individual or organization may be sentenced for violations of 18 U.S.C. (including Section 1001) is set at $250,000 and $500,000 respectively, unless there is a greater amount specified in the statute setting out the offense, or the violation is subject to special factors set out in Section 3571. The United States Sentencing Guidelines also apply to violations of Section 1001, and offenders may be subject to a range of fines under the guidelines up to and including the maximum amounts permitted by law.

Section B—Sales Solicitation Provisions

B.1 Requirements for a Valid Offer—Caution to Offerors

A valid offer to purchase SPR petroleum must meet the following conditions:

(a) The offer guarantee (see Provision No. B.11) must be received no later than the time set for the receipt of offers;

(b) The offer must include a completed Sales Offer Form, i.e., Exhibit A or other form generated by electronic means for submitting offers as specified by DOE in the NS, and signed SPRPMO Form 33S (Exhibit C) or other forms as specified in the NS;

(c) The offer must be received no later than the time set for receipt of offers;

(d) Any amendments to the NS that explicitly require acknowledgment of receipt must be properly acknowledged as provided for on Exhibit C; and

(e) The offeror must agree without exception to all provisions of the SSPs that the NS makes applicable to a particular sale, as well as to all provisions in the NS.

B.2 Price Indexing

The Government, at its discretion, may make use of a price indexing mechanism to effect contract price adjustments based on petroleum market conditions, e.g., crude oil market price changes between the times of offer price submissions and physical deliveries. The NS will set forth the provisions applicable to any such mechanism.

B.3 Certification of Independent Price Determination

(a) The offeror certifies that:

(l) The prices in this offer have been arrived at independently, without, for the purposes of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to: (i) those prices; (ii) the intention to submit an offer; or (iii) the methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or to any competitor before the time set for receipt of offers, unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other

concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory:

(1) Is the person within the offeror's organization responsible for determining the prices being offered, and that the signatory has not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of thIS provision;

(ii) As their agent does hereby so certify; and

(iii) As their agent has not participated, and will not participate, in any action contrary to paragraphs (a)(l) through (a)(3) of this provision

(c) An offer will not be considered for award where paragraphs (a)(l), (a)(3), or (b) of this provision has been deleted or modified. If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with the offer a signed statement setting forth in detail the circumstances of the disclosure.

B.4 Requirements for Vessels—Caution to Offerors

(a) The ''Jones Act'', 46 U.S.C. 883, prohibits the transportation of any merchandise, including SPR petroleum, by water or land and water, on penalty of forfeiture thereof, between points within the United States (including Puerto Rico, but excluding the Virgin Islands) in vessels other than vessels built in and documented under laws of the United States, and owned by United States citizens, unless the prohibition has been waived by the Secretary of Treasury. Further, certain U.S.-flag vessels built with Construction Differential Subsidies (CDS) are precluded by Section 506 of the Merchant Marine Act of 1936 (46 U.S.C. 1156) from participating in U.S. coastwise trade, unless such prohibition has been waived by the Secretary of Transportation, the waiver being limited to a maximum of 6 months in any given year. CDS vessels may also receive Operating Differential Subsidies, requiring separate permission from the Secretary of Transportation for domestic operation, under Section 805(a) of the same statute. The NS will advise offerors of any general waivers allowing use of non-coastwise qualified vessels or vessels built with Construction Differential Subsidies for a particular sale of SPR petroleum. If there is no general waiver, purchasers may request waivers in accordance with Provision No. C.7, but remain obligated to complete performance under this contract regardless of the outcome of that waiver process.

(b) The Department of Transportation's interim rule concerning Reception Facility Requirements for Waste Materials Retained on Board (33 CFR Parts 151 and 158) implements the reception facility requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol relating thereto (MARPOL 73/78). This rule prohibits any oceangoing tankship, required to retain oil or oily mixtures on-board while at sea, from entering any port or terminal unless the port or terminal has a valid Certificate of Adequacy as to its oily waste reception facilities. SPR marine terminals (see Exhibit E, SPR Delivery Point Data) have Certificates of Adequacy and reception facilities for vessel sludge and oily bilge water wastes, all costs for which will be borne by the vessel. The terminals, however, may not have reception facilities for oily ballast. Accordingly, tankships without segregated ballast systems will be required to make arrangements for and be responsible for all costs associated with appropriate disposal of such ballast, or they will be denied permission to load SPR petroleum at terminals that lack reception facilities for oily ballast.

(c) By submission of an offer, the offeror certifies that it will comply with the ''Jones Act'' and all applicable ballast disposal requirements.

B.5 ''Superfund'' Tax on SPR Petroleum—Caution to Offerors

(a) Sections 4611 and 4612 of the Internal Revenue Code, which imposed a tax on domestic and imported petroleum to support the Hazardous Substance Response Fund (the ''Superfund''), were revised by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499; and the Omnibus Budget Reconciliation Act of 1986, Public Law 99–509; the Steel Trade Liberalization Program Implementation Act, Public Law 101–221; and the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239. As amended, these sections impose taxes to finance the Hazardous Substance Superfund and the Oil Spill Liability Trust Fund (''Trust Fund'').

(b) Section 4611 imposes taxes on domestic crude oil and on imported crude oil to support the Superfund and the Trust Fund. The taxes are imposed on (1) crude oil received at a United States refinery and (2) petroleum products (including crude oil) entered into the United States for consumption, use, or warehousing. Section 4612 provides that no tax is imposed if it is established that a prior tax imposed by Section 4611 has already been paid with respect to a barrel of oil. Additionally, as determined by the Secretary of Treasury, the Hazardous Substance Superfund tax and the Oil Spill Liability Trust Fund tax may not be imposed during certain periods when the unobligated balances of the funds reach particular statutorily-prescribed levels.

(c) DOE has already paid the Superfund and Trust Fund taxes on some of the oil imported and stored in the SPR.

However, no Superfund or Trust Fund tax has been paid on imported oil stored prior to the effective dates of these Acts or on any domestic oil stored in the SPR. Because domestic and imported crude oil for which no taxes have been paid and crude oils for which Superfund and Trust Fund taxes have been paid have been commingled in the SPR, upon drawdown of the SPR, the NS will advise purchasers of the tax liability.

B.6 Export Limitations and Licensing—Caution to Offerors

(a) Offerors for SPR petroleum are put on notice that export of SPR crude oil is subject to U.S. export control laws implemented by the Department of Commerce Short Supply Controls, codified at 15 CFR part 754, § 754.2, Crude oil. Subsections of § 754.2 provide for the approval of applications to export crude oil from the SPR in connection with refining or exchange of SPR oil. Specifically, these subsections are § 754.2(b)(iii), and 754.2(g), Refining or exchange of Strategic Petroleum Reserve Oil. These provisions are issued under 42 U.S.C. 6241(i), and implement the authority given to the President to permit the export of oil in the SPR for the purpose of obtaining refined petroleum for the U.S. market. In addition, the President could waive the requirement for an export license all together. The NS will advise of any waivers under this Presidential authority.

(b) By submission of an offer, the offeror certifies that it will comply with any applicable U.S. export control laws.

B.7 Issuance of the Notice of Sale

In the event petroleum is sold from the SPR, DOE will issue a NS containing all the pertinent information necessary for the offeror to prepare a priced offer. A NS may be issued with a week or less allowed for the receipt of offers. Offerors are expected to examine the complete NS document, and to become familiar with the SSPs cited therein. Failure to do so will be at the offeror's risk.

B.8 Submission of Offers and Modification of Previously Submitted Offers

(a) Unless otherwise provided in the NS, offers must be submitted to the SPR/PMO in New Orleans, Louisiana, by mail, hand-delivery, or electronic means as specified in the NS. Any direct cash deposits as offer guarantees shall be sent by wire or electronic funds transfer in accordance with Provision No. C.23.

(b) Unless otherwise provided in the NS, offers may be modified or withdrawn by hand delivery, mail, telegram, or electronic means specified in the NS, provided that the hand delivery, mail, telegram, or electronic submission is received at the designated office prior to the time specified for receipt of offers.

(c) Envelopes containing offers and any material related to offers shall be plainly marked on the outside; ''RE: NS #_____ FOR SALE OF PETROLEUM FROM STRATEGIC PETROLEUM RESERVE. OFFERS ARE DUE (insert time of opening), LOCAL NEW ORLEANS, LA TIME ON (insert date of opening). MAIL ROOM MUST MARK DATE AND TIME OF RECEIPT ON FACE OF THE ENVELOPE.'' Envelopes containing modified offers or any material related to supplements or modifications of offers, shall be plainly marked on the outside: ''RE: NS #_____ FOR SALE OF PETROLEUM FROM STRATEGIC PETROLEUM RESERVE. OFFER MODIFICATION. MAIL ROOM MUST MARK DATE AND TIME OF RECEIPT ON FACE OF THE ENVELOPE.''

(d) All envelopes shall be marked with the full name and return address of the offeror.

(e) Offers being sent by mail and modifications being sent by hand delivery, mail, telegram, or electronic means must be received at the address specified in the NS. Offers or modifications submitted by electronic means must contain the required signatures. If requested by the contracting officer, the offeror agrees to promptly submit the complete original signed offer/modification.

(f) If the offeror chooses to transmit an offer/modification by electronic means, the Government will not be responsible for any failure attributable to the transmission or receipt of the offer/modification, including, but not limited to, the following:

(1) Receipt of garbled or incomplete offer/modification,

(2) Availability or condition of the receiving equipment,

(3) Incompatibility between the sending and receiving equipment,

(4) Delay in transmission or receipt of the offer/modification,

(5) Failure of the offeror to properly identify the offer/modification,

(6) Illegibility of offer/modification

(7) Security of the data contained in the offer/modification.

(g) Handcarried offers brought during normal business hours on the day set for receipt of offers, or any day prior to that day, shall be taken by the offeror to the place specified in the NS. This includes mail being delivered by a delivery service.

(h) Public opening of offers is not anticipated unless otherwise indicated in the NS. DOE will not release to the general public the identities of the offerors, or their offer quantities and prices, until the Apparently Successful Offerors have been determined. DOE will inform simultaneously all offerors and other interested parties of the successful and unsuccessful offerors and their offer data by means of a public ''offer posting.'' The offer posting will normally occur within a week of receipt of offers and will provide all interested parties access to offer data as well as any DOE changes in the petroleum quantities or quality to be sold. DOE will announce the date, time, and location of the offer posting as soon as practicable.

B.9 Acknowledgment of Amendments to a Notice of Sale

When an amendment to a NS requires acknowledgment of receipt by an offeror, it must be acknowledged either by (a) signing and returning the amendment; (b) identifying the amendment number and date in the space provided for this purpose on SPRPMO Form 33S (Exhibit C); or (c) letter, telegram, or electronic means as specified in the NS, sent to the address specified in the NS. Such acknowledgment must be received prior to the time specified for receipt of offers.

B.10 Late Offers, Modifications of Offers, and Withdrawal of Offers

(a) Any offer received at the office designated in the NS after the date and time specified for receipt will be considered only if it is received before award is made and only under the following conditions:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of offers (e.g., an offer submitted in response to a NS requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier); or,

(2) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, or established commercial express service, not later than the close of business at the place of mailing 2 working days prior to the date specified for receipt of offers. The working days excludes weekends and U.S. Federal holidays; or,

(3) It was sent by mail, express mail, telegram or electronic means as specified in the NS, and it is determined by the Contracting Officer that the late receipt was due solely to mishandling by the SPR/PMO after receipt at the address specified in the NS; or

(4) It is the only offer received.

(b) Any modification or withdrawal of an offer is subject to the same conditions as in paragraph (a) of this provision, except that it shall be mailed not less than the third calendar day prior to the date specified for receipt of offers. An offer may also be withdrawn in person by an offeror or its authorized representative, provided the representative's identity is made known and the representative signs a receipt for the offer, but only if the withdrawal is made prior to the time set for receipt of offers.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on either (i) the envelope or wrapper, or (ii) the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. Postmark means a printed, stamped, or otherwise placed impression, exclusive of a postage meter machine impression, that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation ''bull's-eye'' postmark on both the receipt and the envelope or wrapper.

(2) The date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee or established commercial service is the date entered by the receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' or other comparable service label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service or commercial service.

(3) The time of receipt at the address specified in the NS is the time/date stamp at such address on the offer's wrapper or other documentary evidence of receipt maintained at the place of receipt.

(d) Notwithstanding paragraphs (a) and (b) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

B.11 Offer Guarantee

(a) Each offeror must submit an acceptable offer guarantee for each offer submitted. Each offer guarantee must be received at the place specified for receipt of offers no later than the time and date set for receipt of offers.

(b) An offeror's failure to submit a timely, acceptable guarantee will result in rejection of its offer.

(c) The amount of each offer guarantee is $10 million or 5 percent of the maximum potential contract amount, whichever is less. The maximum potential contract amount is the sum of the products determined by multiplying the offer's maximum purchase quantity for each master line item, times the highest offer prices that the offeror would have to pay for that master line item if the offer were to be successful. To assist in this calculation, instructions and a worksheet are available at Exhibit J. Submission of the worksheet is not desired.

(d) Each offeror must submit one of the following types of offer guarantees with each offer:

(1) A cash wire deposit or electronic funds transfer to the account of the U.S. Treasury in accordance with Provision No. C.23, all attendant costs to be borne by the offeror; or

(2) A irrevocable standby letter of credit from a U.S. depository institution containing the substantive provisions set out in Exhibit F, Offer Standby Letter of Credit, all letter of credit costs to be borne by the offeror. If the letter or credit contains any provisions at variance with Exhibit F or fails to include any provisions contained in Exhibit F, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The depository institution must be located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The original of the letter of credit must be sent to the Contracting Officer. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.

(e) If the offeror elects to make an offer guarantee by cash wire deposit or electronic funds transfer, the Sales Offer Form shall be annotated with the statement ''Offer guarantee made by cash wire deposit (or electronic funds transfer.)'' The amount transferred shall be annotated on the bottom of the first page of the offer form. In addition, the information identified in Exhibit I, Instruction Guide for Return of Offer Guarantees by Electronic Transfer or Treasury Check, shall be provided with the offer.

(f) If the offeror or bank forwards the letter of credit separately from the offer, the envelope shall clearly be marked ''Offer Standby Letter of Credit (Name of Company)'' and also marked in accordance with Provision No. B.8(c). Offerors are cautioned that if they provide more than one Offer Standby Letter of Credit for multiple offers and, due to the absence of clear information

from the offeror, the Government is unable to identify which Letter of Credit applies to which offer, the Contracting Officer in his sole discretion may assign the Letters of Credit to specific offers.

(g) The offeror shall be liable for any amount lost by DOE due to the difference between the offer and the resale price, and for any additional resale costs incurred by DOE in the event that the offeror:

(1) Withdraws its offer within l0 days following the time set for receipt of offers;

(2) Withdraws its offer after having agreed to extend its acceptance period; or

(3) Having received a notification of ASO, fails to furnish an acceptable payment and performance letter of credit (see Provision C.21) within the time limit specified by the Contracting Officer.

The offer guarantee shall be used toward offsetting such price difference or additional resale costs. Use of the offer guarantee for such recovery shall not preclude recovery by DOE of damages in excess of the amount of the offer guarantee caused by such failure of the offeror.

(h) Letters of credit furnished as offer guarantees must be valid for at least 60 calendar days after the date set for the receipt of offers.

(i) Offer guarantees (except letters of credit) will be returned to an unsuccessful offeror 5 business days after expiration of the offeror's acceptance period, and, except as provided in paragraph (k) of this provision, to a successful offeror upon receipt of a satisfactory payment and performance letter of credit. Cash offer guarantees will be subsequently returned to unsuccessful offerors via Treasury check or electronic transfer in accordance with the information delineated in Exhibit I. Letters of credit will be returned only upon request.

(j) Where the offer guarantee was a cash wire deposit or electronic funds transfer, a successful offeror may apply it toward the first invoice for delivery under the resultant contract.

(k) If an offeror defaults on its offer, DOE will hold the offer guarantee so that damages can be assessed against it.

B.12 Explanation Requests From Offerors

Offerors may request explanations regarding meaning or interpretation of the NS from the individual at the telephone number indicated in the NS. On complex and/or significant questions, DOE reserves the right to have the offeror put the question in writing; explanation or instructions regarding these questions will be given as an amendment to the NS.

B.13 Currency for Offers

Prices shall be stated and invoices shall be paid in U.S. dollars.

B.14 Language of Offers and Contracts

All offers in response to the NS and all modifications of offers shall be in English. All correspondence between offerors or purchasers and DOE shall be in English.

B.15 Proprietary Data

If any information submitted in connection with a sale is considered proprietary, that information should be so marked, and an explanation provided as to the reason such data should be considered proprietary. Any final decision as to whether the material so marked is proprietary will be made by DOE. DOE's Freedom of Information Act regulations governing the release of proprietary data shall apply.

B.16 SPR Crude Oil Streams and Delivery Points

(a) The geographical locations of the terminals, pipelines, and docks interconnected with permanent SPR storage locations, the SPR crude oil streams available at each location and the delivery points for those streams are as follows, (See also Exhibit D, SPR Crude Oil Stream Characteristics, and Exhibit E, SPR Delivery Point Data):

Geographical location	Delivery points	Crude oil stream
Freeport, Texas	Seaway Terminal or Seaway Pipeline Jones Creek.	SPR Bryan Mound Sweet, SPR Bryan Mound Sour, SPR Bryan Mound Maya.
Texas City, Texas	Seaway Terminal or Seaway Local Pipelines.	SPR Bryan Mound Sweet, SPR Bryan Mound Sour, SPR Bryan Mound Maya.
Nederland, Texas	Sun Pipe Line Company, Nederland Terminal.	SPR West Hackberry Sweet, SPR West Hackberry Sour, SPR Big Hill Sweet, SPR Big Hill Sour.
Lake Charles, Louisiana	Texaco 22-Inch/DOE Lake Charles Pipeline Connection.	SPR West Hackberry Sweet, SPR West Hackberry Sour.
St. James, Louisiana	DOE St. James Terminal connected to LOCAP and Capline.	SPR Bayou Choctaw Sweet, SPR Bayou Choctaw Sour.
Beaumont, Texas	Unocal Terminal	SPR Big Hill Sweet, SPR Big Hill Sour.
Winnie, Texas	TPLI 20-Inch Meter Station	SPR Big Hill Sweet, SPR Big Hill Sour.

(b) The NS may change delivery points and it may also include additional terminals, temporary storage facilities or systems utilized in connection with petroleum in transit to the SPR. Alternatively, DOE may provide for transportation to the purchaser's facility, for example, when the petroleum is in transit to the SPR at time of sale.

(c) The NS may contain additional information supplementing Exhibit E, SPR Delivery Point Data.

B.17 Notice of Sale Line Item Schedule—Petroleum Quantity, Quality, and Delivery Method

(a) Unless the NS provides otherwise, the possible master line items (MLI) that may be offered are as provided in Exhibit A, SPR Sales Offer Form. Currently, there are nine MLIs in Exhibit A, one for each of the nine crude oil streams that the SPR has in storage. The NS may not offer all the possible MLIs.

(b) Each MLI contains several delivery line items (DLIs), each of which specifies an available delivery method and the nominal delivery period. Offerors are cautioned that the NS may alter the period of time covered by each DLI. This is most likely to occur in the first sales period of a drawdown if the period of sale does not correspond to a calendar month. The NS will specify which DLIs are offered for each MLI.

(1) DLI–A covers petroleum to be transported by pipeline, either common carrier or local. The nominal delivery period is one month.

(2) DLI–B, DLI–C and DLI–D cover petroleum to be transported by tankships: DLI–B, covering tankships to be loaded from the 1st through the 10th of the month; DLI–C, tankships to be loaded from the 11th through the 20th; and DLI–D, tankships to be loaded from the 21st through the last day of the month.

(3) DLI–E, DLI–F and DLI–G cover petroleum to be transported by barges (Caution: These DLIs are currently only applicable to deliveries of West Hackberry and Big Hill Sweet and Sour crude oil streams from Sun Docks); DLI–E, covering barges to be loaded from the 1st through the 10th of the month; DLI–F, barges to be loaded from the 11th through the 20th; and DLI–G, barges to be loaded from the 21st through the last day of the month.

(4) Where the storage site is connected to more than one terminal or pipeline, additional DLIs will be offered. The additional DLIs will include DLI–H, covering petroleum to be transported by pipeline over the period of a month; DLI–I thru DLI–K, covering tankships, etc. The Notice of Sale

will specify any additional DLIs which may be applicable.

(c) The NS will state the total estimated number of barrels to be sold on each MLI. An offeror may offer to buy all or part of the petroleum offered on an MLI. In making awards, the Contracting Officer shall attempt to achieve award of the exact quantities offered by the NS, but may sell a quantity of petroleum in excess of the quantity offered for sale on a particular MLI in order to match the DLI offers received. In addition, the Contracting Officer may reduce the MLI quantity available for award by any amount and reject otherwise acceptable offers, if he determines, in his sole discretion after consideration of the offers received on all of the MLIs, that award of those quantities is not in the best interest of the Government because the prices offered for them are not reasonable, or that, in light of market conditions after offers are received, a lesser quantity than that offered should be sold.

(d) The NS will specify a minimum contract quantity for each DLI. To be responsive, an offer on a DLI must be for at least that quantity.

(e) The NS will specify the maximum quantity that could be sold on each of the DLIs. The maximum quantity is not an indication of the amount of petroleum that, in fact, will be sold on that DLI. Rather, it represents DOE's best estimate of the maximum amount of the particular SPR crude oil stream that can be moved by that transportation system over the delivery period. The total DOE estimated DLI maximums may exceed the total number of barrels to be sold on that MLI, as the NS DLI estimates represent estimated transportation capacity, not the amount of petroleum offered for sale.

(f) The NS will not specify what portion of the petroleum that DOE offers on a MLI will, in fact, be sold on any given DLI. Rather, the highest priced offers received on the MLI will determine the DLIs against which the offered petroleum is sold.

(g) DOE will not sell petroleum on a DLI in excess of the DLI maximum; however, DOE reserves the right to revise its estimates at any time and to award or modify contracts in accordance with its revised estimates. Offerors are cautioned that: DOE cannot guarantee that such transportation capacity is available; offerors should undertake their own analyses of available transportation capacity; and each purchaser is wholly responsible for arranging all transportation other than terminal arrangements at the terminals listed in Provision No. B.16, which shall be made in accordance with Provision No. C.5. A purchaser against one DLI cannot change a transportation mode without prior written permission from DOE, although such permission will be given whenever possible, in accordance with Provision No. C.6.

(h) Exhibit D, SPR Crude Oil Stream Characteristics, provides an example of the assay format used for the SPR crude oil streams. The NS will provide, to the maximum extent practicable, the latest data on each stream offered.

B.18 Line Item Information To Be Provided in the Offer

(a) Each offeror, if determined to be an ASO on a DLI, agrees to enter into a contract under the terms of its offer for the purchase of petroleum in the offer and to take delivery of that petroleum (plus or minus 10 percent as provided for in Provision No. C.20) in accordance with the terms of that contract.

(b) An offeror may submit an offer which is for more than one MLI. However, offerors are cautioned that alternate offers on different MLIs are not permitted. For example, an offeror may offer to purchase 1,000,000 barrels of SPR West Hackberry Sweet and 1,000,000 barrels of SPR West Hackberry Sour, but may not offer to purchase, in the alternative, either 1,000,000 barrels of sweet or 1,000,000 barrels of sour.

(c) An offeror may submit multiple offers. However, separate offer forms and offer guarantees must be submitted and each offer will be evaluated on an individual basis.

(d) The following information will be provided to DOE by the offeror on the form in Exhibit A or other forms as required by the NS:

(1) MLI quantity. (''MAXQ'' on the Exhibit A offer form) The offer shall state the maximum quantity of each crude oil stream that the offeror is willing to buy.

(2) DLI quantity. (''DESQ'') The offer shall state the number of barrels that the offeror will accept on each DLI, i.e., by the delivery mode and during the delivery period specified. The quantity stated on a single DLI shall not exceed the MAXQ for the MLI. The offeror shall designate a quantity on at least one DLI for the MLI, but may designate quantities on more than one DLI. If the offeror is willing to accept alternate DLIs, the total of its designated DLI quantities would exceed its maximum MLI quantity; otherwise, the total of its designated DLI quantities should equal its maximum MLI quantity.

(3) DLI unit price (''UP$$'') and total price. The offer shall state the price per barrel for each DLI for which the offeror has designated a desired quantity, as well as the total price (quantity times unit price). Where offers have indicated quantities on more than one DLI with a different price on each, DOE will award the highest priced DLI first. If the offeror has the same price for two or more DLIs, it may indicate its first choice, second choice, etc., for award of those items; if the offeror does not indicate a preference, or indicates the same preference for more than one DLI, DOE may select the DLIs to be awarded at its discretion. Prices may be stated in hundredths of a cent ($0.0001). DOE shall drop from the offer and not consider any numbers of less than one one-hundredth of a cent.

(4) Minimum DLI quantity acceptable. (''MINQ'') The offeror must choose whether to accept only the stated DLI quantity (DESQ) or, in the alternative, to accept any quantity awarded between the offer's stated DLI quantity and the minimum contract quantity for the DLI (indicated by the ''N'' and ''Y'' blocks respectively under ''MINQ'' on the offer form). However, DOE will award less than the DESQ only if the quantity available to be awarded is less than the DESQ. If the offer fails to indicate the offeror's choice, the offer will be evaluated as though the offeror has indicated willingness to accept the minimum contract quantity.

(5) Any other data required by the NS.

B.19 Mistake in Offer

(a) After opening and recording offers, the Contracting Officer shall examine all offers for mistakes. If the Contracting Officer discovers any price discrepancies or quantity discrepancies, he may obtain from the offeror oral or written verification of the offer actually intended, but in any event, he shall proceed with offer evaluation applying the following procedures:

(1) Price discrepancy: An offer for a DLI must contain the unit price per barrel being offered, the desired quantity of barrels to which the unit price applies, and an extension price which is the total of the quantity desired multiplied by the unit price offered. If there is a discrepancy between the unit price and the extension price, the unit price will govern and be recorded as the offer, unless it is clearly apparent on the face of the offer that there has been a clerical error, in which case the Contracting Officer may correct the offer.

(2) Quantity discrepancy: In case of conflict between the maximum MLI quantity and the stated DLI quantities (for example, if a single stated DLI quantity exceeds the corresponding maximum MLI quantity), the lesser quantity will govern in the evaluation of the offer. In the event that the offer fails to specify a maximum MLI quantity, the offer will be evaluated as though the largest stated DLI quantity is the offer's maximum MLI quantity.

(b) In cases where the Contracting Officer has reason to believe a mistake not covered by the procedures set forth in paragraph (a) of this provision may have been made, he shall request from the offeror a verification of the offer, calling attention to the suspected mistake. The Contracting Officer may telephone the offeror and confirm the request by electronic means. The Contracting Officer may set a limit of as little as 6 hours for telephone response, with any required written documentation to be received within as little as 2 business days. If no response is received, the Contracting Officer may determine that no error exists and proceed with offer evaluation.

(c) The Head of the Contracting Activity will make administrative determinations described in paragraphs (c)(1) and (2) of this provision if an offeror alleges a mistake after opening of offers and before award.

(1) The Head of the Contracting Activity may refuse to permit the offeror to withdraw an offer, but permit correction of the offer if clear and convincing evidence establishes both the existence of a mistake and the offer actually intended. However, if such correction would result in displacing one or more higher acceptable offers, the Head of the Contracting Activity shall not so determine unless the existence of the mistake and the offer actually intended are ascertainable substantially from the NS and offer itself.

(2) The Head of the Contracting Activity may determine that an offeror shall be

permitted to withdraw an offer in whole, or in part if only part of the offer is affected, without penalty under the offer guarantee, where the offeror requests permission to do so and clear and convincing evidence establishes the existence of a mistake, but not the offer actually intended.

(d) In all cases where the offeror is allowed to make verbal corrections to the original offer, confirmation of these corrections must be received in writing within the time set by the Contracting Officer or the original offer will stand as submitted.

B.20 Evaluation of Offers

(a) The Contracting Officer will be the determining official as to whether an offer is responsive to the SSPs and the NS. DOE reserves the right to reject any or all offers and to waive minor informalities or irregularities in offers received.

(b) A minor informality or irregularity in an offer is an inconsequential defect the waiver or correction of which would not be prejudicial to other offerors. Such a defect or variation from the strict requirements of the NS is inconsequential when its significance as to price, quantity, quality or delivery is negligible.

B.21 Procedures for Evaluation of Offers

(a) Award on each DLI will be made to the responsible offerors that submit the highest priced offers responsive to the SSPs and the NS and that have provided the required payment and performance guarantee as required by Provision No. C.21.

(b) DOE will array all offers on an MLI from highest price to lowest price for award evaluation regardless of DLI. However, DOE will award against the DLIs and will not award a greater quantity on a DLI than DOE's estimate (which is subject to change at any time) of the maximum quantity that can be moved by the delivery method. Selection of the apparently successful offers involves the following steps:

(1) Any offers below the minimum acceptable price, if any minimum price has been established for the sale, will be rejected as nonresponsive.

(2) All offers on each MLI will be arrayed from highest price to lowest price.

(3) The highest priced offers will be reviewed for responsiveness to the NS.

(4) In the event the highest priced offer does not take all the petroleum available on the MLI, sequentially, the next highest priced offer will be selected until all of the petroleum offered on the MLI is awarded or there are no more acceptable offers. In the event that acceptance of an offer against an MLI or a DLI would result in the sale of more petroleum on an MLI than DOE has offered or the sale of more petroleum on a DLI than DOE estimates can be delivered by the specified delivery method, DOE will not award the full amount of the offer, but rather the remaining MLI quantity or DLI capacity, provided such portion exceeds DOE's minimum contract quantity. In the event that the quantity remaining is less than the offeror is willing to accept, but more than DOE's minimum contract quantity, the Contracting Officer shall proceed to the next highest priced offer.

(5) In the event of tied offers and an insufficient remaining quantity available on the MLI or insufficient remaining capacity on the DLI to fully award all tied offers, the Contracting Officer shall apply an objective random methodology for allocating the remaining MLI quantity or DLI capacity among the tied offers, taking into consideration the quantity the offeror is willing to accept as indicated in its offer. When making this allocation, the Contracting Officer in his sole discretion may do one or more of the following:

(i) Make an additional quantity or capacity available;

(ii) Contact an offeror to determine whether alternative delivery arrangements can be made; or

(iii) Not award all or part of the remaining quantity of petroleum.

(6) The Contracting Officer may reduce the MLI quantity available for award by any amount and reject otherwise acceptable offers if in his sole discretion he determines, after consideration of the offers received on all of the MLIs, that award of those quantities is not in the best interest of the Government because the prices offered for them are not reasonable; or if the Government determines, in light of market conditions after offers are received, to sell less than the overall quantity of SPR petroleum offered for sale.

(7) Determinations of ASO responsibility will be made by the Contracting Officer before each award. All ASOs will be notified and advised to provide to the Contracting Officer, within five business days or such other longer time as the Contracting Officer shall determine, a letter of credit (See Exhibit G, Payment and Performance Letter of Credit) as specified in Provision No. C.21, all letter of credit costs to be borne by the purchaser.

(8) Compliance with required payment and performance guarantees will effectively assure a finding of responsibility of offerors, except where: (i) an offeror is on either DOE's or the Federal Government's list of debarred, ineligible and suspended bidders; or (ii) evidence, with respect to an offeror, comes to the attention of the Contracting Officer of conduct or activity that represents a violation of law or regulation (including an Executive Order); or (iii) evidence is brought to the attention of the Contracting Officer of past activity or conduct of an offeror that shows a lack of integrity (including actions inimical to the welfare of the United States) or willingness to perform, so as to substantially diminish the Contracting Officer's confidence in the offeror's performance under the proposed contract.

B.22 Financial Statements and Other Information

(a) As indicated in Provision No. B.21(b)(8) above, compliance with the required payment and performance guarantee will in most instances effectively assure a finding of responsibility. Therefore, DOE does not intend to ask for financial information from all offerors. However, after receipt of offers, but prior to making award, DOE reserves the right to ask for the audited financial statements for an offeror's most recent fiscal year and unaudited financial statements for any subsequent quarters. These financial statements must include a balance sheet and profit and loss statement for each period covered thereby. A certification by a principal accounting officer that there have been no material changes in financial condition since the date of the audited statements, and that these present the true financial condition as of the date of the offer, shall accompany the statements. If there has been a change, the amount and nature of the change must be specified and explained in the unaudited statements and a principal accounting officer shall certify that they are accurate. The Contracting Officer shall set a deadline for receipt of this information.

(b) DOE also reserves the right to require the submission of information from the offeror regarding its plans for use of the petroleum, the status of requests for export licenses, plans for complying with the Jones Act, and any other information relevant to the performance of the contract. The Contracting Officer shall set a deadline for receipt of this information.

B.23 Resolicitation Procedures on Unsold Petroleum

(a) In the event that petroleum offered on an MLI remains unsold after evaluation of all offers, the Contracting Officer, at his option, may issue an amendment to the NS, resoliciting offers from all interested parties. DOE reserves the right to alter the MLIs and/or offer different MLIs in the resolicitation.

(b) In the event that for any reason petroleum that has been awarded or allotted for award becomes available to DOE for resale, the following procedures will apply:

(1) If priced offers remain valid in accordance with Provision No. B.24, the petroleum may go to the next highest ranked offer.

(2) If offers have expired in accordance with Provision No. B.24, the Contracting Officer at his option may offer the petroleum to the highest offeror for that MLI. The pertinent offeror may, at its option, accept or reject that petroleum at the price it originally offered. If that offeror rejects the petroleum, it may be offered to the next highest offeror. This process may continue until all the remaining petroleum has been allotted for award.

(3) If the petroleum is not then resold, the Contracting Officer may at his option proceed to amend the NS to resolicit offers for that petroleum or add the petroleum to the next sales cycle.

B.24 Offeror's Certification of Acceptance Period

(a) By submission of an offer, the offeror certifies that its priced offer will remain valid for 10 calendar days after the date set for the receipt of offers, and further that the successful line items of its offer will remain valid for an additional 30 calendar days should it receive a notification of ASO either by telephone or in writing during the initial 10-day period.

(b) By mutual agreement of DOE and the offeror, an individual offeror's acceptance period may be extended for a longer period.

B.25 Notification of Apparently Successful Offeror

The following information concerning its offer will be provided to the apparently successful offeror by DOE in the notification of ASO:

(a) Identification of SPR crude oil streams to be awarded;

(b) Total quantity to be awarded on each MLI and on each DLI;

(c) Price in U.S. dollars per barrel for each DLI;

(d) Extended total price offer for each DLI;

(e) Provisional contract number;

(f) Any other data necessary.

B.26 Contract Documents

If an offeror is successful, DOE will make award using an NA signed by the Contracting Officer. The NA will identify the items, quantities, prices and delivery method which DOE is accepting. Attached to the NA will be the NS and the successful offer. Provisions of the SSPs will be made applicable through incorporation by reference in the NS. The Contracting Officer also shall provide the purchaser with an information copy of the current SSPs as published in the **Federal Register**. DOE may accept the offeror's offer by an electronic notice and the contract award shall be effective upon issuance of such notice. The electronic notice will be followed by a mailing of full documentation as described above.

B.27 Purchaser's Representative

As part of its offer, each offeror shall designate an agent as a point of contact for any telephone calls or correspondence from the Contracting Officer. Any such agent shall have a U.S. address and telephone number and must be conversant in English.

B.28 Procedures for Selling to Other U.S. Government Agencies

(a) If a U.S. Government agency submits an offer for petroleum in a price competitive sale, that offer will be arrayed for award consideration in accordance with Provision No. B.21. If a U.S. Government agency is an ASO, award and payment will be made exclusively in accordance with statutory and regulatory requirements governing transactions between agencies, and the U.S. Government agency will be responsible for complying with these requirements within the time limits set by the Contracting Officer.

(b) U.S. Government agencies are exempt from all guarantee requirements, but must make all necessary arrangements to accept delivery of and transport SPR petroleum as set out in Provision No. C.1. Failure by a U.S. Government agency to comply with any of the requirements of these SSPs shall not provide a basis for challenging a contract award to that agency.

Section C—Sales Contract Provisions

C.1 Delivery of SPR Petroleum

(a) The purchaser, at its expense, shall make all necessary arrangements to accept delivery of and transport the SPR petroleum, except for terminal arrangements which shall be coordinated with the SPR/PMO. The DOE will deliver and the purchaser will accept the petroleum at delivery points listed in the NS. The purchaser also shall be responsible for meeting any delivery requirements imposed at those points including complying with the rules, regulations, and procedures contained in applicable port/terminal manuals, pipeline tariffs or other applicable documents.

(b) For petroleum in the SPR's permanent storage sites, DOE shall provide, at no cost to the purchaser, transportation by pipeline from the SPR to the supporting SPR distribution terminal facility specified for the MLI and, for vessel loadings, a safe berth and loading facilities sufficient to deliver petroleum to the vessel's permanent hose connection. The purchaser agrees to assume responsibility for, to pay for, and to indemnify and hold DOE harmless for any other costs associated with terminal, port, vessel and pipeline services necessary to receive and transport the petroleum, including but not limited to demurrage charges assessed by the terminal, ballast and oily waste reception services other than those provided by DOE or its agent, mooring and line-handling services, tank storage charges and port charges incurred in the delivery of SPR petroleum to the purchaser. The purchaser also agrees to assume responsibility for, to pay for and to indemnify and hold DOE harmless for any liability, including consequential or other damages, incurred or occasioned by the purchaser, its agent, subcontractor at any tier, assignee or any subsequent purchaser, in connection with movement of petroleum sold under a contract incorporating this provision.

C.2 Compliance With the ''Jones Act'' and the U.S. Export Control Laws

Failure to comply with the ''Jones Act,'' 46 U.S.C. 883, regarding use of U.S.-flag vessels in the transportation of oil between points within the United States, and with any applicable U.S. export control laws affecting the export of SPR petroleum will be considered to be a failure to comply with the terms of any contract containing these SSPs and may result in termination for default in accordance with Provision No. C.25. Purchasers who have failed to comply with the ''Jones Act'' or the export control laws in SPR sales may be found to be non-responsible in the evaluation of offers in subsequent sales under Provision No. B.21 of the SSPs. Those purchasers may also be subject to proceedings to make them ineligible for future awards in accordance with l0 CFR Part 625.

C.3 Storage of SPR Petroleum

Continued storage of purchasers' oil in the SPR facilities after the end of the contract delivery periods is not permitted, unless specifically authorized by the Secretary of Energy and provided for in the NS. Allowing petroleum to remain in storage as the result of failure to complete delivery arrangements may result in assessment of liquidated damages under Provision Nos. C.25 through C.27 unless such failure is excused pursuant to those provisions.

C.4 Environmental Compliance

(a) SPR offerors must ensure that vessels used to transport SPR oil comply with all applicable statutes, including the Ports and Waterways Safety Act of 1972; the Port and Tanker Safety of 1972; the Act to Prevent Pollution from Ships of 1980 (implements Annexes I, II, and V of MARPOL 73/78); and the Oil Pollution Act of 1990. Annex I, II, and V of MARPOL 73/78 prescribe procedures for the prevention of pollution by oil, noxious liquid substances, and garbage, respectively. Offerors must also ensure that vessels used to transport SPR oil comply with all applicable regulations, including the following:

CFR citation	Title	Purpose
33 CFR 151	Vessels Carrying Oil, Noxious Liquid Substances, Garbage, Municipal or Commercial Waste, and Ballast Water.	Implements the Act to Prevent Pollution from Ships, as amended and Annexes I, II, and V of the International Convention for the Prevention of Pollution from Ships, as modified by MARPOL 73/78.
33 CFR 153	Control of Pollution by Oil and Hazardous Substances, Discharge Removal.	Prescribes regulations concerning notification of the discharge of oil and hazardous substances, procedures for removing discharges of oil, and the costs associated with removing discharges of oil.
33 CFR 155	Oil or Hazardous Material Pollution Prevention Regulations for Vessels.	Establishes regulations concerning vessel equipment and transfer procedures, including personnel, equipment, and records.
33 CFR 157	Rules for the Protection of the Marine Environment Relating to Tank Vessels Carrying Oil in Bulk.	Establishes regulations governing the design and installation of equipment for vessels and the operation of vessels.

CFR citation	Title	Purpose
33 CFR 159	Marine Sanitation Devices	Prescribes regulations governing the design and construction of marine sanitation devices and procedures for certifying that marine sanitation devices are consistent with EPA regulations promulgated under section 312 of FWPCA, to eliminate the discharge of untreated sewage from vessels.
46 CFR Chapter I, Subchapter D.	Tank Vessels	Sets out design, equipment, and operations requirements relating to pollution prevention from tank vessels.

(b) To transport SPR oil, a purchaser or the purchaser's subcontractors must use only those tankships for which the vessel's owner, operator, or demise charter has made a showing of financial responsibility under 33 CFR part 138, Financial Responsibility for Water Pollution (Vessels).

(c) Failure of the purchaser or the purchaser's subcontractors to comply with all applicable statutes and regulations in the transportation of SPR petroleum will be considered a failure to comply with the terms of any contract containing these SSPs, and may result in termination for default, unless, in accordance with Provision No. C.25, such failure was beyond the control and without the fault or negligence of the purchaser, its affiliates, or subcontractors.

C.5 Delivery and Transportation Scheduling

(a) Unless otherwise instructed in the notification of ASO, each purchaser shall submit a proposed vessel lifting program and/or pipeline delivery schedule to the SPR/PMO by hand-delivery, express mail, or electronic transfer, no later than the fifteenth day prior to the earliest delivery date offered by the NS. The vessel lifting program shall specify the requested three-day loading window for each tanker and the quantity to be lifted. The pipeline schedule will specify the five day shipment ranges (i.e., day 1–5, 6–10, 11–15, etc.) for which deliveries are to be tendered to the pipeline and the quantity to be tendered for each date. In the event conflicting requests are received, preference will be given to such requests in descending order, the highest offered price first. The SPR/PMO will respond to each purchaser no later than the tenth day prior to the start of deliveries, either confirming the schedule as originally submitted or proposing alterations. The purchaser is deemed to have received a notice by hand delivery, express mail, or electronic transfer on the day after dispatch. The purchaser shall be deemed to have agreed to those alterations unless the purchaser requests the SPR/PMO to reconsider within two days after receipt of such alterations. The SPR/PMO will use its best efforts to accommodate such requests, but its decision following any such reconsideration shall be final and binding.

(b) Electronic transfer information, as well as the address to which express mailed and hand-carried proposed schedules should be delivered, will be provided in the notification of ASO.

(c) In order to expedite the scheduling process, at the time of submission of each vessel lifting program or pipeline delivery schedule, each purchaser shall provide the DOE Contracting Officer's Representative with a written notice of the intended destination for each cargo scheduled, if such destination is known at that time. For pipeline deliveries, the purchaser shall also include, if known, the name of each pipeline in the routing to the final destination.

(d) Notwithstanding paragraph (a) of this provision, ASOs and purchasers may request early deliveries, i.e., deliveries commencing prior to the contractual delivery period. DOE will use its best efforts to honor such requests, unless unacceptable costs might be incurred or SPR schedules might be adversely affected or other circumstances make it unreasonable to honor such requests. DOE's decision following any such consideration for a change shall be final and binding. Requests accepted by DOE will be handled on a first-come, first-served basis, except that where conflicting requests are received on the same day, the highest-priced offer will be given preference. Requests that include both a change in delivery method and an early delivery date may also be accommodated subject to Provision No. C.6. DOE may not be able to confirm requests for early deliveries until 24 hours prior to the delivery date.

(e) Not withstanding paragraphs (a) and (d) of this provision, in no event will schedules be confirmed prior to award of contracts.

C.6 Contract Modification—Alternate Delivery Line Items

(a) A purchaser may request a change in delivery method after the issuance of the NA. Such requests may be made either orally (to be confirmed in writing within 24 hours) or in writing, but will require written modification of the contract by the Contracting Officer. Such modification shall be permitted by DOE, provided, in the sole judgement of DOE, the change is viewed as reasonable and would not interfere with the delivery plans of other purchasers, and further provided that the purchaser agrees to pay all increased costs incurred by DOE because of such modification. The NS shall establish per barrel rates for such increased costs.

(b) Changes in delivery method will only be considered after the initial confirmation of schedules described in Provision C.5(a) above.

C.7 Application Procedures for ''Jones Act'' and Construction Differential Subsidy Waivers

(a) Unless otherwise specified in the Notice of Sale, an ASO or purchaser seeking a waiver of the ''Jones Act'' should submit a request by letter, telegram or electronic means to: U.S. Customs Service, Chief, Carrier Rulings Branch 1301 Constitution Avenue, NW, Washington, D.C. 20229, Telephone: (202) 482–6940, Facsimile: (202) 482–6943.

(b) A purchaser seeking a waiver to use a vessel built with a Construction Differential Subsidy (and, if applicable, operated with an Operating Differential Subsidy) should have the vessel owner submit a waiver request by letter, telegram, or electronic means to: Associate Administrator for Ship Financial Assistance and Cargo Preference, Maritime Administration, U.S. Department of Transportation, 400 7th Street, SW, 1Washington, D.C. 20590, Fax: (202) 366–7901. For speed and brevity, the request may incorporate by reference appropriate contents of any earlier ''Jones Act'' waiver request by the purchaser. Under 46 U.S.C. App. 1223, a hearing is also required for any intervenor, and a waiver may not be approved if it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service.

(c) Copies of the Jones Act, CDS, or ODS requests should also be sent, as appropriate, to:

(1) Associate Administrator for Port, Intermodal and Environmental Activities, Maritime Administration, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 1Fax: (202) 366–7901.

(2) U.S. Department of Energy, ATTN: Deputy Assistant Secretary for Strategic Petroleum Reserve, FE–40, 1000 Independence Avenue, SW, Washington, D.C. 20585, Fax: (202) 586–7919.

(3) Contracting Officer, FE–4451, Strategic Petroleum Reserve Project Management Office, Acquisition and Sales Division, 900 Commerce Road East, New Orleans, LA 70123, Fax: (504) 734–4947.

(d) In addition to the above addresses, copies of the ''Jones Act'' request should also be sent to: Assistant Secretary of Defense (Acquisition and Logistics), U.S. Department of Defense, Washington, DC 20301–8000.

(e) Any request for waiver should include the following information:

(1) Name, address and telephone number of requestor;

(2) Purpose for which waiver is sought, e.g., to take delivery of so many barrels of SPR crude oil, with reference to the SPR NS number and the provisional or assigned contract number;

(3) Name and flag of registry of vessel for which waiver is sought, if known at the time of waiver request, and either the scheduled 3-day delivery window(s), if available, or 10-day delivery period applicable to the contract;

(4) The intended number of voyages, including the ports for loading and discharging;

(5) Estimated period of time for which vessel will be employed; and

(6) Reason for not using qualified U.S.-flag vessel, including documentary evidence of good faith effort to obtain suitable U.S.-flag vessel and responses received from that effort. Such evidence would include copies of correspondence and telephone conversation summaries. Use of commercial brokers and the Transportation News Ticker (TNT) is suggested for maximum market coverage. Requests for waivers by electronic transmittals may reference such documentary evidence, with copies to be provided by mail, postmarked no more than one business day after the transmission requesting the waiver.

(7) For waivers to use Construction Differential Subsidy vessels, the request must also contain a specific agreement for Construction Differential Subsidies payback pursuant to Section 506 of the Merchant Marine Act of 1936 and must be signed by an official of the vessel owner authorized to make a payback commitment.

(f) If there are shown to be ''Jones Act'' vessels available and in a position to meet the loading dates required, no waivers may be approved.

(g) The names of any vessel(s) to be employed under a ''Jones Act'' waiver must be provided to the U.S. Customs Service no later than 3 days prior to the beginning of the 3-day loading window scheduled in accordance with Provision No. C.5.

C.8 Vessel Loading Procedures

(a) After notification of ASO, each ASO shall provide the SPR/PMO a proposed schedule of vessel loading windows in accordance with Provision No. C.5.

(b) The length of the scheduled loading window shall be 3 days. If the purchaser schedules more than one window, the average quantity to be lifted during any single loading window will be no less than DOE's minimum contract quantity.

(c) Tankships, ITBs, and self-propelled barges shall be capable of sustaining a minimum average load rate commensurate with receiving an entire full cargo within twenty-four (24) hours pumping time. Barges with a load rate of not less than 4,000 BPH shall be permitted at the Sun Terminal barge docks. With the consent of the SPR/PMO, lower loading rates and the use of barges at the Sun and Phillips Terminals' suitably equipped tankship docks may be permitted if such do not interfere with DOE's obligations to other parties.

(d) At least 7 days in advance of the beginning of the scheduled loading window, the purchaser shall furnish the SPR/PMO with vessel nominations specifying: (i) name and size of vessel or advice that the vessel is ''To Be Nominated'' at a later date (such date to be no later than 3 days before commencement of the loading window); (ii) estimated date of arrival (to be narrowed to a firm date not later than 72 hours prior to the first day of the vessel's 3-day window, as provided in paragraph (f) of this provision); (iii) quantity to be loaded and contract number; and (iv) other relevant information requested by the SPR/PMO including but not limited to a copy of the crew list, ship's specifications, last three ports and cargoes, vessel owner/operator and flag, any known deficiencies, and on board quantities of cargo and slops. The listing of all required vessel information shall be provided in the Notice of Sale. DOE will advise the purchaser, in writing, of the acceptance or rejection of the nominated vessel within 24 hours of such nomination. If no advice is furnished within 24 hours, the nomination will be firm. Once established, changes in such nomination details may be made only by mutual agreement of the parties, to be confirmed by DOE in writing. The purchaser shall be entitled to substitute another vessel of similar size for any vessel so nominated, subject to DOE's approval. DOE must be given at least 3 days' notice prior to the first day of the 3-day loading window of any such substitution. DOE shall make a reasonable effort to accept any nomination for which notice has not been given in strict accordance with the above provisions.

(e) In the event the purchaser intends to use more than one vessel to take delivery of the contract quantity scheduled to be delivered during a loading window, the information in paragraphs (d) and (f) of this provision shall be provided for each vessel.

(f) The vessel or purchaser shall notify the SPR/PMO of the expected day of arrival 72 hours before the beginning of his scheduled 3-day loading window. This notice establishes the firm agreed-upon date of arrival which is the 1-day window for the purposes of vessel demurrage (see Provision No. C.9). If the purchaser fails to make notification of the expected day of arrival, the 1-day window will be deemed to be the middle day of the scheduled 3-day window. The vessel shall also notify the SPR/PMO of the expected hour of arrival 72, 48 and 24 hours in advance of arrival, and after the first notice, to advise of any variation of more than 4 hours. With the first notification of the hour of arrival, the Master shall advise the SPR/PMO: (i) quantity of oily bilge wastes or sludge requiring discharge ashore; (ii) cargo loading rate requested; (iii) number, size, and material of vessel's manifold connections; and (iv) defects in vessel or equipment affecting performance or maneuverability.

(g) Notice of Readiness shall be tendered upon arrival at berth or at customary anchorage which is deemed to be any anchorage within 6 hours vessel time to the SPR dock. The preferred anchorages are identified in Exhibit E. The Notice of Readiness shall be confirmed promptly in writing to the SPR/PMO and the terminal responsible for coordination of crude oil loading operations. Such notice shall be effective only if given during customary port operating hours. If notice is given after customary business hours of the port, it shall be effective as of the beginning of customary business hours on the next business day.

(h) DOE shall use its best efforts to berth the purchaser's vessel as soon as possible after receipt of the Notice of Readiness.

(I) Standard hose and fittings (American Standard Association standard connections) for loading shall be provided by DOE. Purchasers must arrange for line handling, deballasting, tug boat and pilot services, both for arrival and departure, through the terminal or ship's agent, and bear all costs associated with such services.

(j) Tankships, ITBs, and self-propelled barges shall be allowed berth time of 36 hours. Barges loading at Sun Terminal barge dock facilities shall be allowed berth time of three (3) hours plus the quotient determined by dividing the cargo size (gross standard volume barrels) by four thousand (4,000). Vessels loading cargo quantities in excess of 500,000 barrels shall be allowed berth time of 36 hours plus 1 hour for each 20,000 barrels to be loaded in excess of 500,000 barrels. Conditions below excepted, however, the vessel shall not remain at berth more than 6 hours after completion of cargo loading unless hampered by tide or weather.

(1) Berth time shall commence with the vessel's first line ashore and shall continue until loading of the vessel, or vessels in case more than one vessel is loaded, is completed and the last line is off. In addition, allowable berth time will be increased by the amount of any delay occurring subsequent to the commencement of berth time and resulting from causes due to adverse weather, labor disputes, force majeure and the like, decisions made by port authorities affecting loading operations, actions of DOE, its contractors and agents resulting in delay of loading operations (providing this action does not arise through the fault of the purchaser or purchaser's agent), and customs and immigration clearance. The time required by the vessel to discharge oily wastes or to moor multiple vessels sequentially into berth shall count as used berth time.

(2) For all hours of berth time used by the vessel in excess of allowable berth time provided for above, the purchaser shall be liable for dock demurrage and also shall be subject to the conditions of Provision No. C.11.

C.9 Vessel Laytime and Demurrage

(a) The laytime allowed DOE for handling of the purchaser's vessel shall be 36 running hours. For vessels with cargo quantities in excess of 500,000 barrels, laytime shall be 36 running hours plus 1 hour for each 20,000 barrels of cargo to be loaded in excess of 500,000 barrels. Vessel laytime shall commence when the vessel is moored alongside (all fast) the loading berth or 6 hours after receipt of a Notice of Readiness, whichever occurs first. It shall continue 24 hours per day, seven days per week without interruption from its commencement until loading of the vessel is completed and cargo hoses or loading arms are disconnected. Any delay to the vessel in reaching berth caused by the fault or negligence of the vessel or purchaser, delay due to breakdown or inability of the vessel's facilities to load, decisions made by vessel owners or operators or by port authorities affecting loading operations, discharge of ballast or slops, customs and immigration clearance, weather, labor disputes, force majeure and the like shall not count as used laytime. In addition, movement in roads shall not count as used laytime.

(b) If the vessel is tendered for loading on a date earlier than the firm agreed-upon

arrival date, established in accordance with Provision No. C.8, and other vessels are loading or have already been scheduled for loading prior to the purchaser's vessel, the purchaser's vessel shall await its turn and vessel laytime shall not commence until the vessel moors alongside (all fast), or at 0600 hours local time on the firm agreed-upon date of arrival, whichever occurs first. If the vessel is tendered for loading later than 2400 hours on the firm agreed-upon date of arrival, DOE will use its best efforts to have the vessel loaded as soon as possible in its proper turn with other scheduled vessels, under the circumstances prevailing at the time. In such instances, vessel laytime shall commence when the vessel moors alongside (all fast).

(c) For all hours or any part thereof of vessel laytime that elapse in excess of the allowed vessel laytime for loading provided for above, demurrage shall be paid by DOE, for U.S.-flag vessels, at the lesser of the demurrage rate in the tanker voyage or charter party agreement, or the most recently available United States Freight Rate Average (USFRA) for a hypothetical tanker with a deadweight in long tons equal to the weight in long tons of the petroleum loaded, multiplied by the most recent edition of the American Tanker Rate Schedule rate for such hypothetical tanker. For foreign flag vessels, demurrage shall be as determined above, except that the London Tanker Brokers' Panel Average Freight Rate Assessment (AFRA) and most recent edition of the New Worldwide Tanker Nominal Freight Scale ''Worldscale'' shall be used as appropriate, if less than the charter party rate. For all foreign flag vessel loadings that commence during a particular calendar month, the applicable AFRA shall be the one that is determined on the basis of freight assessments for the period ended on the 15th day of the preceding month. The demurrage rate for barges will be the hourly rate contained in the charter of a chartered barge, or if it is not a chartered barge, at a rate determined by DOE as a fair rate under prevailing conditions. If demurrage is incurred because of breakdown of machinery or equipment of DOE or its contractors (other than the purchaser), the rate of demurrage shall be reduced to one-half the rate stipulated herein per running hour and pro rata of such reduced rate for part of an hour for demurrage so incurred. Demurrage payable by DOE, however, shall in no event exceed the actual demurrage expense incurred by the purchaser as the result of the delay.

(d) In the event the purchaser is using more than one vessel to load the contract quantity scheduled to be delivered during a single loading window, the terms of this provision and the Government's liability for demurrage apply only to the first vessel presenting its Notice of Readiness in accordance with paragraph (a) of this provision.

(e) The primary source document and official record for demurrage calculations is the SPRCODR (see Provision No. C.19).

C.10 Vessel Loading Expedition Options

(a) Notwithstanding Provision No. C.8(j)(1) above, in order to avoid disruption in the SPR distribution process, the Government may limit berthing time for any vessel receiving SPR petroleum to that period required for loading operations and the physical berthing/unberthing of the vessel. At the direction of the Government, activities not associated with the physical loading of the vessel (e.g., preparing documentation, guaging, sampling, etc.) may be required to be accomplished away from the berth. Time consumed by these activities will not be for the Government's account. If berthing time is to be restricted, the Government will so advise the vessel prior to berthing of the vessel.

(b) In addition to paragraph (a) of this provision, the Government may limit vessels calling at SPR terminals to a total of 24 hours for petroleum transfer operations. In such an event, the loading will be considered completed if the vessel has loaded 95 percent or more of the nominated quantity within a total of 24 hours. If the vessel has loaded less than 95 percent of its nominated quantity, then Provision C.11 shall apply.

C.11 Purchaser Liability for Excessive Berth Time

The Government reserves the right to direct a vessel loading SPR petroleum at a delivery point specified in the NS, to vacate its SPR berth, and absorb all costs associated with this movement, should such vessel, through its operational inability to receive oil at the average rates provided for in Provision No. C.8, cause the berth to be unavailable for an already scheduled follow-on vessel. Furthermore, should a breakdown of the vessel's propulsion system prevent its getting under way on its own power, the Government may cause the vessel to be removed from the berth with all costs to be borne by the purchaser.

C.12 Pipeline Delivery Procedures

(a) The purchaser shall nominate his delivery requirements to the pipeline carrier, to include the total quantity to be moved and his preferred five-day shipment range(s) as specified in C.5. The purchaser shall provide confirmation of the carrier's acceptance of the above quantity [in thousands of barrels per day] and shipment ranges to the SPR/PMO no later than the last day of the month preceeding the month of delivery. The purchaser shall also furnish the SPR/PMO with the name and telephone number of the pipeline point of contact with whom the SPR/PMO should coordinate the petroleum delivery.

(b) The SPR/PMO will ensure oil is made available to the carrier within the shipment date range(s) established in accordance with Provision C.5. Once established, the pipeline delivery schedule can only be changed with SPR/PMO's prior written consent. Should the schedule established in accordance with paragraph (a) of this provision vary from the original schedule established in accordance with Provision No. C.5, the Government will provide its best efforts to accommodate this revised schedule but will incur no liability for failure to provide delivery on the dates requested.

(c) Three days prior to the beginning of any five-day shipping range in which the purchaser is to receive delivery, the purchaser shall furnish the SPR/PMO the firm date within that range on which the movement is to commence, the quantity to be moved, and the contract number.

(d) The date of delivery, which will be recorded on the CODR (see Provision No. C.19), is the date delivery commenced to the custody transfer point, as identified in the NS.

(e) The purchaser shall receive pipeline deliveries at a minimum average rate of 100,000 barrels per day. The purchaser is solely responsible for making the necessary arrangements with pipeline carriers, including storage, to achieve the stated minimum.

C.13 Title and Risk of Loss

Unless otherwise provided in the NS, title to and risk of loss for SPR petroleum will pass to the purchaser at the delivery point as follows:

(a) For vessel shipment—when the petroleum passes from the dock loading equipment connections to the vessel's permanent hose connection.

(b) For pipeline shipment—as identified in the NS.

(c) For in-transit shipments—when the petroleum passes the permanent flange of the discharging vessel manifold upon discharge into the purchaser's designated marine terminal facility or vessel.

C.14 Acceptance of Crude Oil

(a) An example of the assay format used for SPR crude oil is shown in Exhibit D, SPR Crude Oil Stream Characteristics. Updated assays for all nine SPR crude oil streams will be provided in the NS. However, the purchaser shall accept the crude oil delivered regardless of characteristics. Except as provided below, DOE assumes no responsibility for deviations in quality.

(b) In the event that the crude oil stream delivered both has a total sulfur content (by weight) in excess of 3.5 percent if Bryan Mound Maya, 2.0 percent if any other sour crude oil stream, or 0.50 percent if a sweet crude oil stream, and, in addition, has an API gravity less than 20°API if Bryan Mound Maya, 28°API if any other sour crude oil stream, or 32°API if a sweet crude oil stream, the purchaser shall accept the crude oil delivered and either pay the contract price adjusted in accordance with Provision No. C.16, or request negotiation of the contract price. Unless the purchaser submits a written request for negotiation of the contract price to the Contracting Officer within 10 days from the date of delivery, the purchaser shall be deemed to have accepted the adjustment of the price in accordance with Provision No. C.16. Should the purchaser request a negotiation of the price and the parties be unable to agree as to that price, the dispute shall be settled in accordance with Provision No. C.32.

C.15 Delivery Acceptance and Verification

(a) The purchaser shall provide written confirmation to SPR/PMO, no later than 72 hours prior to the scheduled date of the first delivery under the contract, the name(s) of the authorized agent(s) given signature authority to sign/endorse the delivery documentation (CODR, etc.) on the

purchaser's behalf. Any changes to this listing of names must be provided to the SPR/PMO in writing no later than 72 hours before the first delivery to which such change applies. In the event that an independent surveyor (separate from the authorized signatory agent) is appointed by the purchaser to witness the delivery operation (gauging, sampling, testing, etc.), written notification must be provided to SPR/PMO, no later than 72 hours prior to the scheduled date of each applicable cargo delivery.

(b) Absence of the provision of the name(s) of bona fide agent(s) and the signature of such agent on the delivery documentation constitutes acceptance of the delivery quantity and quality as determined by DOE and/or its agents.

C.16 Price Adjustments for Quality Differentials

(a) The NS will specify quality price adjustments applicable to the crude oil streams offered for sale. Unless otherwise specified by the NS, quality price adjustments will be applied only to the amount of variation by which the API gravity of the crude oil delivered differs by more than plus or minus five-tenths of one degree API (+/−0.5°API) from the API gravity of the crude oil stream contracted for as published in the NS.

(b) Price adjustments for SPR crude oil are expected to be similar to one or more commercial crude oil postings for equivalent quality crude oil. The contract price per barrel shall be increased by that amount if the API gravity of the crude oil delivered exceeds the published API gravity by more than 0.5°API and decreased by that amount if the API gravity of the crude oil delivered falls below the published API gravity by more than 0.5°API.

C.17 Determination of Quality

(a) The quality of the crude oil delivered to the purchaser will be determined from samples taken from the delivery tanks in accordance with API Manual of Petroleum Measurement Standards, Chapter 8.1, Manual Sampling of Petroleum and Petroleum Products (ASTM D4057), latest edition; or from a representative sample collected by an automatic sampler whose performance has been proven in accordance with the API Manual of Petroleum Measurement Standards, Chapter 8.2, Automatic Sampling of Petroleum and Petroleum Products (ASTM D4177), latest edition. Preference will be given to samples collected by means of an automatic sampler when such a system is available and operational. Tests to be performed by DOE or its authorized contractor are:

(1) Sediment and Water

Primary methods: API Manual of Petroleum Measurement Standards, Chapter 10.1, Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method (ASTM D473) (IP53), latest edition; or API Manual of Petroleum Measurement Standards, Chapter 10.8, Sediment in Crude Oil by Membrane Filtration (ASTM D4807), latest edition; and API Manual of Petroleum Measurement Standards, Chapter 10.2, Determination of Water in Crude Oil by Distillation (ASTM D4006) (IP358), latest edition; or API Manual of Petroleum Measurement Standards, Chapter 10.9, Water in Crude Oil by Coulometric Karl Fischer Titration (ASTM D4928) (IP 386), latest edition.

Alternate methods: API Manual of Petroleum Measurement Standards, Chapter 10.3, Determination of Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure) (ASTM D4007) (IP 359), latest edition.

(2) Sulfur

Primary method: ASTM D1552, Sulfur in Petroleum Products (High Temperature Method), latest edition.

Alternate method: ASTM D4294, Sulfur in Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry, latest edition.

(3) API Gravity

Primary methods: API Manual of Petroleum Measurement Standards, Chapter 9.1, Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method (ASTM D1298) (IP 160), latest edition; or Density and Relative Density of Crude Oils by Digital Density Analyzer (ASTM D5002), latest edition.

Alternate method: API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method) (ASTM D287), latest edition.

To the maximum extent practicable, the primary methods will be used for determination of SPR crude oil quality characteristics. However, because of conditions prevailing at the time of delivery, it may be necessary to use alternate methods of test for one or more of the quality characteristics. The Government's test results will be binding in any dispute over quality characteristics of SPR petroleum.

(b) The purchaser or his representative may arrange to witness and verify testing simultaneously with the Government Quality Assurance Representatives. Such services, however, will be for the account of the purchaser. Any disputes will be settled in accordance with Provision No. C.32. Should the purchaser opt not to witness the testing, then the Government findings will be binding on the purchaser.

C.18 Determination of Quantity

(a) The quantity of crude oil delivered to the purchaser will be determined by opening and closing tank gauges with adjustment for opening and closing free water and sediment and water as determined from shore tank samples where an automatic sampler is not available, or delivery meter reports. All volumetric measurements will be corrected to net standard volume in barrels at 60°F, using the API Manual of Petroleum Measurement Standards, Chapter 11.1, Volume 1, Volume Correction Factors (ASTM D1250) (IP 200); Table 5A–Generalized Crude Oils, Correction of Observed API Gravity to API Gravity at 60°F; Table 6A–Generalized Crude Oils, Correction of Volume to 60°F Against API Gravity at 60°F, latest edition, and by deducting the tanks' free water, and the entrained sediment and water as determined by the testing of composite all-levels samples taken from the delivery tanks; or by deducting the sediment and water as determined by testing a representative portion of the sample collected by a certified automatic sampler, and also corrected by the applicable pressure correction factor and meter factor.

(b) The quantity measurements shall be performed and certified by the DOE contractor responsible for delivery operations, and witnessed by the Government Quality Assurance Representative at the delivery point. The purchaser shall have the right to have representatives present at the gauging/metering, sampling, and testing. Should the purchaser arrange for additional inspection services, such services will be for the account of the purchaser. Any disputes shall be settled in accordance with Provision No. C.32. Should the purchaser not arrange for additional services, then DOE's quantity determination shall be binding on the purchaser.

C.19 Delivery Documentation

The quantity and quality determination shall be documented on the SPR/PMO Crude Oil Delivery Report (SPRCODR), SPRPMO–F–6110.2–14b (Rev 8/91) (see Exhibit H for copy of this form). The SPRCODR will be signed by the purchaser's agent to acknowledge receipt of the quantity and quality of crude oil indicated. In addition, for vessel deliveries, the time statement on the SPRCODR will be signed by the vessel's Master when loading is complete. Copies of the completed SPRCODR, with applicable supporting documentation (i.e., metering or tank gauging tickets and appropriate calculation worksheets), will be furnished to the purchaser and/or the purchaser's authorized representative after completion of delivery. They will serve as the basis for invoicing and/or reconciliation invoicing for the sale of petroleum as well as for any associated services that may be provided.

C.20 Contract Amounts

The contract quantities and dollar value stated in the NA are estimates. The per barrel unit price is subject to adjustment due to variation in the API gravity from the published characteristics, changes in delivery mode and price index values, if applicable. In addition, due to conditions of vessel loading and shipping or pipeline transmission, the quantity actually delivered may vary by ±10 percent for each shipment. However, a purchaser is not required to engage additional transportation capacity if sufficient capacity to take delivery of at least 90 percent of the contract quantity has been engaged.

C.21 Payment and Performance Letter of Credit

(a) Within five business days of receipt of notification of Apparently Successful Offeror, the Purchaser must provide to the Contracting Officer an ''Irrevocable Standby Letter of Credit'' established in favor of the United States Department of Energy equal to 100 percent of the contract awarded value and containing the substantive provisions set out in Exhibit G. The purchaser must furnish

an acceptable letter of credit before DOE will execute the NA. The letter of credit must not vary in substance from the sample at Exhibit G. If the letter of credit contains any provisions at variance with Exhibit G or fails to include any provisions contained in Exhibit G, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The letter of credit must be effective on or before the first delivery under the contract and remain in effect for a period of 120 days, must permit multiple partial drawings, and must contain the contract number. The original of the letter of credit must be sent to the Contracting Officer.

(b) The letter of credit must be issued by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.

(c) All wire deposit electronic funds transfer and letter of credit costs will be borne by the purchaser.

(d) The letter of credit must be maintained at 100 percent of the contract value of the petroleum remaining to be delivered, plus any other charges owed to the Government under the contract. In the event the letter of credit falls below the level specified, or at the discretion of the Contracting Officer must be increased because of the effect of the price indexing mechanism provided for in Provision B.2, DOE reserves the right to demand the purchaser modify the letter of credit to a level deemed sufficient by the Contracting Officer. The purchaser shall make such modification within two business days of being notified by the Contracting Officer by express mail or electronic means. The purchaser is deemed to have received such notification the next business day after its dispatch. If such modification is not made within two days after purchaser is deemed to have received the notice, the Contracting Officer may, on the 3rd business day, without prior notice to the purchaser, withhold deliveries in whole or in part under the contract and/or terminate the contract in whole or in part under Provision C.25.

(e) Within 30 calendar days after final payment under the contract, the Contracting Officer shall authorize the cancellation of the letter of credit and shall return it to the bank or financial institution issuing the letter of credit. A copy of the notice of cancellation will be provided to the purchaser.

C.22 Billing and Payment

(a) The Government will invoice the Purchaser at the conclusion of each delivery.

(b) Payment is due in full on the 20th of the month following each delivery month. Should the 20th of the month fall on a Saturday, Sunday, or Federal holiday, payment will be due and payable in full on the last business day preceding the 20th of the month.

(c) If an invoice is not paid in full, the Government may provide the Purchaser oral or written notification that Purchaser is delinquent in its payments; draw against the letter of credit for all quantities for which unpaid invoices are outstanding; withhold all or any part of future deliveries under the contract; and/or terminate the contract, in whole or in part, in accordance with Provision C.25.

(d) In the event that the bank refuses to honor the draft against the letter of credit, the purchaser shall be responsible for paying the principal and any interest due (see Provision No. C.24) from the due date.

C.23 Method of Payments

(a) All amounts payable by the purchaser shall be paid by either:

(1) Deposit to the account of the U.S. Treasury by wire transfer of funds over the Fedwire Deposit System Network. The information to be included in each wire transfer will be provided in the NS.

(2) Electronic funds transfer through the Automated Clearing House (ACH) network, using the Federal Remittance Express Program. The information to be included in each transfer will be provided in the NS.

(b) If the purchaser disagrees with the amounts invoiced by the Government, the purchaser shall immediately pay the amount invoiced, and notify the Contracting Officer of the basis for its disagreement. The Contracting Officer will receive and act upon any such objection. Failure to agree to any adjustment shall be a dispute, and a purchaser shall file a claim promptly in accordance with Provision C.32.

(c) DOE may designate another place, different timing, or another method of payment after reasonable written notice to the purchaser.

(d) Notwithstanding any other contract provision, DOE may via a draft message request a wire transfer of funds against the standby letter of credit at any time for payment of monies due under the contract and remaining unpaid in violation of the terms of the contract. These would include but not be limited to interest, liquidated damages, demurrage, amounts owing for any services provided under the contract, and the difference between the contract price and price received on the resale of undelivered petroleum as defined in Provision No. C.25. If the invoice is for delinquent payments, interest shall accrue from the payment due date.

(e) No payment due DOE hereunder shall be subject to reduction or set-off for any claim of any kind against the United States arising independently of the contract.

C.24 Interest

(a) Amounts due and payable by the purchaser or its bank that are not paid in accordance with the provisions governing such payments shall bear interest from the date due until the date payment is received by the Government.

(b) Interest shall be computed on a daily basis. The interest rate shall be in accordance with the Current Value of Funds rate as established by the Department of the Treasury in accordance with the Debt Collection Improvement Act of 1997 and published periodically in Bulletins to the Treasury Fiscal Requirements Manual and in the **Federal Register**.

C.25 Termination

(a) Immediate termination.

(1) The Contracting Officer may terminate this contract in whole or in part, without liability of DOE, by written notice to the purchaser effective upon its being deposited in the U.S. Postal System addressed to the purchaser as provided in Provision No. C.31 in the event that the purchaser either notifies the Contracting Officer that it will not be able to accept, or fails to accept, any delivery line item in accordance with the terms of the contract. Such notice shall invite the purchaser to submit information to the Contracting Officer as to the reasons for the failure to accept the delivery line item in accordance with the terms of the contract.

(2) Within 10 business days after the issuance of the notice of termination, the Contracting Officer may determine that such termination was a termination for default under paragraph (b)(l)(ii) of this provision. In the absence of information which persuades the Contracting Officer that the purchaser's failure to accept the delivery line item was excusable, the fact of such failure may be the basis for the Contracting Officer determining the purchaser to be in default, without first determining under paragraphs (b)(2) and (b)(3) whether such failure was excusable under the terms of the contract. The Contracting Officer shall promptly give the purchaser written notice of such determination.

(3) Any immediate termination other than one determined to be a termination for default in accordance with paragraph (a)(2) and paragraph (b) of this provision shall be a termination for the convenience of DOE without liability of the Government.

(b) Termination for Default.

(l) Subject to the provisions of paragraphs (b)(2) and (b)(3) of this provision, the Contracting Officer may terminate the contract in whole or in part for purchaser default, without liability of DOE, by written notice to the purchaser, effective upon its being deposited in the U.S. Postal System, addressed to the purchaser as provided in Provision No. C.31 in the event that:

(i) The Government does not receive payment in accordance with any payment provision of the contract;

(ii) The purchaser fails to accept delivery of petroleum in accordance with the terms of the contract; or

(iii) The purchaser fails to comply with any other term or condition of the contract within 5 business days after the purchaser is deemed to have received written notice of such failure from the Contracting Officer.

(2) Except with respect to defaults of subcontractors, the purchaser shall not be determined to be in default or be charged with any liability to DOE under circumstances which prevent the purchaser's acceptance of delivery hereunder due to causes beyond the control and without the fault or negligence of the purchaser as determined by the Contracting Officer. Such causes shall include but are not limited to:

(i) Acts of God or the public enemy;

(ii) Acts of the Government acting in its sovereign or contractual capacity;

(iii) Fires, floods, earthquakes, explosions, unusually severe weather, or other catastrophes; or

(iv) Strikes.

(3) If the failure to perform is caused by the default of a subcontractor, the purchaser shall not be determined to be in default or to be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the purchaser to meet the delivery schedule, if:

(i) Such default arises out of causes beyond the control of the purchaser and its subcontractor, and without the fault or negligence of either of them; or

(ii) Such default arises out of causes within the control of a transportation subcontractor, not an affiliate of the purchaser, hired to transport the purchaser's petroleum by vessel or pipeline, and such causes are beyond the purchaser's control, without the fault or negligence of the purchaser, and notwithstanding the best efforts of the purchaser to avoid default.

(4) In the event that the contract is terminated in whole or in part for default, the purchaser shall be liable to DOE for:

(i) The difference between the contract price on the contract termination date and any lesser price the Contracting Officer obtained upon resale of the petroleum; and

(ii) Liquidated damages as specified in Provision No. C.27 as fixed, agreed, liquidated damages for each day of delay until the petroleum is delivered to a purchaser under either a resolicitation for the sale of the quantities of oil defaulted on, or an NS issued after the date of default that specifies that it is for the sale of quantities of oil defaulted on. In no event shall liquidated damages be assessed for more than 30 days.

(5) In the event that the Government exercises its right of termination for default, and it is later determined that the purchaser's failure to perform was excused in accordance with paragraphs (b)(2) and (3) of this provision, the rights and obligations of the parties shall be the same as if such termination was a termination for convenience without liability of the Government under paragraph (c).

(c) Termination for convenience.

(1) In addition to any other right or remedy provided for in the contract, the Government may terminate this contract at any time in whole or in part whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Such termination shall be without liability of the Government if such termination arises out of causes specified in paragraphs (a)(1) or (b)(1) of this provision, acts of the Government in its sovereign capacity, or causes beyond the control and without the fault or negligence of the Government, its contractors (other than the purchaser of SPR crude oil under this contract) and agents. For any other termination for convenience, the Government shall be liable for such reasonable costs incurred by the purchaser in preparing to perform the contract, but under no circumstances shall the Government be liable for consequential damages or lost profits as the result of such termination.

(2) The purchaser will be given immediate written notice of any decrease of petroleum deliveries greater than 10 percent, or of termination, under this paragraph (c). The termination or reduction shall be effective upon its notice being deposited in the U.S. Postal System unless otherwise specified in the notice. The purchaser is deemed to have received a mailed notice on the second day after its dispatch and an electronic or express mail notice on the day after dispatch.

(3) Termination for the convenience of the Government shall not excuse the purchaser from liquidated damages accruing prior to the effective date of the termination.

(d) Nothing herein contained shall limit the Government in the enforcement of any legal or equitable remedy that it might otherwise have, and a waiver of any particular cause for termination shall not prevent termination for the same cause occurring at any other time or for any other cause.

(e) In the event that the Government exercises its right of termination, as provided in paragraphs (a), (b), or (c)(1) of this provision, the Contracting Officer may sell any undelivered petroleum under such terms and conditions as he deems appropriate.

(f) DOE's ability to deliver petroleum on the date on which the defaulted purchaser was scheduled to accept delivery, under another contract awarded prior to the date of the contractor's default, shall not excuse a purchaser that has been terminated for default from either liquidated damages or the difference between the contract price and any lesser price obtained on resale.

(g) Any disagreement with respect to the amount due the Government for either resale costs or liquidated damages shall be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.32.

(h) The term ''subcontractor'' or ''subcontractors'' includes subcontractors at any tier.

C.26 Other Government Remedies

(a) The Government's rights under this provision are in addition to any other right or remedy available to it by law or by virtue of this contract.

(b) The Government may, without liability on its part, withhold deliveries of petroleum under this contract or any other contract the purchaser may have with DOE if payment is not made in accordance with this contract.

(c) If the purchaser fails to take delivery of petroleum in accordance with the delivery schedule developed under the terms of the contract, and such tardiness is not excused under the terms of Provision No. C.25, but the Government does not elect to terminate that item for default, the purchaser nonetheless shall be liable to the Government for liquidated damages in the amount established by Provision No. C.27 for each calendar day of delay or fraction thereof until such time as it accepts delivery of the petroleum. In no event shall such damages be assessed for longer than 30 days. No purchaser that fails to perform in accordance with the terms of the contract shall be excused from liability for liquidated damages by virtue of the fact that DOE is able to deliver petroleum on the date on which the non-performing purchaser was scheduled to accept delivery, under another contract awarded prior to the date of default.

C.27 Liquidated damages

(a) In case of failure on the part of the purchaser to perform within the time fixed in the contract or any extension thereof, the purchaser shall pay to the Government liquidated damages in the amount of 1 percent of the contract price of the undelivered petroleum per calendar day of delay or fraction thereof in accordance with paragraph (b) of Provision No. C.25 and paragraph (c) of Provision No. C.26.

(b) As provided in paragraph (a) of this provision, liquidated damages will be assessed for each day or fraction thereof a purchaser is late in accepting delivery of petroleum in accordance with this contract, unless such tardiness is excused under Provision No. C.25. For petroleum to be lifted by vessel, damages will be assessed in the event that the vessel has not commenced loading by 11:59 p.m. on the second day following the last day of the 3-day delivery window established under Provision No. C.5, unless the vessel has arrived in roads and its Master has presented a notice of readiness to the Government or its agents. Liquidated damages shall continue until the vessel presents its notice of readiness. For petroleum to be moved by pipeline, if delivery arrangements have not been made by the last day of the month prior to delivery, liquidated damages shall commence on the 3rd day of the delivery month until such delivery arrangements are completed; if delivery arrangements have been made, then liquidated damages shall begin on the 3rd day after the scheduled delivery date if delivery is not commenced and shall continue until delivery is commenced.

(c) Any disagreement with respect to the amount of liquidated damages due the Government will be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.32.

C.28 Failure To Perform Under SPR Contracts

In addition to the usual debarment procedures, 10 CFR 625.3 provides procedures to make purchasers that fail to perform in accordance with these provisions ineligible for future SPR contracts.

C.29 Government Options in Case of Impossibility of Performance

(a) In the event that DOE is unable to deliver petroleum contracted for to the purchaser due either to events beyond the control of the Government, including actions of the purchaser, or to acts of the Government, its agents, its contractors or subcontractors at any tier, the Government at its option may do either of the following:

(l) Terminate for the convenience of the Government under Provision No. C.25; or

(2) Offer different SPR crude oil streams or delivery times to the purchaser in

substitution for those specified in the contract.

(b) In the event that a different SPR crude oil stream than originally contracted for is offered to the purchaser, the contract price will be negotiated between the parties. In no event shall the negotiated price be less than the minimum acceptable price, if established for the same or similar crude oil streams in the most recent NS or determined after the opening of offers.

(c) DOE's obligation in such circumstances is to use its best efforts, and DOE under no circumstances shall be liable to the purchaser for damages arising from DOE's failure to offer alternate SPR crude oil streams or delivery times.

(d) If the parties are unable to reach agreement as to price, crude oil streams or delivery times, DOE may terminate the contract for the convenience of the Government under Provision No. C.25.

C.30 Limitation of Government Liability

DOE's obligation under these SSPs and any resultant contract is to use its best efforts to perform in accordance therewith. The Government under no circumstances shall be liable thereunder to the purchaser for the conduct of the Government's contractors or subcontractors or for indirect, consequential, or special damages arising from its conduct, except as provided herein; neither shall the Government be liable thereunder to the purchaser for any damages due in whole or in part to causes beyond the control and without the fault or negligence of the Government, including but not restricted to, acts of God or public enemy, acts of the Government acting in its sovereign capacity, fires, floods, earthquakes, explosions, unusually severe weather, other catastrophes, or strikes.

C.31 Notices

(a) Any notices required to be given by one party to the contract to the other in writing shall be forwarded to the addressee, prepaid, by U.S. registered, return receipt requested mail, express mail, telegram, or electronic means as provided in the NS. Parties shall give each other written notice of address changes.

(b) Notices to the purchaser shall be forwarded to the purchaser's address as it appears in the offer and in the contract.

(c) Notices to the Contracting Officer shall be forwarded to the following address: U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Acquisition and Sales Division, Mail Stop FE–4451, 900 Commerce Road East, New Orleans, Louisiana 70123.

C.32 Disputes

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. Section 601 *et seq.*). If a dispute arises relating to the contract, the purchaser may submit a claim to the Contracting Officer, who shall issue a written decision on the dispute in the manner specified in 48 CFR l–33.211.

(b) ''Claim'' means:

(1) A written request submitted to the Contracting Officer;

(2) For payment of money, adjustment of contract terms, or other relief;

(3) Which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and

(4) For which a Contracting Officer's decision is demanded.

(c) In the case of dispute requests or amendments to such requests for payment exceeding $50,000, the purchaser shall certify at the time of submission as a claim, as follows:

I certify that the claim is made in good faith, that the supporting data are current, accurate and complete to the best of my knowledge and belief and that the amount requested accurately reflects the contract adjustment for which the purchaser believes the Government is liable.

Purchaser's Name

Signature

Title

(d) The Government shall pay to the purchaser interest on the amount found due to the purchaser on claims submitted under this provision at the rate established by the Department of the Treasury from the date the amount is due until the Government makes payment. The Contract Disputes Act of 1978 and the Prompt Payment Act adopt the interest rate established by the Secretary of the Treasury under the Renegotiation Act as the basis for computing interest on money owed by the Government. This rate is published semi-annually in the **Federal Register**.

(e) The purchaser shall pay to DOE, interest on the amount found due to the Government and unpaid on claims submitted under this provision at the rate specified in Provision No. C.24 from the date the amount is due until the purchaser makes payment.

(f) The decision of the Contracting Officer shall be final and conclusive and shall not be subject to review by any forum, tribunal, or Government agency unless an appeal or action is commenced within the times specified by the Contract Disputes Act of 1978.

(g) The purchaser shall comply with any decision of the Contracting Officer and at the direction of the Contracting Officer shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal, or action related to this contract.

C.33 Assignment

The purchaser shall not make or attempt to make any assignment of a contract that incorporates these SSPs or any interest therein contrary to the provisions of Federal law, including the Anti-Assignment Act (4l U.S.C. 15), which provides:

No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

C.34 Order of Precedence

In the event of an inconsistency between the terms of the various parts of this contract, the inconsistency shall be resolved by giving precedence in the following order:

(a) The NA and written modifications thereto;

(b) The NS;

(c) Those provisions of the SSPs (as published in the **Federal Register**) made applicable to the contract by the NS;

(d) The instructions to the SPR Sales Offer Form; and

(e) The successful offer.

C.35 Gratuities

(a) The Government, by written notice to the purchaser, may terminate the right of the purchaser to proceed under this contract if it is found, after notice and hearing, by the Secretary of Energy or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered by or given by the purchaser, or any agent or representative of the purchaser, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary of Energy or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event that this contract is terminated as provided in paragraph (a) of this provision, the Government shall be entitled (1) to pursue the same remedies against the purchaser as it could pursue in the event of a breach of the contract by purchaser, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of Energy or his duly authorized representative) which shall not be less than three nor more than 10 times the cost incurred by the purchaser in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

Exhibits

A—SPR Sales Offer Form
B—Sample Notice of Sale
C—SPRPMO Form 33S
D—SPR Crude Oil Comprehensive Analysis
E—SPR Delivery Point Data
F—Offer Standby Letter of Credit
G—Payment and Performance Letter of Credit
H—Form SPRPMO–F–6110.2–14b (Rev 8/91)—SPR Crude Oil Delivery Report
I—Instruction Guide for Return of Offer Guarantees by Electronic Transfer
J—Offer Guarantee Calculation Worksheet

BILLING CODE 6450–01–P

Strategic Petroleum Reserve Sales Offer Form

INSTRUCTIONS

1. Maximum MLI Quantity (MAXQ)

For each MLI offered against, offers shall state here, in thousands of barrels, the number of barrels which the offeror seeks to purchase on the MLI, regardless of delivery method. The maximum MLI quantity shall be not less than the DOE's minimum quantity as stated in the Notice of Sale (NS).

2. Delivery Line Items (DLI)

Nominal DLI delivery methods are as follows:

DLI A	Pipeline delivery from first terminal
DLI B, C, D	Tanker delivery from first terminal
DLI E, F, G	Barge delivery from first terminal
DLI H	Pipeline delivery from second terminal
DLI I,J,K	Tanker delivery from second terminal

Pipeline DLIs A and H nominally have a 30-day delivery period. Vessel DLIs B, E, and I have ten day delivery periods nominally from the 1st to the 10th; C, F, and J cover the 11th to the 20th; and D, G, and K cover the 21st to the last day of the period of sale. Additional DLIs may be added when storage sites are connected to more than two pipelines or terminals. However, not all DLIs may be available on a particular MLI. In addition, buyers are cautioned to read the NS carefully as it may alter the period of time covered by each DLI if the period of sale does not correspond to a calendar month.

3. Unit Price (UP$)

The offer shall state the offered price per barrel on each DLI for which the offer indicates a desired DLI quantity. The offer may state either the same unit price for different DLIs or different unit prices. DOE will award the highest price first. Prices may be stated to one-hundredths of a cent ($0.0001). but in no smaller fraction thereof.

4. Delivery Preference (P)

Where the offer has the same unit price for two or more DLIs on the same MLI, the offer may indicate the offerors order of preference for delivery method and period (1st, 2nd, 3rd, etc.). If the offer does not indicate a preference, DOE will select the DLIs to be awarded at its discretion.

5. Desired DLI Quantity (DESQ)

Offers must indicate at least one desired DLI, stating (in thousands of barrels) the number of barrels which the offeror will accept by the delivery method and during the delivery period established for that DLI. An offeror may indicate a willingness to accept alternate delivery methods or delivery periods. An offeror may request all, part or none of the offer's maximum MLI quantity on any particular DLI. A total of all the offeror's desired DLI quantities should total at least the maximum MLI quantity, but could exceed the maximum MLI quantity if the offeror is willing to accept alternate delivery methods or periods. For example, the offer could state:

MLI: 001
Maximum MLI Quantity: 1,000
Desired DLI Quantities:
DLI 001B: 1,000
DLI 001C: 1,000
DLI 001D: 1,000

This would indicate the offeror would be willing to accept one million barrels of Bryan Mound sweet to be delivered to its vessels either from the 1st through the 10th, the 11th through the 20th, or 21st through the end of the month.

6. Minimum Contract Quantity (MINQ)

For each DLI on which an offer is made, the offeror should indicate his willingness to accept as little as DOE's specified minimum contract quantity for that DLI by marking the 'Y' block, or unwillingness to accept less than the DESQ for that DLI by marking the 'N' block. If neither 'Y' or 'N' is indicated, the offer will be evaluated as though the offeror had indicated a 'Y'. DOE only will award less than the offeror's desired DLI quantity if an offer is otherwise successful, but the quantity which DOE has available for award is less than said desired DLI quantity or award of the desired quantity would cause the offeror's MAXQ on the MLI to be exceeded.

7. Total Price

The offer shall calculate the total price (desired DLI quantity times unit price) for each DLI on which an offer is made. The offeror is reminded that DESQ is stated in thousands of barrels.

8. Offer Guarantee

The amount of the offer guarantee is $10 million dollars or 5 percent of the maximum potential contract amount, whichever is less. The maximum potential contract amount is the sum of the products determined by multiplying the offer's maximum purchase quantity for each MLI times the highest offer prices that the offeror would have to pay for that MLI if the offer is successful. To assist in this calculation, instructions and a worksheet are available at Exhibit J. Submission of the worksheet is not desired.

EXHIBIT A

Strategic Petroleum Reserve Sales Offer Form

Offeror Information

Name

Offer Guarantee

Address

City

State

Zipcode -

Country

Telephone -

Agent Information

Name

Address

City

State

Zipcode -

Country

USA

Telephone - -

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

Bryan Mound Sweet MLI 001 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Bryan Mound Sour MLI 002 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Bryan Mound Maya MLI 003 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

West Hackberry Sweet MLI 004 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

West Hackberry Sour MLI 005 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Weeks Island Sour MLI 006 MAXQ

RESERVED

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Bayou Choctaw Sweet MLI 007 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Bayou Choctaw Sour MLI 008 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
						$
						$
						$
						$
						$
						$
						$
						$

Exhibit A

DLI=Delivery Line Item (*2, 5)
UP$=Unit Price (U.S. $)/BBL (*3)
P=Preference (*4)

* = See Instructions

Offer

MAXQ=Maximum MLI Quantity (1000 BBL) (*1)
DESQ=Desired DLI Quantity (1000 BBL) (*5)
MINQ=Minimum Contract Quantity (1000 BBL) (*6)

Big Hill Sweet MLI 009 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

Big Hill Sour MLI 010 MAXQ

DLI	P	UP$	DESQ	MINQ Y	MINQ N	Total Price (UP$ X DESQ)
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$
		▲				$

By signing below the offeror certifies agreement without exception to all terms and conditions applicable to this sale and that the maximum potential contract amount (Instruction 8) is $_____

Signature: Offeror or Agent _____

Company Name _____

Exhibit A

Exhibit B - Sample Notice of Sale (NS)

1. NS No. DE-NS96-92P0x000x is issued (date) for sale of Strategic Petroleum Reserve (SPR) crude oil. All references to "Provision No." refer to the Standard Sales Provisions (SSPs) published in the Federal Register (date). All provisions are applicable to this sale except that provision No(s). (give number or numbers) are supplemented or modified to read: (give changes). Additional requirements applicable to this sale are as follows: (give text).

   (Note: Should the SSPs be extensively changed, the Notice of Sale (NS) may include, for information purposes only, a complete text of the SSPs as modified for the sale. Offerors are cautioned, however, that these modified complete text SSPs have no contractual status and that in the event of any inconsistencies, the published SSPs and the NS shall establish the terms and conditions for the sale.)

2. Mailed and handcarried offers and offer guarantees must be received by 3:00 p.m. local time on (date) at (address). Offer guarantees sent by wire transfer must also be received at the U.S. Treasury by the time stated above.

3. Offerors must give names, addresses and telephone numbers, including area codes, for authorized representative of the offeror with whom the Government may conduct any necessary discussions, including financial.

4. Direct questions regarding NS to (name of individual), telephone (504) 734-4660. Collect calls will not be accepted.

5. Master Line Item (MLI) numbers given herein refer to those schedules attached as Exhibit A of the SSPs. The quantities for each MLI offered for sale are as follows:

   MLI 001: _____ bbls; MLI 002 not offered this sale; MLI 003: _____ bbls;
   MLI 004: _____ bbls; MLI 005 not offered this sale; MLI 006 not offered this sale;
   MLI 007: _____ bbls; MLI 008: _____ bbls; MLI 009 not offered this sale; MLI 010: ___ bbls.

6. Offered delivery line items (DLI) and their maximums, i.e., offered DLIs and the Department of Energy's best estimates of the maximum amount of petroleum that can be moved by each delivery line item transportation system over the delivery period, are as follows (see provision No. B.17 of the SSPs):

7. Minimum quantities which will be awarded for each delivery line item (DLI) are as follows:

8. Consideration to be paid for alteration of contract delivery modes in accordance with provision No. C.6 is as follows:

9. Applicable quality differentials are plus or minus ___ ¢ per degree API gravity, or part

thereof, for sweet crude oil streams, and plus or minus ___ ¢ per one-tenth degree API gravity for sour crude oil streams. These quality adjustments will only be applied to the amount of variation by which the API gravity of the crude oil delivered differs by more than plus or minus five-tenths of one degree API (+/- 0.5° API) from the API gravity of the crude oil stream contracted for as published in this Notice of Sale.

10. The following information is provided in connection with SSP Provision No. B.4 "'Superfund' tax on SPR petroleum - caution to offerors":

11. All offerors and purchasers are cautioned that letters of credit must not vary in substance from the sample provided in Exhibits F and G. Nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted.. It is recommended, therefore, that offerors/purchasers review letters of credit issued on their behalf, to assure their full compliance with the above cited Exhibits.

12. The information to be included for payment by wire transfer of funds over the Federal Deposit System Network is provided in Attachment __. Information to be included for payment by electronic funds transfer using the Automated Clearing House Network is provided in Attachment __.

EXHIBIT "C" **SPRPMO FORM 33S**

GOVERNMENT PROPERTY SALES CONTRACT	**CONTRACT NUMBER**	**PAGE** 1 of 1

This contract is entered into by and between the United States of America, hereinafter called the "Government," represented by the Contracting Officer executing this contract and the Purchaser below identified. The Government agrees to sell and the Purchaser agrees to buy the material described below in accordance with the terms and conditions of _____, incorporated herein by reference.

ACKNOWLEDGMENT OF AMENDMENTS	**AMENDMENT NO.**	**DATE**
The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:		

EXECUTION BY PURCHASER

NAME OF PURCHASER

ADDRESS (Street, City, State & Zip Code) (Type or Print)

_____ _____

SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SIGN THIS CONTRACT **DATE**
(Type or print name and title under signature)

EXECUTION BY GOVERNMENT

Items on the attached NOTICE OF ACCEPTANCE are accepted.

UNITED STATES OF AMERICA BY:

_____ _____

NAME AND SIGNATURE OF CONTRACTING OFFICER **DATE**

EXHBIT D

SPR CRUDE OIL COMPREHENSIVE ANALYSIS

Sample ID: West Hackberry, Cavern 108

Number: 97SPR068-077 Date collected: 2/27/97 Date results reported: 12/29/97

Crude							
Specific Gravity, 60/60° F	0.8394	Ni, ppm	2.67	RVP, psi @ 100° F			5.05
API Gravity	37.1	V, ppm	4.30	Acid number, mg KOH/g			0.09
Sulfur, Wt. %	0.34	Fe, ppm	1.21	Mercaptan Sulfur, ppm			3.7
Nitrogen, Wt. %	0.099	Cu, ppm	3.59	H_2S Sulfur, ppm			0
Micro Car. Res., Wt. %	1.90	Org. Cl, ppm	0.3	Viscosity: 77° F	5.763	cSt	44.7 SUS
Pour Point, °F	35	UOP "K"	11.95	100° F	3.888	cSt	38.8 SUS

Fraction	Gas	1	2	3	4	5	6	Residuum	Residuum
Cut Temp.	C_2 - C_4	C5 - 175° F	175° - 250° F	250° - 375° F	375° - 530° F	530° - 650° F	650° - 1050° F	650° F+	1050° F+
Vol. %	3.5	7.7	9.5	13.2	19.9	9.8	28.1	37.0	8.5
Vol. Sum %	3.5	11.2	20.7	33.9	53.8	63.6	91.7	100.6	100.2
Wt. %	2.5	6.1	8.4	12.3	19.7	10.0	30.7	40.9	10.2
Wt. Sum %	2.5	8.6	17.0	29.3	49.0	59.0	89.7	100.0	99.9
Specific Gravity, 60/60° F		0.6692	0.7417	0.7803	0.8305	0.8612	0.9180	0.9284	1.005
API Gravity		79.9	59.3	49.8	38.9	32.8	22.6	20.9	9.3
Sulfur, Wt. %		0.0010	0.0005	0.0061	0.10	0.27	0.44	0.58	1.05
Mercaptan Sulfur, ppm		1.2	3.5	5.3	4.4				
H_2S Sulfur, ppm		0.0	0.0	0.0	0.0				
Organic Cl, ppm		0.5	0.6	1.2	0.6				
Research Octane Number		71.5							
Motor Octane Number		68.1							
RON for C_5 - 375° F		53.5							
MON for C_5 - 375° F		52.9							
Aniline Point, ° F				121.3	146.3	163.6	194.0		
Acid Number, mg KOH/g					0.04	0.13			
Cetane Index					45.1	50.5			
Naphthalenes, Vol. %					4.78	9.93			
Smoke point, mm					19.2	14.7			
Nitrogen, Wt. %					0.0012	0.014	0.118	0.253	0.565
Viscosity, cSt 77° F					2.798				
100° F					2.185	5.861			
130° F						3.885	32.04	109.1	
180° F							12.11	30.78	4685
210° F									1405
250° F									
Freezing Point, °F					-16.7				
Cloud Point, °F						35.3	108		
Pour Point, °F						30	105	90	
Ni, ppm								7.03	29.1
V, ppm								11.3	47.2
Fe, ppm								3.56	14.6
Cu, ppm								7.65	32.0
Micro Car. Res., Wt. %							0.32	4.52	17.76

SPR GAS CHROMATOGRAPHIC ANALYSES
Sample ID: West Hackberry, Cavern 108
Number: 97SPR068-077

		Distillate fractions, ASTM D2892		
		C_5-175° F Wt. %	175-250° F Wt. %	250-375° F Wt. %
* Total Paraffins		43.81	21.35	19.97
Total Iso-paraffins		37.53	24.82	28.36
Total Aromatics		3.19	10.14	26.22
Total Naphthenes		15.48	43.69	23.16
Unknowns		0.00	0.00	2.30
Paraffins	C2	0.00	0.00	0.00
	C3	0.43	0.02	0.03
	C4	4.04	0.09	0.10
	C5	25.07	0.31	0.22
	C6	13.95	3.57	0.17
	C7	0.32	12.11	0.32
	C8	0.00	5.25	4.81
	C9	0.00	0.00	7.64
	C10	0.00	0.00	4.60
	C11	0.00	0.00	2.02
	C12	0.00	0.00	0.06
Iso-paraffins	C4	0.64	0.03	0.02
	C5	16.11	0.15	0.27
	C6	18.54	2.11	0.11
	C7	2.24	11.39	0.11
	C8	0.00	9.52	2.28
	C9	0.00	1.63	13.04
	C10	0.00	0.00	8.65
	C11	0.00	0.00	3.87
	C12	0.00	0.00	0.00
Aromatics	C6	2.68	1.52	0.04
	C7	0.50	7.70	0.97
	C8	0.00	0.93	11.25
	C9	0.00	0.00	5.73
	C10	0.00	0.00	6.63
	C11	0.00	0.00	1.42
	C12	0.00	0.00	0.18
Naphthenes	C5	3.23	0.22	0.01
	C6	10.89	9.07	0.14
	C7	1.36	24.32	1.19
	C8	0.00	10.02	6.89
	C9	0.00	0.07	7.31
	C10	0.00	0.00	6.11
	C11	0.00	0.00	1.51
	C12	0.00	0.00	0.00

Debutanization Fraction	
Component	Wt. %
Ethane	0.00
Propane	31.40
i-Butane	12.44
n-Butane	40.45
i-Pentane	8.90
n-Pentane	5.92
C_6+	0.90

* Whole Crude	
Component	Wt. % of crude
Benzene	0.37
Toluene	0.71
Ethylbenzene	0.21
m-Xylene	0.36
p-Xylene	0.16
o-Xylene	0.28

* The modified ASTM D 5134 gas chromatographic method was used for elution and identification of components up to n-C_{12} (420° F).

EXHIBIT E - SPR DELIVERY POINT DATA

SEAWAY FREEPORT TERMINAL
(Formerly Phillips Terminal)

(Data as of May, 1997)

LOCATION: Brazoria County, Texas (three miles southwest of Freeport, Texas on the Old Brazos River, four miles from the sea buoy)

CRUDE OIL STREAMS: Bryan Mound Sweet, Bryan Mound Sour, and Bryan Mound Maya

DELIVERY POINTS: Seaway Terminal marine dock facility number 2

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 3 Docks: Nos. 1, 2 and 3

MAXIMUM LENGTH OVERALL (LOA): Dock 1 - 750 feet during daylight and 615 feet during hours of darkness. Docks 2 and 3 - 820 feet during daylight and 615 feet during hours of darkness

MAXIMUM BEAM: Dock 1 - 107 feet
Docks 2 and 3 - 145 feet

MAXIMUM DRAFT: Dock 1 - 36.5 feet salt water; Docks 2 and 3 - 42 feet salt water; subject to change due to weather and silting conditions

MAXIMUM AIR DRAFT: None

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 1 is 50,000 DWT. Dock Nos. 2 and 3 can accommodate up to 120,000 DWT if they meet other port restrictions. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: Dock No. 1 has the capability to load barges of a minimum 30,000-barrel capacity. Its use, however, is contingent upon the consent of the Government and non-interference with the Government's obligations to other parties.

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing costs associated with such arrangements.

CUSTOMARY ANCHORAGE: Freeport Harbor sea buoy approximately 4.5 miles from the terminal.

SEAWAY TEXAS CITY TERMINAL
(Formerly ARCO Texas City)

(Data as of May, 1997)

LOCATION: Docks 11 and 12, Texas City Harbor, Galveston County, Texas

CRUDE OIL STREAMS: Bryan Mound Sweet, Bryan Mound Sour, and Bryan Mound Maya

DELIVERY POINTS: Marine Docks (11 and 12) and connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 2 Docks: Nos. 11 and 12

MAXIMUM LENGTH OVERALL (LOA): 1,020 feet. Maximum bow to manifold centerline distance is 468 feet.

MAXIMUM BEAM: Dock 11 - 108 feet; Dock 12 - 220 feet

MAXIMUM DRAFT: 39.5 feet brackish water; subject to change due to weather and silting conditions

MAXIMUM AIR DRAFT: None

MAXIMUM DEADWEIGHT TONS (DWT): 150,000 DWT each. Terminal permission is required for less than 30,000 DWT or greater than 150,000 DWT. Vessels larger than 120,000 DWT are restricted to daylight transit. Purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing all costs associated with such arrangements.

CUSTOMARY ANCHORAGE: Bolivar Roads (breakwater) or Galveston sea buoy.

SUN PIPE LINE COMPANY, NEDERLAND TERMINAL

(Data as of May, 1997)

LOCATION: Nederland, Texas (on the Neches River at Smiths Bluff in southwest Texas, 47.6 nautical miles from the bar)

CRUDE OIL STREAMS: West Hackberry Sweet, West Hackberry Sour

DELIVERY POINTS: Sun Terminal marine dock facility and Sun Terminal connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 5 Docks: Nos. 1, 2, 3, 4 and 5

MAXIMUM LENGTH OVERALL (LOA): 1000 feet

MAXIMUM BEAM: 150 feet

MAXIMUM AIR DRAFT: 136 feet

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 1 is 85,000 DWT. Dock Nos. 2, 3, 4 and 5 can accommodate up to 150,000 DWT. Vessels larger than 85,000 DWT are restricted to daylight transit. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: 3 Barge Docks: A, B and C. Each is capable of handling barges up to 25,000 barrels capacity.

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements with the terminal and for bearing costs associated with such arrangements.

CUSTOMARY ANCHORAGE: South of Sabine Bar Bouy. There is an additional anchorage at the Sabine Bar for vessels with draft of 39 feet of less.

TEXACO 22-INCH/DOE LAKE CHARLES PIPELINE CONNECTION

(Data as of May, 1997)

LOCATION: Lake Charles Upper Junction, located in Section 36, Township 10 South, Range 10 West, Calcasieu Parish, (Lake Charles) Louisiana

CRUDE OIL STREAMS: West Hackberry Sweet, West Hackberry Sour

DELIVERY POINT: Texaco 22-Inch/DOE Lake Charles Pipeline Connection

MARINE DISTRIBUTION FACILITIES: None

DOE ST. JAMES TERMINAL

(Data as of May, 1997)

LOCATION: St. James Parish, Louisiana (30 miles southwest of Baton Rouge on the west bank of the Mississippi River at mile-marker 158.3)

CRUDE OIL STREAMS: Bayou Choctaw Sweet, Bayou Choctaw Sour

DELIVERY POINTS: St. James Terminal marine dock facility and LOCAP and Capline Terminals (connections to Capline interstate pipeline system and local commercial pipelines)

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 2 Docks: Nos. 1 and 2

MAXIMUM LENGTH OVERALL (LOA): 940 feet

MAXIMUM BEAM: None

MAXIMUM DRAFT: 45 feet fresh water

MAXIMUM AIR DRAFT: 153 feet less the river stage

MAXIMUM DEADWEIGHT TONS (DWT): 100,000 DWT. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILIITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arrangements and for bearing all costs associated with such arrangements. Terminal can provide suitable contacts.

CUSTOMARY ANCHORAGE: Grandview Reach approximately 11 miles from the terminal.

UNOCAL BEAUMONT TERMINAL

(Data as of May, 1997)

LOCATION: Beaumont Terminal, located downstream south bank of the Neches River, approximately 8 miles SE of Beaumont, Texas

CRUDE OIL STREAMS: Big Hill Sweet, Big Hill Sour

DELIVERY POINTS: Unocal Beaumont Terminal No. 2 Crude Dock and connections to local commercial pipelines

MARINE DOCK FACILITIES AND VESSEL RESTRICTIONS:

TANKSHIP DOCKS: 1 Dock (No. 2)

MAXIMUM LENGTH OVERALL (LOA): 1,020 feet

MAXIMUM BEAM: 150 feet

MAXIMUM DRAFT: 40 feet fresh water

MAXIMUM AIR DRAFT: 136 Feet

MAXIMUM DEADWEIGHT TONS (DWT): Maximum DWT at Dock No. 2 is 150,000 DWT. Vessels larger than 85,000 DWT, 875 feet LOA, or 125 feet beam are restricted to daylight transit. Maximum DWT is theoretical berth handling capability; however, purchasers are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size and they are responsible for confirming that proposed vessels can be accommodated.

BARGE LOADING CAPABILITY: None

OILY WASTE RECEPTION FACILITIES: Facilities are available for oily bilge water and sludge wastes. Purchasers are responsible for making arangements with the terminal and for bearing costs associated with such arrangements.

VAPOR RECOVERY: Dock No. 2 is equipped with a crude oil vapor control system. All vessels loading crude must be outfitted with vapor control equipment. No vessel will be allowed to load without this equipment onboard.

CUSTOMARY ANCHORAGE: South of Sabine Bar Buoy. There is an additional anchorage at the Sabine Bar for vessels with draft of 39 feet or less.

TEXACO 20-INCH PIPELINE (TPLI) METER STATION

LOCATION: Jefferson County, Texas , Seven miles west and one mile north of FM 365 and Old West Port Arthur Road.

CRUDE OIL STREAMS: Big Hill Sweet, Big Hill Sour

DELIVERY POINT: TPLI East Houston Terminal, Exxon Junction (Channelview), Oil Tanking Junction

MARINE DISTRIBUTION FACILITIES: None

EXHIBIT F

SAMPLE - OFFER STANDBY LETTER OF CREDIT

BANK LETTERHEAD

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE:_____

Acquisition and Sales Division
Mail Stop FE-4451
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

To the Strategic Petroleum Reserve Sales Contracting Officer:

By order of our customer _____ we hereby establish in the U.S. Department of Energy's favor, an irrevocable standby Letter of Credit, Numbered _____, for an amount not to exceed U.S. $_____(_____) effective immediately on account of our customer in response to the U.S. Department of Energy's Notice of Sale No._____, including any amendments thereto, for the sale of Strategic Petroleum Reserve petroleum. This Letter of Credit expires 60 days from the date of issuance of this Letter of Credit.

This Letter of Credit is available by wire payment to the U.S. Department of Energy against presentation of a demand on us of a manually signed statement (with blanks filled in) containing the following:

"THIS DRAWING OF U.S. $_____ (_____) AGAINST YOUR LETTER OF CREDIT NUMBERED _____, DATED _____, IS DUE THE U.S. GOVERNMENT BECAUSE OF THE FAILURE OF _____ TO HONOR ITS OFFER TO ENTER INTO A CONTRACT FOR THE PURCHASE OF PETROLEUM FROM THE STRATEGIC PETROLEUM RESERVE, IN ACCORDANCE WITH THE U.S. GOVERNMENT'S NOTICE OF SALE NO. _____ , INCLUDING ANY AMENDMENTS THERETO."

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at out office located at _____, we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand, by either wire transfer of funds as a deposit to the account of the U.S. Treasury over

the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in each transfer will be as provided by the above referenced Notice of Sale.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision, International Chamber of Commerce Publication No 500) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the State in which the issuer's head office within the United States is located.

Address all communications regarding this Letter of Credit to _____.

Yours truly,

_____

Authorized Signature

INSTRUCTIONS FOR OFFER LETTER OF CREDIT

1. Letters of Credit must not vary in substance from this attachment. Provide a copy of this exhibit to your bank.

2. Insert date of issuance of Letter of Credit.

3. Insert dollar amount of Letter of Credit in numbers and in words.

4. Banks shall fill in all blanks except those in drawing statement. The drawing statement is in bold print with double lines for the blanks. Do not fill in the double-lined blanks.

5. The information to be included and format to be used either for wire transfer as a deposit over the Fedwire Deposit System Network or for electronic funds transfer through the Automated Clearing House network, using the Federal Remittance Express Program, will be provided in the applicable Notice of Sale.

6. If available, please include the American Bank Association Number on Letter of Credit.

7. Type name under authorized signature.

8. If Offeror (banks's customer) or bank forwards letter of credit separately from the offer, the envelope shall clearly say "Offer Standby Letter of Credit (Name of Company)" and shall be clearly marked in accordance with Standard Sales Provision B.7(c).

EXHIBIT G

SAMPLE - PAYMENT AND PERFORMANCE LETTER OF CREDIT

BANK LETTERHEAD

IRREVOCABLE STANDBY LETTER OF CREDIT

DATE: _____

TO: Acquisition and Sales Division
Mail Stop FE-4451
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

CONTRACTOR: _____
CONTRACT NO.: _____
LETTER OF CREDIT NO.: _____

Gentlemen:

We hereby establish in the U.S. Department of Energy's favor our irrevocable standby Letter of Credit for about $U.S_____(_____) effective immediately. This letter of credit is available by your draft/s at sight, drawn on us and accompanied by a manually signed statement that the signer is an authorized representative of the Department of Energy, and one or both of the following statements:

a. **"I HEREBY CERTIFY THAT THE UNITED STATES GOVERNMENT HAS DELIVERED CRUDE OIL UNDER THE TERMS OF CONTRACT NUMBER_____AND THAT (CONTRACTOR) HAS NOT PAID UNDER THE TERMS OF THAT CONTRACT, AND AS A RESULT OWES THE GOVERNMENT $_____."**

b. **" I HEREBY CERTIFY THAT (CONTRACTOR) HAS FAILED TO TAKE DELIVERY OF CRUDE OIL UNDER THE TERMS OF CONTRACT NUMBER _____, AND AS A RESULT OWES THE GOVERNMENT $_____."**

Drafts must be presented for negotiations on or before the expiration date of this Letter of Credit, (Expiration Date), at our bank. The Government may make multiple drafts against this Letter of Credit.

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at out office we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand, by either wire transfer of funds as a

deposit to the account of the U.S. Treasury over the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in each transfer will be as provided in the above referenced Contract.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision, International Chamber of Commerce Publication No. 500) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the state in which the issuer's head office within the United States is located.

We hereby agree with the drawers, endorsers and bona fide holders that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of the above documents for negotiation at our bank on or before the expiration date.

Sincerely,

_____
(Authorized Signature)

_____
(Typed Name & Title)

INSTRUCTIONS FOR PAYMENT AND PERFORMANCE LETTER OF CREDIT

1. Letter of Credit must not vary in substance from this attachment. Provide a copy of this attachment to your bank.

2. Insert date of issuance of Letter of Credit.

3. Insert dollar amount of Letter of Credit in numbers and in words.

4. Banks shall fill in all blanks except those in the drawing statements. The drawing statements are in bold print with double lines for the blanks. Do not fill in the double-lined blanks.

5. The information to be included and format to be used either for wire transfer as a deposit over the Fedwire Deposit System Network or for electronic funds transfer through the Automated Clearing House network, using the Federal Remittance Express Program, will be provided in the Contract.

6. If available please include the American Bank Association Number on Letter of Credit.

7. Type name under authorized signature.

Exhibit H

STRATEGIC PETROLEUM RESERVE CRUDE OIL DELIVERY REPORT

1. SALES CONTRACT NUMBER	2. TERMINAL REPORT NUMBER	3. CARGO NUMBER

4. DATE DELIVERED	5. TRANSPORTATION MODE	6. ACCEPTANCE POINT	7. PRICE DATE
	☐ TANKER ☐ BARGE ☐ PIPELINE	☐ ORIGIN ☐ DESTINATION	

8. SHIPPING SPR SITE/TERMINAL	9. PURCHASER-NAME AND ADDRESS	10. CARRIER

11. CONTRACT LINE ITEM MLI	11. CONTRACT LINE ITEM DLI	12. DESCRIPTION OF CRUDE OIL AND GROSS BBLS	13. API GRAVITY	14. TOTAL SULPHUR %	15. DEL'D NET BBLS @ 60°F	16. UNIT PRICE	17. AMOUNT DUE
18. QUALITY ADJUSTMENT – INCREASE/(DECREASE) 18A. NET GRAVITY ADJUSTMENT FROM 18B(5)_____°							

18B. CALCULATION OF GRAVITY ADJUSTMENT

(1) ADVERTISED API GRAVITY	
(2) DELIVERED API GRAVITY	
(3) VARIANCE—(2) MINUS (1)	
(4) ALLOWABLE VARIANCE	
(5) NET VARIANCE—(3) MINUS (4)	

19. NET AMOUNT DUE

20. THE DELIVERED NET BARRELS, UNIT PRICE, PRICE DATE, QUALITY ADJUSTMENT AND NET AMOUNT DUE HAVE BEEN VERIFIED.

SIGNATURE: _____
ACCOUNTABLE OFFICER

22. REMARKS

21. TIME STATEMENT	DATE	TIME
NOTICE OF READINESS TO LOAD		
VESSEL ARRIVED IN ROADS		
PILOT ON BOARD		
WEIGHED ANCHOR		
FIRST LINE ASHORE		
MOORED ALONGSIDE		
STARTED BALLAST DISCHARGE		
FINISHED BALLAST DISCHARGE		
INSPECTED AND READY TO LOAD		
CARGO HOSES CONNECTED		
COMMENCED LOADING		
STOPPED LOADING		
RESUMED LOADING		
FINISHED LOADING		
CARGO HOSES REMOVED		
VESSEL RELEASED BY INSPECTOR		
COMMENCED BUNKERING		
FINISHED BUNKERING		
VESSEL LEFT BERTH (ACTUAL OR ESTIMATED)		

23. GOVERNMENT INSPECTOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE (VESSEL CARGO) (PIPELINE SHIPMENT) WAS INSPECTED, DELIVERED AND ACCEPTED AS SHOWN HEREON.

DATE_____ SIGNATURE_____

NAME TYPED/PRINTED

24. RECEIPT IS ACKNOWLEDGED FOR THE QUANTITY AND QUALITY SHOWN HEREON:

DATE RECEIVED:_____

AGENT:_____

BY:_____
NAME TYPED/PRINTED

25. I CERTIFY THAT THE TIME STATEMENT SHOWN IHEREON IS CORRECT.

SIGNATURE_____
MASTER OF VESSEL

SPRPMO-F-6110.2-14b 1/87 REV. 8/91

EXHIBIT I

INSTRUCTION GUIDE FOR RETURN OF OFFER GUARANTEES
BY ELECTRONIC TRANSFER OR TREASURY CHECK

Offer guarantees will be returned at the option of the Government by either check or electronic funds transfer through the Treasury Fedline Payment System (FEDLINE). Offerors shall designate a financial institution for receipt of electronic funds transfer payments and provide the following information:

(1) Name and address of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to FEDLINE.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to FEDLINE, name and address of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the American Bankers Association identifying number for the correspondent institution.

EXHIBIT J

OFFER GUARANTEE CALCULATION WORKSHEET

MLI:

COLUMN / ROW	(A) MAXQ (000/bbls)	(B) UNIT PRICE	(C) DLI	(D) DESQ (000/bbls)	(E) MINQ (000/bbls)	(F) TOTAL DLI PRICE (000/$)	(G) BOND FACTOR	(H) PRODUCT ($)
1		$				$	x50	$
2		$				$	x50	$
3		$				$	x50	$
4		$				$	x50	$
5		$				$	x50	$
6		$				$	x50	$
7		$				$	x50	$
8		$				$	x50	$
9		$				$	x50	$
10		$				$	x50	$
11		$				$	x50	$
							Total	$

1. Using a separate worksheet for each MLI offered against, from the SPR Sales Offer Form, enter the MLI maximum quantity offered on (expressed in thousands of barrels) in Column (A), Row 1.

2. Starting with the highest DLI unit price offered on the MLI from the SPR Sales Offer Form (and the highest preference if the unit prices of two or more DLIs are the same) enter the unit price in Row 1, Column (B); the DLI letter in Row 1, Column (C); the DLI desired quantity is Row 1, Column (D) (in thousands of barrels) and the minimum quantity in Row 1, Column (E). (The minimum quantity is either the Government's minimum contract quantity, if the offer indicates the offeror will accept as little as that amount, or the desired quantity, if the offeror indicates he will accept no less than that amount. See instructions for the SPR Sales Offer Form.)

3. If either the desired quantity in Column (D), or the minimum quantity in Column (E) exceeds the maximum quantity in Column (A), you have made an error either on this form or the offer form and should recheck your figures.

4. Multiply the price in Row 1, Column (B) times the desired quantity in Column (D) (as expressed in thousands) and enter the total DLI price in Column (F).

5. Multiply the total DLI price in Column (F) times the factor in Column (G) and enter the product in Column (H). The factor is 5% of 1000.

6. Subtract the DLI desired quantity in Row 1, Column (D) from the maximum quantity in Row 1, Column (A). Enter the result in Row 2, Column (A). If the result is zero, go to step 11.

7. Enter the next highest unit price for the MLI from the offer form in Row 2, Column (B). Enter the DLI letter, desired quantity, and minimum quantity in their respective columns. If there is a maximum quantity remaining in Row 2, Column (A), but no more DLI offers, or the minimum quantity in Row 2, Column (E) exceeds the maximum quantity, you may have made an error and should recheck your figures.

8. Multiply the lesser of the remaining maximum quantity in Column (A) (even if this quantity is less than MINQ), or the desired quantity in Column (D) times the unit price and enter the resulting total DLI price in Column (F).

9. Multiply Column (F) times the factor in Column (G) and enter the product in Column (H).

10. Repeat steps 6-9 for the next higher unit price until the maximum quantity remaining is zero, then go to step 11.

11. Sum the amounts in Column (H) and enter the total in Row 8, Column (H). Sum this amount for all the worksheets. If the sum of all the worksheets is less than $10,000,000, enter the sum in the spaces marked offer bond on the SPR Sales Offer Form. If the sum exceeds $10,000,000, then enter $10,000,000 on the offer form. Send with the offer or wire concurrently to the U.S. Treasury (refer to instructions in the Notice of Sale) an offer guarantee in the amount indicated on the offer form. These worksheets need not be submitted with the offer and should be retained for your files.

[FR Doc. 98–8757 Filed 4–7–98; 8:45 am]
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Reader Aids

Federal Register

Vol. 63, No. 67

Wednesday, April 8, 1998

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

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TTY for the deaf-and-hard-of-hearing	**523–5229**

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FEDERAL REGISTER PAGES AND DATES, APRIL

15739–16084 1
16085–16386 2
16387–16668 3
16669–16876 6
16877–17048 7
17049–17306 8

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7075 16385
7076 16668
7077 16873

5 CFR

410 16877
831 17049
844 17049

Proposed Rules:
Ch. XIV 16141

7 CFR

91 16370
93 16370
96 16370
301 16877
354 16878
405 17050
457 17050
925 16387
959 16390
1700 16085
1942 16088
1951 16088

Proposed Rules:
301 16908
1956 17125
1468 16142
1710 17127
1714 17127
1728 17128

8 CFR

Proposed Rules:
274a 16909

9 CFR

97 16881

Proposed Rules:
200 16913

10 CFR

430 ..... 16446, 16669

Proposed Rules:
140 17130
171 17130
430 ..... 16706, 16707
625 17260

12 CFR

4 16378
202 16392
208 16378
226 16669
303 17056
325 17056
326 17056
327 17056
346 17056
347 17056
351 17056
362 17056
309 16402
337 16378
563 16378

Proposed Rules:
28 16708
220 16446
221 16446
224 16446

13 CFR

121 16882

Proposed Rules:
121 16148
125 16148
126 16148

14 CFR

21 16089
25 17090
39 ..... 16091, 16094, 16096, 16098, 16100, 16102, 16104, 16107, 16109, 16110, 16111, 16678, 16679, 16681, 16883, 16884, 16886
71 ..... 16408, 16888, 16889, 17092
73 16890
150 16409

Proposed Rules:
Ch. I 16913
39 ..... 16163, 16165, 16167, 16169 16170, 16172, 16174, 16175, 16177, 16447, 16449, 16709, 16711, 16713, 16715, 16716, 16916, 17130
71 ..... 16451, 16718
91 16452
121 16452
125 16452
129 16452

15 CFR

806 16890

16 CFR

Proposed Rules:
20 17132

17 CFR

Proposed Rules:
10 16453

19 CFR

10 16414
118 16683
123 16414
128 16414
141 16414
143 16414

145.....16414
148.....16414

21 CFR

172.....16417
606.....16685
610.....16685
640.....16685
1270.....16685

22 CFR

40.....16686
41.....16892
93.....16686

26 CFR

1.....16895

27 CFR

9.....16902

29 CFR

1910.....17093
1926.....17093
Proposed Rules:
1910.....16918

30 CFR

913.....17094
Proposed Rules:
210.....17133
216.....17133
913.....16719
914.....16723, 16725
916.....16728
920.....16730
944.....17138

31 CFR

285.....16354

33 CFR

100 .....16114, 16115, 16687, 16688
110.....16688
117.....16905
165.....16116, 17098
Proposed Rules:
20.....16731
100.....16179
165.....16181

34 CFR

280.....16906

37 CFR

Proposed Rules:
201.....17142

39 CFR

Proposed Rules:
111.....17143
501.....16464

40 CFR

52.....16433, 16435
180 .....16437, 16690, 17099, 17101
185.....17101
186.....17101
Proposed Rules:
52.....16465, 16751
131.....16182
300.....16465
372.....16754

41 CFR

51–5.....16439
51–6.....16439
51–8.....16439
51–9.....16439
51–10.....16439
Proposed Rules:
301–3.....16936
301–10.....16936

42 CFR

121.....16296

44 CFR

206.....17108

46 CFR

Proposed Rules:
5.....16731

47 CFR

1.....17118
4.....17118
52.....16440
64.....16696
73.....16906, 17123
76.....16906
Proposed Rules:
0.....16938
1.....16188, 16938
13.....16938
22.....16938
24.....16938
26.....16938
27.....16938
73.....17123
80.....16938
87.....16938
90.....16938
95.....16938
97.....16938
101.....169380

48 CFR

Ch. 28.....16118
209.....17124
212.....17124
213.....17124
217.....17124
222.....17124
235.....17124
243.....17124
252.....16871, 17124
Proposed Rules:
803.....16955
852.....16955

49 CFR

395.....16697
533.....16699
571.....16215
572.....16136
Proposed Rules:
571.....16217

50 CFR

230.....16701
679.....16705
Proposed Rules:
17.....16217, 16218
285.....16220
424.....16955
679.....16223

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 8, 1998

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clethodim; published 4-8-98

Hexythiazox; published 4-8-98

FEDERAL COMMUNICATIONS COMMISSION

Radio and television broadcasting:

Religious broadcasters; equal employment opportunity requirements; published 3-9-98

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Illinois; published 4-8-98

LABOR DEPARTMENT

Occupational Safety and Health Administration

Safety and health standards, etc.:

Respiratory protection; published 1-8-98

Saftey and health standards, etc.:

Reporting and recordkeeping requirements; published 4-8-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bell; published 3-24-98

British Aerospace; published 3-4-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Sanitation requirements for official establishments; comments due by 4-14-98; published 2-13-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Atlantic surf clam and ocean quahog; comments due by 4-13-98; published 2-26-98

Summer flounder, scup, and black sea bass; comments due by 4-16-98; published 3-17-98

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Freedom of Information Act; implementation; comments due by 4-13-98; published 3-12-98

DEFENSE DEPARTMENT

Civilian health and medical program of the uniformed services (CHAMPUS):

TRICARE program—

Prime balance billing; comments due by 4-14-98; published 2-13-98

Federal Acquisition Regulation (FAR):

Restructuring costs; comments due by 4-14-98; published 2-13-98

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 4-17-98; published 3-18-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Benoxacor; comments due by 4-14-98; published 2-13-98

Lambda-cyhalothrin; comments due by 4-14-98; published 2-13-98

Vinclozolin; comments due by 4-14-98; published 2-13-98

Superfund program:

Toxic chemical release reporting; community right-to-know—

Petition to add Standard Industrial Classification Code 45, transportation by air, to list of reporting facilities; comments due by 4-13-98; published 2-10-98

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Georgia; comments due by 4-13-98; published 3-3-98

Kentucky; comments due by 4-13-98; published 3-3-98

FEDERAL LABOR RELATIONS AUTHORITY

Presidential and Executive Office Accountability Act; implementation:

Issues that have arisen as agency carries out its responsibilities; regulatory review; comments due by 4-17-98; published 4-2-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Investigational new drug and new drug applications—

Format and content requirements; demographic subgroups (gender, age, and race); effectiveness and safety data; comments due by 4-13-98; published 2-11-98

Tea Importation Act regulations; CFR part removed; comments due by 4-17-98; published 3-17-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Kneeland Prairie penny-cress; comments due by 4-13-98; published 2-12-98

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Oil value for royalty due on Indian leases; establishment; comments due by 4-13-98; published 2-12-98

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine safety and health:

Underground coal mines—

Self-rescue devices; use and location requirements; comments due by 4-13-98; published 2-11-98

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Practice and procedure:

Settlement Judge procedures; settlement part procedures addition; comments due by 4-16-98; published 3-2-98

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Recovery of overpayments; comments due by 4-13-98; published 2-12-98

SECURITIES AND EXCHANGE COMMISSION

Securities:

Brokers and dealers reporting requirements—

Year 2000 compliance; comments due by 4-13-98; published 3-12-98

Transfer agents; Year 2000 readiness reports; comments due by 4-13-98; published 3-12-98

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

New Jersey; comments due by 4-14-98; published 2-13-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules:

Afghanistan; flights within territory and airspace; prohibition (SFAR No. 67); comments due by 4-16-98; published 4-1-98

Airworthiness directives:

de Havilland; comments due by 4-13-98; published 3-12-98

Alexander Schleicher Segelflugzeugbau; comments due by 4-17-98; published 3-17-98

British Aerospace; comments due by 4-13-98; published 3-13-98

Dornier; comments due by 4-13-98; published 3-12-98

Eurocopter France; comments due by 4-13-98; published 3-13-98

Fokker; comments due by 4-13-98; published 3-12-98

Glaser-Dirks Flugzeugbau GmbH; comments due by 4-17-98; published 3-18-98

New Piper Aircraft, Inc.; comments due by 4-13-98; published 2-12-98

Pilatus Britten-Norman Ltd.; comments due by 4-17-98; published 3-19-98

Sikorsky; comments due by 4-13-98; published 2-10-98

Stemme GmbH & Co. KG; comments due by 4-17-98; published 3-16-98

Class B and C airspace; comments due by 4-13-98; published 2-10-98

Class D airspace; comments due by 4-13-98; published 3-12-98
Class E airspace; comments due by 4-13-98; published 2-25-98

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Motor carrier safety standards:
For-hire motor property and passenger carriers, property brokers, and freight forwarders operating in interstate or foreign commerce; registration; comments due by 4-14-98; published 2-13-98

TRANSPORTATION DEPARTMENT
Research and Special Programs Administration
Pipeline safety:
Hazardous liquid transportation—
Older hazardous liquid and carbon dioxide pipelines; pressure testing; response to reconsideration petitions; comments due by 4-13-98; published 2-10-98

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Amortization of start up expenditures; election procedures; comments due by 4-13-98; published 1-13-98
Consolidated return regulations—
Consolidated groups; losses and credits, limitations on use; cross-reference; comments due by 4-13-98; published 1-12-98
Limitations on use of certain credits and related tax attributes; cross-reference; comments due by 4-13-98; published 3-16-98
Long term contracts in de minimis cases; nonapplication of look-back method; cross-reference; comments due by 4-13-98; published 1-13-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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S. 758/P.L. 105–166

Lobbying Disclosure Technical Amendments Act of 1998 (Apr. 6, 1998; 112 Stat. 38)

Last List March 25, 1998

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