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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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Tuesday, July 21, 1998

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

RIN 3150–AG01

Adjustment of the Maximum Retrospective Deferred Premium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to increase the maximum secondary retrospective deferred premium, presently established at $75.5 million per reactor per accident (but not to exceed $10 million in any 1 year), to $83.9 million per reactor per accident (but not to exceed $10 million in any 1 year), for liability insurance coverage in the event of nuclear incidents at licensed, operating, commercial nuclear power plants with a rated capacity of 100,000 kW or more. The change is based on the aggregate percentage change of 11.16 percent in the Consumer Price Index (CPI) from September 1993 through December 1997. This inflation adjustment is required by the Price-Anderson Amendments Act of 1988 (Pub. L. 100–408, 102 Stat. 1066) to be made at least once each 5 years.

EFFECTIVE DATE: August 20, 1998.

FOR FURTHER INFORMATION CONTACT: Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone 301–415–1289, e-mail ipd1@nrc.gov.

SUPPLEMENTARY INFORMATION: Part 140, ''Financial Protection Requirements and Indemnity Agreements,'' provides requirements and procedures for implementing the financial protection requirements for certain licensees and other persons pursuant to Section 170 of the Atomic Energy Act (AEA) of 1954, as amended. Section 140.11(a)(4) specifies the amount of financial protection required of a licensee for a nuclear reactor that is licensed to operate, is designed for the production of electrical energy, and has a rated capacity of 100,000 kW or more. This amount is presently set at the sum of $200 million and the amount available as secondary financial protection in the form of private liability insurance under an industry retrospective rating plan. These limits are currently $75.5 million per reactor per incident (plus any surcharge assessed under Subsection 170o.(1)(E) of the AEA) for the maximum standard deferred premium and $10 million per reactor per incident per calendar year.

Section 15, ''Inflation Adjustment,'' of Pub. L. 100–408, the Price-Anderson Amendments Act of 1988 (''the Act''), enacted on August 20, 1988, requires the Commission to adjust the amount of the maximum standard deferred premium (currently $75.5 million) based on inflation. Section 15 of the Act added a new Section 170t to the AEA, which provides as follows:

> t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b(1) [Section 170b(1) of the AEA] not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988 in accordance with the aggregate percentage change in the Consumer Price Index since —
>
> (A) such date of enactment, in the case of the first adjustment under this subsection; or
>
> (B) the previous adjustment under this subsection.
>
> (2) For purposes of this subsection, the term ''Consumer Price Index'' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.

The inflation adjustment required by Section 170t(1)(B) of the AEA must be made at least once during the period from August 20, 1993, to August 20, 1998, and must be in accordance with the aggregate percentage change (since August 1993) in the CPI for all urban consumers, as published by the Secretary of Labor. The aggregate percentage increase in the CPI from September 1993 through December 1997 is 11.16 percent. This number is derived by dividing the September 1993 CPI index by the December 1997 CPI index. When the percentage increase is applied to the current $75.5 million maximum retrospective deferred premium, the new maximum retrospective deferred premium will increase to $83.9 million per reactor per incident. The limit of $10 million per reactor per incident per year will be unchanged.

To implement this inflation adjustment, the Commission is issuing revisions to 10 CFR 140.11(a)(4), which will become effective by August 20, 1998, that will require that large nuclear power plant licensees maintain, in addition to $200 million in primary financial protection, a new maximum standard deferred premium of $83.9 million per reactor per incident (but not to exceed $10 million in any 1 year). Because this inflation adjustment by the Commission is essentially ministerial in nature, the Commission finds that there is good cause for omitting notice and public procedure (in the form of a proposed rule) on this action as unnecessary, in accordance with the Administrative Procedure Act (5 U.S.C. 553b).

The next inflation adjustment in the amount of the standard deferred premium will be made not later than August 20, 2003, and will be based on the incremental change in the CPI since December 1997.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule does not contain a new or an amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0039.

Public Protection Notification

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

Regulatory Analysis

Because this inflation adjustment is required by statute, no other alternatives

were considered. See also the discussion in the Regulatory Flexibility Certification for this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this final rule will not have a significant impact upon a substantial number of small entities. The rule will potentially affect licensees of approximately 110 nuclear power reactors. Nuclear power plant licensees do not fall within the definition of small businesses as defined in Section 3 of the Small Business Act (15 U.S.C. 632), the Small Business Size Standards of the Small Business Administration (13 CFR Part 121), or the Commission's Size Standards (10 CFR 2.810)

Backfit Analysis

The NRC has determined that this final rule does not require analysis under the backfit rule (10 CFR 50.109(a)(1)) because it is statutorily required and the statute does not confer any discretion on the NRC.

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 10 CFR Part 140

Criminal penalty, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the AEA, the Energy Reorganization Act of 1974 (as amended), and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 140:

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 continues to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

2. In § 140.11 the introductory text of paragraph (a) and paragraph (a)(4) are revised to read as follows:

§ 140.11 Amounts of financial protection for certain reactors.

(a) Each licensee is required to have and maintain financial protection:

* * * * *

(4) In an amount equal to the sum of $200,000,000 and the amount available as secondary financial protection (in the form of private liability insurance available under an industry retrospective rating plan providing for deferred premium charges equal to the pro rata share of the aggregate public liability claims and costs, excluding costs payment of which is not authorized by subsection 170o.(1)(D) of the Act, in excess of that covered by primary financial protection) for each nuclear reactor which is licensed to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more: Provided, however, that under such a plan for deferred premium charges for each nuclear reactor which is licensed to operate, no more than $83,900,000 with respect to any nuclear incident (plus any surcharge assessed under subsection 170o.(1)(E) of the Act) and no more than $10,000,000 per incident within one calendar year shall be charged.

* * * * *

Dated at Rockville, Maryland, this 15th day of July, 1998.

For the Nuclear Regulatory Commission.

James L. Blaha,

Acting Executive Director for Operations.

[FR Doc. 98–19362 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–105–AD; Amendment 39–10666; AD 98–15–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80, and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes, that currently requires an inspection to detect chafing on the FIREX pipe assembly of the number one engine; and either repair of chafed pipe assemblies or replacement of the chafed pipe assemblies with new pipe assemblies; and modification of the FIREX and the pneumatic sense pipe assembly clamp marriage. This amendment revises the applicability of the existing AD to include additional airplanes and remove others. This amendment is prompted by reports of incidents in which the pneumatic sense pipe chafed against the FIREX supply pipe of the number one engine. The actions specified by this AD are intended to prevent chafing of the FIREX supply pipe, which could result in a hole in the pipe and consequently prevent the proper distribution of the fire extinguishing agent within the nacelle in the event of a fire.

DATES: Effective August 25, 1998.

The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998; as listed in the regulations, is approved by the Director of the Federal Register as of August 25, 1998.

The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; and McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; was approved previously by the Director of the Federal Register as of July 24, 1995 (60 FR 32579, June 23, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard,

Lakewood, California 90712; telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–12–25, amendment 39–9278 (60 FR 32579, June 23, 1995), which is applicable to certain McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on January 5, 1998 (63 FR 174). The action proposed to continue to require an inspection to detect chafing on the FIREX pipe assembly of the number one engine; and either repair of chafed pipe assemblies or replacement of the chafed pipe assemblies with new pipe assemblies; and modification of the FIREX and the pneumatic sense pipe assembly clamp marriage.

Comments

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

The commenter supports the proposed rule.

Explanation of Changes to This Final Rule

Since the issuance of the proposal, the FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998. This revision is essentially the same as McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; however, minor edits have been incorporated. The FAA has revised this final rule to reference Revision 05 as an additional source of service information for accomplishment of the required actions.

Conclusion

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

Cost Impact

There are approximately 1,691 McDonnell Douglas Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 834 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 95–12–25, and retained in this AD, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $50,040, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9278 (60 FR 32579, June 23, 1995), and by adding a new airworthiness directive (AD), amendment 39–10666, to read as follows:

98–15–15 McDonnell Douglas: Amendment 39–10666. Docket 97–NM–105–AD. Supersedes AD 95–12–25, Amendment 39–9278.

Applicability: Model DC–9–30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the FIREX supply pipe, which could result in a hole in the pipe and consequently prevent the proper distribution of the fire extinguishing agent within the nacelle in the event of a fire, accomplish the following:

(a) Within 8 months after the effective date of this AD, perform an inspection to detect chafing of the FIREX pipe assembly of the number one engine, in accordance with McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; or McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998.

(1) If any chafing is detected, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD in accordance with the service bulletin. Where there are differences between the requirements of this AD and the procedures specified in the service bulletin, the AD prevails.

(i) Either repair chafed pipe assemblies or replace chafed pipe assemblies with new or serviceable pipe assemblies. And

(ii) Modify the FIREX and the pneumatic sense pipe assembly clamp marriage.

(2) If no chafing is detected, prior to further flight, modify the FIREX and the pneumatic

sense pipe assembly clamp marriage in accordance with the service bulletin.

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

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

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

(d) The actions shall be done in accordance with McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; or McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998.

(1) The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, dated May 25, 1994; McDonnell Douglas Service Bulletin DC9–26–025, Revision 03, dated July 25, 1996; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 04, dated April 30, 1997; and McDonnell Douglas Service Bulletin DC9–26–025, Revision 05, dated May 29, 1998; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 1, dated September 30, 1994; and McDonnell Douglas DC–9 Service Bulletin 26–25, Revision 2, dated April 18, 1995; was approved previously by the Director of the Federal Register as of July 24, 1995 (60 FR 32579, June 23, 1995).

(3) Copies may be obtained from The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 25, 1998.

Issued in Renton, Washington, on July 10, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19045 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–01–AD; Amendment 39–10669; AD 98–15–18]

RIN 2120–AA64

Airworthiness Directives; Maule Aerospace Technology Corp. M–4, M–5, M–6, M–7, MX–7, and MXT–7 Series Airplanes and Models MT–7–235 and M–8–235 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 95–26–18, which currently requires inspecting (one-time) certain wing lift struts for internal corrosion on certain Maule Aerospace Technology Corp. (Maule) M–4, M–5, M–6, M–7, MX–7, and MXT–7 series airplanes and Models MT–7–235 and M–8–235 airplanes, and replacing any wing lift strut where corrosion is found. That AD was the result of an accident where the wing separated from one of the affected airplanes. This AD retains the initial inspection and possible replacement requirements of AD 95–26–18, requires the inspections to be repetitive, and provides the option of using ultrasonic procedures to accomplish the inspection requirements. The actions specified by this AD are intended to prevent failure of the wing lift struts caused by corrosion damage, which could eventually result in the wing separating from the airplane.

DATES: Effective September 9, 1998.

The incorporation by reference of Maule Service Bulletin No. 11, dated October 30, 1995, as listed in the regulations was previously approved by the Director of the Federal Register as of January 26, 1996 (61 FR 623, January 9, 1996).

ADDRESSES: Service information that applies to this AD may be obtained from Maule Aerospace Technology Inc., 2099 GA. Hwy. 133 South, Moultrie, Georgia 31768; telephone: (912) 985–2045; facsimile: (912) 890–2402. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Lorenzen, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6078; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to supersede AD 95–26–18, Amendment 39–9476 (61 FR 623, January 9, 1996), that applies to certain Maule M–4, M–5, M–6, M–7, MX–7, and MXT–7 series airplanes and Models MT–7–235 and M–8–235 airplanes that are equipped with part number (P/N) 2079E rear wing lift struts and P/N 2080E front wing lift struts, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 24, 1998 (63 FR 14051). AD 95–26–18 currently requires inspecting (one-time) the wing lift struts for internal corrosion, and replacing any wing lift strut where corrosion is found. The proposed AD would supersede AD 95–26–18 with a new AD that would:

- Retain the initial inspection and possible replacement requirements of AD 95–26–18;
- Require the inspections to be repetitive; and
- Provide the option of using ultrasonic procedures to accomplish the inspection requirements.

Accomplishment of the actions required by AD 95–26–18 is in accordance with Maule Service Bulletin (SB) No. 11, dated October 30, 1995.

The NPRM was the result of a report of an accident where the wing separated from one of the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor

editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Compliance Time of This AD

The compliance time of this AD is presented in calendar time instead of hours time-in-service. The FAA has determined that a calendar time for compliance is the most desirable method because the unsafe condition described in this AD is caused by corrosion. Corrosion can occur on airplanes regardless of whether the airplane is in service.

Cost Impact

The FAA estimates that 1,196 airplanes in the U.S. registry will be affected by this AD, that it will take 11 workhours per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the initial inspection cost approximately $40 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $837,200, or $700 per airplane. This figure only takes into account the cost of the initial inspection and does not take into account the cost of the repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator of the affected airplanes will incur.

In addition, these figures are based upon the presumption that no affected airplane operator has accomplished the initial inspection, and does not take into account the cost for replacement if corrosion is found on a wing lift strut. The FAA has no way of determining the number of wing lift struts that may need to be replaced based upon the results of the inspections.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 95–26–18, Amendment No. 39–9476 (61 FR 623, January 9, 1996), and by adding a new AD to read as follows:

98–15–18 Maule Aerospace Technology Corp.: Amendment 39–10669; Docket No. 98–CE–01–AD; Supersedes AD 95–26–18, Amendment 39–9476.

Applicability: The following airplane models, all serial numbers, certificated in any category, that are equipped with part number (P/N) 2079E (or FAA-approved equivalent part number) rear wing lift struts or P/N 2080E (or FAA-approved equivalent part number) front wing lift struts:

Bee Dee	M–4	M–4C	M–4S
M–4T	M–4–180C	M–4–180S	M–4–180T
M–4–210	M–4–210C	M–4–210S	M–4–210T
M–4–220	M–4–220C	M–4–220S	M–4–220T
M–5–180C	M–5–200	M–5–210C	M–5–210TC
M–5–220C	M–5–235C	M–6–180	M–6–235
M–7–235	MX–7–235	MX–7–180	MX–7–420
MXT–7–180	MT–7–235	M–8–235	MX–7–160
MXT–7–160	MX–7–180A	MXT–7–180A	MX–7–180B
MXT–7–420	M–7–235B	M–7–235A	M–7–235C

Note 1: This AD does not apply to airplanes equipped with four Maule sealed lift struts, P/N 2200E and P/N 2201E. These sealed lift struts are identified by two raised weld spots on the upper end of the strut just below the serial number plate. Removal of the upper cuff is needed to locate the weld spots.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent failure of the wing lift struts caused by corrosion damage, which could eventually result in the wing separating from the airplane, accomplish the following:

Note 3: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Upon accumulating 2 years on a lift strut affected by this AD; within 3 calendar months after the effective date of this AD; or within 2 years after the last inspection accomplished in accordance with AD 95–26–18 (superseded by this action), whichever occurs later, remove the wing lift struts in accordance with the INSTRUCTIONS section of Maule Service Bulletin (SB) No. 11, dated October 30, 1995, and accomplish one of the following (the actions in either paragraph (a)(1), (a)(2), (a)(3), or (a)(4), including all subparagraphs, of this AD):

(1) Inspect the wing lift struts for corrosion in accordance with the INSPECTION

PROCEDURE section of Maule SB No. 11, dated October 30, 1995.

(i) If no perceptible dents (as defined in the above SB) are found in the wing lift strut and no corrosion is externally visible, apply corrosion inhibitor to each strut in accordance with Maule SB No. 11, dated October 30, 1995. Reinspect the wing lift struts at intervals not to exceed 24 calendar months provided no perceptible dents or external corrosion is found.

(ii) If a perceptible dent (as defined in the above SB) is found in the wing lift strut or external corrosion is found, prior to further flight, accomplish one of the installations (and subsequent actions presented in each paragraph) specified in paragraphs (a)(3) and (a)(4) of this AD.

(2) Inspect the wing lift struts for corrosion in accordance with the Appendix to this AD. The inspection procedures in this Appendix must be accomplished by a Level 2 or Level 3 inspector certified using the guidelines established by the American Society for Non-destructive Testing, or MIL–STD–410.

(i) If no external corrosion is found and all requirements in the Appendix to this AD are met, prior to further flight, apply corrosion inhibitor to each strut in accordance with Maule SB No. 11, dated October 30, 1995. Reinspect the lift struts at intervals not to exceed 24 calendar months provided no external corrosion is found and all of the requirements included in the Appendix of this AD are met.

(ii) If external corrosion is found or if any of the requirements in the Appendix of this AD are not met, prior to further flight, accomplish one of the installations (and subsequent actions presented in each paragraph) specified in paragraphs (a)(3) and (a)(4) of this AD.

(3) Install original equipment manufacturer (OEM) part number wing lift struts (or FAA-approved equivalent part numbers) that have been inspected in accordance with the specifications presented in either paragraph (a)(1) or (a)(2) of this AD, and are found to be airworthy according to the inspection requirements included in these paragraphs. Accomplish this installation in accordance with the applicable maintenance manual. Thereafter, inspect these wing lift struts at intervals not to exceed 24 calendar months in accordance with the specifications presented in either paragraph (a)(1) or (a)(2) of this AD.

(4) Install new Maule sealed wing lift struts, P/N 2200E or P/N 2201E, as applicable (or FAA-approved equivalent part numbers) on each wing as specified in the INSTRUCTIONS section in Part II of Maule SB No. 11, dated October 30, 1995.

(b) If holes are drilled into the sealed wing lift strut assemblies installed as specified in paragraph (a)(4) of this AD in order to attach cuffs, door clips, or other hardware, inspect the wing lift struts at intervals not to exceed 24 calendar months using the procedures specified in either paragraph (a)(1) or (a)(2), including all subparagraphs, of this AD.

(c) The repetitive inspections required by this AD may be terminated after installing new wing lift strut assemblies as specified in paragraph (a)(4) of this AD provided no holes are drilled in these strut assemblies as specified in paragraph (b) of this AD.

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

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349.

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

(2) Alternative methods of compliance approved in accordance with AD 95–26–18 are considered approved as alternative methods of compliance for this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) The removal, the lift strut inspection (in paragraph (a)(1) of this AD), the applications, and the installation required by this AD shall be done in accordance with Maule Service Bulletin No. 11, dated October 30, 1995. This incorporation by reference was previously approved by the Director of the Federal Register as of January 26, 1996 (61 FR 623, January 9, 1996). Copies may be obtained from Maule Aerospace Technology, Inc., 2099 GA Hwy. 133 South, Moultrie, Georgia 31768. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment supersedes AD 95–26–18, Amendment 39–9476.

(h) This amendment becomes effective on September 9, 1998.

Appendix to AD 98–15–18—Procedures and Requirements for Ultrasonic Inspection of Maule Wing Lift Struts

Equipment Requirements

1. A portable ultrasonic thickness gauge or flaw detector with echo-to-echo digital thickness readout capable of reading to 0.001 inch and an A-trace waveform display will be needed to accomplish this inspection.

2. An ultrasonic probe with the following specifications will be needed to accomplish this inspection: 10 MHz (or higher), 0.283 inch (or smaller) diameter dual element or delay line transducer designed for thickness gauging. The transducer and ultrasonic system shall be capable of accurately measuring the thickness of AISI 4340 steel down to 0.020 inch. An accuracy of +/−0.002 inch throughout a 0.020 inch to 0.050 inch thickness range while calibrating shall be the criteria for acceptance.

3. Either a precision machined step wedge made of 4340 steel (or similar steel with equivalent sound velocity) or at least three shim samples of same material will be needed to accomplish this inspection. One thickness of the step wedge or shim shall be less than or equal to 0.020 inch, one shall be greater than or equal to 0.050 inch and at least one other step or shim shall be between these two values.

4. Glycerin, light oil, or similar non-water based ultrasonic couplants are recommended in the setup and inspection procedures. Water-based couplants, containing appropriate corrosion inhibitors, may be utilized, provided they are removed from both the reference standards and the test item after the inspection procedure is completed and adequate corrosion prevention steps are then taken to protect these items.

- **Note:** Couplant is defined as ''a substance used between the face of the transducer and test surface to improve transmission of ultrasonic energy across the transducer/strut interface.''
- **Note:** If surface roughness due to paint loss or corrosion is present, the surface should be sanded or polished smooth before testing to assure a consistent and smooth surface for making contact with the transducer. Care shall be taken to remove a minimal amount of structural material. Paint repairs may be necessary after the inspection to prevent further corrosion damage from occurring. Removal of surface irregularities will enhance the accuracy of the inspection technique.

Instrument Setup

1. Set up the ultrasonic equipment for thickness measurements as specified in the instrument's user's manual. Because of the variety of equipment available to perform ultrasonic thickness measurements, some modification to this general setup procedure may be necessary. However, the tolerance requirement of step 13 and the record keeping requirement of step 14, must be satisfied.

2. If battery power will be employed, check to see that the battery has been properly charged. The testing will take approximately two hours. Screen brightness and contrast should be set to match environmental conditions.

3. Verify that the instrument is set for the type of transducer being used, i.e. single or dual element, and that the frequency setting is compatible with the transducer.

4. If a removable delay line is used, remove it and place a drop of couplant between the transducer face and the delay line to assure good transmission of ultrasonic energy. Reassemble the delay line transducer and continue.

5. Program a velocity of 0.231 inch/microsecond into the ultrasonic unit unless an alternative instrument calibration procedure is used to set the sound velocity.

6. Obtain a step wedge or steel shims per item 3 of the **Equipment Requirements.** Place the probe on the thickest sample using couplant. Rotate the transducer slightly back and forth to ''ring'' the transducer to the sample. Adjust the delay and range settings to arrive at an A-trace signal display with the first backwall echo from the steel near the left side of the screen and the second backwall echo near the right of the screen. Note that when a single element transducer is used, the initial pulse and the delay line/steel interface will be off of the screen to the left. Adjust the gain to place the amplitude of the first

backwall signal at approximately 80% screen height on the A-trace.

7. ''Ring'' the transducer on the thinnest step or shim using couplant. Select positive half-wave rectified, negative half-wave rectified, or filtered signal display to obtain the cleanest signal. Adjust the pulse voltage, pulse width, and damping to obtain the best signal resolution. These settings can vary from one transducer to another and are also user dependent.

8. Enable the thickness gate, and adjust the gate so that it starts at the first backwall echo and ends at the second backwall echo. (Measuring between the first and second backwall echoes will produce a measurement of the steel thickness that is not affected by the paint layer on the strut). If instability of the gate trigger occurs, adjust the gain, gate level, and/or damping to stabilize the thickness reading.

9. Check the digital display reading and if it does not agree with the known thickness of the thinnest thickness, follow your instrument's calibration recommendations to produce the correct thickness reading. When a single element transducer is used this will usually involve adjusting the fine delay setting.

10. Place the transducer on the thickest step of shim using couplant. Adjust the thickness gate width so that the gate is triggered by the second backwall reflection of the thick section. If the digital display does not agree with the thickest thickness, follow your instruments calibration recommendations to produce the correct thickness reading. A slight adjustment in the velocity may be necessary to get both the thinnest and the thickest reading correct. Document the changed velocity value.

11. Place couplant on an area of the lift strut which is thought to be free of corrosion and ''ring'' the transducer to surface. Minor adjustments to the signal and gate settings may be required to account for coupling improvements resulting from the paint layer. The thickness gate level should be set just high enough so as not to be triggered by irrelevant signal noise. An area on the upper surface of the lift strut above the inspection area would be a good location to complete this step and should produce a thickness reading between 0.034-inch and 0.041-inch.

12. Repeat steps 8, 9, 10, and 11 until both thick and thin shim measurements are within tolerance and the lift strut measurement is reasonable and steady.

13. Verify that the thickness value shown in the digital display is within +/−0.002 inch of the correct value for each of the three or more steps of the setup wedge or shims. Make no further adjustments to the instrument settings.

14. Record the ultrasonic versus actual thickness of all wedge steps or steel shims available as a record of setup.

Inspection Procedure

1. Clean the lower 18 inches of the wing lift struts using a cleaner that will remove all dirt and grease. Dirt and grease will adversely affect the accuracy of the inspection technique. Light sanding or polishing may also be required to reduce surface roughness as noted in the **Equipment Requirements** section.

2. Using a flexible ruler, draw a ¼-inch grid on the surface of the first 11 inches from the lower end of the strut as shown in Piper Service Bulletin No. 528D or 910A, as applicable. This can be done using a soft (#2) pencil and should be done on both faces of the strut. As an alternative to drawing a complete grid, make two rows of marks spaced every ¼ inch across the width of the strut. One row of marks should be about 11 inches from the lower end of the strut, and the second row should be several inches away where the strut starts to narrow. Lay the flexible ruler between respective tick marks of the two rows and use tape or a rubber band to keep the ruler in place. See Figure 1.

3. Apply a generous amount of couplant inside each of the square areas or along the edge of the ruler. Re-application of couplant may be necessary.

4. Place the transducer inside the first square area of the drawn grid or at the first ¼-inch mark on the ruler and ''ring'' the transducer to the strut. When using a dual element transducer, be very careful to record the thickness value with the axis of the transducer elements perpendicular to any curvature in the strut. If this is not done, loss of signal or inaccurate readings can result.

5. Take readings inside each square on the grid or at ¼-inch increments along the ruler and record the results. When taking a thickness reading, rotate the transducer slightly back and forth and experiment with the angle of contact to produce the lowest thickness reading possible. Pay close attention to the A-scan display to assure that the thickness gate is triggering off of maximized backwall echoes.

- **Note:** A reading shall not exceed .041 inch. If a reading exceeds .041 inch, repeat steps 13 and 14 of the **Instrument Setup** section before proceeding further.

6. If the A-trace is unsteady or the thickness reading is clearly wrong, adjust the signal gain and/or gate setting to obtain reasonable and steady readings. If any instrument setting is adjusted, repeat steps 13 and 14 of the **Instrument Setup** section before proceeding further.

7. In areas where obstructions are present, take a data point as close to the correct area as possible.

- **Note:** The strut wall contains a fabrication bead at approximately 40% of the strut chord. The bead may interfere with accurate measurements in that specific location.

8. A measurement of 0.024 inch or less shall require replacement of the strut prior to further flight

9. If at any time during testing an area is encountered where a valid thickness measurement cannot be obtained due to a loss of signal strength or quality, the area shall be considered suspect. These areas may have a remaining wall thickness of less than 0.020 inch, which is below the range of this setup, or they may have small areas of localized corrosion or pitting present. The latter case will result in a reduction in signal strength due to the sound being scattered from the rough surface and may result in a signal that includes echoes from the pits as well as the backwall. The suspect area(s) shall be tested with a Maule ''Fabric Tester'' as specified in Piper Service Bulletin No. 528D or 910A.

10. Record the lift strut inspection in the aircraft log book.

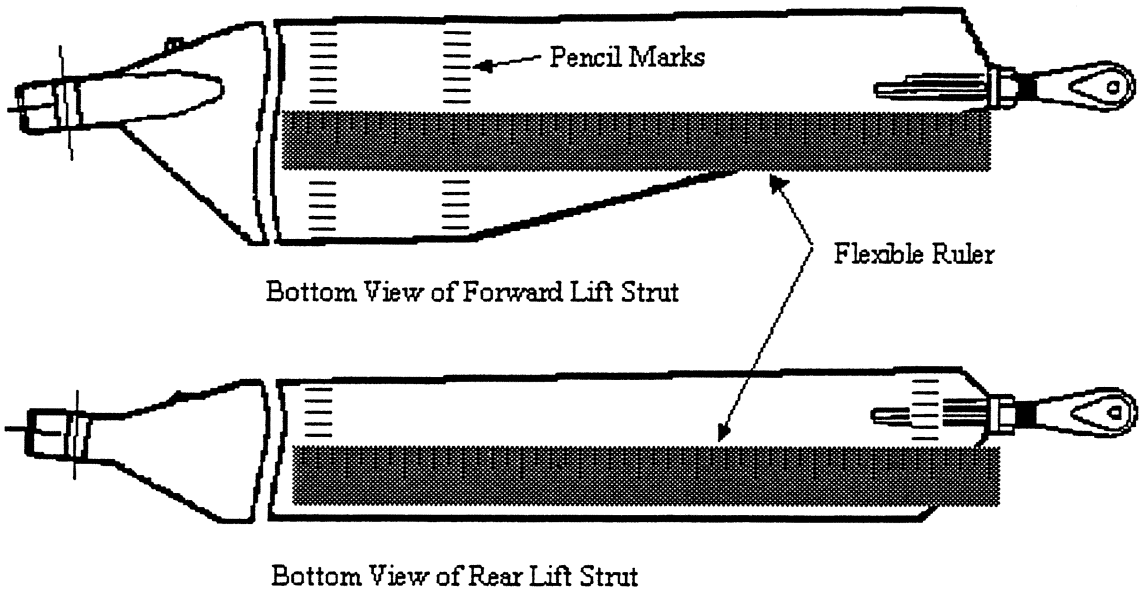

Figure 1

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19328 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–1731, File No. S7–29–97]

RIN 3235–AH25

Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to the rule under the Investment Advisers Act of 1940 that permits investment advisers to charge certain clients performance or incentive fees. The amendments modify the rule's criteria for clients eligible to enter into a contract under which a performance fee is charged and eliminate provisions specifying required contract terms and disclosures. The amendments provide investment advisers greater flexibility in structuring performance fee arrangements with clients who are financially sophisticated or have the resources to obtain sophisticated financial advice regarding the terms of these arrangements.

EFFECTIVE DATE: The rule amendments will become effective August 20, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy D. Ireland, Attorney, or Jennifer S. Choi, Special Counsel, at (202) 942–0716, Task Force on Investment Adviser Regulation, Division of Investment Management, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting amendments to rule 205–3 [17 CFR 275.205–3] under the Investment Advisers Act of 1940 [15 U.S.C. 80b] (''Advisers Act'').

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Executive Summary

Rule 205–3 under the Advisers Act permits investment advisers to charge performance fees to clients with at least $500,000 under the adviser's management or with a net worth of more than $1,000,000. The rule requires certain terms to be included in contracts providing for performance fees and specific disclosures to be made to clients entering into these contracts. The Commission is adopting rule amendments to eliminate the provisions of the rule that prescribe contractual terms and require specific disclosures. In addition, the amendments change the client eligibility criteria to permit the following clients to enter into performance fee arrangements with their investment advisers: (1) clients with at least $750,000 under management with the adviser or more than $1,500,000 of net worth; (2) clients who are ''qualified purchasers'' under section 2(a)(51)(A) of the Investment Company Act of 1940

(''Investment Company Act''); [1] and (3) knowledgeable employees of the investment adviser.

I. Background

A. Introduction

Section 205(a)(1) of the Advisers Act generally prohibits an investment adviser from entering into, extending, renewing, or performing any investment advisory contract that provides for compensation to the adviser based on a share of capital gains on, or capital appreciation of, the funds or any portion of the funds of the client.[2] In 1970, Congress provided an exception from the prohibition in section 205(a)(1) for advisory contracts relating to the investment of assets in excess of $1,000,000,[3] so long as an appropriate ''fulcrum fee'' is used.[4] This statutory exception was the only provision under which advisers could enter into performance fee contracts with so-called ''high net worth'' clients until 1985 when the Commission adopted rule 205–3.[5]

Under current rule 205–3, an adviser may charge performance fees to a client who has at least $500,000 under management with the adviser or has a net worth of more than $1,000,000. The Commission presumed that these clients, because of their wealth, financial knowledge, and experience, are less dependent on the protections provided by the Advisers Act's restrictions on performance fee arrangements.[6] The rule, however, imposes several conditions on advisers entering into performance fee contracts in addition to those related to the eligibility of clients.

In 1992, the Commission's Division of Investment Management issued a report recommending, among other things, that Congress enact legislation clarifying the authority of the Commission to provide exemptions from the performance fee prohibition for advisory contracts with any persons whom the Commission determined did not need the protections of the prohibition.[7] Four years later, Congress included in the National Securities Markets Improvement Act of 1996 (''1996 Act'') [8] two additional statutory exceptions from the performance fee prohibition [9] and new section 205(e) of the Advisers Act, which authorizes the Commission to exempt conditionally or unconditionally from the performance fee prohibition advisory contracts with persons that the Commission determines do not need its protections.[10]

B. Proposed Amendments to Rule 205–3

On November 13, 1997, the Commission issued a release proposing amendments to rule 205–3 (''Proposing Release'').[11] The proposed amendments were intended to provide increased flexibility to investment advisers and their clients in entering into performance fee arrangements and to revise the client eligibility criteria under the rule.

The Commission received 22 comment letters on the proposed amendments to rule 205–3. Commenters supported the proposed amendments; many urged the Commission to expand further the types of clients eligible to enter into such arrangements. The Commission is adopting amendments to rule 205–3 with one change from the amendments as proposed, in view of the issues raised by commenters. As suggested by commenters, the Commission is adding certain knowledgeable employees of investment advisers as another category of clients eligible to enter into performance fee arrangements under rule 205–3.

II. Discussion

A. Elimination of Specific Contractual and Disclosure Requirements

Current rule 205–3 imposes a number of required provisions on performance fee contracts, obligates the adviser to provide certain disclosures to clients, and requires that the adviser reasonably believe that the contract represents an arm's length arrangement and that the client (or its independent agent) understands the method of compensation and its risks. In the Proposing Release, the Commission explained that, although these conditions were intended to protect clients, they have inhibited the flexibility of advisers and their clients in establishing performance fee arrangements beneficial to both parties.[12] In light of the other protections provided by the Advisers Act, the Commission believed that these clients may not need the protections of the rule. Therefore, the Commission proposed, pursuant to its exemptive authority under new section 205(e) of the Advisers Act, to eliminate all of the contractual and disclosure provisions in rule 205–3 other than the client eligibility tests. All but one of the commenters supported these proposed amendments, which the Commission is adopting as proposed.

The Commission emphasizes that the elimination of the contractual and disclosure provisions from rule 205–3 does not alter the obligation of an adviser, as a fiduciary, to deal fairly with its clients and to make full and fair disclosure of its compensation arrangements.[13] This obligation includes full client disclosure of all material information regarding a proposed performance fee arrangement

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[1] 15 U.S.C. 80a–2(a)(51)(A).

[2] 15 U.S.C. 80b–5(a)(1).

[3] 15 U.S.C. 80b–5(b)(2). Trusts, governmental plans, collective trust funds, and separate accounts referred to in section 3(c)(11) of the Investment Company Act [15 U.S.C. 80a–3(c)(11)] are not eligible for this exception from the performance fee prohibition under section 205(b)(2)(B) of the Advisers Act [15 U.S.C. 80b–5(b)(2)(B)].

[4] 15 U.S.C. 80b–5(b)(2). *See* discussion of fulcrum fees in Proposing Release, *infra* note 11, at n.5.

In 1980, Congress added an exception for contracts involving business development companies under conditions set forth in section 205(b)(3) of the Advisers Act [15 U.S.C. 80b–5(b)(3)].

[5] Rule 205–3 was adopted under section 206A of the Advisers Act [15 U.S.C. 80b–6a], which grants the Commission general exemptive authority. In providing this authority, Congress noted that the Commission would be able to ''exempt persons . . . from the bar on performance-based advisory compensation'' in appropriate cases. H.R. Rep. No. 1382, 91st Cong., 2d Sess. 42 (1970); S. Rep. No. 184, 91st Cong., 1st Sess. 46 (1969).

[6] Exemption to Allow Registered Investment Advisers to Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 996 (Nov. 14, 1985) [50 FR 48556 (Nov. 26, 1985)].

[7] *See* Division of Investment Management, U.S. Securities and Exchange Commission, Protecting Investors: A Half Century of Investment Company Regulation 245, 247–48 (1992) (''Protecting Investors'').

[8] Pub. L. No. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of the U.S. Code).

[9] Section 210 of the 1996 Act added to section 205 of the Advisers Act exceptions for contracts with companies excepted from the definition of investment company by section 3(c)(7) of the Investment Company Act [15 U.S.C. 80a–3(c)(7)] and contracts with persons who are not residents of the United States. The definition of ''person'' under section 202 of the Advisers Act includes companies, which in turn includes corporations, partnerships, associations, joint-stock companies, trusts and organized groups of persons [15 U.S.C. 80b–2(a)(5), (16)]; therefore, the exception for foreign residents includes foreign investment companies.

[10] 15 U.S.C. 80b–5(e). Section 205(e) provides that the Commission may determine that persons may not need the protections of section 205(a)(1) on the basis of such factors as ''financial sophistication, net worth, knowledge of and experience in financial matters, amount of assets under management, relationship with a registered investment adviser, and such other factors as the Commission determines are consistent with [section 205].''

[11] Exemption To Allow Investment Advisers To Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 1682 (Nov. 13, 1997) [62 FR 61882 (Nov. 19, 1997)].

[12] *See* Proposing Release, *supra* note 11, at 8.

[13] *See* SEC v. Capital Gains Research Bureau, 375 U.S. 180, 194 (1963). In addition, advisers registered with the Commission are required to provide their clients with a brochure describing their fee arrangements. *See* Part II of Form ADV.

as well as any material conflicts posed by the arrangement.[14]

B. Qualified Clients

Currently, rule 205–3 permits investment advisers to charge performance fees to clients with at least $500,000 under the adviser's management or with a net worth of more than $1,000,000. As noted above, in adopting rule 205–3 in 1985, the Commission concluded that clients who satisfy these criteria do not need the full protections provided by the Advisers Act's restrictions on performance fee arrangements.[15]

The Commission proposed to raise the net worth and assets-under-management threshold levels and to add a third category of eligible clients, ''qualified purchasers'' under section 2(a)(51)(A) of the Investment Company Act. Under the proposed amendments, clients who satisfied the new eligibility criteria contained in rule 205–3 would be referred to as ''qualified clients.'' The Commission is adopting amendments to the criteria for determining the eligibility of clients with one modification to the proposal in response to suggestions by commenters, as discussed below.[16]

1. Numerical Thresholds

As discussed in the Proposing Release, the Commission recognized that, since 1985, the net worth and assets-under-management thresholds have been affected by inflation: $1,000,000 in 1985 dollars is now worth approximately $1,500,000; and $500,000 in 1985 dollars is now worth approximately $750,000.[17] The Commission therefore proposed to increase the amounts of the net worth and assets-under-management tests from $1,000,000 and $500,000 to $1,500,000 and $750,000, respectively. Five commenters supported the increased net worth and assets-under-management thresholds. One commenter noted that increasing the thresholds to reflect inflation would ensure that unsophisticated retail clients continue to receive the protections of the performance fee prohibition.[18]

Nine commenters opposed increasing the thresholds as unnecessary to ensure adequate client sophistication, often citing the lack of a history of abuse and the costs and inconvenience of incorporating new thresholds into existing agreements.[19] None of the commenters, however, suggested any alternative criteria to the objective thresholds, as requested by the Commission in the Proposing Release. Moreover, responding to the Commission's request for comment, the commenters opposed any indexing of the thresholds to take into account automatically the effects of inflation. The Commission has decided to adopt the amendments to the threshold levels as proposed. In light of the expansion of the performance fee exemption and the effects of inflation on the threshold levels, the Commission believes that, in order to continue to determine that clients who satisfy the numerical thresholds do not need the protections of the performance fee prohibition, it should increase the thresholds.

2. Qualified Purchasers

The Commission also proposed to permit advisers to enter into performance fee contracts with clients who are ''qualified purchaser[s]'' under section 2(a)(51)(A) of the Investment Company Act.[20] New section 3(c)(7) of the Investment Company Act, as added by the 1996 Act, exempts from regulation under the Investment Company Act certain investment pools whose interests are not offered to the public and whose shareholders consist primarily of ''qualified purchasers,'' including individuals with at least $5,000,000 of investments.[21] Although, in most cases, persons who would be qualified purchasers under section 2(a)(51)(A) would satisfy the assets-under-management or net worth criterion under rule 205–3, even as amended, in some cases, such persons would not.[22] Therefore, the Commission proposed to add ''qualified purchasers'' as eligible clients under the rule so that an investor who meets the eligibility requirements to invest in a section 3(c)(7) company also could enter into a performance fee arrangement outside the context of a section 3(c)(7) company.[23] The commenters supported this provision, which the Commission is adopting as proposed.

3. Knowledgeable Employees

The Proposing Release requested comment on whether the Commission should exempt from the performance fee prohibition arrangements between advisers and clients who have certain pre-existing relationships. These relationships would be of a type that suggests that the abuses Congress sought to prevent by prohibiting performance fee arrangements are unlikely to occur. Section 205(e) permits the Commission to consider, in addition to criteria such as financial sophistication and knowledge and experience in financial matters, whether a client may not need the protections of the performance fee

[14] The disclosure obligation flows from the Advisers Act's prohibitions against fraud in section 206 of the Advisers Act [15 U.S.C. 80b–6]. The amendments also eliminate paragraph (h) of the current rule, which states that ''[a]n investment adviser entering into or performing an investment advisory contract under this rule is not relieved of any obligations under section 206 of the Advisers Act or of any other applicable provisions of the federal securities laws.'' The Commission believes that rule 205–3 by its terms provides an exemption only from section 205(a)(1), and that separate reference to section 206 and other provisions of the federal securities laws in the rule is unnecessary. By eliminating this reference, the Commission does not intend in any way to suggest that compliance with the amended rule would relieve advisers of any obligations under section 206 of the Advisers Act or any other applicable provisions of the federal securities laws.

The Commission further notes that advisers entering into performance fee arrangements with employee benefit plans covered by the Employee Retirement Income Security Act of 1974 (''ERISA'') are subject to the fiduciary responsibility and prohibited transaction provisions of ERISA. 29 U.S.C. 1001–1461. The amendments to rule 205–3 do not affect an adviser's obligation to comply with ERISA. Issues involving performance fee arrangements under ERISA are within the jurisdiction of the Department of Labor, which is responsible for administering ERISA's fiduciary provisions and has addressed performance fee arrangements in a number of advisory opinions under ERISA. U.S. Department of Labor Advisory Opinion No. 89–28A (Sept. 25, 1989); U.S. Department of Labor Advisory Opinion 86–21A (Aug. 29, 1986); U.S. Department of Labor Advisory Opinion 86–20A (Aug. 29, 1986).

[15] *See supra* note 6 and accompanying text.

[16] One commenter requested that the Commission clarify whether a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of the Investment Company Act may be charged a fulcrum fee (or any other kind of performance fee) under rule 205–3. The Commission believes that a trust, governmental plan, collective trust fund, or separate account that satisfies all the conditions of rule 205–3 may enter into a performance fee (including a fulcrum fee) arrangement under the rule.

[17] *See* Proposing Release, *supra* note 11, at 10.

[18] One commenter went further and recommended a substantial increase in the thresholds beyond those set forth in the proposal.

[19] Although the proposed transition rule would ''grandfather'' existing arrangements with existing clients, the new thresholds would apply to new clients to existing arrangements. *See infra* Section II.D.

[20] *See supra* note 1.

[21] 15 U.S.C. 80a–3(c)(7).

[22] For example, in determining the amount of investments for purposes of the definition of qualified purchaser, only outstanding indebtedness incurred to acquire the investments must be deducted. Rule 2a51–1(e) under the Investment Company Act [17 CFR 270.2a51–1(e)]. *See also* Privately Offered Investment Companies, Investment Company Act Release No. 22597 (Apr. 3, 1997) [62 FR 17512 (Apr. 9, 1997)]. Thus, a person with less than $750,000 in assets under management could have more than $5,000,000 of investments, but a net worth of less than $1,500,000 because of other debt. Under the rule amendments, such a person would be eligible to enter into a performance fee contract under rule 205–3.

[23] Under section 205(b)(4) of the Advisers Act [15 U.S.C. 80b–5(b)(4)], section 3(c)(7) companies may enter into performance fee contracts without relying on rule 205–3. Each investor in a section 3(c)(7) company need not satisfy the eligibility criteria of rule 205–3 for an adviser to charge performance fees to the section 3(c)(7) company.

prohibition by virtue of the client's relationship with the adviser.[24]

Many commenters recommended that the Commission add to the list of qualified clients certain ''knowledgeable employees,'' consistent with the concept of ''knowledgeable employees'' eligible to invest in section 3(c)(1)[25] and section 3(c)(7) companies in accordance with rule 3c–5 under the Investment Company Act.[26] Under rule 3c–5, knowledgeable employees include executive officers, directors, trustees, general partners, and advisory board members of a section 3(c)(1) or a section 3(c)(7) company, and those who serve in similar capacities. The rule also includes certain other employees of the fund or its management affiliate who participate in investment activities and have performed such functions for at least 12 months.

One commenter asserted that such employees are inherently sophisticated because of their knowledge of the day-to-day investment activities of the adviser and are in the best position to evaluate the risks of performance fees and protect themselves from overreaching on the part of the adviser. Another commenter noted that inclusion of knowledgeable employees as qualified clients would allow such employees to invest in section 3(c)(1) companies that enter into performance fee arrangements as well as section 3(c)(7) companies, which are excepted from the performance fee prohibition pursuant to section 205(b)(4) of the Advisers Act.[27]

The Commission agrees that employees who actively participate in the investment activities of the adviser are likely to be sophisticated financially and do not need the protections of the performance fee prohibition. Therefore, the Commission is adding certain knowledgeable employees of the investment adviser as another criterion for ''qualified clients'' under the rule. The new category is similar to the definition of knowledgeable employee in rule 3c–5 under the Investment Company Act, and would include an executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser, as well as certain other employees of the adviser who participate in investment activities and have performed such functions for at least 12 months.

[24] *See supra* note 10.

[25] 15 U.S.C. 80a–3(c)(1).

[26] Rule 3c–5 [17 CFR 270.3c–5].

[27] 15 U.S.C. 80b–5(b)(4).

C. Identification of the Client[28]

Rule 205–3 provides that with respect to certain clients entering into performance fee contracts with an adviser—private investment companies, registered investment companies, and business development companies—the adviser must ''look through'' the legal entity to determine whether each equity owner of the company would be a qualified client.[29] Under this provision, each ''tier'' of such entities must be examined in this manner. Thus, if a private investment company seeking to enter into a performance fee contract (the first tier company) is owned by another private investment company (the second tier company), the look through provision applies to the second (and any other) level private investment company, and thus the adviser must look to the ultimate client to determine whether the arrangement satisfies the requirements of the rule.[30]

The Commission proposed to retain the ''look through'' provision and to clarify that any ''equity owners'' that are not charged a performance fee would not be required to meet the qualified client test.[31] The Commission is adopting this provision as proposed.

Some commenters urged the Commission to eliminate the look through provision with respect to certain entities, such as private investment companies. Others opposed such changes, arguing that it would permit circumvention of the client eligibility requirements of the rule and result in performance fees being charged to groups of unsophisticated investors. The Commission has decided not to eliminate the look through provision of the rule at this time.[32]

[28] The following discussion of the identity of the ''client'' is relevant only for purposes of this rule and not for purposes of section 206 of the Advisers Act [15 U.S.C. 80b–6].

[29] Rule 205–3(b)(2) [17 CFR 275.205–3(b)(2)].

[30] Conditional Exemption to Allow Registered Investment Advisers to Charge Fees Based Upon a Share of Capital Gains Upon or Capital Appreciation of a Client's Account, Investment Advisers Act Release No. 961 at n.21 (March 15, 1985) [50 FR 11718 (March 25, 1985)].

[31] Amended rule 205–3(b) [17 CFR 275.205–3(b)]. The Commission notes that an adviser charging a performance fee to only certain clients in this context should provide appropriate disclosure concerning the existence of the performance fee to those clients who do not pay a performance fee. In addition, the amendments retain the provision in rule 205–3 that an equity owner who is the investment adviser entering into the performance fee contract need not be a qualified client. Furthermore, as stated in the Proposing Release, the look through provision does not apply to section 3(c)(7) companies, which are excepted from the performance fee prohibition by section 205(b)(4) of the Advisers Act.

[32] One commenter urged that the look through provision not apply if the first tier company and the second tier company are independent of each other. This commenter reasoned that where a second tier section 3(c)(1) company is truly independent of the first tier section 3(c)(1) company, the adviser receiving the performance fee could not seek to circumvent the purpose of the look through provision and pool clients to avoid the qualified client requirement. Another commenter urged that the look through provision not apply if the first tier company and the second tier company are section 3(c)(1) companies, unless the adviser to the first tier company also is the adviser to the second tier company. This commenter reasoned that the financial sophistication of the managers of the second tier company would protect the interests of their investors in negotiating a performance fee at arm's length, which is consistent with the rule 205–3 exemption from the performance fee prohibition. The Commission has decided not to amend the rule; it, however, will entertain requests for relief from the application of the look through provision in circumstances where the policies and purposes of section 205 of the Advisers Act would not be served by its application.

D. Transition Rule

The Commission is adopting, as proposed, a transition rule permitting investment advisers and their clients to maintain their existing performance fee arrangements notwithstanding the clients' failure to meet the eligibility criteria after the thresholds increase to $750,000 and $1,500,000.[33] Such arrangements could continue under the transition rule if they were entered into before the effective date of the amendments to the rule and they satisfy the requirements of the rule as in effect on the date that they were entered into. A new party to an existing arrangement, however, would be required to satisfy the new qualified client test.

III. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The Commission notes that the rule amendments are pursuant to new authority granted to it by Congress in the 1996 Act.

As discussed below, although costs and benefits of the rule amendments are difficult to quantify, the Commission believes that these amendments will benefit investment advisers and their clients without imposing any measurable costs.

The rule amendments will likely alter the total number of investment advisers that rely on the performance fee exemption.[34] The number of performance fee contracts may increase

[33] Amended rule 205–3(c) [17 CFR 275.205–3(c)].

[34] The Commission knows of no information concerning the incidence of performance fee arrangements in the United States. Performance fee arrangements, however, appear to be accepted practices in many other countries. *See* International Survey of Investment Adviser Regulation 15 (Marcia L. MacHarg & Roberta R. W. Kameda eds., 1994) (noting that performance fees generally are permitted in Australia, Brazil, Canada (Ontario, with client's written consent), France, Germany, Italy, Japan, Spain, Switzerland (up to 20% of net capital gain), the United Kingdom and Venezuela).

because the performance fee arrangement will no longer be subject to prescribed contract terms. Moreover, the rule amendments will add two new categories of clients eligible to enter into performance fee arrangements—qualified purchasers and knowledgeable employees who may not have been eligible under the numerical thresholds. On the other hand, the increase in the net worth and assets-under-management thresholds for determining eligibility under the rule may reduce the number of eligible clients [35] and, as a result, the total number of performance fee arrangements. Overall, however, the Commission believes it is reasonable to estimate that the amendments to the performance fee rule will increase the number of performance fee arrangements.

To the extent that the rule amendments increase the number of performance fee arrangements, advisers and clients may benefit overall.[36] For example, proponents of performance fees have argued that these arrangements may benefit both parties to the advisory contract because linking advisory compensation to performance may result in a closer alignment of the goals of the adviser and the client.[37] Proponents also claim that performance fees may encourage better performance by rewarding good performance rather than linking compensation and assets under management as in more traditional arrangements.[38] In addition, advocates of the increased use of performance fees assert that they may encourage the establishment of new advisory firms[39] and may result in greater competition and produce a wider array of investment advisers and services and lower overall advisory costs.

The increased use of performance fees, however, also may produce some costs to advisory clients and the economy in general. Opponents of advisory fees have cited the potential for the adviser under a performance fee arrangement to engage in excessive risk taking with respect to the client's account.[40] In addition, some detractors have expressed concern that performance fees might result in discrimination against clients that do not pay performance fees.[41]

The arguments for and against performance fee arrangements provide no definitive answers concerning their effect on advisers, clients and the markets. The costs and benefits of performance fee arrangements in general are difficult to quantify because of their theoretical nature. Although the Commission requested comment in the Proposing Release on whether the benefits and costs could be quantified, no commenters responded to this request.

Similarly, it is difficult to quantify the effect of the rule amendments on advisers, their clients, or the economy. The Commission has no data from which to measure the total effect of these amendments. For example, the Commission knows of no information concerning the number of advisers that have performance fee contracts or the average number of performance fee contracts per adviser. The Commission requested the submission of data concerning incidence of performance fees in the Proposing Release, but no commenters responded to this request. In addition, the Commission has no information concerning either the number of clients who would no longer qualify under the new criteria or the number of clients who would qualify only under the new criteria.

Although the Commission cannot quantify the effects of the rule amendments, the Commission believes that the amendments will benefit advisers and their qualified clients by providing them with more flexibility in structuring performance fee arrangements that may benefit both parties. The amendments eliminate all the prescribed compensation calculations and other required contract terms, which have raised a number of interpretative issues and technical concerns over the years.[42] Thus, the amendments allow investment advisers and their clients who are financially sophisticated or have the resources to obtain sophisticated financial advice to negotiate the terms of their performance fee contracts. Moreover, the Commission believes that these amendments should reduce the costs of establishing and monitoring compliance with the current rule, and thus benefit both investment advisers and their clients who wish to enter into performance fee arrangements.

IV. Summary of Regulatory Flexibility Analysis

A summary of the Initial Regulatory Flexibility Analysis (''IRFA'') was published in the Proposing Release. No comments were received on the IRFA. The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with 5 U.S.C. 604 regarding amendments to rule 205–3 under the Advisers Act. The following summarizes the FRFA.

As set forth in greater detail in the FRFA, the 1996 Act added section 205(e) to the Advisers Act, which authorizes the Commission to exempt conditionally or unconditionally from the performance fee prohibition contained in section 205(a)(1) of the Advisers Act advisory contracts with persons that the Commission determines do not need the protections of the prohibition. The FRFA states that the rule amendments will liberalize rule 205–3, which permits performance fees to be charged to sophisticated clients, by eliminating required contract terms and disclosures, update the current criteria for determining eligible clients to reflect the effects of inflation on the current assets-under-management and net worth tests, and add new categories of eligible clients—''qualified purchasers'' under section 2(a)(51)(A) of the Investment Company Act, and ''knowledgeable employees'' of the investment adviser.

The FRFA also discusses the effect of the rule amendments on small entities. For the purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser generally is a small entity (i) if it manages assets of $50

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[35] According to data from the 1995 Survey of Consumer Finances conducted by the Federal Reserve Board, approximately 1,100,000 households have net worth between $1,000,000 and $1,500,000. This figure, however, represents the net worth of households and not the individual persons who might be clients. Furthermore, the survey results do not address clients that are not natural persons.

[36] The Division discussed the advantages and disadvantages of performance fees in more detail in its 1992 study. Protecting Investors, *supra* note 7, at 239–40.

[37] Richard Grinold & Andrew Rudd, *Incentive Fees: Who Wins? Who Loses?*, 43 Fin. Analysts J. 27, 37 (Jan.–Feb. 1987); Harvey E. Bines, The Law of Investment Management ¶ 5.03[2][b], at 5–43 (1978 & Supp. 1986) (observing that the principal justification for performance fees is that they permit the uncertainty in the quality of the product—the management of the portfolio—to be shared between the adviser and the client).

[38] *See, e.g.*, Stephen Lofthouse, *A Fair Day's Wages for a Fair Day's Work*, 4 Journal of Investing 74, 76 (Winter 1995); Grinold & Rudd, *supra* note 37; at 37; Bines, *supra* note 37, at 5–36 to 5–37.

[39] Julie Roher, *The Great Debate Over Performance Fees*, 17 Institutional Investor 123, 124 (Nov. 1983) (stating that new firms can begin generating profits before attracting a large asset base).

[40] Lofthouse, *supra* note 38, at 77; Roher, *supra* note 39, at 127.

[41] *See* In re McKenzie Walker Investment Management, Inc., Investment Advisers Act Release No. 1571 (July 16, 1996) (investment adviser favoring its performance-fee clients in the allocation of hot initial public offerings).

[42] *See, e.g.*, Valuemark Capital Management, Inc. (pub. avail. June 4, 1997) (limited partners purchasing or redeeming mid-year immaterial if performance fee based on performance of partnership over a period of at least one year); Securities Industry Association (pub. avail. Nov. 18, 1986) (use of rolling one-year periods after initial one-year period); P.E. Becker, Inc. (pub. avail. July 21, 1986) (individual limited partners may be considered the ''client'' for purposes of the ''arm's-length'' negotiation requirement).

million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year or (ii) if it renders other advisory services, has $50,000 or less in assets related to its advisory business.[43] The Commission estimates that approximately 17,650 investment advisers are small entities.[44]

The Commission does not have information from which to estimate the number of advisers managing assets of $50 million or less whose clients will be able to meet the eligibility tests under the amended rule and thereby will qualify to enter into a performance fee arrangement under the rule. However, the Commission believes that the number may be substantial. The Commission also believes that it would be reasonable to estimate that the overall effect of the amendments to the rule would be to increase the use of the exemption by small entities, and that the economic effect on small entities may be significant.

The FRFA states that the rule amendments will not impose any new reporting, recordkeeping or compliance requirements. The FRFA also discusses the various alternatives considered by the Commission in connection with the rule amendments that might minimize the effect on small entities, including (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation or simplification of compliance and reporting requirements under the rule amendments for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any portion of the rule, for small entities. As discussed in more detail in the FRFA, the amended rule will reduce the regulatory burden on all investment advisers, impose no new compliance or reporting requirements, and include a transition rule allowing existing arrangements to continue. The Commission therefore believes that it would be inappropriate to establish a different timetable for small entities, to further clarify, consolidate or simplify the rule's requirements for small entities, or to provide an even broader exemption for small entities.

The FRFA is available for public inspection in File No. S7–29–87, and a copy may be obtained by contacting Kathy D. Ireland, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 5–6, Washington, D.C. 20549.

[43] Rule 275.0–7 [17 CFR 275.0–7]. The Commission has revised the definition of ''small entity,'' effective July 30, 1998. *See* Definitions of ''Small Business'' or ''Small Organization'' Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933, Release Nos. 33–7548, 34–40122, IC–23272, and IA–1727 (June 24, 1998) [63 FR 35508 (June 30, 1998)]. Because the IRFA concerning the proposed amendments to rule 205–3 was prepared under the old definition, that definition applies to the Commission's preparation of the FRFA concerning these amendments. *Id.* at n.32.

[44] This estimate of the number of small entities was made for purposes of the Final Regulatory Flexibility Analysis for the rules implementing Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act (the ''Coordination Act''). *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)] at nn.189–190 and accompanying text.

V. Statutory Authority

The Commission is adopting amendments to rule 205–3 pursuant to the authority set forth in section 205(e) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–5(e)].

List of Subjects in 17 CFR Part 275

Reporting and recordkeeping requirements, Securities.

Text of Rule

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

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 is revised to read as follows:

Authority: 15 U.S.C. 80b–2(a)(17), 80b–3, 80b–4, 80b–6(4), 0b–6a, 80b–11, unless otherwise noted.

Section 275.203A–1 is also issued under 15 U.S.C. 80b–3a.

Section 275.203A–2 is also issued under 15 U.S.C. 80b–3a.

Section 275.204–2 is also issued under 15 U.S.C. 80b–6.

Section 275.205–3 is also issued under 15 U.S.C. 80b–5(e).

2. Section 275.205–3 is revised to read as follows:

§ 275.205–3 Exemption from the compensation prohibition of section 205(a)(1) for investment advisers.

(a) *General.* The provisions of section 205(a)(1) of the Act (15 U.S.C. 80b–5(a)(1)) will not be deemed to prohibit an investment adviser from entering into, performing, renewing or extending an investment advisory contract that provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, *Provided*, That the client entering into the contract subject to this section is a qualified client, as defined in paragraph (d)(1) of this section.

(b) *Identification of the client.* In the case of a private investment company, as defined in paragraph (d)(3) of this section, an investment company registered under the Investment Company Act of 1940, or a business development company, as defined in section 202(a)(22) of the Act (15 U.S.C. 80b–2(a)(22)), each equity owner of any such company (except for the investment adviser entering into the contract and any other equity owners not charged a fee on the basis of a share of capital gains or capital appreciation) will be considered a client for purposes of paragraph (a) of this section.

(c) *Transition rule.* An investment adviser that entered into a contract before August 20, 1998 and satisfied the conditions of this section as in effect on the date that the contract was entered into will be considered to satisfy the conditions of this section; *Provided*, however, that this section will apply with respect to any natural person or company who is not a party to the contract prior to and becomes a party to the contract after August 20, 1998.

(d) *Definitions.* For the purposes of this section:

(1) The term *qualified client* means:

(i) A natural person who or a company that immediately after entering into the contract has at least $750,000 under the management of the investment adviser;

(ii) A natural person who or a company that the investment adviser entering into the contract (and any person acting on his behalf) reasonably believes, immediately prior to entering into the contract, either:

(A) Has a net worth (together, in the case of a natural person, with assets held jointly with a spouse) of more than $1,500,000 at the time the contract is entered into; or

(B) Is a qualified purchaser as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(51)(A)) at the time the contract is entered into; or

(iii) A natural person who immediately prior to entering into the contract is:

(A) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser; or

(B) An employee of the investment adviser (other than an employee performing solely clerical, secretarial or administrative functions with regard to the investment adviser) who, in connection with his or her regular

functions or duties, participates in the investment activities of such investment adviser, provided that such employee has been performing such functions and duties for or on behalf of the investment adviser, or substantially similar functions or duties for or on behalf of another company for at least 12 months.

(2) The term *company* has the same meaning as in section 202(a)(5) of the Act (15 U.S.C. 80b–2(a)(5)), but does not include a company that is required to be registered under the Investment Company Act of 1940 but is not registered.

(3) The term *private investment company* means a company that would be defined as an investment company under section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)) but for the exception provided from that definition by section 3(c)(1) of such Act (15 U.S.C. 80a–3(c)(1)).

(4) The term *executive officer* means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions, for the investment adviser.

Dated: July 15, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19373 Filed 7–20–98; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate and Nitarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved bacitracin methylene disalicylate and nitarsone Type A medicated articles to make combination drug Type C medicated turkey feeds used as an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1600.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of NADA 141–088 that provides for combining approved BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate) and Histostat® (227 g/lb nitarsone) Type A medicated articles to make Type C medicated feeds for growing turkeys containing 4 to 50 g per ton bacitracin methylene disalicylate and 0.01875 percent nitarsone. The Type C medicated turkey feed is used as an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency in growing turkeys. The NADA is approved as of June 17, 1998, and §§ 558.76(d)(3) and 558.369(d) (21 CFR 558.76(d)(3) and 558.369(d)) are amended to add new entries to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, due to enactment of the Generic Animal Drug and Patent Term Restoration Act in 1988, National Academy of Science/National Research Council (NAS/NRC) NADA's are no longer approved. Therefore, the text of § 558.369(c) *NAS/NRC status* is removed and the paragraph reserved.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, nitarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Prior to enactment of the Animal Drug Availability Act of 1996 (Pub. L. 104–250) (ADAA), an approved medicated feed application (MFA) was required for feed mills to make Type C medicated feeds from Category II drugs. The ADAA revised the Federal Food, Drug, and Cosmetic Act to replace the requirement for MFA's with that for feed mill licenses. Use of Type A medicated articles to make Type C medicated feeds as in this NADA is limited to licensed feed mills.

FDA has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.76 is amended by adding paragraph (d)(3)(xvi) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xvi) Nitarsone alone or in combination as in § 558.369.

3. Section 558.369 is amended by removing paragraph (c) and reserving it, by revising the introductory text of paragraph (d), by redesignating paragraphs (d)(1), (d)(2), and (d)(3) as paragraphs (d)(1)(i), (d)(1)(ii), and (d)(1)(iii), respectively, by adding a heading to paragraph (d)(1), and by adding new paragraph (d)(2), to read as follows:

§ 558.369 Nitarsone.

* * * * *

(c) [Reserved]

(d) *Conditions of use.* It is used as follows:

(1) *Chickens and turkeys.*

* * * * *

(2) *Turkeys*—(i) *Amount.* Nitarsone 0.01875 percent, plus bacitracin methylene disalicylate 4 to 50 grams per ton.

(ii) *Indications for use.* As an aid in the prevention of blackhead, and for increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* For growing turkeys. Feed continuously as sole ration. Early medication is essential to prevent spread of disease. Adequate drinking water must be provided near feeders at all times. Overdosage or lack of water may result in leg weakness or paralysis. The drug is not effective in preventing

blackhead in birds infected more than 4 or 5 days. Discontinue use 5 days before slaughtering animals for human consumption to allow elimination of the drug from edible tissues. The drug is dangerous for ducks, geese, and dogs. Use as sole source of arsenic.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19315 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H–049b]

RIN 1218–AA05

Respirator Cartridge and Canister Change-Out Schedules; Notice of Public Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; notice of a public meeting.

SUMMARY: This document announces a public meeting of an inter-agency work group sponsored by the Occupational Safety and Health Administration (OSHA) to discuss available information on respirator cartridge and canister change-out schedules. Employers are required to develop or adopt such schedules by the revised Respiratory Protection standard published in the **Federal Register** on January 8, 1998, and the Maritime and Construction industry respiratory protection standards, which now cross-reference the General Industry respiratory protection standard. In addition to OSHA, representatives of the National Institute for Occupational Safety and Health (NIOSH) and the Environmental Protection Agency (EPA) are participating in the work group and will attend the public meeting. Public participation is encouraged.

DATES: The work group public meeting will be held on August 6, 1998. The public meeting will begin at 9:00 A.M. and end about 5:00 P.M., with a one-hour lunch period at about noon.

ADDRESSES: The work group public meeting will be held in the Department of Labor Auditorium at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, OSHA Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION: On January 8, 1998, OSHA published a revised Respiratory Protection standard, 29 CFR 1910.134, (63 FR 1152). All provisions of the new standard take effect on or before October 5, l998. Paragraph (d)(3)(iii) of the standard specifies that, under certain circumstances, employers must implement a change-out schedule, based on objective data, for respirator canisters and cartridges used to reduce exposures to gases and vapors. Change schedules establish the time periods for replacing cartridges and canisters before a toxic substance might break through and overexpose an employee. OSHA is sponsoring an inter-agency work group to discuss available relevant data for compliance with 29 CFR 1910.134(d)(3)(iii).

The first meeting of the work group will be held on August 6, 1998. It will be open to the public. Representatives of NIOSH and EPA who are experienced in developing change-out schedules and analyzing data sources on contaminant breakthrough will attend the work group meeting.

Agenda

The agenda for the work group public meeting is as follows:

(1) Welcome and introduction of the inter-agency work group.

(2) Public submissions of relevant information and comment to OSHA.

(3) Question and answer session.

(4) Closing remarks.

Public Participation

The meeting will be open to the public. Because of the limited amount of seating available, space will be assigned on a first-come, first-served basis. All individuals who plan to attend should contact Theresa Berry by July 30, 1998, at the OSHA Office of Public Affairs, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 219–8148. Individuals with disabilities who plan to attend should contact Theresa Berry no later than July 30, 1998 to obtain appropriate accommodations.

Those attendees who plan to make a presentation are requested to submit a copy of their presentation to Theresa Berry by July 30, 1998. OSHA will make copies of submissions available at the public meeting and also in a docket available to the public (Docket # H–049b).

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, D.C., 20210.

Signed at Washington, D.C. this 15th day of July, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–19347 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–98–010]

Drawbridge Operation Regulations; Honker Cut, San Joaquin County, CA, Eightmile Road Bridge

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: Notice is hereby given that the Coast Guard has issued a temporary deviation to the regulations governing the opening of the Eightmile Road swing bridge over Honker Cut between Empire Tract and King Island at Stockton, CA. The deviation specifies that the bridge need not be opened for vessels from 12:01 a.m., September 1, 1998 until 11:59 p.m., October 23, 1998. The purpose of this deviation is to allow San Joaquin County and its contractors paint the bridge. During this work, this bridge will have scaffolding and tarpaulins installed, which prevent the bridge from opening.

DATES: The effective period of the deviation is 12:01 a.m. September 1, 1998 to 11:59 p.m., October 23, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District, Building 50–6 Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3515.

SUPPLEMENTARY INFORMATION: The Coast Guard anticipates that the economic consequences of this deviation will be minimal. The bridge opens on average only 6 times per year. If mariners require an opening, they have alternate routes available via Little Connection Slough or King Island Cut, two miles east and west of Honker Cut, respectively.

This deviation from the normal operating regulations in 33 CFR 117.161 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: June 24, 1998.

R.D. Sirois,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 98–19360 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–15–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket Nos. RM98–1, MC97–3 and MC97–4; Order No. 1212]

Amendments to Domestic Mail Classification Schedule

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This final rule sets forth the changes to the Domestic Mail Classification Schedule (DMCS) as a result of the Governors' Decisions on the Recommended Decisions of the Postal Rate Commission in Docket Nos. MC97–3 and MC97–4. The Commission's Decision in Docket No. MC97–3 (issued September 4, 1997) changed the classification provisions for Bound Printed Matter Weight Limitations. The Commission's Recommended Decision in Docket No. MC97–4 (issued September 4, 1997) established classification provisions for Bulk Parcel Return Service and Shipper-Paid Forwarding. For these reasons, Appendix A to Subpart C has been amended to reflect those changes.

DATES: This rule is effective July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001, (202) 789–6820.

SUPPLEMENTARY INFORMATION: On June 5, 1997, the Commission issued Order No. 1180 exercising its authority under 39 U.S.C. 3623(b) to initiate a proceeding, designated as Docket No. MC97–3, to consider increasing the maximum weight limitation applicable to the bound printed matter subclass from 10 pounds to 15 pounds. This action was taken in response to a joint filing by the Advertising Mail Marketing Association, the Association of American Publishers, and the Direct Marketing Association. On August 1, 1997, the Postal Service filed testimony in support of the proposed classification change, contemporaneous with the filing of a proposed stipulation and agreement. Notice was published in the **Federal Register** at 62 FR 32125–32128.

On September 4, 1997, the Postal Rate Commission transmitted to the Governors its Opinion and Recommended Decision approving the stipulation and agreement, which was unopposed. The Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Bound Printed Matter Weight Limitations, Docket No. MC97–3, September 8, 1997, accepted the Recommended Decision of the Postal Rate Commission. Resolution No. 97–11 established October 5, 1997, as the implementation date for changes relating to Bound Printed Matter.

On June 6, 1997, the Postal Service, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, filed a request with the Postal Rate Commission for a recommended decision on certain limited changes affecting the classifications and rates for Standard (A) parcels. Contemporaneous with the filing of the Request, the Postal Service filed a Motion to Establish Procedural Mechanisms Concerning Settlement with an attached stipulation and agreement.

On June 11, 1997, the Commission issued Order No. 1184 designating this filing as Docket No. MC97–4, Bulk Parcel Return Service and Shipper-Paid Forwarding Classifications and Fees, outlining the Postal Service request, allowing interested parties an opportunity to intervene, designating the Director of the Office of the Consumer Advocate to represent the interests of the general public, and appointing the Service as settlement coordinator. Notice was published in the **Federal Register** at 62 FR 32832–32837.

The Commission issued its recommended decision on the Postal Service Request on September 4, 1997. The recommended decision adopted the revised stipulation and agreement, filed on August 12, 1997. The revised agreement was signed by 9 of the 12 participants in this proceeding.

The Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Bulk Parcel Return Service and Shipper-Paid Forwarding, Docket Nos. MC97–4 and C97–1, October 6, 1997, accepted the Recommended Decision of the Postal Rate Commission. Resolution No. 97–15 established October 12, 1997, as the effective date for implementation of changes to the Bulk Parcel Return Service; and January 4, 1998, as the effective date for the changes related to Shipper Paid Forwarding.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b) of the Regulatory Flexibility Act, the Commission certifies that this rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, regulatory flexibility analysis is not required.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Confidential business information, Freedom of information, Postal Service, Sunshine Act.

For the reasons stated in the preamble, 39 CFR part 3001 is amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–24, 3661, 3662.

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

2. Appendix A to Subpart C—Postal Service Rates and Changes is amended as follows:

a. Amend the Table of Contents by adding Classification Schedule SS–21—Bulk Parcel Return Service and Classification Schedule SS–22—Shipper-Paid Forwarding.

b. In section 322.31, remove the number ''10'' and replace it with ''15''.

c. Revise section 353.1 to read as set forth below.

d. Add new section 363 to read as set forth below.

e. Amend section 2033 by adding, after ''450'', the words ''and schedules SS–21 and SS–22''.

f. Classification Schedules SS–21 and SS–22 are added to read as set forth below.

g. Add Rate Schedule SS–21 to read as set forth below.

h. Amend Schedule 1000 by adding after ''Business Reply Mail Permit'', a new entry for ''Authorization to Use Bulk Parcel Return Service''.

Appendix A to Subpart C—Postal Service Rates and Changes

* * * * *

353.1 Single Piece, Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321).

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of

the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. Except as provided in Schedule SS–21, the Single Piece Standard rate is charged for each piece receiving return only service. Except as provided in Schedule SS–22, charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in Schedules SS–21 and SS–22, the charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

* * * * *

363 Regular and Nonprofit

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	SS–21
b. Shipper-Paid Forwarding	SS–22

* * * * *

Classification Schedule SS–21—Bulk Parcel Return Service

21.01 Definition

21.010 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency prescribed by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency prescribed by the Postal Service.

21.02 Description of Service

21.020 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

21.03 Requirements of the Mailer

21.030 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

21.031 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

21.032 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

21.033 Mail for which Bulk Parcel Return Service is requested must bear endorsements prescribed by the Postal Service.

21.034 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

21.04 Other Services

21.040 The following services may be purchased in conjunction with Bulk Parcel Return Service:

	Classification schedule
a. Address Correction Service	SS–1
b. Certificate of Mailing	SS–4
c. Shipper-Paid Forwarding	SS–22

21.05 Fee

21.050 The fee for Bulk Parcel Return Service is set forth in Fee Schedule SS–21.

21.06 Authorizations and Licenses

21.060 A permit fee as set forth in Fee Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

21.061 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service.

Classification Schedule SS–22—Shipper-Paid Forwarding

22.01 Definition

22.010 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at Standard Mail Single Piece rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the appropriate Standard Mail Single Piece rate, or the Bulk Parcel Return Service fee, if that service was elected.

22.02 Description of Service

22.020 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

22.03 Requirements of the Mailer

22.030 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in Schedule SS–1.

22.031 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

22.032 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

22.033 Mail for which Shipper-Paid Forwarding is requested must bear endorsements prescribed by the Postal Service.

22.04 Other Services

22.040 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

	Classification schedule
a. Certificate of Mailing	SS–4
b. Bulk Parcel Return Service ..	SS–21

22.05 Applicable Rates

22.050 Except as provided in Schedule SS–21, Standard Mail Single Piece Rates, set forth in Rate Schedule 321.1, apply to pieces forwarded or returned in connection with Shipper-Paid Forwarding.

* * * * *

Special services	Description	Fee
* * * * * * *		
Schedule SS–21.		
Bulk Parcel Return Service	Per Returned Piece.	

Special services		Description			Fee	
*	*	*	*	*	*	*

Issued by the Commission on April 20, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–19344 Filed 7–20–98; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300679; FRL–6015–9]

RIN 2070–AB78

Tebuconazole; Extension of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends time-limited tolerances for residues of the fungicide tebuconazole in or on barley grain at 2.0 parts per million (ppm), barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm; and extends time-limited tolerances for the combined residues of tebuconazole and its metabolite (HGW 2061) in milk at 0.1 ppm and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm for an additional 18-month period, to December 31, 1999. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on barley, wheat, and pistachios. 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 July 21, 1998. Objections and requests for hearings must be received by EPA, on or before September 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300679], 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–300679], 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: Stephen Schaible, 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. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9362; e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of June 20, 1997 (FRL–5725–7) , 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 time-limited tolerances for the residues of tebuconazole in or on barley grain at 2.0 ppm, barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm. EPA established time-limited tolerances for the combined residues of tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1H-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061) in milk at 0.1 ppm and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm. All of these tolerances have an expiration date of June 30, 1998. EPA established the tolerances 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 requests to extend the use of tebuconazole on barley, wheat, and pistachios for this year's growing season due to continued non-routine situations for growers of these crops. Numerous States have requested emergency exemptions to control rust in barley and wheat; currently registered alternatives do not allow application at a sufficiently late stage of growth to control the disease. Additionally, North Dakota, Minnesota, South Dakota and Michigan have again requested use of this chemical to control Fusarium head blight on barley and/or wheat; abundant inoculum and wet weather conditions this year are likely to result in a severe outbreak without the requested use. The continued lack of an effective alternative to control late blight on pistachios when disease pressure is high is likely to result in significant economic losses to growers in California if wet weather conditions occur. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley, wheat, and pistachios for control of the above fungal diseases in barley, wheat, and pistachios.

EPA assessed the potential risks presented by residues of tebuconazole in or on barley grain, barley hay, barley straw, wheat hay, wheat straw, pistachios, milk, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerances 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 of June 20, 1997. Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6).

Therefore, the time-limited tolerances are extended for an additional 18-month period. Although these tolerances will expire and are revoked on December 31, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on barley grain, barley hay, barley straw, wheat hay, wheat straw, pistachios, milk, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep 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 tolerances. EPA will take action to revoke these tolerances 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 September 21, 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 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300679]. 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 tolerance that 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: June 29, 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.

§ 180.474 [Amended]

2. In § 180.474, by amending paragraphs (b)(1) and (b)(2) in the tables, by changing the date ''June 30, 1998'' to read ''12/31/99''.

[FR Doc. 98–19405 Filed 7–20–98; 8:45 am]

BILLING CODE 6560–50–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2516, 2517, 2519, 2521, and 2540

Administrative Costs for Learn and Serve America and AmeriCorps Grants Programs

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule adopted as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim final rule that amended the Corporation's regulations relating to administrative costs in 45 C.F.R. Parts 2510, 2516, 2517, 2519, 2521, and 2540 published at 63 FR 18135, April 14, 1998. The rule amends the Corporation's regulations implementing a statutory limit on the percentage of assistance to specified national service programs that may be used to pay for administrative costs. The rule clarifies the definition of administrative costs, adds an explicit definition of program costs that are not subject to the limitation on administrative costs, and provides additional guidelines for applying the limitation on administrative costs.

DATES: The interim final rule was effective April 14, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Kenefick, Director of Grants Management, Corporation for National Service, (202) 606–5000, ext. 101.

SUPPLEMENTARY INFORMATION:

On April 14, 1998, the Corporation for National and Community Service (Corporation) published an interim final rule amending its regulations implementing provisions of the National and Community Service Act of 1990, as amended, under which not more than five percent of assistance for a fiscal year may be used to pay for administrative costs. This limitation applies to the following types of programs: (1) School-based service-learning programs; (2) community-based service-learning programs; (3) higher education innovative programs for community service; and (4) national service programs assisted under sections 121(a) and 121(b) of the Act through grants to State Commissions, Indian Tribes, U.S. Territories, and national nonprofit organizations.

The Act itself does not define ''administrative costs'' but directs the Corporation to prescribe by rule the manner and extent to which assistance provided may be used to pay for administrative costs and the distribution of such costs between grantees and sub-grantees. The final rule clarifies the types of costs that are considered subject to the five percent limitation on administrative costs. The final rule includes an itemization of costs that are directly related to programs and projects, and therefore excluded from the definition of administrative costs. The final rule also provides guidelines for the implementation of the statutory requirements, including the use of indirect cost rates and the use of fixed rates for administrative costs.

Comments on the interim final rule were due June 15, 1998. We did not receive any comments. The facts presented in the interim final rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, the Paperwork Reduction Act, the Unfunded Mandates Reform Act, and Executive Order 12875.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2516

Elementary and secondary education, Grant programs—social programs, Indians, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2517

Community development, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2519

Colleges and universities, Grant programs—social programs, Nonprofit organizations, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2521

AmeriCorps, Grant programs—social programs, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

Interim Final Rule Adopted as Final Without Change

Accordingly, the interim final rule amending 45 CFR Parts 2510, 2516, 2517, 2519, 2521, and 2540, which was published at 63 FR 18135, April 14, 1998, is adopted as a final rule without change.

Authority: 42 U.S.C. 12501 *et seq.*

Dated: July 15, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–19375 Filed 7–20–98; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[FO Dockets No. 91–171, 91–301; FCC 97–338]

Emergency Alert System; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The FCC published a Second Report and Order, a document which amended the Commissions Emergency Alert System rules in the **Federal Register** of June 1, 1998. Inadvertently, incorrect language was inserted in § 11.54. This document corrects that language.

DATES: Effective on July 31, 1998.

FOR FURTHER INFORMATION CONTACT: David Sturdivant, Compliance and Information Bureau, Emergency Alert System Office (EAS) (202) 418–1100.

SUPPLEMENTARY INFORMATION: The **Federal Register** of June 1, 1998 (63 FR

29662), a summary of the Commission's Second Report and Order on amending the Commission's rules regarding the Emergency Alert System. This correction reflects changes made to that document contained in section 11.54. These changes were made due to improper language that was included in the initial publication of this document in the **Federal Register**.

In rule FR Doc. 98–14376, published June 1, 1998, on page 29666, column one, amendatory instruction number 15 and § 11.54, are corrected to read as follows:

15. Section 11.54 is amended by revising paragraph (b) introductory text; redesignate paragraph (b)(8) through paragraph (b)(14) as paragraph(b)(9) through paragraph (b)(15); adding new paragraph (b)(8); revising paragraphs (b)(11), (b)(12) and (b)(15), and paragraphs (c) and (d) to read as follows:

§ 11.54 EAS operation during a National Level emergency.

* * * * *

(b) Immediately upon receipt of an EAN message, broadcast stations and cable systems and wireless cable systems must:

(1) * * *

* * * * *

(8) Cable systems and wireless cable systems shall transmit all EAS announcements visually and aurally as specified in § 11.51 (g) and (h) of this part.

* * * * *

(11) Broadcast stations may transmit their call letters and cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS plans.

(12) All broadcast stations and cable systems and wireless cable systems operating and identified with a particular EAS Local Area must transmit a common national emergency message until receipt of the Emergency Action Termination.

* * * * *

(15) The time of receipt of the EAN and Emergency Action Termination messages shall be entered by broadcast station logs in their logs (as specified in § 73.1820 and § 73.1840 of this chapter), by cable systems in their records (as specified in § 76.305 of this chapter), and by subject wireless cable systems in their records (as specified in § 21.304 of this chapter).

(c) Upon receipt of an Emergency Action Termination Message, broadcast stations and cable systems and wireless cable systems must follow the termination procedures in the EAS Operating Handbook.

(d) Broadcast stations and cable systems and wireless cable systems originating emergency communications under this section shall be considered to have conferred rebroadcast authority, as required by Section 325(a) of the Communications Act of 1934, 47 U.S.C. 325(a), to other participating broadcast stations, cable systems and wireless cable systems.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19366 Filed 7–20–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071398A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska management area (GOA). This action is necessary to fully utilize the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska as 1,810 metric tons (mt).

The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 1,610 mt, and set aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. The fishery for Pacific ocean perch in the Western Regulatory Area of the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on July 3, 1998, (63 FR 36863, July 8, 1998).

NMFS has determined that as of July 14, 1998, 1,300 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific ocean perch TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the Pacific ocean perch TAC for harvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 15, 1998.

Richard W. Surdi,

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

[FR Doc. 98–19325 Filed 7–15–98; 4:48 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 071698A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1998 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 16, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and CFR part 679.

The 1998 TAC of Pacific ocean perch for the Western Aleutian District was established by Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) as 5,162 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for Pacific ocean perch in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,362 mt and is setting aside the remaining 800 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of Pacific ocean perch for the Western Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 16, 1998.

Richard W. Surdi,

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

[FR Doc. 98–19387 Filed 7–16–98; 2:04 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 139
Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket No. FV98–927–1 PR]

Winter Pears Grown in Oregon and Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Winter Pear Control Committee (Committee) under Marketing Order No. 927 for the 1998–99 and subsequent fiscal periods from $0.44 to $0.49 per standard box of winter pears handled. The Committee is responsible for local administration of the marketing order which regulates the handling of winter pears grown in Oregon and Washington. Authorization to assess winter pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 fiscal period began July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 20, 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, P.O. 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: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3919, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 89 and Order No. 927, both as amended (7 CFR part 927), regulating the handling of winter pears grown in Oregon and Washington hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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 marketing order now in effect, winter pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable winter pears beginning July 1, 1998, and continue until modified, 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 $0.44 to $0.49 per standard box of winter pears 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 and six handler members, 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 1997–98 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.44 per standard box that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 29, 1998, and unanimously recommended 1998–99 expenditures of $7,958,083 and an assessment rate of $0.49 per standard box of winter pears handled during the 1998–99 and subsequent fiscal periods. In comparison, last year's budgeted expenditures were $8,066,790. The assessment rate of $0.49 is $0.05 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $0.49 would generate income in excess of that needed to adequately administer the program.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $6,719,500 for paid advertising, $460,925 for unforeseen expenses, $302,000 for improvement of winter pears, $182,785 for salaries, and $75,000 for market development. Budgeted expenses for these items in 1997–98 were $7,010,550, $268,632, $346,200, $161,549, and $75,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears. Winter pear shipments for the year are estimated at 15,100,000 standard boxes, which should provide $7,399,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently $470,000) will be kept within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

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. 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 will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact this rule would have on small entities. Accordingly, 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 1,800 producers of winter pears in the production area and approximately 90 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of winter pear producers and handlers may be classified as small entities.

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.44 to $0.49 per standard box of winter pears handled. The Committee met on May 29, 1998, and unanimously recommended 1998–99 expenditures of $7,958,083 and an assessment rate of $0.49 per standard box of winter pears handled. In comparison, last year's budgeted expenditures were $8,066,790. The assessment rate of $0.49 is $0.05 more than the rate currently in effect. The Committee recommended an increased assessment rate because the current rate would not generate enough income to adequately administer the program. The Committee decided that an assessment rate of more than $0.49 would generate income in excess of that needed to adequately administer the program.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $6,719,500 for paid advertising, $460,925 for unforeseen expenses, $302,000 for improvement of winter pears, $182,785 for salaries, and $75,000 for market development. Budgeted expenses for these items in 1997–98 were $7,010,550, $268,632, $346,200, $161,549, and $75,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of winter pears. Winter pear shipments for the year are estimated at 15,100,000 standard boxes, which should provide $7,399,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. The operating reserve is within the maximum permitted by the order of approximately one fiscal period's expenses (§ 927.42).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $6.18 and $10.78 per standard box of winter pears handled. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue would range between 0.5 and 0.8 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 marketing order. In addition, the Committee's meeting was widely publicized throughout the winter pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 29, 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 winter pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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 began on July 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable winter pears handled during such fiscal period; (3) handlers are aware of this action which was unanimously 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 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is proposed to be amended as follows:

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 927.236 [Amended]

2. Section 927.236 is proposed to be amended by removing the words ''July 1, 1997,'' and adding in their place the words ''July 1, 1998,'' and by removing ''$0.44'' and adding in its place ''$0.49.''

Dated: July 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–19389 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1007, and 1046

[Docket No. AO–338–A9, et al.; DA–96–08]

Milk in the Carolina and Certain Other Marketing Areas; Final Decision and Order To Terminate Proceeding on Proposed Amendments to Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1005 ..	Carolina	AO–388–A9.
1007 ..	Southeast	AO–366–A38.
1046 ..	Louisville-Lexington-Evansville.	AO–123–A67.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final decision and termination of proceeding.

SUMMARY: This document denies proposed amendments to 3 Federal milk orders in the Southeastern United States and terminates the rulemaking proceeding. The proposals involve deductions from the minimum uniform price to producers and the definition of ''producer'' specified in each of the orders. The decision to deny the proposals is based upon 2 public hearings, and upon comments and exceptions filed in response to a subsequent recommended decision issued by the Department.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address: Nicholas__Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

This partial final decision denies the proposed amendments to the Carolina, Southeast, and Louisville-Lexington-Evansville Federal milk orders,[1] and terminates this rulemaking proceeding.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities. The Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

The milk of approximately 7,600 producers is pooled on the Carolina, Southeast, and Louisville-Lexington-Evansville milk orders. Of these producers, 97 percent produce below the 326,000-pound production guideline and are considered to be small businesses.

There are 48 handlers operating pool plants under the 3 orders. Of these handlers, 22 have fewer than 500 employees and qualify as small businesses.

The Agricultural Marketing Service has determined, as set forth in the recommended decision, that neither the denial, nor the adoption, of proposed amendments involving deductions from the minimum payments to producers will have a significant economic impact on a substantial number of small entities under current marketing conditions. Dairy farmers are presently receiving the minimum order prices and should continue to do so given the current level of over-order premiums now in effect. Similarly, neither adoption nor denial of the proposed amendments will have any effect on handlers' costs under the orders because, currently, handlers are voluntarily paying producer prices in excess of the minimum prices specified in the orders. Furthermore, for the long term, the issue of deductions from minimum payments will be considered as part of the Federal order reform in connection with the Federal Agriculture Improvement and Reform Act of 1996 which requires an examination of the Federal milk order system. The concerns of small businesses will be addressed throughout the review process.

Additionally, neither the denial nor the adoption of the proposal to modify the definition of ''producer'' under the 3 orders will have a significant economic impact on a substantial number of small entities. Standards already exist in the 3 orders to assure an adequate association by producers in meeting the fluid milk needs of the markets. The denial of the proposal to incorporate additional producer qualification standards maintains the existing regulatory burden, and will not place any additional responsibilities on handlers operating under the orders.

Prior Documents in This Proceeding

Notice of Hearing: Issued May 1, 1996; published May 3, 1996 (61 FR 19861).

Tentative Partial Final Decision: Issued July 12, 1996; published July 18, 1996 (61 FR 37628).

Interim Amendment of Orders: Issued August 2, 1996; published August 9, 1996 (61 FR 41488).

Extension of Time for Filing Comments to the Tentative Decision: Issued August 16, 1996; published August 23, 1996 (61 FR 43474).

Extension of Time for Filing Comments to the Tentative Decision: Issued October 18, 1996; published October 25, 1996 (61 FR 55229).

Notice of Reopened Hearing: Issued November 19, 1996; published November 25, 1996 (61 FR 59843).

[1] The Tennessee Valley Federal milk order, an order involved in this rulemaking proceeding, was terminated as of October 1, 1997.

Partial Final Decision: Issued May 12, 1997; published May 20, 1997 (62 FR 27525).

Order Amending the Orders: Issued July 17, 1997; published July 23, 1997 (62 FR 39738).

Partial Recommended Decision: Issued July 17, 1997; published July 23, 1997 (62 FR 39470).

Preliminary Statement

Public hearings were held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearings were held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), in Charlotte, North Carolina, on May 15–16, 1996, and in Atlanta, Georgia, on December 17–18, 1996. Notice of the initial hearing was issued on May 1, 1996, and published May 3, 1996 (61 FR 19861).

The material issues on the record of the hearings relate to:

1. Transportation credits for supplemental bulk milk received for Class I use.

2. Deductions from the minimum uniform price to producers.

3. Whether emergency marketing conditions in the 4 regulated marketing areas warrant the omission of a recommended decision with respect to Issue No. 1 and the opportunity to file written exceptions thereto.

4. The definition of producer.

An interim order amending the orders with regard to transportation credits was issued on August 2, 1996, and published August 9, 1996 (61 FR 41488). The interim amendments became effective on August 10, 1996.

The Department reopened the hearing to hear additional evidence regarding the transportation credit issue and also to hear a related ''producer'' definition proposal. This hearing was held on December 17–18, 1996, in Atlanta, Georgia, following the notice of such reopened hearing issued on November 19, 1996, and published in the **Federal Register** on November 25, 1996 (61 FR 59843).

Interested parties were given until June 17, 1996, to file post-hearing briefs regarding the deductions from the minimum price proposal as published in the **Federal Register** and as modified at the hearing. Regarding the additional proposal concerning the definition of a ''producer'' heard at the reopened hearing, interested parties were given until February 7, 1997, to file post-hearing briefs.

A partial recommended decision involving minimum payments to producers and the ''producer'' definition was issued on July 17, 1997, and published in the **Federal Register** on July 23, 1997 (62 FR 39470).

Issue 1 was discussed in a separate partial final decision issued on May 12, 1997 (62 FR 27525). Issue 3 was discussed in the tentative partial final decision, and is now moot.

Following the final decision issued on May 12, 1997, producers were polled in each of the 4 markets involved in this proceeding to ascertain whether producers approved of the orders, as amended. An insufficient vote was obtained for the Tennessee Valley order, as amended. Consequently, that order was terminated effective October 1, 1997.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth:

Material Issue # 2—Deductions From the Minimum Uniform Price to Producers

A proposal by Hunter Farms and Milkco, Inc., which seeks to clarify the minimum payment to producers for Federal milk marketing orders 1005, 1007, and 1046, should be denied. Under the proposal, a handler (except a cooperative acting in its capacity as a handler pursuant to paragraph 9(b) or 9(c)) may not reduce its obligations to producers or cooperatives by permitting producers or cooperatives to provide services which are the responsibility of the handler. According to the proposal, such services include: (1) Preparation of producer payroll; (2) conduct of screening tests of tanker loads of milk required by duly constituted regulatory authorities before milk may be transferred to the plant's holding tanks and any other tanker load tests required to establish the quantity and quality of milk received; and (3) any services for processing or marketing of raw milk or marketing of packaged milk by the handler.

A Brief Summary of Testimony and Briefs Resulting From the May 15–16, 1996 Hearing

The Vice President of Hunter Farms (Hunter), which operates plants regulated under Order 5 at High Point and Charlotte, North Carolina, testified that Hunter purchases milk from Piedmont Milk Sales, Carolina-Virginia Milk Producers Association (CVMPA), Mid-America Dairymen, Inc. (Mid-Am),[2] and Cooperative Milk Producers Association. The witness explained that CVMPA and Mid-Am are cooperative associations, while Piedmont Milk Sales is a marketing agent handling the milk of independent producers. Due to competitive marketing conditions in the Southeast in late 1994 and early 1995, handlers were able to purchase milk supplies at Federal order minimum prices without any over-order premiums being charged. As a result of the absence of over-order premiums, Hunter received underpayment notices from the market administrator on milk that it had received from Piedmont Milk Sales. The underlying question was who must pay for certain services associated with the receipt of milk at regulated plants. Hunter argued that during the period of December 1994 through September 1995, competing handlers who received milk from cooperative associations at the minimum order price did not fully compensate the cooperatives for similar services that were provided.

Despite the fact that over-order premiums returned to the Carolina market, Hunter contends, the problem of what constitutes a minimum payment to producers should be clarified in the event that premiums may be reduced or disappear entirely in the future. For this reason, according to the proponent, it is important to resolve this issue.

In the event that this situation is not rectified, according to Hunter, a loss of milk sales and lower prices to producers will be evident. Hunter stated that current policy is discriminatory and unfair. Furthermore, Hunter stated that all would benefit from a clarification of the rules defining Federal order minimum prices.

Milkco Inc. (Milkco), a fluid milk processing plant located in Asheville, North Carolina, regulated under Order 5, receives milk from cooperative associations as well as independent producers marketing their milk through Piedmont Milk Sales. Milkco supported Hunter's position and stated that Milkco also received underpayment notices from the market administrator for the December 1994 through October 1995 period on milk received from independent dairy farmers, but did not receive underpayment notices on milk received under the same or similar conditions from cooperative associations.

[2] Mid-America Dairymen, Inc., Western Dairymen Cooperative, Milk Marketing Inc., and Associated Milk Producers, Inc., Southern Region, merged to form ''Dairy Farmers of America'' effective January 1, 1998.

A witness representing Hunter and Milkco described the categories that should be defined as a handler responsibility, including preparation of a producer payroll, the testing of incoming tanker loads of milk, and any costs associated with processing raw milk or marketing milk in bulk or packaged form. The witness stressed that the thrust of the proposal is to ensure equality in the cost of milk among regulated handlers. According to the witness, current administrative practice in this area requires handlers receiving milk from independent producers to absorb the cost of a variety of services which are provided at no extra charge to handlers receiving milk from cooperative associations and result in an inequitable situation.

The General Manager of Carolina-Virginia Milk Producers Association or CVMPA offered qualified support for the Hunter-Milkco proposal. He said that from a philosophical point of view CVMPA would agree that if producers provide the services specified by the proponents—plus any additional services that are provided to a handler by a cooperative association—handlers should be charged the costs associated with these services. He said that, with these modifications, CVMPA could support the proposal. Additionally, CVMPA suggested expanding the proposed list of handlers' responsibilities to include tanker washing and tagging, supplying milk to handlers on an irregular delivery schedule, field work, disposing of surplus milk during months when the supply is above local needs, and importing supplemental milk for Class I use during periods of short production.

Additional testimony was also offered by a representative of Mid-America Dairymen, Inc. (Mid-Am) involving Hunter's proposal. Mid-Am objected to hearing the proposal and also to the narrowness of Hunter-Milkco's proposal. Mid-Am argued that the issue of minimum payments to producers is national in scope and should not be limited to the orders involved in this proceeding. It suggested that the issue be addressed by the Secretary within the context of the Federal order reform as required by the 1996 Farm Bill on a national basis. In addition, the Mid-Am representative objected to the proposal on grounds of lack of notice to interested parties.

The administrative law judge presiding over the hearing overruled Mid-Am's objection to hearing the proposal, noting that the Secretary had given interested parties the minimum 3-day notice requirement specified in 7 CFR 900.4(a). He also indicated that this proposal was being considered on a non-emergency basis and that, accordingly, interested parties had more than adequate time to brief it, discuss it, and consider it.

Briefs were submitted by interested parties both in support of and in opposition to this proposal. Proponents, Hunter and Milkco, submitted a brief in support of their proposal, emphasizing the points made on the hearing record. Hunter and Milkco maintain that uniform applicability in the treatment of handlers is essential, and any lack of uniformity is in violation of the Agricultural Marketing Agreement Act, as amended. According to the proponents, issuance of underpayment notices only on that milk which was received from independent producers who contracted with a specific marketing agency does not promote uniformity and is discriminatory.

Hunter and Milkco's brief also addresses the objections made by Mid-Am to this proposal. The proponents maintain that Mid-Am's objection to their proposal based on grounds of lack of notice is unfounded because the notice given was adequate. In addition, Hunter and Milkco argue that the suggestion by Mid-Am that this proposal be considered on a national basis is unjustified. Proponents maintain that the problem which has prompted this proposal is specific to the Federal order under consideration, and no evidence was presented to show that this problem exists in other regions of the United States.

Fleming Companies, Inc. (Fleming),[3] also filed a brief in support of this proposal. Fleming states that ''* * * To the extent such services primarily benefit producers, it is appropriate that producers be authorized to contract for such services, and to allow a deduction for the reasonable value of such services.'' Fleming also expressed concern that without the clarification offered by the proposal, equity among member producers and non-member producers may be jeopardized and price uniformity may not be maintained if cooperative associations are able to assume the cost of producer-oriented services, while handlers receiving independent milk are not permitted to make a deduction for these services even if authorized by the producer.

A brief filed by Mid-America Dairymen, Inc., reiterated the cooperative's strong opposition to the proposal and its position that this issue should be addressed on a national basis in the context of Federal order reform. Furthermore, Mid-Am states that it is clear that the costs for butterfat testing are borne by all producers, and the costs of testing milk in tankers for antibiotics are borne by all handlers regardless of their source of supply. According to Mid-Am, no confusion exists as to who is responsible for these tests and, therefore, they should not be included in the proposed amendments.

The Kroger Co. states in its brief that proposal 2 is worthy of study and should be considered by the Secretary for all Federal milk marketing orders within the context of Federal milk order reform.

Summary of the Partial Recommended Decision Issued July 17, 1997

The Department issued a partial recommended decision on July 17, 1997 (62 FR 39470), which recommended denial of Hunter/Milkco's proposal to amend the 4 southeastern milk orders. On the basis of the testimony heard and the briefs filed, the Department determined that the issue should be addressed in the context of Federal order reform.

Under orders, the Department explained, payment for milk received from producers may not be less than the uniform price as announced each month by the market administrator, except to producers who receive payment from their cooperative association. The Department stated a cooperative association under the authorizing legislation may blend the net proceeds of its sales of milk for payment to its member producers. However, payments to a producer by a handler, the Department asserted, can be reduced to reflect ''proper deductions authorized in writing by the producer.'' Historically, it noted, such deductions from minimum milk prices of only two basic types have been permitted.

The Department indicated that the two types of deductions permitted are (1) payments that are made by a handler on behalf of the producer to creditors of the producer, and (2) payments that are obligations of the producer in the production of milk and the transportation costs for delivery to the handler's plant. Accordingly, the Department stated, handlers are not required to make payments to creditors on behalf of producers but are permitted to do so if the deductions are proper and authorized. It stated such permission recognizes that handlers frequently make payments to producers' creditors as a service to the producers. Thus, the Department concluded, the term ''proper'' is included to prevent

[3] During summer 1997, the dairy operations of Fleming was acquired by Suiza Foods. The fluid milk processing business of Fleming has been reorganized and is now Country Delite Farms, Inc.

unwarranted deductions from minimum prices for milk.

The Department went on to state that the authorization by a producer of a certain deduction may not be proper and thus disallowed by the market administrator. Additionally, it indicated, producers cannot give up their rights to receive the uniform price by a deduction that is not of the two types described above.

The Department concluded that there were extensive conceptual differences among market participants concerning what constitutes minimum prices to producers. The decision stated that the lack of evidence and conflicting opinions made it extremely difficult to delineate in Federal milk orders those services which are the responsibility of handlers and those which lie within the domain of producers. Furthermore, even if a decision could be reached on this point it would be very difficult to establish uniform rates for the services suggested by the various parties on the basis of the record before the Department. The Department, therefore, concluded that the proposal should be denied and the matter considered in the Federal order reform proceeding where nationwide input and a more extensive evidentiary record could be obtained.

The decision stated that the underpayment problem which Milkco and Hunter experienced has been rendered moot with the return of over-order premiums. Although these premiums could again disappear, bringing the uniform pricing issue to the fore once again, the Department anticipates this is not likely to happen in the near future. Nevertheless, the decision stated, if this should happen, proponents could request relief through other means pending final resolution of this matter.

Exceptions to the Partial Recommended Decision

Hunter and Milkco, Inc., filed an exception to the Department's partial recommended decision and urged adoption of their proposal. These handlers stated that their proposal would specify the responsibility of all handlers with respect to producer milk and thereby rectify any inconsistency that may currently exist in order language concerning this issue.

Hunter and Milkco also stated that any disagreement within the industry concerning which services are the responsibility of the handler is secondary to the issue under review and does not warrant the denial of their proposal. The handlers contend that the central principle surrounding this issue is uniformity in the treatment of handlers purchasing milk supplies from cooperatives or independent producers. The precise list of services is of secondary importance, they state, and industry disagreement concerning these services should not prevent the Department from embracing the central thrust of their proposal.

Conclusion

The Milkco/Hunter's minimum payment proposal should be denied. It is the Department's determination that the Hunter/Milkco proposal would not have solved the handler equity problem but instead would have created a host of additional problems.

Proponents would have us specify that certain services, are a handler's responsibilities and, therefore, should be at handler's expense. Thus, if a cooperative association were providing one of these services for a handler, the cooperative association would be required to bill the handler for this service. However, the Department cannot adopt order provisions without substantial record evidence. The record contains little evidence as to which specific services should be included and even that evidence is conflicting. Furthermore, neither proponents, nor any other participant, provided guidance in the record concerning the cost of these services, which, we suspect, vary considerably from organization to organization.

In addition, the Department is engaged in congresionally regulated order consolidation [4] in which greater uniformity in order provisions is a stated goal. The record in this proceeding demonstrates no basis why the minimum payments provisions should be different in just these three orders. Instead, it appears that the provisions should be based upon the same considerations, and should not differ from one order to another. This issue regarding minimum payments to producers should, therefore, be considered as part of the Federal order reform. Thus, for the reasons stated above, the record evidence of the public hearing and the comments and exceptions received in response to the partial recommended decision do not support adoption of the Milkco/Hunter proposal.

[4] The 1996 Farm Bill requires the Secretary of Agriculture to merge the existing 33 Federal milk orders (currently 31 orders) into no more than 14, and no less than 10, milk orders by April 1, 1999. A proposed rule was issued on January 23, 1998, and published in the **Federal Register** on January 30, 1998 (63 FR 4802). Interested parties had until April 30, 1998, to file comments. A discussion of minimum payments to producers is included in the proposed rule (63 FR 4942).

Material Issue #4—Definition of Producer

A proposal to modify the definition of producer for Federal milk orders 5, 7, and 46 should also be denied on the basis of the testimony and evidence received at the reopened hearing. Mid-America Dairymen, Inc. (Mid-Am), Carolina-Virginia Milk Producers Association (CVMPA), and Maryland-Virginia Milk Producers Association, proponents of the proposal, stated that the objective of the proposal is to further define producer qualification to minimize the pooling of milk not historically associated with these 3 southeastern markets.

A Brief Summary of Testimony and Briefs Resulting From the December 17–18, 1996 Hearing

A spokesman for the proponents offered testimony explaining that base-excess plans (included in each of the orders at the time of the reopened hearing, but terminated from each order effective January 1, 1997, as a result of the expiration of legislative authority to include such plans in Federal milk orders) have substantially removed the incentive for a dairy farmer who was associated with another market during the base-building months to become a producer under one of these orders during the base-paying months. He expressed concern that with the elimination of such plans, no provisions would exist to prevent a dairy farmer from pooling any milk diverted or delivered within limits to pool plants under the orders during the former base-paying months.

The witness stated that the proposed provisions for the orders will exclude from the producer definition, during the flush production months of February through May, any dairy farmer who delivered more than 40 percent of his or her milk to plants as other than ''producer milk'' during the months of August through November. The proposed provisions, according to the witness, are designed to restrict those producers not normally associated with such orders from pooling their milk during the flush production months when it is not needed to supply fluid needs if they have not pooled such milk during the prior short months when supplies were needed.

In addition, the spokesman stated that for the purpose of determining the percentage of a producer's milk that was pooled during the prior August through November period, deliveries to plants as producer milk under the orders should be considered deliveries under the applicable order. He testified that this

proviso is necessary to accommodate: (1) The historical shifting of producers between the orders; (2) the shifting of pool distributing plants; and (3) the shifting of producer milk due to the opening and closing of pool plants in the orders' area.

The witness also testified that the proposal, as found in the notice of hearing, should be modified to define the classification of the milk received and specify the pricing of the milk as classified in each of the orders. According to the spokesman, the changes to the order language would require the receiving handler to pay into the pool the difference between the Class I price and the Class III price.

Regarding the administrative costs associated with the relevant proposal, the witness contended that there should be no noticeable difference between costs associated with the producer qualification proposal and costs associated with the base-excess plan. In conclusion, the spokesman testified that the adoption of such proposal is necessary to foster orderly marketing in the area and protect producer pools of the southeastern orders involved in this proceeding.

A representative of CVMPA testified that CVMPA fully supports the producer qualification proposal to make sure that high Class I utilization markets in the Southeast do not carry surplus from other surrounding markets resulting in low Class I utilization rates during the flush months of production. He maintained that the proposal benefits producers, processors, and consumers by maintaining fluid supplies, while encouraging the survival of local producers.

A representative from Associated Milk Producers, Inc. (AMPI), Southern Region, a cooperative association representing over 2,500 dairy farmers in the South and Southwest, testified in opposition to Mid-Am's proposal to modify the producer definition of the orders. The witness also maintained that such proposal is not related to the issue of transportation credits, and should, therefore, not be included in the reopened hearing.

According to the spokesman, the current producer pooling requirements under Order 7 are more restrictive than the proposed producer qualification requirements; thus, the proposal actually constructs an additional layer of unnecessary pooling requirements. The witness claimed that no handlers are currently abusing the order by diverting the maximum amount allowable under the provisions of Order 7; otherwise, he argued, such a high percentage of Class I utilization would not be maintained.

AMPI's witness also testified that it is apparent that the proponents intend to replace the base-excess plans in the orders involved in this proceeding. However, such an alternative is not viable, he argued, because sufficient protection for local producers already exists. While acknowledging the existence of such ''dairy farmers for other market'' provisions in other Federal orders, the spokesman testified that the Southeast markets will not benefit from such a provision. If the proposal is nevertheless adopted, he said, AMPI recommends a modification to the proposal such that milk imported from outside the marketing area that is received at a fully or ly regulated plant during any month of the year must be allocated to Class I and the handler of origin must be compensated at the receiving plant's Class I price.

Another AMPI representative testified that administration of Mid-Am's proposal would create additional costs and place a more serious burden on the cooperative. According to the witness, additional time and resources would be necessary to adapt AMPI's procedures to the new provision, including greater technical and manual assistance.

A representative of Piedmont Milk Sales testified that Piedmont supports the concept that a producer must make his milk available to the Class I market when it is needed in the fall or short period in order to be allowed to pool his milk in the same market during the spring or flush months. He contended that such a limitation assures that the producer who receives the blend price enhanced by the Class I value in those markets has actually earned it.

A spokesman for Fleming Dairy, which operates pool distributing plants in Nashville, Tennessee, and Baker, Louisiana, testified in support of Mid-Am's proposal, but suggested that the producer qualification period should be July through November, rather than August through November.

Additionally, a representative of Barber Pure Milk Co., a pool plant operator in Birmingham, Alabama, and Dairy Fresh Corporation, a pool plant operator in Greensboro, Alabama, testified in support of Mid-Am's producer qualification proposal. He suggested that any milk which is delivered directly from the farm and is received at a pool plant should qualify as producer milk, but any milk which is diverted should not.

Select Milk Producers submitted a brief in opposition to the proposed changes in the producer definition. According to Select, a similar proposal was introduced during the Southeast merger proceedings and was subsequently denied due to the lack of justification for such a provision. Select's brief indicated that the pooling standards and diversion limitations provided in the orders give the market administrator enough flexibility to prevent distant milk from being associated with the markets; therefore, a ''dairy farmer for other markets'' provision is not needed in these orders.

A brief filed on behalf of AMPI argued that the ''dairy farmer for other markets'' proposal submitted by Mid-Am and CVMPA and heard at the reopened hearing was in violation of the rules of practice and procedure governing the proceedings of marketing agreements and orders. AMPI maintains that this proposal does not qualify as an issue related to transportation credits, and therefore, should not have been discussed at the reopened hearing. Additionally, AMPI argued that the hearing record lacks the necessary evidence that would support adoption of such proposal. While reiterating its opposition to the additional work associated with implementation of the proposal as testified to at the reopened hearing, AMPI's brief also opposed the notion that in Mid-Am and CVMPA's proposal determination of a producer's eligibility would not only be dependent upon the amount of milk pooled under the order in which the producer is seeking producer status, but also upon the volume of milk pooled by that producer for the subject months in all of the orders involved in this proceeding. According to AMPI, there is no justification or evidence which supports the proposed ''dairy farmer for other markets'' provision.

CVMPA, one of the proponents of the producer qualification proposal, filed a brief in support of its proposal reiterating the arguments presented during the reopened hearing. In its brief, CVMPA pointed out that its proposal would not create a barrier to entry into these markets as was testified to by a representative of AMPI. CVMPA argued that such a proposal would actually encourage milk to be pooled when local supplies are inadequate to meet Class I needs. While acknowledging that diversion limitations and producer touch-base provisions currently in effect under the subject orders do provide limited Class I utilization protection for the markets, CVMPA argued that these limitations are insufficient to protect producers who have pooled their milk during the fall months from being displaced by producers entering those markets during the spring flush months in order to take advantage of the high

Class I utilization percentages reflected in the high blend prices of these southeastern markets.

CVMPA also addressed the argument made by AMPI that the proposal would create an additional administrative burden for both the market administrators' offices and reporting handlers. According to CVMPA, no additional work would be created by the proposal, and the administration of the proposed provision would be easier than that associated with the former base-paying plans. CVMPA also expanded the proposal to allow a producer to qualify as a producer in the spring if his/her farm had not delivered Grade A milk from such farm during the previous August through November period. Furthermore, CVMPA stated that the producer's eligibility should be based upon the proportion of Grade A milk delivered from the farm in the previous fall in order to prevent a producer who is converting from Grade B to Grade A or a producer who lost his/her Grade A permit from being penalized.

A brief was also filed by Mid-Am in support of the proposal to modify the producer definition. In addition to reiterating the arguments testified to during the reopened hearing, Mid-Am's brief stated that the proposed producer qualification provisions are necessary to foster orderly marketing in the area and also to protect the producer pools of the orders involved in this proceeding. In its brief, Mid-Am also contends that the only opposition to the proposal testified to during the hearing was made by AMPI, which would be prevented from rotating their producers' milk in order to receive transportation credits. Mid-Am requests that the proposed provisions be implemented at the earliest possible date. No exceptions were received in response to the partial recommended decision.

Conclusion

The record of the reopened hearing does not clearly demonstrate the need to amend the producer definition of Orders 5, 7, and 46. Current safeguards exist to ensure that sufficient supplies of milk are made available for fluid use without the unwarranted pooling of additional supplies of milk that are not associated with serving the fluid market.

Proponents of this proposal believe that the termination of seasonal base plans will create disorderly marketing conditions in the 3 orders. However, the testimony and evidence received at the December 17–18, 1996, hearing do not sufficiently support this argument. According to the proponents, the termination of seasonal base plans, effective January 1, 1997, removes the incentive for producers to pool their milk during the short months when milk is needed in the Southeast because they will no longer receive the higher base prices for their milk during the following flush months. While it is feared by the proponents that the termination will open up the 3 Southeast markets to those producers not normally associated with such markets, but who seek to take advantage of the high Class I utilization rates, the record was unconvincing in its need for modification of the producer definition for this reason.

It is apparent that the proposal was initiated in response to the elimination of seasonal base plans in Federal milk orders. In other words, the proposed modification of the producer definition is intended to fill the void left by the removal of the base-excess plans. However, changing the producer definition should not be compared to the incorporation of base plans in the orders. Base plans are instituted in order to level out production throughout the year so that adequate milk supplies are ensured during the short production months, while discouraging surplus supplies in the flush production months. The base plans also did have the effect of preventing producers not normally associated with a market from entering such market during the flush production months because they would have received the low, excess price for their milk. Nevertheless, the removal of base plans does not by itself necessitate amending the orders.

The orders currently have strict pooling requirements. For example, as was testified to at the reopened hearing by AMPI's spokesman, the pooling requirements for Order 7 specify that a producer's milk must be received at least 4 days at a pool plant to be eligible to be pooled during the months of December through June. Additionally, there is a 50 percent diversion limitation in Order 7 to nonpool plants for those same months. The Carolina order has diversion limitations for cooperative associations during most months of 25 percent of the total quantity of producer milk. The order also maintains pooling requirements specifying how many days a month producer milk must be received at pool plants. The Louisville-Lexington-Evansville order specifies a diversion limitation based upon the number of days that a producer's milk is diverted during a month. The evidence in this proceeding is insufficient to conclude that the current pooling standards will not recognize the seasonally varying needs for milk for fluid use. The creation of additional producer pooling standards is unnecessary and unwarranted on the basis of the record herein and, therefore, the proposal should be denied.

To the extent that the suggested findings and conclusions filed by interested parties on either issue are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Determination

The findings and conclusions of this partial final decision do not require any changes in the regulatory provisions of the three respective orders regulating the handling of milk in the Carolina, Southeast, and Louisville-Lexington-Evansville marketing areas.

Termination Order

In view of the foregoing, it is hereby determined that the proceeding with respect to proposed amendments to the three specified marketing orders should be and is hereby terminated.

List of Subjects in 7 CFR Parts 1005, 1007, and 1046

Milk marketing orders.

The authority citation for 7 CFR Parts 1005, 1007, and 1046 of Title 7, chapter X continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: July 16, 1998.

Michael V. Dunn,

Assistant Secretary, Marketing & Regulatory Programs.

[FR Doc. 98–19390 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–275–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all Airbus Model A310 series airplanes, that would have required various inspections to detect fatigue cracks at certain locations on the fuselage, horizontal stabilizer, and wings and tail, and repair or modification, if necessary; and installation of doublers. That proposal was prompted by results of full-scale fatigue testing of a ModelA310 series airplane, which revealed fatigue cracks at those locations. This new action revises the proposed rule by adding new inspections and reducing certain inspection intervals. The actions specified by this new proposed AD are intended to prevent reduced structural integrity of the fuselage, horizontal stabilizer, and wings.

DATES: Comments must be received by August 17, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 95–NM–275–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

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 95–NM–275–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. 95–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all Airbus Model A310 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 11, 1996 (61 FR 1017). That NPRM would have required various inspections to detect fatigue cracks at certain locations on the fuselage, horizontal stabilizer, and wings and tail, and repair or modification, if necessary; and installation of doublers. That NPRM was prompted by results of full-scale fatigue testing of a Model A310 series airplane, which revealed fatigue cracks at those locations. That condition, if not corrected, could result in reduced structural integrity of the fuselage, horizontal stabilizer, and wings.

Disposition of Comments

Due consideration has been given to the comments received in response to the NPRM.

Request to Cite Revised Service Information

Airbus requests that the FAA revise the proposal to reference later revisions of certain service bulletins, and French airworthiness directive 92–106–132(B)R4, dated June 5, 1996. In addition, Airbus indicates that two additional inspection tasks have been added in Revision 4 of the French airworthiness directive. These tasks are described in two Airbus service bulletins:

- Airbus Service Bulletin A310–57–2064, dated August 24, 1995, which describes procedures for repetitive eddy current inspections to detect cracking of the corner angle fitting and the vertical tee fitting at left and right frame 40, and corrective actions, if necessary.
- Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996, which describes procedures for repetitive high frequency eddy current or X-ray inspections to detect cracking of the stringer runouts inboard and outboard of rib 14 at stringers 6, 7, 8, and 9.

In addition, Airbus issued the following service bulletin revisions, which are essentially the same as the previous issues of the service bulletins, except as specified below:

- Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992; as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996; which specifies a reduced inspection threshold, and updates the reference to the appropriate French airworthiness directive.
- Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996, which specifies appropriate grace periods for the specified compliance time for accomplishment of the recommended inspections, and updates the reference to the appropriate French airworthiness directive.
- Service Bulletin A310–57–2002, Revision 2, dated January 4, 1996, which provides a grace period for the specified compliance time for accomplishment of the recommended inspection.
- Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996, which revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996, which revises the effectivity listing of the service bulletin.

- Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996, which contains minor editorial changes.
- Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996; as revised by Service Bulletin Change Notice 4A, dated October 16, 1996; which changes the inspection technique, reduces the repetitive inspection intervals, and revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997, which revises the effectivity listing of the service bulletin.
- Service Bulletin A310–57–2050, dated April 23, 1990; as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995; which adds a reference to the appropriate French airworthiness directive.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified these service bulletins as mandatory, and issued French airworthiness directive 92–106–132(B)R4, dated June 5, 1996, in order to ensure the continued airworthiness of these airplanes in France.

The FAA concurs with the commenter's request to cite the additional and revised service bulletins, and has revised this supplemental NPRM to provide these references. Additionally, the cost impact information, below, has been revised to reflect any additional costs to operators and to update the number of affected U.S.-registered airplanes.

Request to Substantiate Need for Accomplishment of Service Bulletins

One commenter questions whether each of the service bulletins cited in the NPRM individually satisfies the unsafe condition requirements of part 39 of the Federal Aviation Regulations (14 CFR part 39). The commenter points out that Airbus Service Bulletin A310–53–2014 indicates that the existence of a ''crack does not affect aircraft safety because its propagation ... could entail expensive repair.''

The commenter further states that the supplementary comments (of the proposed rule) describe how the DGAC allows either a visual or eddy current inspection to detect cracks that measure 0.078 inch, but since the FAA has concluded that a 0.078-inch crack will not likely be found by visual means, the FAA proposes that only an eddy current inspection be used for the affected structure. The commenter states that this restriction goes beyond what is specified by the DGAC and should be substantiated. The commenter states that it suspects that the DGAC is well aware that a 0.078-inch crack would not be found by a visual inspection, but has concluded that a crack of that size on the affected structure does not render the airplane unsafe and that visual inspections are appropriate for the inspection interval provided.

The commenter suggests that if the justification for this proposed AD is based upon the DGAC recommendation, then the FAA's departure from the DGAC's recommendation should be coordinated with the DGAC before the FAA adopts this proposed AD.

The FAA infers that the commenter is requesting substantiation that accomplishment of all of the service bulletins referenced in the proposed AD is necessary in order to address an unsafe condition. The FAA also infers that the example cited regarding visual versus eddy current inspections is in reference to Airbus Service Bulletin A310–57–2039, dated September 24, 1990.

The wing, fuselage, and empennage structure is primary structure of the airplane that contributes significantly to carrying flight, ground, and pressurization loads. As in much of commercial aircraft structure, the failure of a single part is usually not catastrophic, and safe flight could likely continue for some time with any single part cracked or broken. However, if certain parts (as referenced in the service bulletins) were to fail, the residual strength of the surrounding aircraft structure would be reduced and could cause failure or initiate/accelerate cracking of other structural members. Therefore, in consonance with the DGAC, the FAA finds that accomplishment of the referenced service bulletins, as required by this supplemental NPRM, is necessary in order to adequately address the identified unsafe condition.

However, the FAA has reconsidered its position concerning the use of visual inspection techniques, specifically for accomplishment of the actions specified in Airbus Service Bulletin A310–57–2039 and A310–57–2050. The FAA finds that a visual inspection also will adequately detect cracking. Operators should note, however, that by the time cracking has progressed to the point of being visually detectable, repairs would likely be complicated and expensive. Since definitive repairs beyond a certain crack length are not provided in the service bulletins, an FAA-approved repair would be required to be accomplished for such cracking. The FAA has revised paragraphs (l) and (p) of this supplemental NPRM to add a visual inspection method as an option for accomplishment of the referenced service bulletins.

Reformatting of the Supplemental NPRM

Operators should note that the FAA has revised the text of paragraphs (a) through (q) of the original NPRM for the sake of brevity and to reduce the complexity of the requirements specified in those paragraphs.

Conclusion

Since certain changes explained previously expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of 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 supplemental NPRM would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between This Supplemental NPRM and the Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletins A310–57–2002, Revision 2, dated January 4, 1996; A310–57–2006, Revision 3, dated May 2, 1996; A310–57–2032, Revision 3, dated January 4, 1996; and A310–57–2037, Revision 3, dated January 4, 1996; this supplemental NPRM would not permit further flight if cracks are detected in the wing skins. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any wing skin that is found to be cracked must be repaired or modified prior to further flight.

Additionally, operators should note that, although certain service bulletins specify that the manufacturer may be contacted for disposition of certain repair conditions, this supplemental NPRM would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent). In light of the type of repairs that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this supplemental NPRM, repairs approved by either the FAA or the DGAC (or its delegated agent) would be acceptable for compliance with this supplemental NPRM.

Cost Impact

The FAA estimates that 36 airplanes of U.S. registry would be affected by this AD. Approximate work hours to accomplish the proposed actions and costs for required parts are listed in the following table. The average labor rate is $60 per work hour.

A310

Service bulletin No.	Work hours	Parts cost/Airplane	Cost/Airplane	No. of U.S. airplanes	Number modified
53–2014	78	$12,121	$16,801	7	5
53–2016	317	14,282	33,302	12	5
53–2054	11	N/A	660	8	0
53–2057	12	N/A	720	13	0
53–2059	13	N/A	780	17	0
53–2074	232	N/A	13,920	17	0
55–2002	715	34,100	77,000	7	6
55–2004	16	N/A	960	11	0
57–2002	8	N/A	480	6	0
57–2006	52	N/A	3,120	2	0
57–2032	5	N/A	300	6	0
57–2037	2	N/A	120	6	0
57–2039	3	N/A	180	15	0
57–2046	172	N/A	10,320	33	0
57–2047	82	N/A	4,920	24	0
57–2050	24	N/A	1,440	20	0
57–2064	8	N/A	480	26	0
57–2038	6	N/A	360	0	0

Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,845,591. However, the FAA has been advised that a certain number of U.S.-registered airplanes already have been modified in accordance with the requirements of this AD. (The numbers of U.S.-registered airplanes that have already been modified are listed under the heading, ''Number Modified,'' in the table above.) Therefore, the future economic cost impact of this rule on U.S. operators is now $1,133,076.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this supplemental NPRM is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the supplemental NPRM.

A full cost-benefit analysis has not been accomplished for this supplemental NPRM. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this supplemental NPRM, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this supplemental NPRM would be redundant and unnecessary.

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:

Airbus Industrie: Docket 95–NM–275–AD.

Applicability: All Model A310 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (u) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, horizontal stabilizer, and wings, accomplish the following:

(a) For airplanes listed in Airbus Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992, as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks on the fuselage center section doublers at frame 40, and install new doublers, in accordance with Airbus Service Bulletin A310–53–2014, Revision 5, dated June 9, 1992, as revised by Service Bulletin Change Notices 5.A., dated September 29, 1992, and 5.B., dated February 5, 1996. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(b) For airplanes listed in Airbus Service Bulletin A310–53–2016, Revision 5, dated December 7, 1992: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform a defectoscope or rototest inspection to detect cracks in the area of frame 47 and frame 54, and install new doublers, in accordance with Airbus Service Bulletin A310–53–2016, Revision 5, dated December 7, 1992. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(c) For airplanes listed in Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,000 flight cycles, perform a visual inspection to detect cracks on frame 46 between the left- and right-hand sides of stringers 21 and 22 on the forward and aft faces in accordance with Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990. If any crack is found, prior to further flight, repair in accordance with Airbus Service Bulletin A310–53–2054, Revision 2, dated May 22, 1990.

(1) Accomplishment of the repair required by paragraph (c) of this AD, or modification of the reinforcement angle runout in accordance with Airbus Service Bulletin A310–53–2019, Revision 2, dated May 22, 1990, terminates the repetitive inspection requirements of paragraph (c) of this AD.

(2) Accomplishment of paragraph (c) of this AD terminates the requirements of AD 91–13–01, amendment 39–7032.

(d) For airplanes listed in Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992: Perform a visual inspection to detect cracks at the T-section connecting frame 50A to the beam between the left- and right-hand sides of frames 50 and 51, in accordance with Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992. Perform the inspection at the time specified in paragraph (d)(1) or (d)(2) of this AD, as applicable. If any crack is found, prior to further flight, accomplish Airbus Modifications No. 4853 and No. 5273 in accordance with Airbus Service Bulletin A310–53–2057, Revision 1, dated April 30, 1992. Accomplishment of these modifications terminates the requirements of this paragraph.

(1) For the airplane having manufacturer's serial number (MSN) 191: Prior to the accumulation of 24,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 flight cycles.

(2) For airplanes other than the airplane identified in paragraph (d)(1) of this AD: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 6,000 flight cycles.

(e) For airplanes listed in Airbus Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996: Perform a visual inspection to detect cracks in the lower milled side panel at the lap joint with the upper side panel at frame 47 and stringer 22, left- and right-hand sides, in accordance with Airbus Service Bulletin A310–53–2059, Revision 1, dated January 4, 1996. Perform the inspection at the time specified in paragraph (e)(1) or (e)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, repair in accordance with the service bulletin. Thereafter, repeat the inspections at intervals not to exceed 9,000 flight cycles, or accomplish Airbus Modification 5997 (Airbus Service Bulletin A310–53–2058). Accomplishment of either the repair or Airbus Modification 5997 constitutes terminating action for the repetitive inspections required by this paragraph.

(1) For Model A310–200 series airplanes, accomplish the inspection at the time specified in paragraph (e)(1)(i) or (e)(1)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 20,000 total flight cycles as of the effective date of this AD: Prior to the accumulation of 18,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 20,000 or more total flight cycles as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD.

(2) For Model A310–300 series airplanes, accomplish the inspection at the time specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 19,700 total flight cycles as of the effective date of this AD: Prior to the accumulation of 18,000 total flight cycles, or within 1,700 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 19,700 or more total flight cycles as of the effective date of this AD: Within 850 flight cycles after the effective date of this AD.

(f) For airplanes listed in Airbus Service Bulletin A310–55–2002, Revision 4, dated April 28, 1989: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current inspection to detect cracks on the upper integral part adjacent to the rear attach fittings on the horizontal stabilizer, and modify the horizontal stabilizer, in accordance with Airbus Service Bulletin A310–55–2002, Revision 4, dated April 28, 1989. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(g) For airplanes listed in Airbus Service Bulletin A310–55–2004, Revision 2, dated February 7, 1991: Perform a high frequency eddy current rototest inspection to detect cracks at specified fastener holes in the top skin chordwise splice along the contour of the steel doubler between ribs 3 and 4 on the left- and right-hand center and side boxes on the horizontal stabilizer in accordance with Airbus Service Bulletin A310–55–2004, Revision 2, dated February 7, 1991, at the time specified in paragraph (g)(1) or (g)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin.

(1) For airplanes on which Airbus Modification A310–4933 (Airbus Service Bulletin A310–55–2002) was accomplished prior to the accumulation of 6,000 total flight cycles on the airplane; or for airplanes having MSN 311 through 414 inclusive, on which Airbus Modification A310–4933 was accomplished during production: Prior to the

accumulation of 18,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 12,000 flight cycles.

(2) For airplanes on which Airbus Modification A310–4933 (Airbus Service Bulletin A310–55–2002) was accomplished upon or after the accumulation of 6,000 total flight cycles: Prior to the accumulation of 12,000 flight cycles since the modification, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 12,000 flight cycles.

(h) For airplanes listed in Airbus Service Bulletin A310–57–2002, Revision 2, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform a detailed visual inspection to detect cracks in the external surface of the wing lower skin around the landing access panel holes of the leading edge, in accordance with Airbus Service Bulletin A310–57–2002, Revision 1, dated July 2, 1992. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent). Accomplishment of Airbus Modification 5101 (Airbus Service Bulletin A310–57–2003) terminates the repetitive inspection requirements of paragraph (h) of this AD.

(i) For airplanes listed in Airbus Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996: Prior to the accumulation of 6,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform an eddy current inspection to detect cracks in the holes around the overwing refueling aperture at ribs 13–14, in accordance with Airbus Service Bulletin A310–57–2006, Revision 3, dated May 2, 1996. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with the service bulletin. Accomplishment of Airbus Modification 5891H5128 (Airbus Service Bulletin A310–57–2020) terminates the repetitive inspection requirements of paragraph (i) of this AD.

(j) For airplanes listed in Airbus Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,500 flight cycles; perform a detailed visual inspection to detect cracks around the bolts in the wing top skin upper surface of the front spar between rib 7 and rib 28, in accordance with Airbus Service Bulletin A310–57–2032, Revision 3, dated January 4, 1996. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). Accomplishment of Airbus Modification 5026H0878 (Airbus Service Bulletin A310–57–2005) terminates the repetitive inspection requirements of paragraph (j) of this AD.

(k) For airplanes listed in Airbus Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 3,000 flight cycles; perform a high frequency eddy current inspection to detect cracks around the attachment bolt heads for the shroud panel landing on the bottom skin aft of the rear spar, forward of access door 575CB/675CB, in accordance with Airbus Service Bulletin A310–57–2037, Revision 3, dated January 4, 1996. If any discrepancy is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent). Accomplishment of Airbus Modification 5106H0894 (Airbus Service Bulletin A310–57–2004) terminates the repetitive inspection requirements of paragraph (k) of this AD.

(l) For airplanes listed in Airbus Service Bulletin A310–57–2039, dated September 24, 1990: Perform either an eddy current or visual inspection to detect cracks on the left and right vertical posts, numbers 1 through 5 inclusive, in the wing center box at frame 40/41, in accordance with Airbus Service Bulletin A310–57–2039, dated September 24, 1990. Perform the inspection at the time specified in paragraph (l)(1) or (l)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, accomplish the modification specified in Airbus Service Bulletin A310–57–2041, dated September 24, 1990, in accordance with Airbus Service Bulletin A310–57–2039, dated September 24, 1990.

(1) For airplanes on which Airbus Modification 7541/S7973 (reference Airbus Service Bulletin A310–57–2041) has not been accomplished: Inspect prior to the accumulation of 21,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,200 flight cycles (for a visual inspection), or 7,500 flight cycles (for an eddy current inspection).

(2) For airplanes on which Airbus Modification 7541/S7973 (reference Airbus Service Bulletin A310–57–2041) has been accomplished: Inspect at the time specified in the graph contained in Note 1 of paragraph 1.A.(2) of Airbus Service Bulletin A310–57–2039, dated September 24, 1990, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 5,000 flight cycles (for a visual inspection), or 8,600 flight cycles (for an eddy current inspection).

(m) For Model A310–200 series airplanes on which Airbus Modification 7925H1113 has not been accomplished: Prior to the accumulation of 12,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection to detect cracks in certain bolt holes where the main landing gear forward pick-up fitting is attached to the rear spar, in accordance with Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996. Accomplishment of paragraph (m) of this AD terminates the requirements of AD 91–06–18, amendment 39–6940.

(1) If no crack is found, accomplish either paragraph (m)(1)(i) or (m)(1)(ii) of this AD in accordance with the service bulletin at the time specified in that paragraph.

(i) Repeat the inspection of the bolt/stud holes thereafter at intervals not to exceed 3,500 flight cycles. Or

(ii) Prior to further flight, accomplish Airbus Modification 7925H1113; and, prior to the accumulation of 18,000 flight cycles after accomplishment of Airbus Modification 7925H1113, perform the inspection required by paragraph (m) of this AD. Repeat the inspection thereafter at intervals not to exceed 11,600 flight cycles.

Note 2: Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996, references Airbus Service Bulletin A310–57–2049 and Repair Instruction R571–49305 as additional sources of service information for accomplishment of Airbus Modification 7925H1113.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(n) For Model A310–300 series airplanes on which Airbus Modification 7925H1113 has not been accomplished: Prior to the accumulation of 9,000 flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform an ultrasonic inspection to detect cracks in certain bolt holes where the main landing gear forward pick-up fitting is attached to the rear spar, in accordance with Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996. Accomplishment of paragraph (n) of this AD terminates the requirements of AD 91–06–18, amendment 39–6940.

(1) If no crack is found, accomplish either paragraph (n)(1)(i) or (n)(1)(ii) of this AD in accordance with the service bulletin at the time specified in that paragraph.

(i) Repeat the inspection of the bolt/stud holes thereafter at intervals not to exceed 3,100 flight cycles. Or

(ii) Prior to further flight, accomplish Airbus Modification 7925H1113; and, prior to the accumulation of 18,000 flight cycles after accomplishment of Airbus Modification 7925H1113, perform the inspection required by paragraph (n) of this AD. Repeat the inspection thereafter at intervals not to exceed 11,600 flight cycles.

Note 3: Airbus Service Bulletin A310–57–2046, Revision 4, dated October 16, 1996 (including Appendix 1, Revision 3, dated

October 17, 1995), as revised by Service Bulletin Change Notice 4A, dated October 16, 1996, references Airbus Service Bulletin A310–57–2049 and Repair Instruction R571–49305 as additional sources of service information for accomplishment of Airbus Modification 7925H1113.

(2) If any crack is found, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(o) For airplanes listed in Airbus Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997: Perform a rotating probe inspection to detect cracks in the fastener holes on the left-and right-hand sides of the rear spar internal angle and tee fitting, in accordance with Airbus Service Bulletin A310–57–2047, Revision 2, dated January 22, 1997, at the applicable time specified in Note 2 of paragraph 1.A.(2) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at the intervals specified in Note 2 of paragraph 1.A.(2) of the service bulletin. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin.

(p) For airplanes listed in Airbus Service Bulletin A310–57–2050, dated April 23, 1990, as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995: Perform a visual or rotating probe inspection to detect cracks in the drain holes on the lower skin panel in the center wing box between frames 42 and 46, in accordance with Airbus Service Bulletin A310–57–2050, dated April 23, 1990, as revised by Service Bulletin Change Notices 0.A., dated September 29, 1992, and 0.B., dated January 6, 1995, at the applicable time specified in Note 1 of paragraph 1.A.(2) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed those specified in Note 1 of paragraph 1.A.(2) of the service bulletin. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin. Accomplishment of Airbus Modification number 6130S6815 (Airbus Service Bulletin A310–57–2048), constitutes terminating action for the repetitive inspections required by paragraph (p) of this AD.

(q) For airplanes listed in Airbus Service Bulletin A310–53–2074, Revision 1, dated February 20, 1995: Perform visual and eddy current inspections to detect damaged sealant, corrosion, and cracks in accordance with Airbus Service Bulletin A310–53–2074, Revision 1, dated February 20, 1995. Accomplish these requirements at the applicable time specified in Table 2 of paragraph 1.C.(4) of the service bulletin, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed those specified in Table 2 of paragraph 1.C.(4) of the service bulletin, as applicable. Except as provided by paragraph (t) of this AD, if any discrepancy is found, prior to further flight, perform follow-on corrective actions in accordance with the service bulletin.

(r) For airplanes listed in Airbus Service Bulletin A310–57–2064, dated August 24, 1995: Perform an eddy current inspection to detect cracks of the upper corner angle fitting and the vertical tee fitting at left and right frame 40, in accordance with Airbus Service Bulletin A310–57–2064, dated August 24, 1995. Perform the inspection at the time specified in paragraph (r)(1) or (r)(2) of this AD, as applicable. Except as provided by paragraph (t) of this AD, if any crack is found, prior to further flight, perform corrective actions in accordance with the service bulletin.

(1) For Model A310–200 series airplanes: Prior to the accumulation of 18,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 11,000 flight cycles.

(2) For Model A310–300 series airplanes: Prior to the accumulation of 18,000 total flight cycles, or within 1,700 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 7,700 flight cycles.

(s) For airplanes listed in Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996: Prior to the accumulation of 12,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) or X-ray inspection to detect cracking of the stringer runouts inboard and outboard of rib 14 at stringers 6, 7, 8, and 9, in accordance with Airbus Service Bulletin A310–57–2038, Revision 2, dated January 4, 1996. Thereafter, repeat the inspection at intervals not to exceed those specified in paragraph 1.B.(5) of the service bulletin, as applicable. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(t) If any crack is found during any inspection required by this AD, and the applicable service bulletin specifies to contact Airbus for an appropriate action Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent).

(u) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(v) 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 5: The subject of this AD is addressed in French airworthiness directive 92–106–132(B)R4, dated June 5, 1996.

Issued in Renton, Washington, on July 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19332 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–39–AD]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The proposed AD would require inspecting each forward attachment fitting bolt (total of four bolts) of the wing tip tanks for the correct bolt and replacing any incorrect bolt. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan. The actions specified by the proposed AD are intended to prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane.

DATES: Comments must be received on or before August 25, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141,

facsimile: 4464561HISI. Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996, may be obtained from the Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This service information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–39–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Japan Civil Aviation Bureau (JCAB), which is the airworthiness authority for Japan, notified the FAA that an unsafe condition may exist on certain Mitsubishi MU–2B series airplanes. The JCAB reports one instance of corrosion on an incorrect forward attachment fitting bolt of the wing tip tank on one of the above-reference airplanes. An incorrect bolt(s) could be installed on other MU–2B series airplanes.

Correct bolts, Mitsubishi part number (P/N) 017A–12887, P/N 017A–12887–3, and P/N 017A–12887–7, are plated with a dry lubricant film that is black in color and is corrosion resistant. The incorrect bolts, P/N NAS1107, are cadmium plated, have a gold or yellowish color, and are not corrosion resistant.

This condition, if not detected and corrected, could result in the wing tip tank separating from the airplane with consequent loss of control of the airplane.

Relevant Service Information

Mitsubishi Heavy Industries, Ltd., has issued Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, and Raytheon has issued Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996. These service bulletins specify procedures for inspecting all forward attachment fitting bolts of the wing tip tanks to determine whether any P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7 bolt is installed, and replacing any bolt not incorporating one of these part numbers. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts and are identified with the black painted letters ''SPL''. These service bulletins also specify procedures for identifying any P/N 017A–12887 and P/N 017A–12887–3 bolts with the letters ''SPL''.

Mitsubishi Heavy Industries, Ltd., holds both Type Certificate No. A2PC and Type Certificate No. A10SW for the MU–2B series airplanes. Raytheon manufactures, in the United States, the airplanes affected by Type Certificate No. A10SW under a licensing agreement with Mitsubishi Heavy Industries, Ltd.

The JCAB classified MHI SB 225, dated September 29, 1995, as mandatory and issued Japanese AD KU–KI–158 TCD–4310–96, dated March 25, 1996, in order to assure the continued airworthiness of the airplanes affected by Type Certificate No. A2PC that are certificated for operation in Japan.

The FAA's Determination

The airplane models listed in Type Certificate A2PC are manufactured in Japan and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the JCAB has kept the FAA informed of the situation described above.

The FAA has examined the findings of the JCAB; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States, including the Mitsubishi MU–2B series airplanes manufactured in the United States by licensing agreement and listed in Type Certificate No. A10SW.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mitsubishi Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–10, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, and MU–2B–60 airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting each forward attachment fitting bolt (total of four bolts) of the wing tip tanks to determine whether any bolt incorporating P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7 is installed, and replacing any bolt not incorporating one of these part numbers, with a P/N 017A–12887–7 bolt. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters ''SPL''. The proposed AD would also require identifying any P/N 017A–12887 or P/N 017A–12887–3 bolt with the letters ''SPL''. Accomplishment of the proposed installation would be in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 252 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be $15,120, or $60 per airplane.

Any replacements that would be required by the proposed AD would take approximately 4 workhours per airplane with each bolt costing $350 (up to 4 bolts per airplane). If an airplane had four incorrect bolts installed, the

replacement cost of the proposed AD would be $1,640 for that airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Mitsubishi Heavy Industries, Ltd.: Docket No. 98–CE–39–AD.

Applicability: The following airplane model and serial number airplanes:

Models	Serial Nos.
Type Certificate No. A2PC	
MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, and MU–2B–26.	008 through 347.
MU–2B–30, MU–2B–35, and MU–2B–36.	501 through 651, 653 through 660, and 662 through 696.
Type Certificate No. A10SW	
MU–2B–25, MU–2B–26, MU–2B–26A, and MU–2B–40.	313SA, 321SA, and 348SA through 459SA.
MU–2B–35, MU–2B–36A, and MU–2B–60.	652SA, 661SA, and 697SA through 1569SA.

Note 1: Mitsubishi Heavy Industries, Ltd. holds both Type Certificate No. A2PC and Type Certificate No. A10SW for the affected airplanes. Raytheon manufactures, in the United States, the airplanes affected by Type Certificate No. A10SW under a licensing agreement with Mitsubishi Heavy Industries, Ltd.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect each forward attachment fitting bolt (total of four bolts) of the wing tip tanks to determine whether any bolt not incorporating part number (P/N) 017A–12887, P/N 017A–12887–3, or 017A–12887–7, is installed. Accomplish this inspection in accordance with whichever of the following is applicable:

(1) Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, for airplanes affected by Type Certificate No. A2PC; or

(2) Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, for airplanes affected by Type Certificate No. A10SW.

(b) If any bolt not incorporating P/N 017A–12887, P/N 017A–12887–3, or 017A–12887–7, is installed, prior to further flight, replace it with a P/N 017A–12887–7 bolt. The P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters ''SPL''. Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(c) If any P/N 017A–12887 or P/N 017A–12887–3 bolt is installed, prior to further flight, identify the bolt with the letters ''SPL''. Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

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

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, 3960 Paramount Blvd., Lakewood, California 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(f) Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, should be directed to Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan, telephone: NAGOYA (611) 2141, facsimile: 4464561HISI. Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, should be directed to Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in Japanese AD KU–KI–158 TCD–4310–96, dated March 25, 1996.

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19330 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–62–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–300, AT–400, and AT–500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 96–23–19, which currently requires installing a new flap actuator overtravel stop and a roll pin through the overtravel stop and jack screw on certain Air Tractor, Inc. (Air Tractor) Models AT–300, AT–400, and AT–500 series airplanes. The proposed AD would require replacing the existing flap actuator overtravel stop with a new one of improved design. The proposed AD is the result of reports of the jack screw breaking through the roll pin hole on three of the affected airplanes that were already in compliance with AD 96–23–19. The actions specified by the proposed AD are intended to prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control.

DATES: Comments must be received on or before September 18, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–62–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Air Tractor, Inc., P. O. Box 485, Olney, Texas 76374. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Bob May, Aerospace Engineer, FAA, Aircraft Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5156; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–62–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–62–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 96–23–19, Amendment 39–9823 (61 FR 58985, November 11, 1996), currently requires installing a new flap actuator overtravel stop and a roll pin through the overtravel stop and jack screw on certain Air Tractor Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes. Accomplishment of these installations is required in accordance with Snow Engineering Co. Service Letter #140, dated November 27, 1995, Revised October 10, 1996.

AD 96–23–19 was the result of reports of incidents involving Air Tractor Models AT–402 and AT–502 airplanes, where the flap actuator overtravel stop nut disengaged from the jack screw. The flap pushrod pressed against the aileron pushrod, which caused difficulty in moving the ailerons.

Actions Since Issuance of Previous Rule

The FAA has received reports of incidents of the jack screw breaking through the roll pin hole on three of the affected airplanes that were already in compliance with AD 96–23–19. Two cases of the control system binding up in the field prompted the FAA to investigate this condition with the following information revealed:

—The down flap limit switch must be inoperative;

—The mechanical overtravel stop nut must have fallen off; and

—The flaps must be driven down past the limit switch position to the maximum flap position where the aileron pushrods begin to bind.

The Snow Engineering Co. (the parent company of Air Tractor) and the FAA have simulated this combination of stop nut failure and limit switch failure on factory airplanes through a laboratory environment.

This condition, if not corrected in a timely manner, could result in difficulty in moving the ailerons with possible loss of aileron control.

Relevant Service Information

The Snow Engineering Co. has issued Service Letter #165, dated May 15, 1998, which specifies procedures for replacing the flap actuator overtravel stop with one of improved design, part number (P/N) 70975–1.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the above-referenced service information, the FAA has determined that AD action should be taken to prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Air Tractor Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, AT–402B, AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes of the same type design, the FAA is proposing AD action to supersede AD 96–23–19. The proposed AD would require replacing the existing flap actuator overtravel stop

with a new one of improved design, P/N 70975–1. Accomplishment of the proposed replacement would be required in accordance with Snow Engineering Co. Service Letter #165, dated May 15, 1998.

Cost Impact

The FAA estimates that 1,250 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. The manufacturer will supply parts at no cost to the owners/operators of the affected airplanes. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $150,000, or $120 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 96–23–19, Amendment 39–9823 (61 FR 58985, November 11, 1996), and by adding a new AD to read as follows:

Air Tractor, Inc.: Docket No. 98–CE–62–AD; Supersedes AD 96–23–19, Amendment 39–9823.

Applicability: The following model and serial numbered airplanes, certificated in any category, that do not have a part number (P/N) 70975–1 flap actuator overtravel stop installed:

Models AT–300, AT–301, AT–302, AT–400, AT–400A, AT–401, AT–401A, AT–401B, AT–402, AT–402A, and AT–402B airplanes, serial numbers 300–0001through 401B–1013; and

Models AT–501, AT–502, AT–502A, AT–502B, and AT–503A airplanes, serial numbers 502–0001 through 502B–0398.

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

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent interference between the flap pushrod and the aileron pushrod caused by the flap actuator overtravel nut disengaging, which could result in loss of aileron control, accomplish the following:

(a) Install a new flap actuator overtravel stop with a new one of improved design, P/N 70975–1. Accomplish this replacement in accordance with the *REWORK INSTRUCTIONS* section of Snow Engineering Co. Service Letter #165, dated May 15, 1998.

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

(c) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office (ACO), 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150.

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

(2) Alternative methods of compliance approved in accordance with AD 96–23–19 are not considered approved as alternative methods of compliance for this AD.

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

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request from Air Tractor Inc., P. O. Box 485, Olney, Texas 76374; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 96–23–19, amendment 39–9823.

Issued in Kansas City, Missouri, on July 14, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19327 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33–7555; 34–40203; 35–26896; 39–2365; IA–1730; IC–23315; File No. S7–16–98]

RIN 3235–AH47

Proposed Amendment to Rule 102(e) of the Commission's Rules of Practice

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Securities and Exchange Commission (''Commission'') is extending from July 20, 1998 to August 20, 1998 the comment period for Release No. 33–7546 (June 12, 1998), 63 FR 33305 (June 18, 1998) proposing an amendment to Rule 102(e) of the Commission's Rules of Practice. Rule 102(e) allows the Commission to censure, suspend or bar persons who appear or practice before it. The release proposed an amendment to clarify the Commission's standard for determining when accountants engage in ''improper professional conduct'' under Rule 102(e)(1)(ii).

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Submit comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission,

450 5th Street, NW, Washington, DC 20549–6009. Comments can be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–16–98; include this file number on the subject line if E-mail is used. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW, Washington, DC 20549–6009. Electronically-submitted comment letters will be posted on the Commission's Internet Web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Michael J. Kigin, Associate Chief Accountant, Office of the Chief Accountant, at (202) 942–4400; or David R. Fredrickson, Assistant General Counsel, Office of the General Counsel, at (202) 942–0890.

SUPPLEMENTARY INFORMATION: On June 18, 1998, the Securities and Exchange Commission proposed for comment an amendment to Rule 102(e), 17 CFR 201.102(e). The Commission requested that comments be received by July 20, 1998.

In light of the importance of comments on this subject, the Commission believes that extending the comment period is appropriate. The extension will permit interested persons to have additional time to comment on the matters the release addresses. The Commission does not anticipate extending the comment period beyond August 20, 1998. Therefore, the comment period for Release No. 33–7546 is extended to August 20, 1998.

Dated: July 15, 1998.
By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19372 Filed 7–20–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 980629162–8162–01; I.D. 093097E]

RIN 0648–AK42

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

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

ACTION: Proposed rule; request for comment and information.

SUMMARY: NMFS has received a request from the 30th Space Wing, U.S. Air Force, for a small take of marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA (Vandenberg). By this document, NMFS is proposing regulations to govern that take. In order to grant the exemption and issue the regulations, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and the proposed regulations.

DATES: Comments and information must be postmarked no later than September 4, 1998. Comments on the collection of information requirement must be received no later than September 21, 1998.

ADDRESSES: Comments should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application, a final Environmental Assessment (EA), a list of references used in the preparation of this document, and other documents mentioned in this proposed rule as being available may be obtained by writing to the above address, or telephoning one of the persons listed (see **FOR FURTHER INFORMATION CONTACT**). Additional supporting technical documentation is available for viewing, by appointment, during normal business hours at either the above address, or at the Southwest Regional Office, NMFS, 501 West Ocean Blvd. Suite 4200, Long Beach, CA 90802.

Comments regarding the burden-hour estimate or any other aspect of the collection of information requirement contained in this rule should be sent to the above individual and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: NOAA Desk Officer, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, telephone (301) 713–2055, or Irma Lagomarsino, Southwest Regional Office, NMFS, telephone (562) 980–4016.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA)(16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) 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 for periods of up to 5 years if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. 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.''

Description of Request

On September 30, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from the 30th Space Wing, Vandenberg, to take marine mammals incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg.

Vandenberg is located on the south-central coast of California. The base covers approximately 98,000 acres in western Santa Barbara County. The primary missions of the Air Force at Vandenberg are to launch and track satellites in space, test and evaluate the United State's intercontinental ballistic missile systems, and support aircraft operations. As a nonmilitary facet of operations, Vandenberg is also committed to promoting commercial space launch ventures.

Comments and Responses

On November 14, 1997 (62 FR 61077), NMFS published an advance notice of proposed rulemaking on the application and invited interested persons to submit comments, information, and suggestions concerning the application, and the structure and content of regulations if the application is accepted. During the 30-day comment period on that notice, no comments were received.

Description of Activities

Vandenberg anticipates a total of 10 launches annually for Minuteman and Peacekeeper missiles from North Vandenberg and a total of 20 launches annually for space launches

(approximately 6 Delta II, 3 Taurus, 2 Atlas, 3 Titan IV, 2 Titan II, and 4 Lockheed Martin launch vehicles) primarily from South Vandenberg.

The noise from these launches may result in the unintentional disturbance of pinnipeds—considered to be unintentional, incidental takings under the MMPA. Such takings are prohibited by the MMPA unless authorized by NMFS.

The regulations proposed by this rule would replace annual incidental harassment authorizations issued to Vandenberg under section 101(a)(5)(D) of the MMPA. These authorizations have been issued previously for marine mammal takings incidental to launches by Lockheed-Martin launch vehicles (62 FR 40335, July 28, 1997), McDonnell Douglas Aerospace Delta II rocket launches (61 FR 59218, November 21, 1996), Taurus launches (62 FR 734, January 6, 1997) and Titan II and Titan IV launches (61 FR 64337, December 4, 1996). Incidental harassment authorizations for the latter three activities were reissued on December 19, 1997 (see 62 FR 67618, December 29, 1997), for an additional 1-year period or until regulations proposed in this document become effective and Letters of Authorization are issued.

These proposed regulations would also authorize takings incidental to Minuteman and Peacekeeper missile launches, aircraft flight tests and helicopter operations, none of which have had small take authorizations previously.

Aircraft test operations include the B–1 and B–2 bombers, the F–14, F–15, F–16, and F–22 fighters; and the KC–135 Stratotanker. The frequency for aircraft testing will be variable. The applicant anticipates an average of 10 flights/year, with 4 to 5 passes/flight. The maximum testing frequency could reach 3 flights/week.

Helicopter operations provide launch support, training and base support. Only about 1 percent, or 13 hours, of the 1300 hours of helicopter operations scheduled per year would occur over the Vandenberg coastline.

Description of Habitat and Marine Mammals Affected by Launch Activities

The Southern California Bight (SCB) including the Channel Islands, supports a diverse assemblage of 29 species of cetaceans (whales, dolphins and porpoises) and 6 species of pinnipeds (seals and sea lions). Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), and northern fur seals (*Callorhinus ursinus*) breed there, with the largest rookeries on San Miguel Island (SMI) and San Nicolas Island (SNI). Guadalupe fur seals (*Arctocephalus townsendi*) may also occasionally inhabit SCB waters. Until 1977, a small rookery of Steller sea lions (*Eumetopias jubatus*) existed on SMI. However, there has been no breeding there since 1981 and no sightings on SMI since 1984. A group of 50 Stellers were observed off the Vandenberg coast in October 1993 (Roest, 1995). Additional information on the occurrence of marine mammal species in areas potentially impacted by Vandenberg activities is provided in Barlow *et al.*, (1995 and 1997),[1] Roest, 1995, the final EA on this proposed action (U.S. Air Force, 1997), and in **Federal Register** notices on previous authorizations (60 FR 24840, May 10, 1995 (Lockheed); 60 FR 43120, August 18, 1995 (Delta II); 61 FR 50276, September 25, 1996 (Taurus); and 61 FR 64337, December 4, 1996 (Titan)). For further information, please refer to these documents, which are available upon request (see **ADDRESSES**).

Summary of Potential Physical Impacts

The activities under consideration for small take authorizations under these regulations create two types of noise: continuous (but short-duration) noise, due mostly to combustion effects of aircraft and launch vehicles, and impulsive noise, due to sonic boom effects. Launch operations are the major source of noise on the marine environment from Vandenberg. The operation of launch vehicle engines produces significant sound levels. Generally, four types of noise occur during a launch: (1) Combustion noise from launch vehicle chambers, (2) jet noise generated by the interaction of the exhaust jet and the atmosphere, (3) combustion noise from the post-burning of combustion products, and (4) sonic booms. Launch noise levels are highly dependent upon the type of first-stage booster and the fuel used to propel the vehicle. Therefore, there is a great similarity in launch noise production within each size class.

Sonic booms are impulse noises, as opposed to continuous (but short-duration) noise such as that produced by aircraft and rocket launches. There is a significant potential for sonic booms (i.e., overpressures greater than 0.5 pound/sq.ft (psf)) to occur during launches of low earth orbit payloads. These sonic booms can vary from inconsequential to severe, depending on the physical aspects of the launch vehicle, the trajectory of the launch, and the weather conditions at the time of the launch. The initial shock wave propagates along a path that grazes the earth's surface due to the angle of the vehicle and the refraction of the lower atmosphere. As the launch vehicle pitches over, the direction of propagation of the shock wave becomes more perpendicular to the earth's surface. These direct and grazing shock waves can intersect to create a narrowly focused sonic boom, about 1 mile of intense focus, followed by a larger region of multiple sonic booms.

Aircraft and helicopter activities also produce noise in the coastal environment. Jet aircraft produce significant, subsonic noise with widely varying sound levels depending upon aircraft type, phase of flight, and other factors. Blade-rate tones account for high frequency squealing in jet sounds while the low-frequency roar is the jet mixing noise from engine exhaust (Richardson *et al.* (1995). The high frequency tones are rapidly absorbed in the atmosphere (>4 dB/kilometer (km)). To provide an example of noise levels for a typical aircraft, an F–16 aircraft at intermediate power and 300 ft (96.4 m) above the ground is projected to have a peak noise level of 103 dBA re 20 μPa-m, lasting from 1 to 3 seconds (U.S. Air Force, 1986).[2]

The sounds from helicopters contain many tones related to rotor or propeller blade rate, with most energy at frequencies below 500 Hz. Measurements of a Bell 212 helicopter at an altitude of 500 ft (152 m) indicated a peak, received level at the surface of 109 dB re 1 μPa-m. Duration of noise on the surface may last up to 4 minutes, but less than 38 seconds (sec.) at 9.8 ft (3 m) depth, and 11 sec. at 60 ft (18 m) (Greene, 1985a; Richardson *et al.*, 1995).

One issue for discussion on impacts to marine mammals is the extent to which noise penetrates the ocean surface and the sound pressure levels (SPLs) at depths which marine

[1] Reference citations can be found either in the EA or are available upon request from NMFS (see ADDRESSES).

[2] Airborne noise measurements are usually expressed relative to a reference pressure of 20 μPa, which is 26 dB above the usual underwater sound pressure reference of 1 μPa. Also, they are often expressed as broadband A-weighted sound levels (dBA). A-weighting refers to frequency-dependent weighting factors applied to sound in accordance with the sensitivity of the human ear to different frequencies. While it is unknown whether the marine mammal ear responds similar to the human ear, a recent study by C. Malme (pers. commun. to NMFS, March 5, 1998) found that for predicting effects, A-weighting is better than flat-weighting because pinniped highest hearing sensitivity is at higher frequencies than that of humans. As a result, whenever possible, NMFS provides both A-weighted and unweighted sound pressure levels; when both levels are not provided, it is presumed to represent the unweighted level.

mammals may inhabit. Jet aircraft from Vandenberg remain subsonic when within the coastal zone (U.S. Air Force, 1997). Therefore, it is not necessary to consider sonic boom noise penetration into the water column from aircraft covered by this proposed authorization.

The amount of subsonic aircraft noise entering the water column will depend primarily on aircraft altitude and limited by Snell's Law (e.g., at angles greater than 13° from the vertical much of the incident sound is reflected and does not penetrate into the water) (Richardson *et al.*, 1995). However, some airborne noise will penetrate water at angles >13° from the vertical when rough seas provide water surfaces at suitable angles (Lubard and Hurdle, 1976). In general, the peak, received level in the water, as an aircraft passes directly overhead, will decrease with increasing altitude and received depth (Richardson *et al.*, 1995). Duration of audibility, while significantly less than the duration in air, tends to increase with increasing aircraft altitude and with decreasing receiver depths. When an aircraft is not directly overhead, aircraft noises can be stronger at mid-water than at shallow depths (Richardson *et al.*, 1995).

Helicopters often radiate more sound forward than backward. However, because the acoustic wavelengths of the low-frequency sounds that dominate helicopter noise are much longer than the typical ocean wave heights, penetration at angles greater than 13° from vertical are expected to be negligible (see Richardson *et al.*, 1995).

Because a rocket's angle of trajectory at lift-off to the water surface is greater than 13 degrees, launch noises are not normally expected to transit the air-water interface. While rough seas may allow some penetration due to angle between the wave face and launch noise, surf and wind noise in the nearshore zone would be expected to limit in-water transmission and audibility.

A sonic boom will project ahead of the vehicle as it travels down range. This may produce a ''carpet'' boom, which, because of its angle of trajectory, is not expected to penetrate the ocean surface. While most of this sonic boom energy will be reflected off the water surface, some noise may penetrate it. Analyses by Cook and Goforth (1970) indicate that the ''N'' wave of a sonic boom is rapidly smoothed and attenuated with depth. They found that, in moderate seas and heavy ship traffic, sonic boom pressures can be expected to exceed the ambient noise pressures momentarily by up to 50 dB, from the surface to depths of a few hundred feet, between frequencies of 0.5 Hz and a few hundred Hz.

When the vehicle changes its launch trajectory offshore, the surface boom will meet the accelerated boom, creating a ''focused'' sonic boom. Sonic booms may become focused within a narrow band under the flight path, resulting in sound levels of exceptional amplitude within a very narrow footprint. This location will always be well offshore but may intersect with the Northern Channel Islands (NCI). Theoretical calculations have suggested that, within the narrow footprint of a focused sonic boom, sound levels as high as 147 dB (U.S. Air Force, 1990, 1996) to 154 dB (U.S. Air Force, 1988) could be received.

Marine Mammal Impact Assessment

Noise disturbance from operations on Vandenberg may cause negligible, short-term impacts to pinnipeds (seals and sea lions) hauled out on the Vandenberg coastline, and, if loud enough due to the proximity of the seals to the launch pad, it may result in a temporary threshold shift (TTS) in their hearing. Along the Vandenberg coast, launch noises are expected to impact principally harbor seals as other pinniped species (e.g., California sea lions and northern elephant seals) are known to haulout at these sites only infrequently and in significantly smaller numbers. The principal form of impacts would be the infrequent (approximately 30 launches/year; 50 aircraft flights/year) and unintentional incidental harassment resulting from noise generated by aircraft, helicopter, missile, and rocket launches and by the visual sighting of low-flying aircraft. Launch noises and sonic booms can be expected to cause a startle response and flight to water for those harbor seals, California sea lions and other pinnipeds that are hauled out on the coastline of Vandenberg and on the NCI. Launch noise is expected to occur over the coastal habitats in the vicinity of the Vandenberg launch sites during every launch, while sonic booms may be heard on NCI, principally SMI and Santa Rosa Island (SRI), only during certain launches of certain rocket types.

Titan II and Titan IV

Space Launch Complex (SLC) 4 is utilized for launching Titan II (SLC–4W) and Titan IV (SLC–4E) rockets. The Titan II space launch vehicle is a two-staged, modified Intercontinental Ballistic Missile redesigned to carry small payloads of up to 5,600 lb (2.267 962 kg). The Titan IV is a larger vehicle, carrying payloads similar to those carried by the Space Shuttle (U.S. Air Force 1996). Although loud, the duration of noise capable of affecting marine mammals generated by each Titan launch is brief. Although some low frequency rumbling noise will continue for several minutes, the noise event at the Rocky Pt. harbor seal haul-out will be concluded (Stewart *et al.*, 1992, 1993a, 1993b), within approximately 2 minutes following ignition and liftoff, by which time a Titan IV will be 28.6 miles (46 km) from SLC–4, over the open ocean and out of hearing range of marine mammals on Vandenberg (U.S. Air Force, 1996). While noise levels around the launch pad, during the launch, can reach a level of about 170 dB (a level that can cause hearing damage to humans) (U.S. Air Force, 1988), levels at the nearest seal rookery are significantly less.

Time-lapse photographic monitoring (Jehl and Cooper, 1982) shows that, in response to a specific stimulus, large numbers of pinnipeds may move suddenly from the shoreline to the water. Visual stimuli, such as humans and low-flying aircraft, are much more likely to elicit this response than strictly auditory stimuli, such as boat noise or sonic booms. Observations indicate that it is rare for mass movement to take place in a panic, and no resulting pup or adult mortality has been observed under these circumstances. Stewart (1981, 1982) exposed breeding California sea lions and northern elephant seals on SNI to loud implosive noises created by a carbide pest control cannon. SPLs varied from 125.7 to 146.9 dB. While behavioral responses of each species varied by sex, age, and season, Stewart found that habitat use, population growth, and pup survival of both species appeared unaffected by periodic exposure to the noise.

As part of previous small take authorizations for Titan IV launches at SLC–4, the U.S. Air Force has monitored the effects of launch noises on harbor seals hauled out at Rocky Pt. (4.8 mi (7.7 km) south of SLC–4). For six monitored launches of Titan IVs, the sound exposure level ranged from 141.2 dB to 146.8 dB (96.2–101.8 dBA) (Stewart and Francine, 1991, 1992; Stewart *et al.* 1993a, 1993b, 1996; Thorson *et al.*, 1998). During the 1992 and 1993 Titan IV launches, all or almost all, harbor seals that were ashore at the time fled into the water (23 of 28 in 1992, 41 of 41 in 1993) in response to the noise. After a launch in 1993, about 75 percent of those seals returned ashore later that day, most within 90 minutes of the disturbance (Stewart *et al.*, 1993b). There were no apparent mortalities following any of the six monitored launches, and the haulout patterns were reported similar to those prior to the launches.

Therefore, because of the loud noise levels of the Titan IV, all harbor seals hauled out along the Vandenberg coastline are expected to leave the beach as a result of Titan IV launchings. While noise from a Titan IV launch can be heard on the NCI, monitoring on those islands indicates that pinniped response will be limited to no more than a heads-up alert. This alertness, however, makes the animals more sensitive for movement to the sea should noise from a sonic boom impact the haulout site.

Launch noise from a Titan II is expected to be significantly less than from the larger Titan IV. Noise measurements and observations on harbor seals at Harbor Seal Beach, Rocky Pt. were conducted during the launch of a Titan II on April 4, 1997. A sound exposure level measurement of 116.7 dB was made with a peak level of 83.2 dB at 17 Hz. The A-weighted sound exposure level (SEL) was measured at 88.5 dB, with the loudest sound occurring at 76 Hz (50 dB). The maximum number of harbor seals hauled out ranged from 164 to 278 prior to the launch, with most peaks occurring in the afternoon (Thorson and Francine, 1997). Thirty-three of the 37 seals ashore at the time of the launch entered the water during the event; most returned ashore within 30 minutes post-launch. Within 8 to 10 days, seal numbers had increased to 128 (Thorson and Francine, 1997).

Because of high ambient noise along the coastline (ambient noise level expected to range between 56 and 96 dBA (U.S. Air Force, 1995a)), rapid attenuation of launch noise, and because almost all sounds from the launch should be reflected off, and not penetrate, the water surface, launch noises are not expected to impact any marine mammals in nearshore waters of Vandenberg, although pinnipeds at the water surface in the vicinity of the launch site may alert to the noise and other marine mammal species at the water surface may hear the launch noises.

Sonic booms resulting from launches of the Titan II and IV will vary with the vehicle trajectory, weather conditions, and the specific ground location. Depending upon the intensity and location of a sonic boom, pinnipeds on the NCI could exhibit a simple alert (head-up) response, or startle and stampede into the water. Two primary concerns involve the possibility of a stampede during which pups may be trampled or separated from their mothers and the potential effects of loud noises on the pinniped's hearing. A third concern involves a possible physiological stress to the animals, resulting in unsuccessful breeding and other anomalies in behavior.

Theoretical calculations suggest that marine mammal habitat within the narrow footprint of a Titan IV focused sonic boom could experience sound levels as high as 147 dB (U.S. Air Force, 1990, 1996) to 154 dB (U.S. Air Force, 1988). Chappell (1980) calculated that a sonic boom would need to have a peak over-pressure in the range of 138 to 169 dB to cause TTS in marine mammals, with TTS lasting a few minutes at most. Humans have been exposed to impulse noise similar in magnitude to the sonic booms expected from Titan IVs with no permanent hearing effects and with only temporarily reduced hearing sensitivity.

Monitoring the effects of noise generated from Titan IV launches on SMI pinnipeds in 1991, Stewart and Francine (1992) , demonstrated that noise levels from a focused sonic boom of 1.34 psf (133 dB, 111.7 dBA) caused an alert (head up) response by 25 California sea lions, but no response from other pinniped species present (including harbor seals and elephant seals). There was no seaward movement as a result of this nighttime launch, and all animals returned to a resting position within 30 seconds. In 1993, an explosion of a Titan IV created a sonic boom-like pressure wave that resulted in an alert response, but no movement toward the sea. Additional popping and rumbling noises that followed the initial over pressure caused approximately 45 percent of the California sea lions (approximately 23,400, including 14 to 15 thousand 1-month old pups, were hauled out on SMI during the launch) and 2 percent of the northern fur seals to enter the surf zone. Although approximately 15 percent of the sea lion pups were temporarily abandoned when their mothers fled into the surf, no injuries or mortalities were observed. Most animals were returning to shore within 2 hours of the disturbance (Stewart *et al.*, 1993b) and haul-out patterns after launchings appeared normal.

In 1995, a Titan IV rocket produced a sonic boom that measured 146.6 dB (8.9 psf) on SMI (Stewart *et al.*, 1996). While seals exposed to this sonic boom were not tested for hearing effects, the authors reasoned that those animals most likely experienced hearing threshold shifts. Most recently, Thorson *et al.* (1998) measured the SEL for the Titan IV A–18 sonic boom at 121 dB (86.8 dBA) on the western side of SCI, where the largest boom was predicted to impact. This low amplitude (1.1 psf) sonic boom did not result in startling seals and sea lions.

In 1996, Stewart (1996) tested the auditory brainstem response (ABR)[3] of rehabilitated, stranded, harbor seals (6 pups), northern elephant seals (3 pups), and California sea lions (5 juvenile), exposed them to a simulated sonic boom, then immediately retested them to determine if a TTS injury occurred. In these trials, Stewart demonstrated TTS in California sea lions at over pressures between 3 and 6.9 psf. A 6.9 psf sonic boom produced a TTS that lasted approximately 3 hours. In harbor seals, sonic booms with over pressures between 4.2 and 7.2 psf produced TTS; a TTS produced by a 6.2-psf sonic boom lasted approximately 24 minutes, whereas a 7.2-psf sonic boom induced a TTS that lasted approximately 90 minutes. Northern elephant seals suffered TTS, lasting approximately 20 minutes, when exposed to sonic booms of 2.3 psf (135 dB) and greater. Thorson *et al.* 1998 found no discernible TTS during on-site ABR testing on harbor seals exposed to launch noise from a Titan IV on October 23, 1997.

Over water, almost all sonic boom sounds will be reflected off the water's surface. Therefore, except inside an approximate 4 mile by 1,000-ft (7 km by 305 m) zone of a focused sonic boom, only those individual marine mammals within this zone that are at the water surface at the time of focusing will experience energy from a sonic boom. Although Titan IV-generated sonic booms are not likely to cause permanent hearing damage to marine mammals in or out of the water, they may cause minor reduction in hearing sensitivity in those few species with hearing capabilities in the low frequencies found in sonic booms. This effect is expected to be temporary and will not affect the survival of individuals or adversely affect the species' populations in California waters.

Outside the zone of focused energy, cetaceans and pinnipeds in the water should be unaffected by the sonic booms, although, depending upon location and ambient noise levels, some pinnipeds may be able to hear the sonic boom. Although rough seas may provide some surfaces at the proper angle for sound to penetrate the water surface (Richardson *et al.*, 1991), sound entering a water surface at an angle greater than 13 degrees from the vertical has been shown to be largely deflected at the surface, with very little sound entering the water (Chappell, 1980; Richardson *et al.*, 1991, 1995).

[3] Evoked ABRs are electrical potentials that are generated by the brainstem when the ear is stimulated by sound (Stewart 1996).

With only a remote likelihood that a cetacean will be almost directly under the line of flight of a Titan II and IV at the instant the vehicle changes its launch trajectory, NMFS believes that sonic booms will not result in the harassment of cetacean populations in offshore waters of the SCB.

Most long-term physiological effects, such as those on reproduction, metabolism and general health, or on the animals' resistance to disease, are believed to be caused by much greater cumulative sound exposures (intense continuous noise) than those expected from space vehicle sonic booms (infrequent, loud, and short-duration noise), which have less potential for affecting physiology (U.S. Air Force, 1990; NMFS, 1990).

NMFS believes therefore, that some TTS would be likely following exceptionally loud, focused, booms created by launches flying directly over the NCI, but this TTS should last only a short time (minutes to hours). Also, although the startle effect of the sonic booms might result in some minor physiological stress, the frequency of the booms would be low compared to the frequency of naturally induced startle events. Moreover, there should be no adverse effect on pinniped survival since no significant increase in stress-related pathology is anticipated, nor is any disruption of the reproductive cycle expected.

Lockheed Martin Athena Launch Vehicles

At SLC–6, Athena launches would place commercial payloads into low earth orbit using Lockheed Martin's family of vehicles (Athena–1, Athena–2 and Athena–3). Under typical conditions, the launch noise associated with the Athena would be approximately 127 dB (101 dBA) at the harbor seal haul-out areas, which are about 1.5 mi (2.4 km) to the south and southwest of SLC–6 (U.S. Air Force, pers. comm. April 28, 1998). The seaward aspects of the cliffs throughout much of the coastal area are expected to buffer the haul-out areas from launch noises during the earliest stages of Athena launches (U.S. Air Force, 1995). While this SEL is significantly less than levels for the Titan IV at similar distances (approximately 142 dB (121 dBA) for Titan IV), it is still sufficient to cause harbor seals to leave the beach at Point Arguello, Rocky Pt, and Boathouse Flats.

The maximum magnitude of sonic booms from launches of the Athena–1 (5.0 psf), Athena–2 (3.0 psf), and Athena–3 (3.0 psf) will be less than those measured or predicted for Titan IV. Depending upon the intensity and location of a sonic boom, pinnipeds on SMI or SRI may exhibit an alert response or stampede into the water. However, while it is highly probable that sonic booms from Athenas would occur over the Channel Islands, maximum overpressures of these booms are estimated to be less than 1.0 psf over the northern part of SMI (U.S. Air Force, 1995). A sonic boom with an overpressure of 1 psf (127 dB, 60 dBA) is not considered significant.

The sonic booms resulting from launches of the Athena will vary with the type of vehicle and with the specific ground location. For example, the sonic boom from Athena–3 (the largest of the Athena rockets) is not expected to intersect any portion of the NCI, but instead will focus on the open water southwest of the Islands. Also, while it is predicted that launches of the Athena–1 and Athena–2 will produce sonic booms over portions of the Channel Islands, the maximum overall SPL is not expected to exceed 110 dB (69 dBA) (U.S. Air Force, 1995). These sonic boom levels are likely to be indistinguishable from background noises caused by wind and surf (U.S. Air Force, 1995).

McDonnell-Douglas Delta II

Based upon SEL measurements recorded in November 1995, the launch noise associated with the Delta II launch at SLC–2W is estimated to be approximately 138.8 dB (125.7 dBA) at the nearest harbor seal haulout site at Purisima Pt (2,200 ft (670.6 m) from the launch site) (U.S. Air Force, 1995b). Launch noises from the Delta II are expected to impact mostly harbor seals as California sea lions and northern elephant seals are known to haul-out at these sites only infrequently and in smaller numbers. Therefore, it can be predicted that most, if not all, pinnipeds onshore near SLC–2W will leave the shore as a result of Delta II launchings. Harbor seals hauled out at Point Sal (10.5 mi (16.9 km)) and Rocky Pt 13.5 mi (21.7 km)) are expected to alert to the launch noise, and some, if not all, are expected to flee to the water.

While it is highly probable that a sonic boom from the Delta II would occur over SMI, maximum overpressures of these sonic booms are estimated to be 1.0 psf (U.S. Air Force, 1995c). A sonic boom with an overpressure of 1.0 psf or less is not considered significant. Also, the maximum overall sound pressure level is not expected to exceed 78 dBA (112 dB) (U.S. Air Force, 1995c). A sonic boom of this magnitude is likely to be either indistinguishable or barely distinguishable from background noises caused by wind, surf (U.S. Air Force, 1995a) and onshore marine mammals.

Taurus

Based upon measurements made on March 13, 1994, of a Taurus rocket launch from SLC–576E (Stewart *et al.*, 1994), the SEL recorded at Purisima Pt (2.24 km (1.4 mi) from the launch pad) was 127.4 dB (108.1 dBA). Twenty of the 23 harbor seals that were hauled out at this location before the launch fled immediately into the water within a few seconds after launch. The unweighted SEL of noise recorded at Rocky Pt was 103.9 dB (80.0 dBA)(130-second duration; 20.4 km (12.7 mi) from the launch pad). That noise included launch noise and possibly a sonic boom below 50 Hz. Twenty of 74 harbor seals that were monitored at Rocky Point fled into the water within several seconds of the sound arriving there. However, none of the four young pups that were ashore left the beach nor were they separated from their mothers. A comparison of the reactions of harbor seals to sound at the two study sites indicates that the intensity and duration of reactions of harbor seals to the type of noise associated with the Taurus was directly related to the intensity of the noise to which they were exposed (Stewart *et al.*, 1994). Substantially more seals reacted to the launch noise at Purisima Pt than at Rocky Pt. Furthermore, seals at Purisima Pt reacted much more energetically and remained in the water substantially longer than did seals at Rocky Pt.

Although monitoring was apparently not conducted at the Spur Road haulout (approximately 0.5 mi (804 m) from SLC–576E) in 1994, based upon measurements for Delta II (Aerospace Corporation, 1996) and comparing these results with Taurus (Stewart *et al.*, 1994), an SEL can be estimated for Spur Road to be approximately 129 dB (115 dBA). If any harbor seals are ashore at the time of a launch at this small haulout, all are expected to immediately leave the shore for the water.

Rocket engine noise over NCI from the just-launched Taurus traveling at supersonic speeds should not affect pinnipeds hauled out on these islands. The Taurus flight paths will be to the west-southwest away from the California coast. Sonic boom noise developed as a result of these launches is not expected to reach the Channel Islands. Low intensity rumbling noise may reach the Channel Islands with the effect ranging from a simple alert response to a startle response, which, while unlikely, could result in some movement into the water. The initial

Taurus launch from SLC–576E did not cause a sonic boom over SMI, and there was no response by pinniped species on SMI (Orbital Sciences Corporation, 1996) from launch noise.

Atlas

Atlas II space vehicles, made by Lockheed-Martin, are planned to be launched from SLC–3E. This launch pad is located 6 mi (9.6 km) from Rocky Pt, 8.5 mi (13.7 km) from Purisima Pt, and 19 mi (30.6 km) from Point Sal. Predicted unweighted SELs for Rocky Pt and Purisima Pt are 96.5 dB and 90.4 dB, respectively. SELs of this intensity, if accurate, may not result in more than an alert posture by those harbor seals ashore at the time of launch; if low, then some or all of these seals may leave the shore for the water.

Minuteman and Peacekeeper Missiles

Minuteman missiles produced an unweighted 118 dB (99 dBA) at Point Sal (2.7 mi (4.3 km) distant) and 104 dB (80 dBA) at Purisima Pt. (7 to 10 mi (11.3 to 16.1 km) distant). While no observations are known to have been made to date, SELs of this level are considered sufficient to cause a startle effect and to result in a general movement by harbor seals into the water.

Peacekeeper missiles are initially launched using air pressure; the engine ignites at 300 ft (91.4 m) altitude. SELs can be predicted for Peacekeeper missile launches from North Vandenberg by comparing them with SELs for the Athena-1 rocket. LF–02 is approximately 2 mi (3.2 km) from Lions Head and 6.8 mi (10.9 km) from Point Sal. Using this comparison, NMFS estimates that Peacekeeper missiles would produce an unweighted SEL of 114 dB (85 dBA) at Point Sal (2.7 mi (4.3 km) distant) and 105 dB (73 dBA) at Purisima Pt. (7–10 mi (11.3–16.1 km) distant. SELs of this level are likely sufficient to cause a startle effect and to result in movement by harbor seals into the water.

Aircraft and Helicopters

Pinnipeds hauled out on land react to aircraft and helicopter sounds and/or sight by becoming alert and often by rushing into the water. They tend to react most strongly if an aircraft is flying low, passes nearly overhead, and/or causes abrupt changes in sounds. Responsiveness can vary according to the stage of the breeding cycle. In general, pinnipeds hauled-out for pupping or molting are the most responsive to aircraft (Tetra Tech, 1997). While flight to the water by a significant portion of the hauled out pinnipeds has the potential to increase pup mortality due to crushing or to increase rates of pup abandonment, direct mortality has not been observed (Richardson *et al.*, 1995). Specific examples of pinniped reaction to aircraft noise are provided in the EA.

For range safety and security prior to a launch, helicopter flights are flown at 500 ft (152.4 m) altitude except over recognized pinniped haulouts and rookeries where the helicopter is required to ascend to 1,000 ft (305 m). Pre-launch security at Vandenberg requires that helicopters scan the area in the path of the launch. These helicopter flights occasionally pass close by harbor seal haulouts. One such flight resulted in an average sound exposure level of 79.1 dBA (Thorson *et al.*, 1988). These flights may result in an unintentional, incidental harassment of pinnipeds and, rarely, cetaceans. One hypothesis is that these security patrols startle harbor seals and result in fewer seals being observed ashore (and thereby counted as being ''taken by harassment'') at the time of the launch.

Cumulative Impacts

Cumulative impacts that will occur to harbor seals, California sea lions, northern elephant seals, and northern fur seals have been discussed in the EA on this issue (U.S. Air Force, 1997), and need not be discussed further. However, the MMPA requires NMFS to determine that the total of such taking during the 5-year (or less) period will have a negligible impact on the species being taken. Using the information provided above, NMFS estimates that each rookery/haulout site along the Vandenberg coastline will be impacted by sufficient noise at each launch to cause harbor seals to leave the rocks fewer than 30 times annually due to missile and rocket launches and associated helicopter safety patrols and 10 times annually due to aircraft operations. On the NCI, pinnipeds may potentially leave the beach only as a result of a sonic boom from Titan IV and Athena-3 launch passes over or in the vicinity of a haulout on one of the Islands. Such an event is unlikely to occur more than 3 to 5 times annually.

Long term effects, such as stress and emigration, due to chronic exposure to noise are not expected since all noise events will be transitory and limited in number and duration.

Proposed Mitigation

One mitigation measure of long-standing is the requirement that no vehicles launched from Vandenberg are allowed direct overflight of SRI, SCI, or Anacapa Island. Therefore, nominal flight azimuths from SLC–4 for example, must be west of SRI.

All aircraft and helicopter flight paths will maintain a minimum distance of 1,000 ft (305 m) from recognized seal haulouts and rookeries (e.g., Point Sal, Purisima Pt, Rocky Pt), except in emergencies or for real-time security incidents. Emergencies include search-and-rescue and fire-fighting, both of which may require approaching pinniped rookeries closer than 1,000 ft (305 m).

For missile and rocket launches, unless constrained by other factors including, but not limited to, human safety, national security, or launch trajectories, efforts to ensure minimum negligible impacts of launches on harbor seals and other pinnipeds, NMFS proposes to require the Air Force to avoid, whenever possible, launches during the harbor seal pupping season of February through May and Titan IV launches which predict a sonic boom on NCI during harbor seal, elephant seal, and California sea lion pupping seasons.

Additional mitigation measures would be developed, if necessary, cooperatively between NMFS and the Air Force based on the degree of impact documented during monitoring activities following specific launches, especially for Titan IV rockets. Additional mitigation measures would be contained in annual Letters of Authorization (LOAs).

Research

Between 1991 and 1996, under a U.S. Air Force contract, research was conducted on the behavioral, auditory and population responses of pinnipeds on the NCI to loud and focused sonic booms and to launch noise from Titan IV rockets launched from Vandenberg. The results of this research are provided in Stewart (1996).

Under funding from the USAF and 30th Space Wing management, new research initiatives on the impacts of aerial noise on marine mammals have been undertaken. One study is to address the cumulative effects of rocket launch noise and sonic booms on pinnipeds at Vandenberg and on NCI. Studies include the following: (1) Hearing effects on seals from launch noise and the subsequent launch-generated sonic boom, (2) movements and haulout patterns of individual seals over the course of many rocket launches, (3) changes in seal demographic parameters over the 5-year study, and (4) foraging and diving behavior of seals exposed to launch noise. A scientific research permit has been issued for this research (see 62 FR 36049, July 3, 1997). A copy of the

research plan is available upon request (see **ADDRESSES**).

There is some speculation that exposure to loud noise could cause other physiological effects in pinnipeds, including spontaneous abortion, disruption of effective female-neonate bonding, other reproductive dysfunction, detrimental health effects, and/or increased vulnerability to disease (Chappell *et al.*, 1980; Stewart *et al.*, 1996). While there has been little study of noise-induced stress in marine mammals (Richardson *et al.*, 1995), research initiatives have been identified (U.S. Air Force, 1996) and may be carried out in future years of this authorization.

Proposed Monitoring Measures

During the 5-year duration of this proposed authorization, impacts of missile and space launches on marine mammals would be monitored to ensure that the taking is having no more than a negligible impact on California pinniped stocks. For each launch, monitoring would occur at the pinniped rookery on Vandenberg most likely to be impacted by the launch. For most launches, this would be either Point Sal, Purisima Pt or Rocky Pt. Launch monitoring, as detailed in LOAs, would include the following: (1) At least one biologically trained on-site observer designated to record the effects of launches on harbor seals and other pinnipeds, (2) observations on harbor seal activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haulout, for at least 72 hours prior to any planned launch and continue for a period of time not less than 48 hours subsequent to launching, (3) monitoring of haulout sites on NCI would be performed if it is determined that a sonic boom could impact those areas (this determination will be made in coordination with NMFS), (4) investigation of potential for spontaneous abortion, disruption of effective female-neonate bonding and other reproductive dysfunction, and (5) observations on Vandenberg and on NCI, if indicated, would be supplemented with both video-recording of mother-pup seal responses for daylight launches during the pupping season, and with acoustic measurements of those launch vehicles not having previous SPL measurements.

Proposed Reporting Requirement

A report would have to be submitted to NMFS within 90 days after each launch. This report will have to contain the following information:

(1) Date(s) and time(s) of each launch, (2) date(s), location(s), and preliminary findings of any research activities related to monitoring the effects on launch noise and sonic booms on marine mammal populations, and (3) results of the monitoring programs, including, but not necessarily limited to (a) numbers of pinnipeds present on the haulout prior to commencement of the launch, (b) numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise, (c) the length of time(s) pinnipeds remained off the haulout or rookery, (d) the numbers of pinniped adults or pups that may have been injured or killed as a result of the launch, and (6) any behavioral modifications by pinnipeds that likely were the result of launch noise or the sonic boom.

An annual report would have to be submitted that describes in a summary form any incidental takings not reported under the preceeding paragraph. For example, this report would be expected to describe the aircraft test program and helicopter operations and any assessments made on their impacts to hauled-out pinnipeds.

A final report would have to be submitted at least 180 days prior to expiration of these regulations. This report would summarize the findings made in all previous reports and assess both the impacts at each of the major rookeries and the cumulative impact on pinnipeds and on other marine mammals from Vandenberg activities.

Preliminary Conclusions

The short-term impact of aircraft testing and helicopter operations at Vandenberg, the launching of missiles from North Vandenberg, and the launching of rockets from North and South Vandenberg would be expected to result, at worst, in a temporary reduction in utilization of the haulout as seals or sea lions leave the beach for the safety of the water. Launchings would not be expected to result in any reduction in the number of pinnipeds, and they are expected to continue to reoccupy the same area shortly after each launch. Additionally, there would not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on pinnipeds at Vandenberg and the NCI are unlikely.

National Environmental Policy Act (NEPA)

The U.S. Air Force prepared an EA and issued a Finding of No Significant Impact (FONSI), as part of its request for a small take authorization. This EA contains information incorporated by reference in the application that is necessary for determining whether the activities proposed for receiving small take authorizations are having a negligible impact on affected marine mammmal stocks. As a result, NMFS will accept comment on this EA, and, based upon the comments received, will (1) adopt the U.S. Air Force EA as its own and sign a new FONSI statement, (2) amend the U.S. Air Force EA to incorporate relevant comments, suggestions and information and sign a new FONSI statement, or (3) based upon comments received, prepare and release for public comment a Draft Environmental Impact Statement.

Endangered Species Act (ESA)

The Department of the Air Force consulted with NMFS, as required by section 7 of the ESA, on whether launches of Titan II and IV at SLC–4 would jeopardize the continued existence of species listed as threatened or endangered. NMFS issued a section 7 biological opinion on this activity to the Air Force on October 31, 1988, concluding that launchings of the Titan IV were not likely to jeopardize the continued existence of the Guadalupe fur seal. The Air Force reinitiated consultation with NMFS after the Steller sea lion was added to the list of threatened and endangered species (55 FR 49204, November 26, 1990). However, since northern sea lions had not been sighted on the Channel Islands between 1984 and the time of the consultation, it was determined that these launchings were not likely to affect Steller sea lions. Additionally, on September 18, 1991, NMFS concluded that the issuance of a small take authorization to the Air Force to incidentally take marine mammals during Titan IV launches was not likely to jeopardize the continued existence of northern sea lions or Guadalupe fur seals. Because launches of rockets and missiles other than Titan IV are unlikely to produce sonic booms that will impact the NCI, and because listed marine mammals are not expected to haul-out either on the Vandenberg coast or on the NCI during the 5-year period for this proposed authorization, the issuance of these regulations are unlikely to adversely affect listed marine mammals. Additionally, incidental take authorizations for either of these two species under either the MMPA or the ESA are not warranted.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act. If implemented, this rule will affect only the U.S. Air Force, large defense companies, and an undetermined number of contractors providing services related to the launches, including the monitoring of launch impacts on marine mammals. Some of the affected contractors may be small businesses. The economic impact on these small businesses is dependent upon the award of contracts for such services. The economic impact cannot be determined with certainty, but will be beneficial have no effect, directly or indirectly, on small businesses. As such, a regulatory flexibility analysis is not required.

This proposed rule contains collection-of-information requirements subject to the provisions of the Paperwork Reduction Act (PRA). This collection has been approved by OMB under OMB control number 0648–0151. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The reporting burden for this collection is estimated to be approximately 3 hours per response for requesting an authorization (as described in 50 CFR 216.104) and 40 hours per response for submitting reports, including the time for gathering and maintaining the data needed and completing and reviewing the collection of information. Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Please send any comments to NMFS and OMB (see **ADDRESSES**).

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the request and the structure and content of the regulations to allow the taking. Because this document contains only a summary of the information provided in the documents available to the public (see **ADDRESSES**), commenters are requested to review these documents before submitting comments.

List of Subjects in 50 CFR Part 216

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: July 15, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 216 is proposed to be amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Subpart K is added to part 216 to read as follows:

Subpart K—Taking of Marine Mammals Incidental to Space Vehicle and Test Flight Activities

Sec.

Subpart K—Taking of Marine Mammals Incidental to Space Vehicle and Test Flight Activities

§ 216.120 Specified activity and specified geographical region.

(a) This subpart applies only to the incidental taking of those marine mammals specified in paragraph (b) of this section by U.S. citizens engaged in:

(1) Launching a total of either 10 Minuteman and Peacekeeper missiles annually or 50 missiles over the 5-year authorization period from Vandenberg Air Force Base,

(2) Launching a total of either 20 rockets annually or 100 rockets over the 5-year authorization period from Vandenberg Air Force Base,

(3) Aircraft flight test operations, and

(4) Helicopter operations from Vandenberg Air Force Base.

(b) The incidental take of marine mammals on Vandenberg Air Force Base and in waters off southern California, under the activity identified in paragraph (a) of this section, is limited to the following species: Harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), Guadalupe fur seals (*Arctocephalus townsendi*), and Steller sea lions (*Eumetopias jubatus*).

§ 216.121 Effective dates.

This subpart is effective from October 1, 1998, through September 30, 2003.

§ 216.122 Permissible methods of taking.

(a) Under Letters of Authorization issued pursuant to § 216.106 of this chapter, the 30th Space Wing, U.S. Air Force, its contractors, and clients, may incidentally, but not intentionally, take marine mammals by harassment, within the area described in § 216.120 provided all terms, conditions, and requirements of these regulations and such Letter(s) of Authorization are complied with.

(b) [Reserved]

§ 216.123 Prohibitions.

Notwithstanding takings authorized by § 216.120 and by a Letter of Authorization issued under § 216.106, no person in connection with the activities described in § 216.120 shall:

(a) Take any marine mammal not specified in § 216.120(b);

(b) Take any marine mammal specified in § 216.120(b) other than by incidental, unintentional harassment;

(c) Take a marine mammal specified in § 216.120(b) if such take results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or a Letter of Authorization issued under § 216.106.

§ 216.124 Mitigation.

(a) The activity identified in § 216.120(a) must be conducted in a manner that minimizes, to the greatest extent possible, adverse impacts on

marine mammals and their habitats. When conducting operations identified in § 216.120, the following mitigation measures must be utilized:

(1) All aircraft and helicopter flight paths must maintain a minimum distance of 1,000 ft (305 m) from recognized seal haulouts and rookeries (e.g., Point Sal, Purisima Point, Rocky Point), except in emergencies or for real-time security incidents (e.g., search-and-rescue, fire-fighting) which may require approaching pinniped rookeries closer than 1,000 ft (305 m).

(2) For missile and rocket launches, unless constrained by other factors including, but not limited to, human safety, national security or launch trajectories, in order to ensure minimum negligible impacts of launches on harbor seals and other pinnipeds, holders of Letters of Authorization must avoid, whenever possible, launches during the harbor seal pupping season of February through May.

(3) For Titan IV launches only, the holder of that Letter of Authorization must avoid launches, whenever possible, which predict a sonic boom on the Northern Channel Islands during harbor seal, elephant seal, and California sea lion pupping seasons.

(4) If post-launch surveys determine that an injurious or lethal take of a marine mammal has occurred, the launch procedure and the monitoring methods must be reviewed, in cooperation with NMFS and appropriate changes made through modification to a Letter of Authorization, prior to conducting the next launch under that Letter of Authorization.

(5) Additional mitigation measures as contained in a Letter of Authorization.

(b) [Reserved]

§ 216.125 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization issued pursuant to § 216.106 for activities described in § 216.120(a) are required to cooperate with the National Marine Fisheries Service, and any other Federal, state or local agency monitoring the impacts of the activity on marine mammals. Unless specified otherwise in the Letter of Authorization, the Holder of the Letter of Authorization must notify the Administrator, Southwest Region, National Marine Fisheries Service, by letter or telephone, at least 2 weeks prior to activities involving the taking of marine mammals.

(b) Holders of Letters of Authorization must designate qualified on-site individuals, as specified in the Letter of Authorization, to:

(1) Conduct observations on harbor seal, elephant seal, and sea lion activity in the vicinity of the rookery nearest the launch platform or, in the absence of pinnipeds at that location, at another nearby haulout, for at least 72 hours prior to any planned launch and continue for a period of time not less than 48 hours subsequent to launching,

(2) Monitor haulout sites on the Northern Channel Islands if it is determined that a sonic boom could impact those areas (this determination will be made in coordination with the National Marine Fisheries Service),

(3) As required under a Letter of Authorization, investigate the potential for spontaneous abortion, disruption of effective female-neonate bonding, and other reproductive dysfunction,

(4) Supplement observations on Vandenberg and on the Northern Channel Islands, if indicated, with video-recording of mother-pup seal responses for daylight launches during the pupping season, and

(5) Conduct acoustic measurements of those launch vehicles not having sound pressure level measurements made previously.

(c) Holders of Letters of Authorization must conduct additional monitoring as required under an annual Letter of Authorization.

(d) The Holder of the Letter of Authorization must submit a report to the Southwest Administrator, National Marine Fisheries Service within 90 days after each launch. This report must contain the following information:

(1) Date(s) and time(s) of the launch, and

(2) Results of the monitoring programs, including, but not necessarily limited to:

(i) Numbers of pinnipeds present on the haulout prior to commencement of the launch,

(ii) Numbers of pinnipeds that may have been harassed as noted by the number of pinnipeds estimated to have entered the water as a result of launch noise,

(iii) The length of time(s) pinnipeds remained off the haulout or rookery,

(iv) The numbers of pinniped adults or pups that may have been injured or killed as a result of the launch, and

(v) Behavioral modifications by pinnipeds noted that were likely the result of launch noise or the sonic boom.

(e) An annual report must be submitted that describes in summary form any incidental takings not reported under paragraph (d) of this section.

(f) A final report must be submitted at least 180 days prior to expiration of these regulations. This report will:

(1) Summarize the findings made in all previous reports,

(2) Assess the impacts at each of the major rookeries,

(3) Assess the cumulative impact on pinnipeds and other marine mammals from Vandenberg activities, and

(4) State the date(s) location(s) and findings of any research activities related to monitoring the effects of launch noise and sonic booms on marine mammal populations.

§ 216.126 Applications for Letters of Authorization.

(a) To incidentally take harbor seals and other marine mammals pursuant to these regulations, either the U.S. citizen (see definition at § 216.103) conducting the activity or the 30th Space Wing on behalf of the U.S. citizen conducting the activity, must apply for and obtain a Letter of Authorization in accordance with § 216.106.

(b) The application must be submitted to the National Marine Fisheries Service at least 30 days before the activity is scheduled to begin.

(c) Applications for Letters of Authorization and for renewals of Letters of Authorization must include the following:

(1) Name of the U.S. citizen requesting the authorization,

(2) A description of the activity, the dates of the activity, and the specific location of the activity, and

(3) Plans to monitor the behavior and effects of the activity on marine mammals.

(d) A copy of the Letter of Authorization must be in the possession of the persons conducting activities that may involve incidental takings of seals and sea lions.

§ 216.127 Renewal of Letters of Authorization.

A Letter of Authorization issued under § 216.126 for the activity identified in § 216.120(a) will be renewed annually upon:

(a) Timely receipt of the reports required under § 216.125(d), which have been reviewed by the Assistant Administrator and determined to be acceptable;

(b) A determination that the mitigation measures required under § 216.124 and the Letter of Authorization have been undertaken; and

(c) A notice of issuance of a Letter of Authorization or of a renewal of a Letter of Authorization will be published in the **Federal Register** within 30 days of issuance.

§ 216.128 Modifications of Letters of Authorization.

(a) In addition to complying with the provisions of § 216.106, except as

provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 216.106 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment.

(b) If the Assistant Administrator determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 216.120(b) or that significantly and detrimentally alters the scheduling of launches, a Letter of Authorization issued pursuant to § 216.106 may be substantively modified without a prior notice and an opportunity for public comment. A notice will be published in the **Federal Register** subsequent to the action.

§ 216.129 [Reserved]

[FR Doc. 98–19392 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980714174–8174–01; I.D. 061898B]

RIN 0648–AK60

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Precious Corals Fisheries; Amendment 3

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 3 to the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region (FMP). Amendment 3 would establish framework procedures enabling management measures to be established and/or changed via rulemaking rather than through FMP amendment. The intent of this action is to enable the Western Pacific Fishery Management Council (Council) to respond quickly to rapid changes in the Western Pacific precious corals fisheries.

DATES: Comments on this proposed rule must be received on or before September 4, 1998.

ADDRESSES: Comments on this proposed rule or Amendment 3 should be sent to, and copies of these documents are available from, Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, Fishery Management Specialist, Pacific Islands Area Office, NMFS at (808) 973–2985 or Kitty Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: NMFS is proposing this rule based on a recommendation of the Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). It would establish framework procedures under FMP Amendment 3 to enable the Council and NMFS to change elements of the management regime governing the Western Pacific precious corals fisheries through rulemaking rather than through FMP amendment. The procedures would specify how certain new measures may be established in response to changes that may occur rapidly in the fishery, as well as how established measures (e.g., seasons, permit requirements, quotas, closures, area limitations, gear and coral size restrictions) may be revised without the Council having to develop and NMFS implement an FMP amendment. With the concurrence of the Council, the Southwest Regional Administrator, NMFS, would be able to initiate rulemaking, Each action taken under the framework process would entail documentation of the analysis of impacts of that action. Advance public notice, public discussion, and consideration of public comment on each framework action are required. Amendment 3 itself describes the framework procedure in more detail than the regulatory text of this rule.

On January 14, 1998, a notice of availability of draft FMP Amendment 3 was published in the **Federal Register** (63 FR 2195). The draft included two actions: Establishment of framework procedures and inclusion in the management unit of precious corals in the exclusive economic zone waters around the Commonwealth of the Northern Mariana Islands (CNMI) (which would have been managed as an exploratory permit area). The notice also indicated that the Council staff would submit the amendment for Secretarial review only if no substantive or critical comments were received during a 45-day public review period. The Council received substantive comments on the proposal to manage precious corals in the waters off CNMI as an exploratory permit area. However, no comments were received regarding the proposal to establish the framework procedures.

Subsequently, Council staff revised the draft amendment by removing the CNMI provision, and a new draft was prepared for Secretarial review. At its 95th meeting held in April 1998, the Council concurred with the revised draft amendment.

Framework procedures appear needed because of present interest in the harvest of precious corals at the established coral bed at Makapuu Point, Oahu, Hawaii, and around the main Hawaiian Islands. Pre-harvest surveys conducted in 1997 at the Makapuu bed indicate this bed to be at least 15 percent larger than it was 12 years ago. Recruitment of pink coral at the Makapuu bed is undiminished compared to 1991; however, recruitment of gold coral has been very low. Framework procedures under proposed FMP Amendment 3 would, for example, enable the Council to modify the harvestable size of the Makapuu precious coral bed or to adjust the quota on gold coral, if needed, in a timely manner.

Classification

At this time, NMFS has not determined that Amendment 3, which this rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The National Marine Fisheries Service considers an impact to be significant if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a ''substantial number'' of small entities to be more than 20 percent of those small entities affected by the regulation engaged in the fishery. Since the proposed action is

administrative, and would only add a framework procedure to the FMP, this rule would not result in any new compliance burdens or in any significant economic impact on small entities. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 15, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. A new § 660.89 is added to Subpart F to read as follows:

§ 660.89 Framework procedures.

(a) *Introduction*. Established management measures may be revised and new management measures may be established and/or revised through rulemaking if new information demonstrates that there are biological, social, or economic concerns in the precious coral permit area. The following framework process authorizes the establishment and revision of measures that may affect the operation of the fisheries, gear, quotas, season, or changes in catch and/or effort.

(b) *Annual report*. By June 30 of each year, the Council-appointed Precious Coral Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) According to the framework procedures of Amendment 3 to the FMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(d) *Procedure for new measures*. (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 3 to the FMP, the Council will publicize, including by a **Federal Register** document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a **Federal Register** document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At a subsequent public meeting, the Council will consider public comments and other information received before making a recommendation to the Regional Administrator about any new measure. If approved by the Regional Administrator, NMFS may implement the Council's recommendation by final rulemaking, in some instances, or if circumstances warrant, by proposed and final rulemaking.

[FR Doc. 98–19391 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980702167–8167–01; I.D. 051898A]

RIN 0648–AK73

Fisheries of the Exclusive Economic Zone Off Alaska; Stand Down Requirements for Trawl Catcher Vessels Transiting Between the Bering Sea and Gulf of Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement a stand down requirement for trawl catcher vessels transiting between the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA). This action is necessary to prevent unexpected shifts of fishing effort between BSAI and GOA fisheries that cause management problems and can lead to overharvests of total allowable catch (TAC) in the Western and Central (W/C) Regulatory Areas of the GOA. This action is intended to further the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs).

DATES: Comments on the proposed rule must be received no later than August 20, 1998.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the same address, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries off Alaska are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations governing the groundfish fisheries appear at 50 CFR parts 600 and 679.

Background and Need for Action

In recent years, management of the inshore pollock and Pacific cod fisheries of the W/C Regulatory Areas of the GOA has become increasingly difficult and the risk of harvest overruns has grown due to TAC amounts that are small relative to the potential fishing effort. The problem has been most acute in the Western Regulatory Area of the GOA due to the constant potential that numerous large catcher vessels based in the Bering Sea could cross into the GOA

to participate in pollock and Pacific cod openings that have relatively small TACs. NMFS currently lacks a preseason vessel registration program that could gauge potential effort in these fisheries prior to openings, and inseason catch information in these fisheries is neither timely nor accurate enough to allow adequate management.

The difficulty of managing the pollock fishery in the Western Regulatory Area was demonstrated in 1997 during the September 1 third season opening. On September 4, 1997, NMFS announced a closure of the fishery effective September 7, 1997, based on the observed level of effort in the Western Regulatory Area. Once the closure date was announced, a large number of Bering Sea-based vessels entered the GOA to participate in the final 2 days of the fishery. NMFS inseason managers did not anticipate this increase in effort because the Bering Sea pollock fishery was still open at that time and NMFS expected that Bering Sea-based vessels would continue to fish in the Bering Sea. Nevertheless, these Bering Sea-based vessels harvested approximately 7,000 mt of pollock from the Western Regulatory Area in the final 2 days of the fishery. As a consequence of this unanticipated effort, the 1997 annual TAC of 18,600 mt for this area was exceeded by 8,017 mt or 43 percent of the total.

In response to the difficulties associated with managing the pollock and Pacific cod fisheries of the W/C Regulatory Areas, the Council has developed two distinct management solutions. The first program, adopted by the Council at its February 1998 meeting and contained in this proposed rule, is a stand down requirement for inshore trawl catcher vessels transiting between the BSAI and GOA. The second management program, currently under development by NMFS and the Council, is a vessel registration program that would require vessels to register with NMFS in advance of entering certain critical fisheries. Both of these programs are described in detail in the EA/RIR prepared for this action.

Elements of the Proposed Rule

This proposed rule would impose a stand down requirement for all trawl catcher vessels transiting between the BSAI and GOA FMP management areas that would be in effect when the pollock or Pacific cod fisheries are open in the BSAI or GOA. Vessels leaving the BSAI would be required to offload all fish caught in the BSAI and would be prohibited from deploying trawl gear in the W/C Regulatory Areas of the GOA until 1200 hours A.l.t. on the third day after the date that offloading was completed. Vessels transiting from the Western Regulatory Area to the BSAI would be subject to the same 3-day stand down requirement. However, vessels transiting between the Central Regulatory Area and the BSAI would face a 2-day stand down period. The Council believed that a shorter stand down period for vessels transiting between the Central Regulatory Area and the BSAI was warranted because the Central Regulatory Area is farther from the BSAI and less subject to rapid shifts of effort back and forth from BSAI fisheries.

The purpose of requiring vessels to offload all fish caught in one area before deploying gear in the new area is to aid enforcement officers in determining whether a violation of the stand down requirement has occurred. If vessels were allowed to retain fish on board the vessel while transiting to a new area, enforcement officers boarding a vessel would have no means of determining whether the fish on board the vessel were caught in the previous area, or caught in the new area in violation of the stand down requirement. Requiring vessels to empty their holds before beginning the stand down period would eliminate this enforcement difficulty.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

NMFS has prepared an initial regulatory flexibility analysis that consists of the EA/RIR and the preamble to this proposed rule. A copy of the EA/RIR is available from NMFS (see **ADDRESSES**).

The proposed stand down requirement would affect an estimated 275 trawl catcher vessels fishing for groundfish in the GOA and BSAI, all of which are considered small entities, because it would restrict their ability to make rapid transits between the BSAI and GOA groundfish fisheries. Managing pollock and Pacific cod fisheries in the GOA has been increasingly difficult because of the potential for large catcher vessels based in the BSAI to participate in pollock and Pacific cod openings in the GOA that have relatively small TACs and risk harvest overruns. Ten to 15 catcher vessels, believed to be based in the BSAI, made rapid transits from one area to another in 1997. NMFS cannot calculate how many such vessels might transit in 1998 but it is possible that more than 10–15 catcher vessels could participate in GOA pollock and Pacific cod fisheries and risk harvest overruns. NMFS projects that the proposed restriction could result in the foregone harvest of pollock to BSAI-based catcher vessels, which could exceed the estimated 7,663 mt of pollock harvested in 1997 by these vessels. NMFS cannot calculate this proposed rule's effect on the affected vessels, but it is possible that it could result in losses of 5 percent or more of these vessels' gross revenues and/or increase the costs of production by more than 5 percent. No entities are expected to be forced out of business as a result of this action. As such, based on NMFS threshold guidelines, this action could result in a significant economic impact on a substantial number of small entities.

This proposed rule would not result in any new reporting requirements and does not duplicate, overlap with, or conflict with any other Federal rules.

Alternatives to the proposed stand down requirement include no action, variations on the length or applicability of the stand down requirement, or establishing a vessel registration program. The no action alternative would preserve the possibility of distributional impacts resulting from the BSAI-based fleet taking some of the TAC that would otherwise be harvested by the GOA-based fleet. This alternative's risks to the long-term health of the stock, due to the potential for continued overharvests, could lead to negative economic impacts in future years.

The Council considered a range of variations on the length and applicability of the stand down requirement. The options that would have applied the requirements either to all groundfish vessels, or all trawl vessels were rejected because the objective of preventing overharvests could be achieved through a less restrictive option that applied the stand down requirement only to trawl catcher vessels. The options that would have applied the stand down requirements to all target fisheries was selected over the option that would have applied only to the pollock and Pacific cod fisheries due to potential conflicts with the increased retention/improved utilization program and the difficulties of enforcing a more narrowly tailored rule. Reducing the length of the stand down period for the Western Regulatory Area from 72 to 48 hours may have marginally reduced some of the impacts on small entities and still reduced the number of rapid transits. However, this alternative would not have alleviated the impacts of the offloading requirement and could have resulted in enforcement difficulties. There were also several options concerning when the stand down period should begin: from the time of gear retrieval in one area, from

noon on the date of landing fish, or from the actual time and date of the delivery of fish. Beginning the period at the time of retrieval of gear could have reduced impacts associated with delay on small entities. This approach would have relied on log book data, and vessels under 60 feet LOA are not required to maintain logbooks. However, NMFS does not believe that many of these small catcher vessels make rapid transits. Beginning the period at the time of actual delivery would have imposed a new record keeping and reporting requirement, and would have entailed a Paperwork Reduction Act clearance process that would have precluded implementing this action prior to 1999.

A vessel registration system, which would require vessels to pre-register for the areas in which they would be fishing, would resolve NMFS's management problems with the relatively minor impact of reduced flexibility for the fishing fleets. In some cases this option would impose costs on vessels that realize mid-course they would prefer to fish in another area, but it would improve the predictability of the fishing season and allow fishers to plan more effectively. The council has recommended developing this alternative and implementing it at a later date.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 14, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 773 *et seq.*, and 3631 *et seq.*

2. In § 679.23 a new paragraph (h) is added to read as follows:

§ 679.23 Seasons.

* * * * *

(h) *Stand down requirements for catcher vessels transiting between the BSAI and GOA.*

If you own or operate a catcher vesssel and fish for groundfish with trawl gear in the * * *	You are prohibited from subsequently deploying trawl gear in the * * *	Until * * *
(1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI.	Western and Central Regulatory Areas of the GOA.	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component.
(2) Western Regulatory Area of the GOA while pollock or inshore Pacific cod is open to directed fishing in the Western Regulatory Area of the GOA.	BSAI	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the Western Regulatory Area of the GOA.
(3) Central Regulatory Area of the GOA while pollock or inshore Pacific cod is open to directed fishing in the Central Regulatory Area of the GOA.	BSAI	1200 hours A.l.t. on the second day after the date of landing or transfer of all groundfish on board the vessel harvested in the Central Regulatory Area of the GOA.

[FR Doc. 98–19334 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 63, No. 139
Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–040N]

Meeting on HACCP-Based Inspection Models Project for Slaughter Plants

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Agency is holding a public meeting to discuss its HACCP-based Inspection Models Project for slaughter plants. The morning session will provide background information on the Inspection Models Project. The afternoon session will focus in some detail on the project's specific phases and timelines and will conclude with an open discussion period.

DATES: The meeting will be held on July 27, 1998, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel in Washington, D.C., 10 Thomas Circle NW (at Massachusetts Avenue and 14th Street), Washington DC 20005, (202) 842–1300.

FOR MORE INFORMATION CONTACT: To register for the meeting, contact Ms. Jennifer Callahan of the FSIS Planning Staff at (202) 501–7138 or FAX (202) 501–7642. Attendees who require a sign language interpreter or other special accommodation should contact Ms. Callahan at the above numbers by July 22, 1998.

SUPPLEMENTARY INFORMATION: The Inspection Models Project is an outgrowth of the Agency's Pathogen Reduction/Hazard Analysis and Critical Control Point (PR/HACCP) Systems Final Rule, published on July 25, 1996. The PR/HACCP rule calls for the establishment of a HACCP-based food safety system to reduce the risk of foodborne illness from meat and poultry products.

In a **Federal Register** Notice of June 10, 1997, FSIS requested public comments on the design and development of new inspection models for slaughter and processing in a HACCP environment (62 FR 31553). This notice summarized recommendations by the National Academy of Sciences and the General Accounting Office that FSIS reduce its reliance on organoleptic (sensory) inspection and redeploy its resources by using inspection methods that are based on the risks inherent in meat and poultry slaughter operations. To accomplish these objectives, it is clear that new inspection methods must be developed and tested that are consistent with the meat and poultry inspection laws and the systems now required by the PR/HACCP rule. This inspection models project will help define the respective responsibilities of FSIS and the regulated industry in slaughter establishments operating under HACCP.

The Inspection Models Project will rely heavily on objective data. Data will be used to: (1) Measure the accomplishments of the present inspection system in slaughter establishments using data on the pathology, microbiology, and wholesomeness of carcasses produced under the current system; and (2) measure the effectiveness of the new inspection models at establishments where plant personnel will be tasked with performing slaughter process control and FSIS inspectors will rigorously perform oversight and verification inspection tasks. FSIS will then have comparable data to evaluate the models and determine their effectiveness.

The meeting is open to the public on space-available basis. Transcripts of this meeting will be available in the FSIS Docket Room.

Done in Washington, DC, on July 13, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–19324 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 98–031E]

Extension of Time Period To Submit Abstracts of Scientific Papers

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Extension of Time Period to Submit Abstracts of Scientific Papers.

SUMMARY: In the **Federal Register** notice dated July 7, 1998, the Food Safety and Inspection Service (FSIS) announced it was soliciting abstracts of scientific papers for a conference on Technology to Improve Food Safety'' to be held on July 28, 1998, in Washington, DC. The notice said that the abstracts must be received no later than COB July 8, 1998. FSIS would like to extend the date for submission of abstracts through July 17, 1998.

DATES: The conference will be held from 8:30 a.m. to 5:00 p.m. on July 28, 1998. Abstracts of scientific papers must be received no later than COB July 17, 1998; the final papers no later than COB July 20, 1998. Based on the number of requests for space received by July 17, 1998, FSIS will determine whether it will be able to make exhibition space available. The conference will be held in two sessions: Technologies for Reducing Pathogens and Technologies for Detecting Pathogens. Please specify for which session the paper is intended.

ADDRESSES: The meeting will be held in the Federal Hall Ballroom of the Washington Plaza Hotel, 10 Thomas Circle, NW, Washington, DC. Two copies of the abstracts and final papers should be sent to Ms. Mary Harris, Room 6904, Franklin Court Building, 1099 14th Street, NW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Hudnall, Assistant Deputy Administrator, Office of Policy, Program Development, and Evaluation; telephone (202) 205–0495 or FAX (202) 401–1760.

Done in Washington, DC, on July 14, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–19323 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

West Indigo Timber Sales and Other Projects, Siskiyou National Forest, Josephine County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: On March 18, 1991 a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the West Indigo Timber Sales and Other Projects on the Galice Ranger District of the Siskiyou National Forest was published in the **Federal Register** (56 FR 11404). A Notice of Availability for the draft EIS was published in the **Federal Register** on September 25, 1992 (57 FR 36704). The comment period on the draft EIS ended November 9, 1992. Forest Service has decided to cancel the environmental analysis process. There will be no EIS for this project at this time NOI is rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Peter Gaulke, Supervisory Forester, Galice Ranger District, 200 N.E. Greenfield Avenue, Grants Pass, Oregon 97526, phone 541–471–6500.

Dated: July 9, 1998.

Robert F. Ettner,

Natural Resource Staff.

[FR Doc. 98–19355 Filed 7–20–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Information Systems Technical Advisory Committee (ISTAC) will be held August 4 & 5, 1998, 9:00 a.m., Room 1617M–2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, NW, Washington, DC. This Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

August 4

General Session

1. Opening remarks by the Chairman.
2. Review of ISTAC position papers on proposed Composite Theoretical Performance changes and on High Performance Computing.
3. Discussion of export regulation initiative regarding end-use visits for High Performance Computing in China.
4. Discussion of export regulation initiative regarding KMI (Key Management Infrastructure) licensing allowing 128-bit encryption for some destinations.
5. Discussion of Graphics Processors and related metrics.
6. Comments or presentations by the public.

August 4 & 5

Closed Session

7. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below:

Ms. Lee Ann Carpenter, OAS/EA/BXA MS: 3886C, U.S. Department of Commerce, 15th St. & Pennsylvania Ave, NW, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2853.

Dated: July 15, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–19411 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Foreign—Trade Zones Board

[Order No. 993]

Grant of Authority for Subzone Status; Bollinger Shipyards, Inc. (Shipbuilding), Lockport, Louisiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the South Louisiana Port Commission, grantee of FTZ 124, for authority to establish special-purpose subzone status for the shipbuilding facility of Bollinger Shipyards, Inc., in Lockport, Louisiana, was filed by the Board on August 11, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 64–97, 62 FR 44642, 8/22/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were given subject to the standard shipyard restriction on foreign steel mill products;

Now, Therefore, the Board hereby grants authority for subzone status at the shipbuilding facility of Bollinger Shipyards, Inc., in Lockport, Louisiana (Subzone 124H), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following special conditions:

1. Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill; and,

2. In addition to the annual report, Bollinger Shipyards, Inc., shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19399 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 990]

Grant of Authority for Subzone Status; Hewlett-Packard Company (Computer and Related Electronic Products); Bridgewater and Washington, New Jersey

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, for authority to establish special-purpose subzone status at the computer and electronic products manufacturing facilities of the Hewlett-Packard Company, located at sites in Bridgewater and Washington, New Jersey, was filed by the Board on June 19, 1997,and notice inviting public comment was given in the **Federal Register** (FTZ Docket 53–97, 62 FR 35151, 6/30/97; amended 8/25/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the computer and related electronic products manufacturing facilities of the Hewlett-Packard Company, located in the Bridgewater and Washington, New Jersey, area (Subzone 49G), at the locations described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19396 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 991]

Approval of Manufacturing Activity Within Foreign-Trade Zone 93 Durham, North Carolina; Rike Industries, Inc. (In-Line Skates)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Triangle J Council of Governments, grantee of FTZ 93, has requested authority under § 400.28(a)(2) of the Board's regulations on behalf of Rike Industries, Inc., to assemble in-line skates under zone procedures within FTZ 93, Durham, North Carolina (filed 1–13–98; FTZ Doc. 3–98, 63 FR 3085, 1–21–98);

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19397 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 992]

Grant of Authority for Subzone Status; Globe Metallurgical, Inc. (Ferroalloys and Silicon Metals); Beverly, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Rickenbacker Port Authority, grantee of FTZ 138, for authority to establish special-purpose subzone status at the ferroalloys and silicon metals manufacturing plant of Globe Metallurgical, Inc., in Beverly, Ohio,

was filed by the Board on April 21, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 34–97, 62 FR 24393, 5/5/97) and was amended on April 21, 1998; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application, as amended, would be in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the ferroalloys and silicon metals manufacturing plant of Globe Metallurgical, Inc., located in Beverly, Ohio (Subzone 138D), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status products consumed in the production process shall be subject to duty at the applicable rate;

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone; and

3. All foreign status merchandise subject to an antidumping or countervailing duty order (15 CFR 400.33) must be exported.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19398 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 994]

Expansion of Foreign-Trade Zone 183, Austin, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Foreign Trade Zone of Central Texas, Inc., grantee of Foreign-Trade Zone No. 183, for authority to expand its zone to include a site at the MET Center industrial park in Austin, Texas, within the Austin Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on August 4, 1997 (Docket 63–97, 62 FR 43700, 8/15/97);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 10th day of July 1998.

Richard W. Moreland,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–19400 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On June 16, 1998, the Department of Commerce published the final results of administrative review of the antidumping order on circular welded non-alloy steel pipe from the Republic of Korea (63 FR 32833). The period of review is November 1, 1995, through October 31, 1996. Subsequent to the publication of the final results, we received comments from respondents and petitioners alleging various ministerial errors. After analyzing the comments submitted, we are amending our final results to correct certain ministerial errors.

EFFECTIVE DATE: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Marian Wells or Zak Smith; Antidumping/Countervailing Duty Enforcement, Group I, Office 1, Import Administration, International Trade Administration, US Department of Commerce; 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone numbers (202) 482–6309 or (202) 482–1279, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act''), as amended, are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. Additionally, unless otherwise indicated all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 353 (April 1997).

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1998, the Department published the final results of administrative review of the antidumping duty order on circular welded non-alloy steel pipe from Korea covering the period November 1, 1995, through October 31, 1996 (*see*, Circular Welded Non-Alloy Steel Pipe from Korea; Final Results of Antidumping Duty Administrative Review, 63 FR 32833 (''Final Results''). Subsequently, the following interested parties submitted ministerial error allegations: SeAH Steel Coporation (''SeAH'') and Hyundai Pipe Company Limited (''Hyundai'')(collectively ''the respondents''), and Allied Tube and Conduit Corporation, Sawhill Tubular Division-Armco, Inc., and Wheatland Tube Company (collectively ''the petitioners'').

A summary of each allegation along with the Department's response is included below. We are hereby amending our final results, pursuant to 19 CFR 353.28(c), to reflect the correction of those errors which are clerical in nature.

Analysis of Ministerial Error Allegations

Allegation 1: Hyundai alleges that in the concordance program, the Department inadvertently used a different date of sale for Hyundai's U.S. sales than that specified in the Final Results.

Department's Position: We agree with Hyundai and have altered the concordance program such that the appropriate date of sale, as discussed in our Final Results, is used in both the margin and concordance programs.

Allegation 2: Respondents allege that in the concordance program the Department inadvertently applied its general and administrative expenses (G&A) and interest expense adjustment factor on a compounding basis for each

subsequent sale within a control number.

Department's Position: We agree with respondents and have altered the concordance program in order to eliminate the compounding of the adjustment factor for G&A and interest expenses.

Allegation 3: SeAH states that the Department limited the coverage of U.S. sales to the period November 1, 1995 through October 31, 1996 and, in doing so, excluded sales made prior to November 1, 1995, but entered during the period of review (''POR'') from the concordance program. The petitioners argue that the Department correctly limited the sales analyzed to those sales made during the POR.

SeAH also asserts that the Department excluded sales from the year 1995 by incorrectly naming the months of 1995 in the concordance program. According to SeAH, this resulted in the absence of all 1995 sales in the concordance table and therefore, the use of constructed value for all 1995 sales.

SeAH further states that the Department has used two different sales date variables in the concordance and margin programs.

Department's Position: We agree with SeAH on all three issues. Accordingly, we have altered the concordance program in order to include export price (EP) sales made before the POR but entered during the POR (*see*, comment 2 of the Final Results, at 32836). Furthermore, since we incorrectly named the variable representing sales during 1995, we have altered the concordance program to correct this problem. Finally, we corrected the inconsistent use of date variables in the margin program by using the contract date for all EP sales. For constructed export price (''CEP'') sales, we use the variable SALEDTU (sale date) as discussed in our Final Results.

Allegation 4: SeAH maintains that the Department incorrectly excluded certain sales with entry dates during the POR in its margin analysis program.

Department's Position: We agree with SeAH. However, this error only applies to EP sales. For EP sales, we have substituted the field name ENTRDTU for SHIPDT2U in the margin analysis program to correct this error.

Allegation 5: SeAH alleges that the Department double counted U.S. commissions by adding the amount of commissions to the foreign market price and deducting commissions from U.S. price.

Department's Position: We agree with SeAH. To correct this error, we have eliminated the deduction of commissions in the calculation of U.S. price.

Allegation 6: SeAH states that the Department's adjustment to duty drawback was incorrectly calculated for CEP sales. SeAH argues that the Department has negated the claimed duty drawback and calculated a downward adjustment to the U.S. price.

Department's Position: We agree with SeAH. To correct this error, we have recalculated the duty drawback for SeAH's CEP sales (*see* SeAH Correction of Ministerial Errors Calculation Memorandum, June 9, 1998).

Allegation 7: Petitioners argue that the Department neglected to include any selling expenses in the formula for calculating constructed value (''CV'') profit while including such expenses when calculating total CV.

Department's Position: We disagree with petitioners that we made a ministerial error when calculating CV profit. When calculating CV profit we applied the profit rate to a cost of production figure exclusive of certain selling expenses. We did this because the profit rate was also calculated on a basis exclusive of the same selling expenses. Thus, we intentionally did not include selling expenses when calculating CV profit, and therefore, this is not a ministerial error.

Amended Final Results of Review

As a result of the amended margin calculations, the following weighted-average percentage margins exist for the period November 1, 1995 through October 31, 1996:

Manufacturer/Exporter	Percentage margin
Hyundai	2.64
SeAH	2.63

In accordance with the methodology in the *Final Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review: Circular Welded Non-Alloy Steel Pipe from Korea* (62 FR 55574), October 27, 1997, we calculated exporter/importer-specific assessment values by dividing the total antidumping duties due for each importer by the number of tons used to determine the duties due. We will direct the Customs Service to assess the resulting per-ton dollar amount against each ton of the merchandise entered by these importers during the review period.

We will also direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the Final Results and as amended by this determination. The amended deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 353.28(c).

Dated: July 15, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–19395 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–033. *Applicant:* U.S. Environmental Protection Agency, 200 S.W. 35th Street, Corvallis, OR 97333. *Instrument:* Nutrient Monitor with Stainless Steel Mooring-frame-in-line. *Manufacturer:* W.S. Ocean Systems Ltd., United Kingdom. *Intended Use:*

The instrument will be used for studies of dissolved nitrate in coastal estuaries or seawater. Experiments will be conducted at high tide to determine the quantity of nutrients entering from the ocean and at low tide to determine the quantity of nitrate flowing down river. In addition, the instrument will be used to train students for ocean nutrient analyses. Application accepted by Commissioner of Customs: June 25, 1998.

Docket Number: 98–034. *Applicant:* Vanderbilt University, Mechanical Engineering Department, Box 1592, Station B, Nashville, TN 37235. *Instrument:* Excimer Laser, Model COMPex 150T. *Manufacturer:* Lambda Physik, Germany. *Intended Use:* The instrument is intended to be used for velocity measurements of gaseous flowfields using photolytic flow tagging and combustion properties measurements in high temperature reacting, gaseous flowfields. Application accepted by Commissioner of Customs: July 1, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–19401 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Massachusetts Coastal Zone Management Program and the Chesapeake Bay (VA) and Waquoit Bay (MA) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves require findings concerning the extent to which a State has met the national objectives, adhered to its coastal program document or the Reserve's final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Chesapeake Bay National Estuarine Research Reserve in Virginia evaluation site visit will be from September 14–18, 1998. One public meeting will be held during the week. The public meeting will be held on Wednesday, September 16, 1998, at 7:00 p.m., at the Virginia Institute of Marine Science, Waterman's Hall Auditorium, Route 1208—Greate Road, Gloucester Point, Virginia.

The Massachusetts Coastal Management Program site visit will be from September 14–18, 1998. One public meeting will be held during the week. This public meeting will be on Wednesday, September 16, 1998, at 7:00 p.m. in the Massachusetts Maritime Academy, Room 101, 101 Academy Drive, Buzzards Bay, Massachusetts.

The Waquoit Bay National Estuarine Research Reserve in Massachusetts site visit will be from September 21–25, 1998. One public meeting will be held during the week. This public meeting will be on Wednesday, September 23, 1998, at 7:00 p.m. at the Waquoit Bay Reserve Headquarters, Main House—Old Sargent Estate, 149 Waquoit Highway, Waquoit, Massachusetts.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division (PCD), Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3090, ext. 126.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 15, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone.

[FR Doc. 98–19416 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061898E]

Marine Mammals; File No. 898–1451

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Attractions Hawaii, d.b.a. Sea Life Park, P.O. Box 1060, Pacific Davies Center, Honolulu, Hawaii 96808 has been issued a permit to take Hawaiian monk seals, *Monachus schauinslandi*, for enhancement purposes.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; and Coordinator, Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On April 28, 1998, notice was published in the **Federal Register** (63 FR 23276) that a request for a scientific research and enhancement permit to take Hawaiian monk seals, *Monachus schauinslandi*, had been submitted by the above-named organization. The requested permit has been issued for enhancement purposes only under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the

Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 13, 1998.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19393 Filed 7–20–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 2:00 p.m., Monday, August 3, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19526 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 11:00 a.m., Friday, August 7, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Confernece Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19527 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND PLACE: 2:00 p.m., Monday, August 10, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19528 Filed 7–17–98; 3:32 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 14, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19529 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 17, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19530 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 21, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19531 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 24, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19532 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 11:00 a.m., Friday, August 28, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19533 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND PLACE: 2:00 p.m., Monday, August 31, 1998.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19534 Filed 7–17–98; 3:21 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Availability of Funds for Grants To Support the Martin Luther King, Jr. Service Day Initiative

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (the Corporation), in consultation with the King Center on Nonviolent Social Change, Inc. in Atlanta, invites applications for grants to pay for the federal share of the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. on January 18, 1999.

The grants are intended to mobilize more Americans to observe the Martin Luther King, Jr. federal holiday as a day of service in communities and to bring people together around the common focus of service to others. To achieve this, the Corporation will make available a total of up to $500,000 in grant funds to support approved service opportunities. Eligible organizations may apply for a grant in one of the following two categories. The first category of grants, in amounts of up to $3,500, will support national service and community volunteering projects of a relatively small scale and limited geographical scope. The second category of grants, in amounts of up to $20,000, will support large-scale (e.g., state-wide, city-wide, county-wide, or regional) service projects.

DATES: The deadline for submission of applications is August 31, 1998, no later than 5:00 p.m local time.

ADDRESSES: Application materials should be obtained from and returned to the Corporation state office in the applicant's state unless otherwise noted. See Supplementary Information section for Corporation state office addresses. The application should be addressed to: Martin Luther King, Jr. Day of Service, Corporation for National Service (Appropriate State Address).

FOR FURTHER INFORMATION CONTACT: For further information, contact the person listed for the Corporation office in your state, unless otherwise noted. This notice may be requested in an alternative format for the visually impaired by calling (202) 606–5000, ext. 262. The Corporation's T.D.D. number is (202) 565–2799 and is operational between the hours of 9 a.m. and 5 p.m. Eastern Daylight Time.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a federal government corporation, established by Congress in amendments to the National and Community Service Act of 1990 (the Act) that engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, environmental, or other human needs to achieve direct and demonstrable results with special consideration to service that affects the needs of children. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. The Corporation supports a range of national service programs including AmeriCorps, Learn and Serve America, and the National Senior Service Corps. In providing grants to support service in connection with the Martin Luther King, Jr. federal holiday, the Corporation acts in consultation with the King Center on Nonviolent Social Change, Inc. For more information about the Corporation and the programs it supports, go to http://www.nationalservice.org. For more information about the King Center, go to http://www.thekingcenter.com.

Section 12653(s) of the Act, as amended in 1994, authorizes the Corporation to make grants to share the cost of planning and carrying out service opportunities in conjunction with the federal legal holiday honoring the birthday of Martin Luther King, Jr. The Corporation intends that the activities supported by these grants will (1) get necessary things done in communities, (2) strengthen the communities engaged in the service activity, (3) reflect the life and teaching of Martin Luther King, Jr., and (4) begin or occur in significant part on the federal legal holiday (January 18, 1999).

Getting necessary things done means that projects funded under the Martin Luther King Jr. holiday grant will help communities meet education, public safety, environmental, or other human needs through direct service and effective citizen action. Accordingly, the Corporation expects a project sponsor to identify one or more unmet needs that are important to the community and design a project that helps meet such need or needs.

Strengthening communities means bringing people together in pursuit of a common objective that is of value to the community. On Martin Luther King, Jr. Day in 1998, President Clinton said ''* * * to achieve one America, we must go beyond words to deeds. Serving together on the King holiday—and everyday—will bring our nation closer together and help meet some of our toughest challenges.'' Projects should seek to engage a wide range of local partners in the communities served. Projects should be designed, implemented, and evaluated with these partners, including local and state King Holiday Commissions, national service programs (AmeriCorps, Learn and Serve America, and the National Senior Service Corps), state and local organizations affiliated with the campaign for children and youth launched by America's Promise—the Alliance for Youth at the Presidents' Summit for America's Future, community-based agencies, schools and school districts, Volunteer Centers of the Points of Light Foundation and other volunteer organizations, communities of faith, businesses, foundations, state and local governments, labor organizations, and colleges and universities.

Reflecting the life and teaching of Martin Luther King means demonstrating his proposition that, ''Everybody can be great because anybody can serve.'' Service opportunities to be considered for this program should foster cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice. 42 U.S.C. 12653(s)(1).

Begin or occur in significant part on the federal legal holiday means that a significant portion of the community service activities supported by the grant should occur on the holiday itself to strengthen the link between the observance of Martin Luther King, Jr.'s birthday, the federal legal holiday

(January 18, 1999), and service that reflects his life and teaching.

The *direct service* to be done on and in connection with the King holiday may include, but is not limited to, the following types of activities: tutoring children or adults, feeding the hungry, packing lunches, delivering meals, stocking a food or clothing pantry, repairing a school and adding to its resources, translating books and documents into other languages, recording books for the visually impaired, restoring a public space, organizing a blood drive, registering bone marrow and organ donors, renovating low-income or senior housing, building a playground, removing graffiti and painting a mural, arranging safe spaces for children who are out of school and whose parents are working, collecting oral histories of elders, running health fairs, gleaning and distributing fruits and vegetables, etc.

Although celebrations, parades, and recognition ceremonies may be a part of the activities planned on the holiday and lead to or celebrate a commitment to service, for the purposes of this grant those activities themselves are not considered direct service and may not be supported by this grant.

Other service outcomes for which grant applications will be considered include, but are not limited to, the following: a day of service that is designed to produce a sustained long-term service commitment; community-wide servathons that bring a broad cross-section together in a burst of energy on one day of service, including schools or school districts that seek to involve all students and teachers in joint service; service-learning projects that link student service in schools and universities with community-based organizations; faith-based service collaborations that bring together communities of faith and secular human service programs (subject to the limitations listed below).

A preference will be given in the selection process to projects designed to help achieve the five goals for children and youth declared at the Presidents' Summit for America's Future and sought by America's Promise—the Alliance for Youth, the organization set up to pursue the Summit goals. Those five ''fundamental resources'' are: an ongoing relationship with a caring adult—mentor, tutor, coach; safe spaces and structured activities during non-school hours; a healthy start; an effective education that provides marketable skills; and an opportunity to give back to their communities through their own service. Particularly important is to challenge and inspire young people to give at least one hundred hours of service a year, the fifth goal of the President's Summit. To the maximum extent possible young people should be included as service providers and resources in project planning, not just as the recipients of service.

Grant funding will be available on a one-time, non-renewable basis for a budget period not to exceed seven months, beginning not sooner than November 1, 1998 and ending not later than June 30, 1999. By statute, grants provided under this program, together with all other federal funds used to plan or carry out the service opportunity, may not exceed 30 percent of the cost of planning and carrying out the service opportunity.

For example, if you request $3,500 in federal dollars you must have a non-federal match of at least $8,167 (cash and/or in-kind contributions) and a total projected cost of at least $11,667. If you request $20,000 in federal dollars you must have a non-federal match of at least $46,667 (cash and/or in-kind contributions) and a total projected cost of at least $66,667. In other words the total dollars requested from the federal government should be divided by .30 to determine the total cost of the project (and total project cost minus federal dollars requested equals the required match). It may assist in the calculation to apply the formula as follows:

Federal Dollars Requested ÷ .30 = Total Project Cost

Total Project Cost—Federal Dollars Requested = Non-Federal Match.

The non-federal match may include cash and in-kind contributions (including, but not limited to, supplies, staff time, trainers, food, transportation, facilities, equipment, and services) necessary to plan and carry out the service opportunity. Grants under this program constitute federal assistance and therefore may not be used primarily to inhibit or advance religion in a material way. No part of an award from the Corporation may be used to fund religious instruction, worship or proselytization or to pay honoraria or fees for speakers. Federal funds should not be requested to support a celebration banquet or other activities that do not constitute direct service.

The total amount of grant funds provided under this Notice will depend on the quality of applications and the availability of appropriated funds for this purpose.

Eligible Applicants

By law, any entity otherwise eligible for assistance under the national service laws shall be eligible to receive a grant under this announcement. The applicable laws include the National and Community Service Act of 1990, as amended, and the Domestic Volunteer Service Act of 1973, as amended.

Eligible applicants include, but are not limited to: nonprofit organizations, State Commissions, volunteer centers, institutions of higher education, local education agencies, educational institutions, local or state governments, and private organizations that intend to utilize volunteers in carrying out the purposes of this program.

The Corporation especially invites applications from organizations with experience in ''and commitment to'' fostering service on Martin Luther King, Jr. Day, including state and local Martin Luther King, Jr. Commissions, local education agencies, faith-based partnerships, Volunteer Centers of the Points of Light Foundation, and United Ways and other community-based agencies.

Any grant recipient from the 1997 and 1998 Martin Luther King, Jr., Day of Service Initiatives will be ineligible if it has been determined to be noncompliant with the terms of those grant awards.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible.

Overview of Application Requirements

To be considered for funding applicants should submit the following standard components for federal grants:

1. An Application for Federal Assistance, Standard Form 424.

2. A Project Narrative describing:

a. Clearly defined service activities being planned in observance of Martin Luther King, Jr. Day, which must take place significantly on the legal federal holiday (January 18, 1999), but which may extend for the budget period (November 1, 1998 through June 30, 1999).

b. The partnerships in the local community, city, state or region that are being engaged in support of the service activities.

c. The organization's background and capacity to carry out this program.

d. The proposed staffing of the activity.

The project narrative portion of the application may be no longer than 7 single-sided pages for applications not to exceed $3,500 and 15 single-sided pages for applications not to exceed $20,000 and must be typed double-

spaced in a font no smaller than 12 point, with each page numbered.

3. A Budget Narrative (specific instructions will be provided in the application materials).

4. The Budget Form supplied with the application materials.

5. A signed Certification and Assurances form incorporating conditions attendant to the receipt of federal funding.

6. Three complete copies (one original and two copies) of the application.

All applications must be received by 5:00 p.m. local time, August 31, 1998 at the Corporation office in the applicant's state, unless otherwise noted, addressed as follows: Martin Luther King, Jr. Day of Service, Corporation for National Service.
(Appropriate state office address; see list of addresses provided below).

Applications may not be submitted by facsimile.

To ensure fairness to all applicants, the Corporation reserves the right to take action, up to and including disqualification, in the event an application fails to comply with the requirements relating to page limits, line-spacing, font size, and application deadlines.

Budget

Detailed instructions about the budget information required will be provided in the application materials.

Selection Process and Criteria

The applications will be reviewed initially to confirm that the applicant is an eligible recipient and to ensure that the application contains the information required and otherwise complies with the requirements of this notice. The Corporation will assess the quality of the applications based on their responsiveness to the objectives included in this announcement based on the criteria listed below (in descending order of importance):

1. *Program Design*. The proposal must demonstrate the applicants's ability to get necessary things done, strengthen communities, reflect the life and teaching of Martin Luther King, Jr., and begin or occur in significant part on the federal legal holiday, with a preference given to projects that serve and include young people.

2. *Organizational Capacity*. The application must demonstrate the organization's ability to carry out the activities described in the proposal, including the use of high quality staff.

3. *Cost*. The applicant must demonstrate how this grant will be used cost effectively, including the sources and uses of matching support.

Awards

The Corporation anticipates making awards under this announcement no later than November 1, 1998.

Corporation for National Service State Offices

Alabama

John D. Timmons, Director, Medical Forum, 950 22nd Street, North, Ste. 428, Birmingham, AL 35203, (205) 731–0027, FAX: (205) 731–0031

Alaska

Billy Joe Caldwell, Director, Jackson Federal Building, 915 Second Avenue, Ste. 3190, Seattle, WA 98174–1103, (206) 220–7736, FAX: (206) 553–4415

Arizona

Richard Persely, Director, 522 North Central, Room 205A, Phoenix, AZ 85004–2190, (602) 379–4825, FAX: (602) 379–4030

Arkansas

Opal Simms, Director, Federal Building, 700 West Capitol Street, Rm 2506, Little Rock, AR 72201, (501) 324–5234, FAX: (501) 324–6949

California

Gayle A. Hawkins, Director, Federal Building, 11000 Wilshire Boulevard, Room 11221, Los Angeles, CA 90024–3671 (310) 235–7421, FAX: (310) 235–7422

Colorado

Gayle Schladale, Director, One Sherman Place, 140 E. 19th Avenue, Ste. 120, Denver, CO 80203–1167, (303) 866–1070, FAX: (303) 866–1081

Connecticut

Romero A. Cherry, Director, One Commercial Plaza 21st Floor, Hartford, CT 06103–3510, (860) 240–3237, FAX: (860) 240–3238

Delaware and (MD)

Jerry E. Yates, Director, One Market Center, Box 5, 300 W. Lexington Street, Ste. 702, Baltimore, MD 21201–3418, (410) 962–4443, FAX: (410) 962–3201

District of Columbia (and VA)

Tom Harmon, Director, 400 North 8th Street, Room 446, P.O. Box 10066, Richmond, VA 23240–1832, (804) 771–2197, FAX: (804) 771–2157

Florida

Henry Jibaja, Director, 3165 McCrory Place, Suite 115, Orlando, FL 32803–3750, (407) 648–6117, FAX: (407) 648–6116

Georgia

David A. Dammann, Director, 75 Piedmont Avenue, N.E., Suite 462, Atlanta, GA 30303–2587, (404) 331–4646, FAX: (404) 331–2898

Hawaii (Guam and American Samoa)

Lynn Dunn, Director, Federal Building, 300 Ala Moana Boulevard, Room 6326, Honolulu, HI 96850–0001, (808) 541–2832, FAX: (808) 541–3603

Idaho

Van Kent Griffitts, Director, 304 North 8th Street, Room 344, Boise, ID 83702–5835, (208) 334–1707, FAX: (208) 334–1421

Illinois

Timothy Krieger, Director, 77 West Jackson Blvd, Suite 442, Chicago, IL 60604–3511, (312) 353–3622, FAX: (312) 353–5343

Indiana

Thomas L. Haskett, Director, 46 East Ohio Street, Room 457, Indianapolis, IN 46204–1922, (317) 226–6724, FAX: (317) 226–5437

Iowa

Joel Weinstein, Director, Federal Building, 210 Walnut Street, Room 917, Des Moines, IA 50309–2195, (515) 284–4816, FAX: (515) 284–6640

Kansas

James M. Byrnes, Director, 444 S.E. Quincy Street, Room 260, Topeka, KS 66683–3572, (785) 295–2540, FAX: (785) 295–2596

Kentucky

Betsy Irvin Wells, Director, Federal Building, 600 Martin Luther King Place, Room 372–K, Louisville, KY 40202–2230, (502) 582–6384, FAX: (502) 582–6386

Louisiana

Willard L. Labrie, Director, 707 Florida Street, Suite 316, Baton Rouge, LA 70801–1910, (504) 389–0471, FAX: (504) 389–0510

Maine (and NH)

Kathie Ferguson, Director, The Whitebridge 91–93 North State Street, Concord, NH 03301–3939, (603) 226–7780, FAX: (603) 225–1459

Maryland (and DE)

Jerry E. Yates, Director, One Market Center, Box 5, 300 W. Lexington Street, Ste. 702, Baltimore, MD 21201–3418, (410) 962–4443, FAX: (410) 962–3201

Massachusetts (and VT)

Mal Coles, Director, 10 Causeway Street, Suite 473, Boston, MA 02222–1038, (617) 565–7000, FAX: (617) 565–7011

Michigan

Mary Pfeiler, Director, 211 West Fort Street, Suite 1408, Detroit, MI 48226–2799, (313) 226–7848, FAX: (313) 226–2557

Minnesota

Robert Jackson, Director, 431 South 7th Street, Room 2480, Minneapolis, MN 55415–1854, (612) 334–4083, FAX: (612) 334–4084

Mississippi

Roktabija Abdul-Azeez, Director, 100 West Capitol Street, Room 1005A, Jackson, MS 39269–1092, (601) 965–5664, FAX: (601) 965–4617

Missouri

John J. McDonald, Director, 801 Walnut Street, Suite 504, Kansas City, MO 64106–2009, (816) 374–6300, FAX: (816) 374–6305

Montana

John Allen, Director, Capitol One Center, 208 North Montana Avenue, Suite 206, Helena, MT 59601–3837, (406) 449–5404, FAX: (406) 449–5412

Nebraska

Anne C. Johnson, Director, Federal Building, Room 156, 100 Centennial Mall North, Lincoln, NE 68508–3896, (402) 437–5493, FAX: (402) 437–5495

Nevada

Craig Warner, Director, 4600 Kietzke Lane, Suite E–141, Reno, NV 89502–5033, (702) 784–5314, FAX: (702) 784–5026

New Hampshire (and ME)

Kathie Ferguson, Director, The Whitebridge, 91–93 North State Street, Concord, NH 03301–4334, (603) 226–7780, FAX: (603) 225–1459

New Jersey

Stanley Gorland, Director, 44 South Clinton Ave., Room 702, Trenton, NJ 08609–1507, (609) 989–2243, FAX: (609) 989–2304

New Mexico

Ernesto Ramos, Director, 120 S. Federal Place, Room 315, Santa Fe, NM 87501–2026, (505) 988–6577, FAX: (505) 988–6661

New York

Donna M. Smith, Director, Federal Building, Room 818, Clinton Avenue and N. Pearl St., Albany, NY 12207, (518) 431–4150, (518) 431–4154 FAX

North Carolina

Robert L. Winston, Director, 300 Fayetteville Street Mall, Room 131, Raleigh, NC 27601–1739, (919) 856–4731, FAX: (919) 856–4738

North Dakota (and SD)

John Pohlman, Director, 225 S. Pierre Street, Room 225, Pierre, SD 57501–2452, (605) 224–5996, FAX: (605) 224–9201

Ohio

Paul Schrader, Director, 51 North High Street, Suite 451, Columbus, OH 43215, (614) 469–7441, FAX: (614) 469–2125

Oklahoma

H. Zeke Rodriguez, Director, 215 Dean A. McGee, Suite 324, Oklahoma City, OK 73102, (405) 231–5201, FAX: (405) 231–4329

Oregon

Robin Sutherland, Director, 2010 Lloyd Center, Portland, OR 97232, (503) 231–2103, FAX: (503) 231–2106

Pennsylvania

Jorina Ahmed, Director, Robert N.C. Nix Federal Building, Suite 229, 900 Market Street, Philadelphia, PA 19107, (215) 597–2806, FAX: (215) 597–2807

Puerto Rico/U.S. Virgin Islands

Loretta de Cordova, Director, U.S. Federal Building, Suite 662, 150 Carlos Chardon Ave., Hato Rey, PR 00918–1737, (787) 766–5314, FAX: (787) 766–5189

Rhode Island

Vincent Marzullo, Director, 400 Westminster Street, Room 203, Providence, RI 02903, (401) 528–5424, FAX: (401) 528–5220

South Carolina

Jerome J. Davis, Director, STFP—Suite 872, 1835 Assembly Street, Columbia, SC 29201–2430, (803) 765–5771, FAX: (803) 765–5777

South Dakota (and ND)

John Pohlman, Director, 225 S. Pierre Street, Room 225, Pierre, SD 57501–2452, (605) 224–5996, FAX: (605) 224–9201

Tennessee

Dr. Jerry Herman, Director, 265 Cumberland Bend Drive, Nashville, TN 37228, (615) 736–5561, FAX: (615) 736–7937

Texas

Jerry G. Thompson, Director, 903 San Jacinto, Suite 130, Austin, TX 78701–3747, (512) 916–5671, FAX: (512) 916–5806

Utah

Rick Crawford, Director, 350 South Main Street, Room 504, Salt Lake City, UT 84101–2198, (801) 524–5411, FAX: (801) 524–3599

Vermont (and MA)

Mal Coles, Director, 10 Causeway Street, Suite 473, Boston, MA 02222–1038, (617) 565–7000, FAX: (617) 565–7011

Virginia (and DC)

Tom Harmon, Director, 400 North 8th Street, Room 446, P.O. Box 10066, Richmond, VA 23240–1832, (804) 771–2197, FAX: (804) 771–2157

Washington

John Miller, Director, Jackson Federal Bldg., Suite 3190, 915 Second Avenue, Seattle, WA 98174–1103, (206) 220–7745, FAX: (206) 553–4415

West Virginia

Judith Russell, Director, 10 Hale Street, Suite 203, Charleston, WV 25301–1409, (304) 347–5246, FAX: (304) 347–5464

Wisconsin

Linda Sunde, Director, Henry Reuss Federal Plaza, 310 W. Wisconsin Ave., Room 1240, Milwaukee, WI 53203–2211, (414) 297–1118, FAX: (414) 297–1863

Wyoming

Patrick Gallizzi, Director, Federal Building, Room 1110, 2120 Capitol Avenue, Cheyenne, WY 82001–3649, (307) 772–2385, FAX: (307) 772–2389

Dated: July 16, 1998.

Kenneth L. Klothen,

General Counsel, Corporation for National and Community Service.

[FR Doc. 98–19374 Filed 7–20–98; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Survey of Local Registrars and Election Officials (NVRA), Post-Election Survey of Local

Election Officials and Post-Election Survey of Overseas Citizens (UOCAVA); OMB Number 0704–0125.

Type of Request: Reinstatement.

Number of Respondents: 2,851.

Responses per Respondents: 1.

Annual Response: 2,851.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 475.

Needs and Uses: The federal responsibilities of 42 U.S.C. 1973ff, ''The Uniformed and Overseas Citizens Absentee Voting Act of 1986,'' (UOCAVA), and 42 U.S.C. 1973gg. ''The National Voter Registration Act of 1993,'' (NVRA), is administerted on behalf of the Secretary of Defense by the Federal Voting Assistance Program. UOCAVA requires a report to be submitted to the President and to Congress on the effectiveness of assistance under the Act, a statistical analysis of voter participation, and a description of State-Federal cooperation. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, and recommendations for improvements in federal and state procedures, forms, and other matters affected by the Act. UOCAVA requires the states to allow uniformed services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for federal office. The Act covers members of the Uniformed Services and the Merchant Marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service, and their eligible dependents, federal civilian employees overseas, and overseas U.S. citizens not affiliated with the federal government. The post-election survey is conducted on a statistically random basis to determine participation rates which are representative of all citizens covered by the Act, measure state-federal cooperation, and is designed to evaluate the effectiveness of the overall absentee voting program. The information collected is used for overall program evaluation, management and improvement, and to compile the congressionally mandated reports to the President and Congress. The NVRA designates Armed Forces Recruitment Offices as voter registration agencies to assist voters in applying for registration in elections for federal offices. The NVRA requires a biennial report to the Congress assessing the impact of the Act on the administration of elections for federal office, determine improvements needed in federal and state procedures, and other effects of the Act.

The NVRA survey is necessary to assess the impact of Armed Forces Recruiting Office implementation of voter registration under NVRA and for program evaluation and assessment purposes.

Affected Public: Individuals or households; State, Local, or Tribal Governments.

Frequency: Biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 15, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–19361 Filed 7–20–98; 8:45 am]

BILLING CODE 5000–04–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 3:00 p.m. on August 4, 1998.

PLACE: Federal Building Auditorium, 825 Jadwin Avenue, Richland Washington 99352.

STATUS: Open.

MATTERS TO BE CONSIDERED: Board members will review with the Department of Energy (DOE) and its contractors the status of implementation of the Board's Recommendation 92–4. Recommendation 92–4 called for a systematic approach to addressing health and safety requirements during the design, construction, and operation of the Hanford Tank Waste Remediation system (TWRS).

CONTACT PERSON FOR MORE INFORMATION: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NE, Suite 700, Washington, D.C. 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: One of the major waste stabilization initiatives of the Department of Energy (DOE) has been the Hanford Site's TWRS. The TWRS will retrieve, process, and immobilize the more than 50 million gallons of high level radioactive waste currently stored in 177 underground storage tanks at the Hanford Site. In 1992, the Board noted deficiencies in the technical justification and planning for the Hanford TWRS Multi-function Waste Tank Facility (MWTF). As a result, in Recommendation 92–4, the board recommended to the Secretary of Energy that DOE adopt a systems engineering approach that ensures that health and safety requirements of the project are addressed in each phase of the project life cycle. The Secretary's Implementation Plan committed to adopting a systems engineering approach for the MWTF project and the entire TSRS. Additionally, DOE committed to taking systems approach for its site integration efforts.

Following the adoption of the privatization concept for a portion of the TWRS, DOE revised its Implementation Plan in October 1997. The DOE Implementation Plan committed to meeting the following objectives (1) institutionalizing systems engineering for the TWRS, (2) incorporating the privatization effort into the overall systems approach, and (3) coordinating the development of needed technology for the system. DOE's implementation is nearing completion.

A public meeting will be conducted by the Board to hear from staff members from DOE and its contractors responsible for the TWRS. These individuals will brief the Board on the status of activities under the Secretary's Implementation Plan for Recommendation 92–4.

A transcript of this proceeding will be made available by the Board for inspection by the public at the Board's Washington, D.C. office and at the DOE's Public Reading Room, 2770 University Drive, CIC, Room 101L. P.O. Box 999, mail stop H2–53, Richland, Washington 99352. Recommendation 92–4 in its entirety is also on file at DOe's Public Reading Room in Richland and at the Board's Washington, D.C. office.

The Defense Nuclear Facilities Safety board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its

authority under the Atomic Energy Act of 1954, as amended.

Dated: July 17, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–19509 Filed 7–17–98; 3:32 pm]

BILLING CODE 3670–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 12:30 p.m. on August 5, 1998.

PLACE: Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington 99352.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Robert M. Andersen, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, D.C. 20004, (800) 788–4016. This is a toll-free number.

MATTERS TO BE CONSIDERED: Board members will review with the Department of Energy (DOE) and its contractors the status of implementation of the Board's Recommendation 93–5. Recommendation 93–5 called for the accelerated characterization of the tank wastes at Hanford. This characterization information is needed to support resolution of safety issues and to support design of processing and disposal systems.

SUPPLEMENTARY INFORMATION: The Board has repeatedly expressed the view that the Department of Energy needs to accelerate characterization of high-level radioactive waste in underground tanks at the Hanford Site. On July 19, 1993, the Board formally recommended to the Secretary of Energy (Recommendation 93–5) that DOE accelerate its actions to sample and characterize the Hanford tank wastes. The Secretary accepted the Board's recommendation, and characterization of the Hanford waste tanks is proceeding in accordance with the Secretary's Implementation Plan. The Implementation Plan has two major objectives: (1) characterize the tank waste sufficiently to support resolution of tank safety issues, and (2) characterize the tank waste safety sufficiently to support design of processing and disposal systems.

A public meeting will be conducted by the Board to hear from DOE and its contractors responsible for the Tank Waste Remediation System. Those individuals will brief the Board on the status of activities under the Secretary's Implementation Plan for Recommendation 93–5.

A transcript of this proceeding will be made available by the Board for inspection by the public at the Board's Washington, D.C. office and at the DOE's Public Reading Room, 2770 University Drive, CIC, Room 101L, Box 999, mail stop H2–53, Richland, Washington 99352. Recommendation 93–5 in its entirety is also on file at DOE's Public Reading Room in Richland and at the Board's Washington, D.C. office.

The Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: July 17, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–19510 Filed 7–17–98; 3:32 p.m.]

BILLING CODE 3670–01–M

DEPARTMENT OF ENERGY

Chicago Operations Office, Office of Transportation Technologies (OTT); Notice of Solicitation for Research and Development on Automotive Integrated Power Modules (AIPM)

AGENCY: Department of Energy.

ACTION: Notice of Solicitation Availability.

SUMMARY: The U.S. Department of Energy's (DOE) Office of Transportation Technologies (OTT) plans to issue a financial assistance solicitation (FAS) for Research and Development on Automotive Integrated Power Modules (AIPM). This solicitation, which is due to be released on or about July 15, 1998, supports the Government/automotive industry Partnership for a New Generation of Vehicles (PNGV).

The Partnership is developing light-duty vehicles that achieve up to three times the fuel economy of comparable conventional vehicles, meet emission standards, and offer the same level of performance and cost as today's vehicles. Additional information on the Partnership can be obtained at the USCAR web site *http://uscar.org.* Hybrid electric propulsion, integrated power electronics, along with direct injection engines, fuel cells, and light-weight materials have been selected for development due to their potential for attaining the goal of 80-mpg fuel economy in a six-passenger sedan. The AIPM is a cross-cutting system development technology that supports DOE's automotive fuel cell and direct injection engine programs and their introduction into pre-production automobiles. Applicants shall develop and demonstrate their AIPM innovation by using open architecture concepts that permit scalable low-cost manufacturing to meet automotive goals and requirements. Further, the Applicant shall participate with DOE and its automotive industry partners to demonstrate the system development capabilities of the proposed AIPM. DOE plans to do a vehicle system validation of this technology. Those prototypes that are successful may be used to develop automotive engineering solutions for operation under extreme conditions.

The AIPM specification was coordinated with the Navy's Power Electronic Building Block (PEBB) program and the IEEE. Additional information can be found on the PEBB web site *http://pebb.onr.navy.mil* and the IEEE web site *http://stdsbbs.ieee.org/groups/1461.* System integration issues for the AIPM include delivery of complete scale modules incorporating the principles of design for manufacturing and means to update DOE existing cost analyses. Proposals are sought for light-duty transportation applications; however, a scale up to medium and heavy duty transportation application may also be considered.

DATES: The solicitation will be available on or about July 15, 1998, on the DOE Chicago Internet Home Page at *http://www.ch.doe.gov/business/ACQ.htm* under the heading ''Current Acquisition Activities,'' Solicitation No. DE–SC02–09EE50525, with applications due on or about August 17, 1998. Any amendments to this solicitation will be posted on the Internet. Please note that users will not be alerted when the solicitation is issued on the Internet or when amendments are posted on the Internet. Prospective applicants are, therefore, advised to check the above Internet address on a daily basis. The cooperative agreements are anticipated to be awarded on or about January 1, 1999.

ADDRESSES: Completed applications referencing Solicitation Notice DE–FC02–98EE50525 must be submitted to: U.S. Department of Energy, Chicago Operations Office, Attn: Earlette Robinson, Bldg. 201, Room 3E–10, 9800 South Cass Avenue, Argonne, IL 60439–4899

SUPPLEMENTARY INFORMATION: DOE's Office of Transportation Technologies anticipates that approximately two cooperative agreements will result from this solicitation. Periods of performance may range from 24 to 36 months and total estimated DOE funding is $10,000,000 each. Cost sharing requirements will be at 50 percent of total estimated costs. Awards are subject to the availability of funds. The solicitation will not obligate DOE to make any award(s). Any non-profit or for-profit organization, university of other institution of higher education, or non-federal agency or entity is eligible to apply. Federal laboratory participation will be limited to Designated Scientific User Facilities. The solicitation will provide further guidance in this area. Awards resulting from this solicitation will be subject to the requirements of the Energy Policy Act which in general requires that the awardee be a United States-owned company (including certain non-profits) or that the foreign country in which the parent company is located meets certain conditions of reciprocity in the treatment of investments, access to research and development programs, and protection of intellectual property. All responsible sources, as indicated above, may submit an application which will be considered by the Government.

FOR FURTHER INFORMATION CONTRACT: Earlette Robinson at (630) 252–2667, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, IL 60439–4899; by fax at (630) 252–5045; or by e-mail at earlette.robinson@ch.doe.gov.

Issued in Chicago, Illinois on July 13, 1998.

John D. Greenwood,

Acquisition and Assistance Group Manager.

[FR Doc. 98–19369 Filed 7–20–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket Nos. 92–123–NG]

Office of Fossil Energy; Orders Granting, Amending and Transferring Authorizations to Import and/or Export Natural Gas and Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and transferring various natural gas and liquefied natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on July 14, 1998.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—ORDERS GRANTING, AMENDING AND TRANSFERRING IMPORT/EXPORT AUTHORIZATION

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE docket No.	Two-year maximum		Comments
			Import volume	Export volume	
717–A	06/02/98	San Diego Gas & Electric 92–123–NG.	.....	.....	Decrease in volumes of long-term import authority.
1226–A	06/05/98	Engage Energy Canada, L.P. (Successor to Westcoast Gas Services Inc.), 96–87–NG.	.....	.....	Transfer of blanket import/export authority.
1254–A	06/06/98	Engage Energy Canada, L.P. (Successor to Westcoast Gas Services, Inc.), 96–82–NG.	.....	.....	Transfer of long-term import authority.
1390	06/22/98	AG-Energy, L.P., 98–41–NG ..	113.14 Bcf	.....	Import from Canada beginning first delivery after June 30, 1998.
1391	06/23/98	New York State Electric & Gas Corporation, 98–43–NG.	50 Bcf		Import and export up to a combined total from and to Canada beginning on July 1, 1998, through June 30, 2000.
1009–A	06/25/98	Pan-Alberta Gas (U.S.) Inc. (Successor to Northwest Alaskan Pipeline Company), 84–15–NG, 87–40–NG, 94–96–NG.	.....	.....	Transfer of long-term import authority.
1223–A	06/25/98	Power City Partners, L.P., 96–85–NG.	.....	.....	Increase in volumes from 500,000 Mcf to 16,060,000 Mcf over the two year term.
1392	06/26/98	National Fuel Resources, Inc., 98–45–NG.	20 Bcf		Import and export from and to Canada up to an aggregate beginning on June 1, 1998, through May 31, 2000.
1393	06/26/98	Merchant Energy Group of the Americas, Inc., 98–44–NG.	400 Bcf		Import and export from and to Canada up to a combined total beginning on date of first import or export.
1394	06/29/98	Energy Unlimited, Inc., 98–47–NG.	10 Bcf		Import and up to a combined total, including liquefied natural gas (LNG) from and to Canada and Mexico and LNG from other countries, beginning on the date of first import or export.

[FR Doc. 98–19370 Filed 7–20–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Publication Activities

AGENCY: Energy Information Administration, DOE

ACTION: Notice of discontinuation of publications.

SUMMARY: The Energy Information Administration (EIA) is advising the public that it intends to cease publication of two reports in the electric power publication series.

DATES: Comments may be submitted in writing on or before September 4, 1998.

ADDRESSES: Send comments to John G. Colligan, EI–531, Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington DC 20585–0650, (202) 426–1174, e-mail jcolliga@eia.doe.gov, and fax (202) 426–1311.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to John Colligan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the EIA is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

II. Current Actions

The EIA intends to discontinue the publication of following two reports: *Financial Statistics of Major U.S. Investor-Owned Electric Utilities*—DOE/EIA–0437(yr)/1 and *U.S. Electric Utility Demand-Side Management*—DOE/EIA–0589(yr).

The final issue of the *Financial Statistics of Major U.S. Investor-Owned Electric Utilities* would be the issue dated December 1997, published on December 8, 1997, and covers the 1996 data year. In view of limited resources, the Department proposes that the issuance of this publication be discontinued because the data contained in this publication are collected by the Federal Energy Regulatory Commission (FERC) and will be available through FERC.

The last issue of the *U.S. Electric Utility Demand-Side Management* would be the December 1997 issue, published on December 19, 1997, and covers the 1996 data. In order to reduce respondent burden, the EIA restructured Schedule V, ''Demand-Side Management Information,'' on the Form EIA–861, ''Annual Electric Utility Report,'' during the 1997 survey re-clearance. The Form EIA–861 requires less detailed Demand Side Management (DSM) data from the reporting utilities. Starting with 1997, the DSM data are collected in a summary format and will continue to be published in the *Electric Power Annual, Volume II.* The annual detail DSM data will be posted on the Internet.

III. Request for Comments

Prospective users of these data and other interested parties may comment on the actions discussed in item II if they so desire. DOE will carefully consider all comments and if it is persuaded by the comments to continue publication of either report, it will publish a notice of its decision.

Issued in Washington, D.C. on July 15, 1998.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration

[FR Doc. 98–19371 Filed 7–20–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC–537 IC98–537–000]

Proposed Information Collection and Request for Comments

July 15, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before September 21, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–537 ''Gas Pipeline Certificates: Construction, Acquisition, and Abandonment'' (OMB No. 1902–0060) is used by the Commission to implement the statutory provisions of the Natural Gas Policy Act (NGPA), (15 U.S.C. 3301–3432), and of the Natural Gas Act (NGA) (15 U.S.C. 717–717w). Under the NGA a natural gas company must obtain Commission authorization to engage in the transportation or sale of natural gas in interstate commerce, to undertake the construction or extension of any facilities, or to acquire or operate any such facilities or extensions in accordance with Section 7c of the NGA. A natural gas company must also obtain Commission approval under Section 7(b) of the NGA prior to abandoning any jurisdictional facility or service. Under the Natural Gas Policy Act (NGPA) interstate and intrastate pipelines must also obtain Commission authorization for certain transportation arrangements.

Information collection is necessary to certificate interstate pipelines engaged in the transportation and sale of natural gas, and the construction, acquisition, and operation of facilities to be used for those activities, to authorize the abandonment of facilities and services and to authorize certain NGPA transportations. If a certificate is granted, the natural gas company can engage in the interstate transportation or sale of natural gas and construct, acquire, or operate facilities therefore. Conversely, approval of an abandonment application permits the pipeline to cease service and discontinue the operation of such facilities. Authorization under NGPA Section 311(a) allows the interstate or intrastate pipeline applicants to render certain transportation services.

The natural gas companies file the necessary information with the Commission so that a determination can be made from the data as to whether the requested certificate should be authorized. The data required to be submitted consists of identification of the company and responsible officials, factors considered in the location of the facilities, and impact on the area for environmental considerations. Also, to be submitted are flow diagrams showing design capacity of engineering design verification and safety determination, and gas reserves data for appraisal of the feasibility of the project. Market data presenting the economic basis for the proposed action are included when appropriate as cost of proposed facilities, plans for financing, and estimated revenues and expenses related to the proposed facility for financial and accounting evaluation. The Commission implements these information collection requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 2.69; 157.5–11; 157.13–.21; 157.102–.103; 157.106; 157.201–.208; 157.210–.218; 284.8–.9; 284.11; 284.126; 284.221–.224; Part 284 Subpart H.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: Public reporting burden for this collection is estimated as:

No. of respondents annually	No. of responses per respondent	Average burden hours per response	Total annual burden hours
(1)	(2)	(3)	(1)x(2)x(3)
50	11.6	252 hours	146,160 hours.

Estimated cost burdens to respondents: 141,160 hours divided by 2088 hours per year times $109,889 equals $7,429,086. The cost per respondent is equal to $148,582.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is base upon salaries for professionals and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19336 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3602–000]

Central Hudson Gas & Electric Corporation; Notice of Filing

July 8, 1998.

Take notice that on July 2, 1998, Central Hudson Gas & Electric Corporation (Central Hudson), tendered for filing proposed amendments to the Form of Service Agreement For Retail Access of its Open Access Transmission Tariff on file in Docket No. OA96–14–000 to implement retail access to its system as required by orders of the New York Public Service Commission. The details of the proposed amendments are more fully described in Central Hudson's filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 (CFR 385.214). All such motions and protests should be filed on or before July 22, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19367 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–343–001]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 13, 1998, Dauphin Island Gathering Partners (DIGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheet listed below to become effective August 1, 1998:

First Revised Sheet No. 226

DIGP states that this tariff sheet corrects a pagination error included in DIGP's July 2, 1998, filing to comply with Order No. 587–G.

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. 98–19340 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–352–000]

MIGC, Inc.; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 10, 1998, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1998:

Third Revised Sheet No. 51
Third Revised Sheet No. 52
Fourth Revised Sheet No. 56
Third Revised Sheet No. 57
Third Revised Sheet No. 64
Fourth Revised Sheet No. 65
Fourth Revised Sheet No. 66
Third Revised Sheet No. 76
Third Revised Sheet No. 84
Third Revised Sheet No. 85
Fifth Revised Sheet No. 90
Second Revised Sheet No. 90A

MIGC states that the purpose of this filing is to conform MIGC's First Revised Volume No. 1 tariff to the requirements of Order No. 587–G that interstate pipelines transporting pursuant to Section 284.223 of the Commission's regulations conform their tariff to include Version 1.2 of the GISB standards.

MIGC states that copies of the filing were served on its 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, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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. 98–19341 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–658–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

July 15, 1998.

Take notice that on July 8, 1998, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP98–658–000 a request pursuant to Sections 157.205, and 157.212, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point and appurtenant facilities to be located in Lake County, South Dakota under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that it requests authority to construct and operate the delivery point to accommodate natural gas deliveries to Northwestern Public Service Company (NPSC). Northern states that NWPS has requested the delivery point to provide service to the Lake Madison town border station for redelivery to residential and commercial endusers. The estimated incremental volumes proposed to be delivered to NWPS at this delivery point are 2,480 MMBtu on a peak day and 88,600 MMBtu on an annual basis. The estimated cost to install the delivery point is $100,000. NWPS will reimburse, Northern for the total cost of constructing the proposed delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19335 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–103–001]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 15, 1998.

Take notice that on July 10, 1998, OkTex Pipeline Company (OkTex), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 1998:

Original sheet No. 26A
Original Sheet No. 30A

OkTex states that the additional tariff sheets are being filed in compliance with the Commission's directives in Order No. 587–G.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that result from the Gas Industry Standards Board's (GISB) consensus standards that were adopted by the Commission in its April 16, 1998 Order No. 587–G in Docket No. RM96–1–007. OkTex further states that Order No. 587–G contemplates that OkTex will implement the GISB consensus standards for August 1998 business, and that the tariff sheets therefore reflect an effective date of August 1, 1998.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules 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. 98–19339 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing with the Commission

July 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of application:* New Minor License.

b. *Project No.:* 597–003.

c. *Date filed:* June 24, 1998.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Stairs Hydroelectric Project.

f. *Location:* On Big Cottonwood Creek, near the town of Sandy, in Salt Lake County, Utah, about 15 miles southeast of downtown Salt Lake City. The project affects federal lands within the Wasatch-Cache National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Randy Landolt, Director, Hydro Resources, PacifiCorp, 920 SW Sixth Avenue, Portland, OR 97204, (503) 464–5339.

i. *FERC Contact:* Gaylord Hoisington (202) 219–2756.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Brief Description of the Project:* The existing project consists of: (1) A 150-foot-long and 35-foot-high earth-fill diversion dam; (2) a reinforced concrete spillway; (3) a reinforced concrete intake structure; (4) an approximately 2,850-foot-long penstock; (5) an 100-foot-wide by 35-foot-long masonry powerhouse; (6) one turbine generator unit with a rated capacity of 1,200 kilowatts; (7) a 7-foot-wide, 5.3-foot-deep reinforced concrete tailrace; and (8) other appurtenances.

l. With this notice, we are initiating consultation with the *UTAH STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Under Section 4.32(b)(7) of the Commission's regulations (18 CFR 4.32 (b)(7)), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19337 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

July 15, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Major License.

b. *Project No.:* 11181–002.

c. *Dated Filed:* November 28, 1994.

d. *Applicant:* Energy Storage Partners, Inc.

e. *Names of Project:* Lorella Pumped Storage Project.

f. *Location:* In Klamath County, Oregon, partially in Bureau of Land Management lands. T39S, R11E, section 35, T40S, R12E, section 2, T40S, R12E, section 1, T40S, R12E, section 12, T40S, R12E, section 11, T40S, R12E, section 14, T40S, R12E, section 22.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825r.

h. *Applicant's Contact:* Mr. Douglas Spaulding, Energy Storage Partners, 1030 North Tyrol Trail, Suite B–101, Minneapolis, MN 55416, (612) 315–309.

i. *FERC Contact:* Hector Perez at (202) 219–2843.

j. *Deadline Date:* See attached paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D10.

l. *Description of Project:* The proposed project would consist of: (1) An upper reservoir with a gross storage capacity of 16,519 acre-feet and an area of 199 acres at maximum normal water surface elevation of 5,523 feet above mean sea level (msl), impounded by two, 178-foot-high rock fill embankments with a crest elevation of 5,533 feet msl; (2) an ungated reinforced concrete intake/outlet structure with trashracks; (3) a 24-foot-diameter, 1,326-foot-long vertical power shaft; (4) a 24-foot-diameter, 3,200-foot-long concrete-lined power tunnel; (5) a concrete-lined penstock manifold dividing the power tunnel into four, 12-foot-diameter, 355-foot-long, steel-lined penstocks; (6) a powerhouse with four reversible pump/turbines, with four, 250-megawatt motor/generator units; (7) a 1,500-foot-long by 38-foot-wide D-shaped concrete-lined tailrace tunnel; (8) a lower reservoir with a storage capacity of 18,646 acre-feet and a maximum water surface elevation of 4,191 feet msl, impounded by natural topography and a 57-foot-high earth zoned embankment, with a crest elevation of 4,199.2 feet msl; (9) a 4-mile-long, 500-kilovolt transmission line connecting the project to Captain Jack substation' and (10) other appurtenances. The project would operate as a closed system using water supplied by two groundwater wells about 2 miles from the lower reservoir.

m. *Purpose of Projects:* Project power would be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* D10.

o. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Klamath County Library in Klamath Falls, Oregon.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (See Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the

Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–19338 Filed 7–20–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50844; FRL–6019–4]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit to the following applicant. This permit is in accordance with, and subject to, the provisions of 40 CFR part 172, which defines EPA procedures with respect to the use of pesticides for experimental use purposes.

FOR FURTHER INFORMATION CONTACT: By mail: John Bazuin, Jr., Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: Crystal Mall #2, 2nd Floor, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7381, e-mail: bazuin.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permit:

10182–EUP–63. Issuance. Zeneca Ag Products, Inc., 1800 Concord Pike, Wilmington, DE 19850. This experimental use permit allows the use of up to 800 pounds of the fungicidal active ingredient methyl (E)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxyphenyl)-3-methoxyacrylate (azoxystrobin), in the form of up to 3,500 pounds of the product Quadris SC fungicide, in alternation with Bravo fungicide, to treat a total of up to 1,248 acres of potatoes to: (1) Evaluate the efficacy of the program for control of early blight and late blight; (2) determine the yield and quality benefits of the program, as compared to a standard fungicide program; (3) determine the costs and benefits of the program, as compared to a standard fungicide program; (4) determine the extent of pesticide use reduction possible, as compared to a standard fungicide program; and (5) monitor populations of the early blight and late blight pathogens for baseline sensitivity to the Quadris SC fungicide. This program is authorized only in the State of Wisconsin. This experimental use permit is effective from July 13, 1998 to July 12, 1999. This permit is issued with the limitation that all treated crops will be destroyed or used for research purposes only.

Persons wishing to review this experimental use permit are referred to the designated product manager. Inquiries concerning this permit should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: July 15, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 98–19404 Filed 7–20–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

July 14, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. 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 control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0715.

Expiration Date: 06/30/2001.

Title: Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Proprietary Network.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 4832 respondents; 161.62 hours per response (avg.); 780,989 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $229,520,000.

Frequency of Response: On occasion; one-time.

Description: In the Second Report and Order issued in CC Docket No. 96–115, released 3/98, the Commission seeks to implement the statutory obligations of section 222 of the Telecommunications Act of 1996. In addition, the Commission undertakes a review of the current regulatory customer proprietary network information (CPNI) framework and addresses issues deferred to this proceeding from other Commission proceedings. In fulfillment of these goals, the Commission imposes certain collections of information on all telecommunications carriers. Collections Adopted in the Second Report and Order: (a) Customer Approval (47 U.S.C. Section 222(c)(1)): If carriers choose to use CPNI to market service offerings outside the customer's existing service, they must obtain customer approval. Carriers are permitted to obtain such approval through written, oral, or electronic means. Carriers are permitted to use

advanced technologies of their networks, including 800 numbers, 888 numbers, and e-mail, to obtain customer approval, in addition to using various types of written approval, such as billing inserts. See 47 CFR Sections 64.2007. (Number of respondents: 4832; hours per response: 78 hours; total annual burden: 376,896). (b) Customer Approval Documentation and Recordkeeping: Carriers must document such approval through software ''flags'' on customer service records indicating whether the customer has approved or declined the marketing use of his or her CPNI when solicited. The flag must be conspicuously displayed within a box or comment field within the first few lines of the first computer screen. The flag must indicate whether the customer has approved the marketing use of his or her CPNI, and in addition reference the customer's existing service subscription. Carriers must maintain records of approval, whether written, oral, or electronic for a period of at least one year, and be capable of producing them if the sufficiency of a customer's approval is challenged. See 47 CFR Sections 64.2007(e) and 64.2009. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (c) Notification of CPNI Rights: All telecommunications carriers that choose to solicit customer approval must provide their customers a one-time notification of their CPNI rights prior to any such solicitation. Carriers are required to give customers explicit notice of their CPNI rights prior to any solicitation for approval. A carrier is permitted to provide either written or oral notification. Such notification may take the form of a bill insert, an individual letter or an oral presentation that advises the customer of his/her right to restrict carrier access to CPNI. At a minimum, customer notification, whether oral or written, must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to CPNI. The notice must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purpose for which the CPNI will be used and inform the customer of his or her right to disapprove those uses, and to deny or withdraw access to CPNI at any time. The notification also must advise customers of the precise steps they must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. The notification must be reasonably comprehensible and non-misleading. If any portion of a notification is translated into another language, then all portions of the notification must be translated into the language. See 47 CFR Section 64.2007(f) and paragraphs 138–141 in the Order. (Number of respondents: 4832; hours per response: 78 hours; total annual burden: 376,896 hours). (d) Notification Recordkeeping: Pursuant to this one-time notification requirement, these carriers must maintain a record of such notifications. Carriers must maintain such records for a period of at least one year. See 47 CFR Section 64.2007(e). (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (e) Audit Mechanism: All employees with access to customer records must be trained as to when they can and cannot access the customer's CPNI. Carriers must maintain electronic audit mechanisms that track access to customer accounts. All carriers must record whenever customer records are opened, by whom, and for what purpose, and maintain these contact histories for a period of at least one year. See 47 CFR Section 64.2009. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (f) Event Histories Recordkeeping: To assure compliance with CPNI protections, sales personnel must obtain supervisory review of any proposed request to use CPNI for outbound marketing purposes. Carriers are required to maintain a record of these event histories for at least one year from the date of the marketing campaign. See 47 CFR 64.2009(d). (Number of respondents: 4832; hours per response: 30 minutes; total annual burden: 2416 hours). (g) Corporate Compliance Certification: All telecommunications carriers must obtain on an annual basis a certification signed by a current corporate officer attesting that he or she has personal knowledge that the carrier is in compliance with the rules we promulgated in this order, and to create an accompanying statement explaining how the carriers are implementing our rules and safeguards. This certification must be made publicly available. See 47 CFR Section 64.2009(e) and paragraph 201 of Order. (Number of respondents: 4832; hours per response: 1 hour; total annual burden 4832 hours). (h) Aggregate Customer Information Disclosure Requirements for LECs (47 U.S.C. 222(c)(3)): LECs must disclose aggregate customer information to others upon request, when they use or disclose the aggregate customer information for marketing service to which the customer does not subscribe. See paragraph 150 in text of Order. (Number of respondents: 1400; hours per response 1 hour; total annual burden: 1400 hours). (i) Subscriber List Information Disclosure Requirement for Providers of Telephone Exchange Service (47 U.S.C. Section 222(e)): Section 222(e) states that a telecommunications carrier that provides ''telephone exchange service'' shall provide subscriber list information ''gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.'' (Number of respondents: 1400; hours per response: 4 hours; total annual burden: 5600 hours). (j) CPNI Disclosure to Third Parties: Section 222(c)(2) requires carriers, when presented with a customer's affirmative written request, to provide that customer's CPNI to any person designated in the written authorization. Section 222(c)(2) imposes a disclosure requirement on carriers to ensure that any party with customer authorization, including unaffiliated third party competitors, can obtain access to individually identifiable CPNI. As such, carriers must provide a customer's CPNI to any party that has obtained an affirmative written authorization from the customer. (Number of respondents: 500; hours per response: 5 hours; total annual burden: 2500 hours).

Collections Proposed in the FNPRM

(k) Proposed Foreign Storage of CPNI: The Commission sought comment on whether requiring written customer consent to store or access CPNI from a foreign country and maintaining duplicate CPNI records in the U.S. are necessary to protect customer confidentiality under section 222(a) or any other provisions. (Number of respondents: 10; hours per response: 78.5; total annual burden: 785 hours). (l) Proposed Foreign Maintenance of CPNI of all U.S.-Based Customers Records: The Commission sought comment on the FBI's proposal to require carriers to maintain copies of the CPNI of all U.S.-based customers, regardless of whether they are U.S. domestic customers, because of the need for prompt, secure and confidential law enforcement, public safety, or national security access to such information, pursuant to lawful authority. (Number of respondents: 4832; hours per response: 30 minutes; total annual burden; 2416 hours). All of the collections, adopted and proposed,

would be used to ensure that telecommunications carriers comply with the CPNI requirements the Commission promulgates in the Second Report and Order and to implement Section 222 of the statute. Obligation to respond: Mandatory.

OMB Control No.: 3060–0756.

Expiration Date: 06/30/2001.

Title: Procedural Requirements and Policies for Commission Processing of Bell Operating Company Applications for the Provision of In-Region, InterLATA Services Under Section 271 of the Communications Act.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 75 respondents; 250 hours per response (avg.); 18,820 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: In a Public Notice released 9/19/97, the Commission revised the various procedural requirements and policies relating to the Commission's processing of Bell Operating Company (BOC) applications to provide in-region, interLATA services pursuant to section 271 of the Communications Act of 1934, as amended. Section 271 provides for applications on a state-by-state basis. The Public Notice requires that applicant file an original and 11 copies of each application, together with one copy on a computer diskette. The applications each will consist of a stand-alone, principal document with supporting documentation such as records of state proceedings, interconnection agreements, affidavits, etc. (No. of respondents: 7; hours per response: 125 hours; total annual burden: 6125 hours). State regulatory commission will file written consultations relating to the applications no later than approximately 20 days after the issuance of an Initial Public Notice establishing specific due dates for various filings. (No. of respondents: 49; hours per response: 120 hours; total annual burden: 5880 hours). The Department of Justice will file written consultations relating to the applications not later than approximately 35 days after the issuance of the Initial Public Notice. (No. of respondents: 1; hours per response 100 hrs per state; total annual burden: 4900 hours). Interested third parties may file comments on the applications not later than approximately 20 days after the issuance of the Initial Public Notice. All substantive arguments must be made in a legal brief and not in affidavits or other supporting documentation. (No. of respondents: 75; hours per response: 25 hours; total annual burden: 1875 hours). All participants in the proceeding may file a reply to any comment made by any other participant. Such replies will be due approximately 45 days after the Initial Public Notice is issued. (No. of respondents: 10; hours per response: 2 hours; total annual hour: 20 hours). A dispositive motion filed with the Commission in a section 271 proceeding will be treated as an early-filed pleading and will not be subject to a separate pleading cycle, unless the Commission or Bureau determines otherwise. Non-dispositive motions will be subject to the default pleading cycle in section 1.45 of our rules, unless the Commission determines otherwise in a public notice. (No. of respondents: 10; hours per response: 2 hours; total annual burden: 20 hours). See the September 1997 Public Notice for details of all the requirements and procedures associated with this process. All of the requirements are used to ensure that BOCs have complied with their obligations under the Communications Act of 1934, as amended, before being authorized to provide in-region, interLATA services pursuant to section 271. Obligation to respond: Mandatory.

OMB Control No.: 3060–0793.

Expiration Date: 07/31/2001.

Title: Procedures for States Regarding Lifeline Consents, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 865 respondents; 1.12 hours per response (avg.); 970 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: On May 8, 1997, the Commission released Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96–45, FCC 97–157 (Order). In that Order, the Commission adopted rules providing funding for discounts to eligible schools and libraries. The Commission also adopted rules mandating that state commissions designate common carriers as eligible telecommunications carriers for service areas selected by state commissions in accordance with section 214(e). In a Public Notice, the Common Carrier Bureau announced procedures states must follow in order to receive universal service support. a. Submission of eligibility criteria. States must, either upon their own motion or upon request, designate common carriers as eligible telecommunications carriers for service areas designated by the state commission in accordance with section 214(e). 47 CFR 54.201(b). States must also designate service areas for non-rural carriers. 47 CFR 54.201(b). We request that states submit a list of carriers designated as eligible telecommunications carriers and the service areas such non-rural carriers are required to serve to the Universal Service Administrator. We request that states also send copies of the lists to the Universal Service Branch and the Office of the Secretary at the Federal Communications Commission. This information should be submitted as soon as possible after a state makes a designation. (No. of respondents: 25; hours per response: 1 hour; total annual burden: 25 hours). b. Self-certification as a rural telephone company. Any local exchange carrier that seeks to be classified as a rural telephone company must file a letter with the Commission by April 30th of each year notifying the Commission that the LEC certifies itself to be a rural telephone company and explaining how the carrier meets at least one of the four criteria in 47 U.S.C. § 153(37). (No. of respondents: 840; hours per response: 1 hour; total annual burden: 840 hours). c. Notification of change in status as rural telephone company. If a local exchange carrier's status as a rural telephone company changes so that it becomes ineligible for certification as a rural carrier, that carrier must inform the Commission and the Universal Service Administrator within one month of the change in status. (No. of respondents: 210; hours per response: .5 hours; total annual burden: 105 hours).

All the requirements contained herein are necessary to implement the congressional mandate for universal service. These reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support. Obligation to respond: Required to obtain benefits.

OMB Control No.: 3060–0806.

Expiration Date: 06/30/2001.

Title: Universal Service: Schools and Libraries Universal Service Program.

Form No.: FCC Forms 470 and 471.

Respondents: Business or other for-profit.

Estimated Annual Burden: 60,000 respondents; 11 hours per response

(avg.); 660,000 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: On May 8, 1997, the Commission adopted rules in CC Docket No. 96–45 providing discounts on all telecommunications services, Internet access, and internal connections for all eligible schools and libraries. The following forms are used to implement these requirements and obligations: a. FCC Form 470—Description of Services Requested and Certification. Schools and libraries ordering telecommunications services, Internet access, and internal connections under the universal service discount program must submit a description of the services desired to the Administrator. Schools and libraries may use the same description they use to meet the requirement that they generally place to solicit competitive bids. The Administrator will then post a description of the services sought on a website for all potential competing service providers to see and respond to as if they were requests for proposals (RFPS). 47 CFR 54.504(b)(2), 47 CFR 54.504(b)(3). Pursuant to section 254(h) of the 1996 Telecommunications Act, schools and libraries must certify under oath that: (1) The school or library is an eligible entity under section 254(h)((4); (2) the services requested will be used solely for educational purposes; (3) the services will not be sold, resold, or transferred in consideration for money or any other thing of value; and (4) if the services are being purchased as part of an aggregated purchase with other entities, the identifies of all co-purchasers and the portion of the services being purchased by the school or library. 47 CFR 54.504(b)(2). For schools ordering telecommunications services at the individual school level (i.e., primarily non-public schools), the person ordering such services should certify to the Administrator the percentage of students eligible in that school for the national school lunch program (or other comparable indicator of economic disadvantage ultimately selected by the Commission). This requirement arises in the context of determining which schools are eligible for the greater discounts being offered to economically disadvantaged schools. For schools ordering telecommunications services at the school district level, the person ordering such services for the school district should certify to the Administrator the number of studies in each of its schools eligible for the national school lunch program (or other comparable indicator of economic disadvantage). Schools and libraries must also certify that they have developed a technology plan that has been approved by an independent entity or the Administrator. The technology plan should demonstrate that they will be able to deploy any necessary hardware, software, and wiring, and to undertake any necessary teacher training required to use the services ordered pursuant to the section 254(h) discount effectively. 47 CFR 54.504(b)(2). (No. of respondents: 50,000; hours per response: 6 hours; total annual burden: 300,000 hours). b. FCC form 471—Services Ordered and Certification. Schools and libraries that have ordered telecommunications services, Internet access, and internal connections under the universal service discount program must file FCC Form 471 with the Administrator. This form requires schools and libraries to indicate whether funds are being requested for an existing contract, a master contract or whether it wishes to terminate service. FCC Form 471 requires schools and libraries to list all services that have been ordered and the corresponding discount to which it is entitled. The school or library must also estimate its funding needs for the current funding year and for the following funding year. 47 CFR 54.504(b)(2). (No. of respondents: 60,000; hours per response: 6 hours; total annual burden: 360,000). All schools and libraries planning to order services eligible for universal service discounts must file FCC Forms 470 and 471. The purpose of this information is to help determine which schools are eligible for the greater discounts. Schools and libraries must certify to the Administrator that they have developed an approved technology plan via form 470. Copies of the forms may be obtained via email from: <www.neca.org>. Obligation to respond: Required to obtain benefits.

OMB Control No.: 3060–0804.

Expiration Date: 07/31/2001.

Title: Universal Service—Health Care Providers Universal Service Program.

Form No.: FCC Forms 465, 466, 467, and 468.

Respondents: Business or other for-profit.

Estimated Annual Burden: 18,400 respondents; 6.6 hours per response (avg.); 121,500 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: FCC Form 465—Description of Services Requested and Certification. All health care providers requesting services eligible for universal service support must file a Description of Services and Certification Form with the Administrator. Filing this form is the first step a health care provider must take to participate in the universal service program. The Administrator will then post a description of the services sought on a website for all potential competing service providers to see and respond to as if they were requests for proposals (RFPs). (No. of respondents: 12,000; hours per response: 2.5; total annual burden: 30,000 hours). FCC Form 466—Services Ordered and Certification. All health care providers ordering services that are eligible for universal service support must file a Services Ordered and Certification Form with the Administrator. 47 CFR Section 54.603(b)(4). FCC Form 466, Services Ordered and Certification will be used to ensure health care providers have selected the most cost-effective method of providing the requested services as set forth in 47 CFR Section 54.603(b)(4). FCC Form 466 is also the means by which an applicant informs the Administrator that it has entered a contract with a telecommunications service provider for services that are supported under the universal services support program. The administrator must receive this form before it can commit universal service funds to support the services for which the applicant has contracted. (No. of respondents: 15,000; hours per response: 1.5 hours; total annual burden: 22,500 hours). FCC Form 467, Receipt of Service Confirmation. All health care providers that are receiving supported telecommunications service must file this form with the Administrator. The data in the report will be used to ensure that health care providers are receiving the services they have contracted for with telecommunications service providers so that universal service support may be appropriate to the telecommunications service provider pursuant to 47 CFR Section 54.611. (No. of respondents: 12,000; hours per response: 1.5 hours; total annual burden: 18,000 hours). FCC Form 468, Telecommunications Service Providers Support. All health care providers ordering services eligible for universal service support must file this form. The data in the report will be used to ensure that health care providers have calculated the amount of universal service support as set forth in 47 CFR Section 54.609(b). Telecommunications carriers must complete Form 468 by indicating the rural and urban rates for the service they have provided and the amount of the discount for which they must be reimbursed, and return it to the

health care provider. The health care provider must attach it to Form 466 and file both forms with the administrator. (No. of respondents: 3400; hours per response: 1.5 hours; total annual burden: 51,000 hours (assuming 10 submissions per respondent)). These forms are used to administer the health care providers universal service program. The information is used primarily to determine eligibility. Copies of the forms may be obtained via e-mail from: <www.neca.org>. Obligation to respond: Required to obtain benefit.

OMB Control No.: 3060–0355.

Expiration Date: 07/31/2001.

Title: Rate of Return Reports.

Form No.: FCC Forms 492, 492A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 107 respondents; 8 hours per response (avg.); 856 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; annually.

Description: Filing of FCC Form 492 and FCC Form 492A is required by Sections 65.600 of the FCC Rules. Filing of the FCC Form 492 on an annual basis is required from each local exchange carrier or group of affiliated carriers which is not subject to Sections 61.41 through 61.49 of the Commission's Rules and which has filed individual access tariffs during the enforcement period. Each local exchange carrier or group of affiliated carriers subject to the previously stated sections shall file the FCC Form 492A report with the Commission for the calendar year. These carriers are also required to file within 15 months after the end of each calendar year a report reflecting any corrections or modifications. The forms are necessary to enable the Commission to monitor the access tariffs and price cap earnings, and to enforce rate of return prescriptions. A copy of each report must be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection. The date is used by staff members for enforcement purposes and by the public in analyzing the industry. The reports are also used by the Commission in the tariff review process and provide both the Commission and the carriers with an early warning system if rate adjustments are necessary to correct significant targeting errors. FCC Forms 492 and 492A are being revised to incorporate the new OMB expiration date and to make other adjustments. A public notice will be issued when the forms are available for public use. Obligation to respond: Mandatory.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19365 Filed 7–20–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Intralog, Inc., 1500 San Remo Avenue, Suite 253, Coral Gables, FL 33146, Officers: Dieter J. Bartels, President, Samuel J. Mow, Vice President

D.L. Wilco, 1001 Rio Bravo, Houston, TX 77064, Damon Lavelle Wilson, Sole Proprietor

Call Trans USA Inc. d/b/a Quality Express, Inc., 1360 Landmeier Road, Elk Grove, IL 60007, Officer: Hee Kyum Lee, President

Dated: July 15, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–19322 Filed 7–20–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 5, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Edward L. Clemons, Hazard, Kentucky; to acquire voting shares of Marie R. Turner Holding Company, Jackson, Kentucky, and thereby indirectly acquire Citizens Bank & Trust Company of Jackson, Jackson, Kentucky.

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19409 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 14, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Carolina First BancShares, Inc., Lincolnton, North Carolina; to acquire 100 percent of the voting shares of Community Bank & Trust Company, Marion, North Carolina.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Capitol Bancorp, Ltd., Lansing, Michigan; to acquire 51 percent of the voting shares of Detroit Commerce Bank (in organization), Detroit, Michigan.

2. Sun Community Bancorp Limited, Phoenix, Arizona, and Capitol Bancorp, Ltd., Lansing, Michigan; to acquire 51 percent of the voting shares of Mesa Bank, Mesa, Arizona (in organization).

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19408 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, 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 August 5, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Norwest Corporation, Minneapolis, Minnesota; to engage *de novo* through a joint venture subsidiary, DRH Mortgage, LLC, Corona, California, in residential mortgage lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 16, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19410 Filed 7–20–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 27, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19551 Filed 7–17–98; 3:36 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: FEDERAL TRADE COMMISSION.

TIME AND DATE: 2:00 p.m., Thursday, August 6, 1998.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public: (1) Oral Argument in Novartis Corporation, et al., Docket 9279.

Portions Closed to the Public: (2) Executive Session to follow Oral Argument in Novartis Corporation, et al. Docket 9279.

CONTACT PERSON FOR MORE INFORMATION: Victoria Streitfeld, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 98–19472 Filed 7–17–98; 10:20 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board Meeting

AGENCY: General Accounting Office.

ACTION: Notice of Meeting on August 6 and 7.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a two-day meeting on Thursday, August 6 and Friday, August 7, 1998, from 9:00 a.m. to 4:00 p.m. in Room 7C13, the Comptroller General's Briefing Room, of the General Accounting Office building, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss the following issues: (1) Management's Discussion and Analysis, (2) the Internal Revenue Service's request for amendments to the Accounting for Revenue and Other Financing Sources Standard, (3) the addition of new projects to the Board's agenda for 1998, (4) the Accounting for Internal Use Software Standard, (5) the Amendments to Accounting for Property, Plant, and Equipment Exposure Draft, and (6) the definition of ''probable.'' Also, the Board will hear a

presentation on early warning from representatives of the Advisory Council on Governmental Audit Standards.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: July 16, 1998.

Wendy M. Comes,

Executive Director.

[FR Doc. 98–19417 Filed 7–20–98; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period beginning July 7, 1998 through July 7, 2000.

For further information, contact the Management Analysis and Services Office, Committee Management and Program Panels Activity, CDC, Mailstop E–72, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404–639–6389 or fax 404–639–6290.

Dated: July 13, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19326 Filed 7–20–98; 8:45 am]

BILLING CODE 4861–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0515]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 20, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles—(21 CFR Part 226)—(OMB Control Number 0910–0154—Reinstatement)

Under section 501 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (CGMP) regulations for drugs, including Type A medicated articles. A Type A medicated article is a feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency.

Statutory requirements for CGMP's for Type A medicated articles have been codified under part 226 (21 CFR part 226). Type A medicated articles that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the act. Under part 226, a manufacturer is required to establish, maintain, and retain records for Type A medicated articles, including records to document procedures required under the manufacturing process to ensure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (i.e., batch and stability testing), and product distribution. This information is needed so that FDA can monitor drug usage and possible misformulation of Type A medicated articles. The information could also prove useful to FDA in investigating product defects when a drug is recalled. In addition, FDA will use the CGMP criteria in part 226 to determine whether or not the systems used by manufacturers of Type A medicated articles are adequate to ensure that their medicated articles meet the requirements of the act pertaining to safety and also meet the articles, claimed identity, strength, quality and purity, as required by section 501(a)(2)(B) of the act.

The respondents for Type A medicated articles are pharmaceutical firms that manufacture both human and veterinary drugs and commercial feed mills.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
226.42	200	120	24,000	0.75	18,000
226.58	200	120	24,000	1.75	42,000
226.80	200	120	24,000	0.75	18,000
226.102	200	120	24,000	1.75	42,000

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
226.110	200	120	24,000	0.25	6,000
226.115	200	120	24,000	1.00	24,000
Total burden hours					150,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the times required for record preparation and maintenance is based on agency communications with industry. Other information needed to calculate the total burden hours (i.e., manufacturing sites, number of Type A medicated articles being manufactured, etc.) are derived from agency records and experience.

Dated: July 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19312 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0546]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food And Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 20, 1998.

ADDRESSES: Submit written comments on the proposed collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following collection of information to OMB for review and clearance.

Food Labeling Regulations (21 CFR Parts 101, 102, 104, and 105)

FDA regulations in parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) require food producers to disclose to consumers and others specific information about themselves or their products on the label or labeling of their products. Certain of these regulations also require that food producers retain records establishing the basis for the information contained in the label or labeling of their products and provide those records to regulatory officials. Finally, certain regulations provide for submissions of information to FDA in the form of petitions or notices. These regulations were issued under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (FPLA) (15 U.S.C. 1453, 1454, and 1455) and of sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the act, which provides that a food product shall be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products sold in the United States are in compliance with the labeling provisions of the act and the FPLA. One purpose of this submission to OMB under the PRA is to consolidate all of the information collection provisions in these regulations into one submission to OMB for its review and approval.

Section 101.3 of FDA's food labeling regulations requires that the label of a food product in packaged form bear a statement of identity (i.e., the name of the product), including, as appropriate, the form of the food or the name of the food imitated. Section 101.4 prescribes the requirements for the declaration of ingredients on the label or labeling of food products in packaged form. Section 101.5 requires that the label of a food product in packaged form specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product. Section 101.9 requires that nutrition information be provided for all food products intended for human consumption and offered for sale, unless an exemption in § 101.9(j) applies to the product. Section 101.9(g)(9) provides for the submission to FDA of requests for alternative approaches to nutrition labeling. Finally, § 101.9(j)(18) provides for the submission to FDA of notices from firms claiming the small business exemption from nutrition labeling. Section 101.10 requires that restaurants provide nutrition information, upon request, for any food or meal for which a nutrient content claim or health claim is made. Section 101.12(e) provides that a manufacturer that adjusts the reference amount customarily consumed (RACC) of an aerated food for the difference in density of the aerated food relative to the density of the appropriate nonaerated reference food must be prepared to show FDA detailed protocols and records of all data that were used to determine the density-adjusted RACC. Section 101.12(g) requires that the label or labeling of a food product disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC. Section 101.12(h) provides for the submission of petitions to FDA to request changes in the reference amounts defined by regulation.

Section 101.13 requires that nutrition information be provided in accordance with the provisions of § 101.9 for any food product for which a nutrient content claim is made. Under some circumstances, § 101.13 also requires the disclosure of other types of information as a condition for the use of a nutrient content claim. For example, under § 101.13(j), if the claim compares

the level of a nutrient in the food with the level of the same nutrient in another ''reference'' food, the claim must also disclose the identity of the reference food, the amount of the nutrient in each food, and the percentage or fractional amount by which the amount of the nutrient in the labeled food differs from the amount of the nutrient in the reference food. Section 101.13(q)(5) requires that restaurants document and provide to appropriate regulatory officials, upon request, the basis for any nutrient content claims they have made for the foods they sell.

Section 101.14 provides for the disclosure of nutrition information in accordance with § 101.9 and, under some circumstances, certain other information as a condition for making a health claim for a food product. Section 101.15 provides that, if the label of a food product contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in both the foreign language and in English. Section 101.22 contains labeling requirements for the disclosure of spices, flavorings, colorings, and chemical preservatives in food products. Section 101.22(i)(4) sets forth reporting and recordkeeping requirements pertaining to certifications for flavors designated as containing no artificial flavors. Section 101.30 specifies the conditions under which a beverage that purports to contain any fruit or vegetable juice must declare the percentage of juice present in the beverage and the manner in which the declaration is to be made.

Section 101.36 requires that nutrition information be provided for dietary supplements offered for sale, unless an exemption in § 101.36(h) applies. Section 101.36(f)(2) cross-references the provisions in § 101.9(g)(9) for the submission to FDA of requests for alternative approaches to nutrition labeling. Also, § 101.36(h)(2) cross-references the provisions in § 101.9(j)(18) for the submission of small business exemption notices.

Section 101.42 requests that food retailers voluntarily provide nutrition information for raw fruits, vegetables, and fish at the point of purchase, and § 101.45 contains guidelines for providing such information. Also, § 101.45(c) provides for the submission of nutrient data and proposed nutrition labeling values for raw fruit, vegetables, and fish to FDA for review and approval.

Sections 101.54, 101.56, 101.60, 101.61, and 101.62 specify information that must be disclosed as a condition for making particular nutrient content claims. Section 101.67 cross-references requirements in other regulations for information declaration (§ 101.4) and disclosure of information concerning performance characteristics (§ 101.13(d)). Section 101.69 provides for the submission of a petition requesting that FDA authorize a particular nutrient content claim by regulation. Section 101.70 provides for the submission of a petition requesting that FDA authorize a particular health claim by regulation. Section 101.77(c)(2)(ii)(D) requires the disclosure of soluble fiber per serving in the nutrition labeling of a food bearing a health claim about the relationship between soluble fiber and a reduced risk of coronary heart disease. Section 101.79(c)(2)(iv) requires the disclosure of the amount of folate in the nutrition label of a food bearing a health claim about the relationship between folate and a reduced risk of neural tube defects.

Section 101.100(d) provides that any agreement that forms the basis for an exemption from the labeling requirements of section 403(c), (e), (g), (h), (i), (k), and (q) of the act be in writing and that a copy of the agreement be made available to FDA upon request. Section 101.100 also contains reporting and disclosure requirements as conditions for claiming certain labeling exemptions.

Section 101.105 specifies requirements for the declaration of the net quantity of contents on the label of a food in packaged form and prescribes conditions under which a food whose label does not accurately reflect the actual quantity of contents may be sold, with appropriate disclosures, to an institution operated by a Federal, State or local government. Section 101.108 provides for the submission to FDA of a written proposal requesting a temporary exemption from certain requirements of §§ 101.109 and 105.66 for the purpose of conducting food labeling experiments with FDA authorization.

Regulations in part 102 define the information that must be included as part of the statement of identity for particular foods and prescribe related labeling requirements for some of these foods. For example, § 102.22 requires that the name of a protein hydrolysate shall include the identity of the food source from which the protein was derived.

Part 104, which pertains to nutritional quality guidelines for foods, cross-references several labeling provisions in part 101 but contains no separate information collection requirements.

Part 105 contains special labeling requirements for hypoallergenic foods, infant foods, and certain foods represented as useful in reducing or maintaining body weight.

The disclosure and other information collection requirements in the above regulations are placed primarily upon manufacturers, packers, and distributors of food products. Because of the existence of exemptions and exceptions, not all of the requirements apply to all food producers or to all of their products. Some of the regulations affect food retailers, such as supermarkets and restaurants.

The purpose of the food labeling requirements is to allow consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables a consumer to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to FDA provide the basis for the agency to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable FDA to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the act or the FPLA.

In a notice published in the **Federal Register** of March 23, 1998 (63 FR 13862), FDA invited comments on the information collection provisions contained in its food labeling regulations in parts 101, 102, 104, and 105. FDA received no comments in response to that notice.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Total Annual Responses	Hours per Response	Total Hours	Total Operating, Capital or Maintenance Costs
101.3, 101.22, parts 102 and 104	17,000	17,500	0.5	8,750	0
101.4, 101.22, 101.100, parts 102, 104, and 105	17,000	17,500	1	17,500	0
101.5	17,000	17,500	0.25	4,375	0
101.9, 101.13(n), 101.14(d)(3), 101.62, and part 104	17,000	17,500	4	70,000	$1,000,000
101.9(g)(9) and 101.36(f)(2)	12	12	4	48	0
101.9(j)(18) and 101.36(h)(2)	8,600	8,600	8	68,800	0
101.10	265,000	397,500	0.25	99,375	0
101.12(e)	25	25	1	25	0
101.12(g)	5,000	5,000	1	5,000	0
101.12(h)	5	5	80	400	$400,000
101.13(d)(1) and 101.67	200	200	1	200	0
101.13(j)(2), 101.13(k), 101.54, 101.56, 101.60, 101.61, and 101.62	2,500	2,500	1	2,500	0
101.13(q)(5)	265,000	397,500	0.75	298,125	0
101.14(d)(2)	265,000	397,500	0.75	298,125	0
101.15	160	1,600	8	12,800	0
101.22(i)(4)	25	25	1	25	0
101.30 and 102.33	1,500	5,000	1	5,000	0
101.36	300	12,000	4	48,000	$15,000,000
101.42 and 101.45	72,270	72,270	0.50	36,135	0
101.45(c)	5	20	4	80	0
101.69	3	3	25	75	0
101.70	3	3	80	240	$400,000
101.77 (c)(2)(ii)(D)	1,000	1,000	0.25	250	0
101.79 (c)(2)(iv)	100	100	0.25	25	0
101.100(d)	1,000	1,000	1	1,000	0
101.105 and 101.100(h)	17,000	17,500	0.5	8,750	0
101.108	0	0	40	0	0
Total Burden Hours				985,603	16,800,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Respondents	Total Annual Records	Hours per Response	Total Hours	Total Operating, Capital or Maintenance Costs
101.12(e)	25	25	1	25	0
101.13(q)(5)	265,000	397,500	0.75	298,125	0
101.14(d)(2)	265,000	397,500	0.75	298,125	0
101.22(i)(4)	25	25	1	25	0
101.100(d)(2)	1,000	1,000	1	1,000	0
101.105(t)	100	100	1	100	0
Total Burden Hours				597,400	0

These estimates are based on FDA's ''Regulatory Impact Analysis of the Final Rules to Amend the Food Labeling Regulations,'' the agency's most recent comprehensive review of food labeling costs, that published in the **Federal Register** of January 6, 1993 (58 FR 2927), agency communications with industry, and FDA's knowledge of and experience with food labeling and the submission of petitions and requests to the agency. Where an agency regulation implements an information collection requirement in the act or the FPLA, only any additional burden attributable to the regulation has been included in FDA's burden estimate.

No burden has been estimated for those requirements where the information to be disclosed is information that has been supplied by FDA. Also, no burden has been estimated for that information that is disclosed to third parties as a usual and customary part of a food producer's normal business activities. Under 5 CFR 1320(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public is not a collection of information. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

Dated: July 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19313 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0517]

Development of Antimicrobial Drug Products; Development and Use of FDA Guidance Documents; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), Office of Drug Evaluation IV (ODE IV), is providing notice to drug manufacturers regarding its current plans for revising existing guidance documents and preparing new guidance documents on the development of antimicrobial drug products for the treatment of infections. ODE IV is reviewing, updating, consolidating, and revising its existing guidance documents and identifying topics for future guidance. The agency is requesting public comment on topics for future guidance development.

DATES: Written comments may be submitted by October 19, 1998. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of agency guidance documents can be obtained on the Internet at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Renata Albrecht, Center for Drug Evaluation and Research (HFD–590), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301–827–2336.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice explaining its policy for guidance document development, issuance, and use. The notice included an agency document entitled ''Good Guidance Practices'' (GGP's), which sets forth agency policies and procedures for developing, issuing, and using guidance documents. The GGP's emphasize the importance of gaining public input early in the guidance development process.

Since the 1970's the agency has issued guidance in a variety of forms to the pharmaceutical industry to facilitate the development of antimicrobial drug products. In addition to advice and guidance provided verbally during various industry and FDA meetings and other interactions between the regulated industry and FDA, or in individual letters written to sponsors, general written guidance has also been provided. In 1977, the agency issued guidance on the development of antimicrobial drug products entitled ''Clinical Evaluation of Anti-Infective Drugs (Systemic).'' In fulfillment of a contract from FDA, in November 1992, the Infectious Disease Society of America (IDSA) published its ''Guidelines for the Evaluation of Anti-Infective Drug Products'' in the supplement of ''Clinical Infectious Disease'' (formerly, ''Reviews of Infectious Diseases''). That same month, FDA's Division of Anti-Infective Drug Products issued ''Points to Consider: Clinical Development and Labeling of Anti-Infective Drug Products'' (1992) on issues related to evaluating new drug applications for anti-infective drug products. All of these documents contain information helpful for designing clinical trial protocols for evaluating the safety and effectiveness of new therapies to treat infections and gaining approval for supplemental indications.

In 1996, in an attempt to outline in more detail the elements the agency considers important when evaluating clinical studies, the agency initiated efforts to develop guidance that would provide investigators, academia, and industry with insight on those elements (often referred to as ''evaluability criteria'') considered important during the evaluation of clinical studies for antimicrobial drug products. In March 1997, an early draft guidance, entitled ''Evaluating Clinical Studies of Antimicrobials in the Division of Anti-Infective Drug Products,'' was discussed at an Anti-Infective Drug Products Advisory Committee meeting. That early draft contained an introduction and individual sections addressing 12 specific indications. Space was reserved to provide guidance at some later date on approximately 15 additional indications.

Since the 1997 advisory committee meeting, several events have occurred that affect how clinical trials are designed, conducted, evaluated, and reported and that are relevant to the revision and development of guidance on antimicrobial drug products. ODE IV, which includes the Division of Anti-Infective Drug Products, the Division of Special Pathogens and Immunologic Drug Products, and the Division of Anti-Viral Drug Products, reviewed all of its guidance documents and determined that certain revisions were necessary. In November 1997, the Food and Drug Administration Modernization Act of 1997 (Modernization Act) was enacted (Pub. L. 105–115); it contains several provisions related to drug development and will lead to additional agency guidance documents on a variety of subjects relating to clinical trial design and evaluation. For example, section 119 of the Modernization Act addresses meetings and agreements concerning the design and size of clinical trials. In addition, in May 1998, the agency published a guidance for industry entitled ''Providing Clinical Evidence of Effectiveness for Human Drugs and Biological Products'' (63 FR 27093, May 15, 1998) that fulfills certain requirements in section 403(b) of the Modernization Act and that also has implications for antimicrobial drug products.

ODE IV is continuing its efforts to develop comprehensive guidance on evaluability criteria by reviewing, updating, consolidating, and revising its existing guidance documents, taking into account these broader agency initiatives. Specifically, the office is deciding which elements of current guidance documents remain applicable, which elements need to be removed, which elements need to be updated, and which elements need to be added. In the process, all guidances are being developed consistent with the agency's GGP's.

Throughout the 1990's, ODE IV has approached the development of guidance in an open forum as part of its advisory committee process. It wishes to continue this public and transparent process for guidance document development. ODE IV generally expects to include advisory committee review as part of the process of reviewing and developing guidance for industry on antimicrobial drug development.

II. Guidance Development Plan

ODE IV has reviewed all existing, relevant documents. Within the next few months, ODE IV expects to issue a general draft guidance that addresses issues common to all indications and a series of companion draft guidances that address the following individual indications:

1. Uncomplicated urinary tract infections,
2. Uncomplicated skin and superficial skin structure infections,
3. Complicated skin and soft tissue infections,
4. Community-acquired pneumonia,
5. Nosocomial pneumonia,

6. Acute bacterial exacerbation of chronic bronchitis,
7. Secondary bacterial infection of acute bronchitis,
8. Acute otitis media,
9. Acute uncomplicated gonorrhea,
10. Acute sinusitus,
11. Complicated urinary tract infections and pyelonephritis,
12. Bacterial prostatitis,
13. Early Lyme disease,
14. Empiric therapy of febrile neutropenia,
15. Vulvovaginal candidiasis,
16. Streptococcal pharyngitis and tonsillitis,
17. Bacterial meningitis, and
18. Bacterial vaginosis.

Key aspects of these draft guidances will be discussed in a July 1998 advisory committee meeting. After the meeting, ODE IV will work toward finalizing these guidances.

The next step will involve developing draft guidance documents for the following proposed indications:
1. Nongonoccocal urethritis/cervicitis,
2. Endocarditis,
3. Uncomplicated intra-abdominal infections,
4. Complicated intra-abdominal infections,
5. Gynecologic infections (except sexually transmitted disease and pelvic inflammatory disease),
6. Pelvic inflammatory disease,
7. Osteomyelitis (acute and chronic),
8. Acute bacterial arthritis, and
9. Helicobacter pylori infections.

Once developed, the agency expects that it will release the guidances in draft for review and comment, with key elements discussed before the advisory committee.

ODE IV also is considering developing guidance during the next few years for the following agents:
1. Agents to treat opportunistic infections related to AIDS;
2. Antimycobacterial agents;
3. Antifungal agents;
4. Antiparasitic agents;
5. Immunologic/transplant agents;
6. Antiviral agents;
7. Dermatologic surgical scrubs, etc.;
8. Agents to treat sepsis/septic shock; and
9. Agents used in surgical prophylaxis.

As with the other guidances, it is expected that these guidances will first be issued in draft for review and comment and discussed before the advisory committee.

III. Comments

ODE IV is seeking suggestions and recommendations for future guidance development. Interested persons may submit 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 are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19319 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0358]

Determination of Regulatory Review Period for Purposes of Patent Extension; Flowmax™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Flowmax™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Flowmax™ (tamsulosin hydrochloride). Flowmax™ is indicated for the treatment of the signs and symptoms of benign prostatic hyperplasia (BPH). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Flowmax™ (U.S. Patent No. 4,703,063) from Yamanouchi Pharmaceutical Co., Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Flowmax™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Flowmax™ is 3,529 days. Of this time, 3,163 days occurred during the testing phase of the regulatory review period, 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: August 19, 1987. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on on August 19, 1987.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: April 15, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Flowmax™ (NDA 20–579) was initially submitted on April 15, 1996.

3. *The date the application was approved*: April 15, 1997. FDA has verified the applicant's claim that NDA 20–579 was approved on April 15, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 21, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 19, 1998, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 26, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–19379 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98N–0473, 98P–0275, 98P–0215, 98P–0216, and 98P–0338]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of petitions requesting exemption from the premarket notification requirements for certain class II devices. FDA is publishing this notice in order to obtain comments on these petitions in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Written comments by August 20, 1998.

ADDRESSES: Submit written comments on this notice to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA (Pub. L. 101–629)), devices are to be classified into class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) (generally referred to as preamendments devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendments devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act. Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that, 1 day after date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination

regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff.'' That guidance can be obtained through the World Wide Web on the CDRH Home Page at ''http://www.fda.gov/cdrh'' or by facsimile through CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. Specify ''159'' when prompted for the document shelf number.

III. List of Petitions

FDA has received the following petitions requesting an exemption from premarket notification for class II devices:

1. Sandhill Scientific Inc., 21 CFR 876.1725 *Gastrointestinal motility monitoring system*.

2. Welch Allyn, Inc., 21 CFR 886.1570 *Ophthalmoscope*.

3. Computerized Medical Systems, Inc., 21 CFR 892.5840 *Radiation therapy simulation system*, exemption requested only for Radiation Oncologist Data Entry Workstation.

4. Chemicon International Inc., 21 CFR 866.3175 *Cytomegalovirus serological reagents*, and 21 CFR 866.3900 *Varicella-zoster virus serological reagents*.

IV. Comments

Interested persons may, on or before August 20, 1998, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The petitions and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–19316 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0437]

New Model Medical Device Development Process; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration FDA is announcing the availability of a document entitled ''New Model Medical Device Development Process.'' In this document, FDA outlines a new model for the investigational device exemption (IDE) and premarket approval application (PMA) development and review process. FDA is issuing this document as part of its commitment to improve the IDE and PMA development and review process.

DATES: Written comments concerning this document must be received by October 19, 1998.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the document. Written comments concerning this document must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. Submit written requests for single copies on a 3.5'' diskette of ''New Model Medical Device Development Process'' to the Division of Small Manufacturers Assistance, Center for Devices and Radiological Health (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818.

FOR FURTHER INFORMATION CONTACT: Robert R. Gatling, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1220.

SUPPLEMENTARY INFORMATION:

I. Background

Despite a marked improvement in device approval times, FDA's Center for Devices and Radiological Health (CDRH) is committed to substantial improvement of the IDE application and PMA development and review process. Often FDA's involvement with the product has been greatest at the end of the process—during review of the PMA. The lack of early and effective FDA and sponsor interaction too often results in a PMA with significant flaws requiring repair, including development of additional data, and multiple cycles of PMA review. These cycles can be costly and time consuming both for the medical device industry and FDA and can delay marketing of new devices.

As part of its reengineering process, CDRH is proposing a new model for the development and review of such class III medical devices that includes three tracks: (1) ''Expedited'' review for devices which offer significant advantages over current therapy; (2) ''standard'' review for most devices; and (3) ''streamlined'' review for devices which are very well understood by both the sponsor and FDA.

The new model also encourages interaction between the agency and the applicant, including early agreement on the overall development plan, and offers modular submission and review building the application and administrative file over time.

The guidance document outlines why FDA believes that the model will lead to ''fast, fair, and smart'' decisions that bring safe and effective devices to market as early as possible.

This guidance document represents the agency's current thinking on expediting the IDE/PMA process. 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 applicable statute, regulations or both. FDA is issuing this as a Level 1 guidance document. Public comment prior to implementation is not required because the guidance is presenting a less burdensome policy that is consistent with the public health.

II. Electronic Access

In order to receive ''New Model Medical Device Development Process'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 1–800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1101) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer

with access to the Web. Updated on a regular basis, the CDRH home page includes ''New Medical Device Development Process'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 1–800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

III. Comments

Interested persons may, on or before October 19, 1998, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–19318 Filed 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0133]

Revised Guidance for Industry on Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997— Elimination of Certain Labeling Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised guidance for industry entitled ''Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997— Elimination of Certain Labeling Requirements.'' Section 126 of the Food and Drug Administration Modernization Act of 1997 (Modernization Act) amends the Federal Food, Drug, and Cosmetic Act (the act) to require, at a minimum, that prior to dispensing, the label of prescription products contain the symbol ''Rx only'' instead of the ''Caution: Federal law prohibits dispensing without prescription'' statement. In addition, the requirement that the labels of certain habit-forming drugs bear the statement ''Warning-May be habit forming'' has been repealed. The revised guidance changes the implementation schedule provided in the original guidance dated February 1998, and answers certain questions concerning implementation of these amendments.

DATES: Written comments may be submitted at any time.

ADDRESSES: Copies of this guidance for industry can be obtained on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/guidelines.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or to the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Jerry Phillips, Center for Drug Evaluation and Research (HFD–610), Food and Drug Administration, Office of Generic Drugs, 7500 Standish Pl., Rockville, MD 20855, 301–827–5846, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a revised guidance for industry entitled ''Implementation of Section 126 of the Food and Drug Administration Modernization Act of 1997— Elimination of Certain Labeling Requirements.'' Section 126 of Title I of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), signed into law by President Clinton on November 21, 1997, amends section 503(b)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353(b)(4)) to require, at a minimum, that prior to dispensing, the label of prescription products contain the symbol ''Rx only'' instead of the ''Caution: Federal law prohibits dispensing without prescription'' statement. In addition, section 502(d) of the act (21 U.S.C. 352(d)), that required the labels of certain habit-forming drugs to bear the statement ''Warning–May be habit forming'' is repealed. The amendments to section 503(b)(4) and the repeal of section 502(d) of the act became effective February 19, 1998.

FDA published a notice in the **Federal Register** of March 13, 1998, announcing the availability of the original guidance (63 FR 12473) and soliciting comments. Three comments on the guidance were submitted to the docket. In response to the comments, and to questions that were asked concerning the implementation of section 126 of the Modernization Act, FDA is issuing a revised guidance.

The revised guidance: (1) Describes the new prescription drug labeling requirements of the act as amended by the Modernization Act, (2) changes the implementation schedule previously described in the February 1998 guidance, and (3) answers certain frequently asked questions about the provision. The revised guidance advises that FDA does not intend to object if a sponsor of a currently approved product implements section 126 of the Modernization Act at the time of the next revision of its labels, or by February 19, 2003, whichever comes first, and reports these minor changes in the next annual report. For pending

(unapproved) full or abbreviated applications received by the agency prior to February 19, 1998, sponsors have until the time of next revision of their labels or by February 19, 2003, whichever comes first, to comply with the amendments and they must report these minor changes in their next annual report. The guidance also advises that full or abbreviated applications received by FDA after February 19, 1998, should provide labels and labeling in compliance with the amendments.

This revised guidance document represents the agency's current thinking on implementation of the elimination of certain labeling requirements. 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.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–19317 7–20–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–193]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; Title of Information Collection: '' An Important Message form Medicare.''and Supporting Regulations 42 CFR 466.78, 489.27, .20; *Form No.*: HCFA–R–193, OMB # 0938–0692; *Use:* Hospitals participating in the Medicare program have agreed to distribute '' An Important Message from Medicare'' to beneficiaries during each admission. Receiving this information will provide the beneficiary with some ability to participate and/ or initiate discussions concerning discussions affecting Medicare coverage or payment and about his or her appeal rights in response to any hospitals notice to the effect that Medicare will no longer cover continued care in the hospital. *Frequency:* Other, as needed; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit, Federal Government, State, Local, or Tribal Government; *Number of Respondents:* 6,700; *Total Annual Responses:* 11,000,000.; *Total Annual Hours:* 183,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–19386 Filed 7–20–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, called ''End-Stage Renal Disease (ESRD) Managed Care Demonstration System,'' HHS/HCFA/ OSP No. 09–70–0067. We have provided background information about the proposed new system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that the ''routine uses'' portion of the system be published for comment, HCFA invites comments on all portions of this notice.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Reform and Oversight of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on July 9, 1998. The new system of records, including routine uses, will become effective 40 days from the date submitted to OMB and the Congress, unless HCFA receives comments which require alteration to this notice.

ADDRESSES: The public should address comments to the HCFA Privacy Act Officer, Division of Freedom of Information & Privacy, Office of Information Services, Health Care Financing Administration, 7500 Security Boulevard, C2–01–11, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location by appointment, Monday through Friday 9 a.m.–3 p.m., eastern time zone.

FOR FURTHER INFORMATION CONTACT: Paul Eggers, Office of Strategic Planning, Health Care Financing Administration, 7500 Security Boulevard, C3–24–07, Baltimore, Maryland 21244–1850. His telephone number is (410) 786–6691.

SUPPLEMENTARY INFORMATION: The ESRD Managed Care Demonstration System data file contains information on beneficiaries enrolled in the ESRD Managed Care Demonstration. This information will be used by HCFA and its evaluation contractor to monitor and evaluate the demonstration. The system

will include information on utilization of specific health care services, cost and quality of those services, clinical outcomes and effectiveness of care, and patient satisfaction.

Primary data collected by the evaluator and the managed care organizations will be linked to HCFA administrative data to provide information necessary for monitoring and evaluating the demonstration and its interventions. The demonstration is designed to test the feasibility and effectiveness of the following:

- Removal of the barrier to ESRD enrollment. At present, ESRD-eligible beneficiaries cannot enroll in Medicare health maintenance organizations (HMOs) (although they may remain enrolled if they develop ESRD subsequent to enrollment). Under the demonstration, the sites will have year-round open enrollment of ESRD beneficiaries.
- ESRD-focused case management, and the potential benefits to patient, provider, and payer, with particular emphasis on whether outcomes of care are improved.
- Preventive and supportive interventions and more comprehensive benefit coverage for ESRD patients. Section 2355 of the Deficit Reduction Act of 1989, as amended, requires that HCFA pay the demonstration sites a capitation rate based on 100 percent of fee-for-service costs, rather than 95 percent. In order to justify receiving the additional 5 percent, the HMO is obliged to offer extra, non-Medicare-covered benefits beyond those that would have been available in the absence of the demonstration.
- An ESRD capitation rate that adjusts for patient age, cause of renal failure, treatment status, and services as an alternative to both fee-for-service and the current capitation rate for ESRD patients in HMOs, that is unadjusted for demographic or treatment factors.

Individual patient-level data will be collected and linked from a variety of sources, including, but not limited to: Surveys conducted by the evaluation contractor, including those using the Kidney Disease Quality of Life (KDQOL) instrument; data from the End-Stage Renal Disease (ESRD) Program Management and Medical Information System (PMMIS) maintained by HCFA; no-pay claims data submitted by the sites during the course of the demonstration; claims data on fee-for-service comparison patients; and clinical data in regard to dialysis adequacy measures, such as those collected by HCFA's core indicators studies.

The Privacy Act permits us to disclose information without the written consent of individuals for ''routine uses''—that is, disclosures that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criterion of the statute. We anticipate the disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 9, 1998.

Nancy-Ann Min DeParle,

Administrator.

09–70–0067

SYSTEM NAME:

End-Stage Renal Disease (ESRD) Managed Care Demonstration System, HHS/HCFA/OSP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Office of Information Services, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare ESRD beneficiaries enrolled in the ESRD Managed Care Demonstration and Medicare ESRD beneficiaries in comparison groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual-level information on demographics, utilization of specific health care services, cost and quality of those services, clinical outcomes and effectiveness of care, and patient satisfaction will be collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is section 2355 of the Deficit Reduction Act of 1984, Pub. L. 98–369, as amended by section 4207(b)(4) of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Pub. L. 101–508, and as amended by section 13567(b) of OBRA 1993, Pub. L. 103–66.

PURPOSE(S):

To collect and maintain information on beneficiaries enrolled in the ESRD Managed Care Demonstration, and ESRD beneficiaries in comparison groups, in order to monitor and evaluate the demonstration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify additional circumstances under which HCFA may release information from the ESRD Managed Care Demonstration System without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including, but not limited to, ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. Also, HCFA will require each prospective recipient of such information to agree in writing to certain conditions to ensure the continuing confidentiality and physical safeguards of the information. More specifically, as a condition of each disclosure under these routine uses, HCFA will, as necessary and appropriate:

(a) Determine that no other Federal statute specifically prohibits disclosure of the information;

(b) Determine that the use or disclosure does not violate legal limitations under which the information was provided, collected, or obtained;

(c) Determine that the purpose for which the disclosure is to be made:

(1) Cannot reasonably be accomplished unless the information is provided in individually identifiable form,

(2) Is of sufficient importance to warrant the effect on, or the risk to, the privacy of the individual(s) that additional exposure of the record(s) might bring, and

(3) There is a reasonable probability that the purpose of the disclosure will be accomplished.

(d) Require the recipient of the information to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized access, use, or disclosure of the record or any part thereof. The physical safeguards shall provide a level of security that is at least the equivalent of the level of security contemplated in OMB Circular No. A–130 (revised), Appendix III—*Security of Federal Automated Information Systems* which sets forth guidelines for security plans for automated information systems in Federal agencies;

(2) Remove or destroy the information that allows subject individual(s) to be identified at the earliest time at which removal or destruction can be accomplished, consistent with the purpose of the request;

(3) Refrain from using or disclosing the information for any purpose other than the stated purpose under which the information was disclosed; and

(4) Make no further uses or disclosure of the information, except:

(i) To prevent or address an emergency directly affecting the health or safety of an individual;

(ii) For use on another project under the same conditions, provided HCFA has authorized the additional use(s) in writing; or

(iii) When required by law;

(e) Secure a written statement or agreement from the prospective recipient of the information whereby the prospective recipient attests to an understanding of, and willingness to abide by the foregoing provisions and any additional provisions that HCFA deems appropriate in the particular circumstances; and

(f) Determine whether the disclosure constitutes a computer ''matching program'' as defined in 5 U.S.C. 552a(a)(8). If the disclosure is determined to be a computer ''matching program,'' the procedures for matching agreements as contained in 5 U.S.C. 552a(o) must be followed.

Disclosure may be made:

1. To a Congressional office, from the record of an individual, in response to an inquiry from the Congressional office made at the request of that individual;

2. To the Bureau of Census for use in processing research and statistical data directly related to the programs administered in whole or in part by HCFA;

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity, where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States, or any agency thereof, where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party or interest, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. To an individual or organization for a research, demonstration, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided.

5. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating automated information systems (ADP) software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for ADP or telecommunications systems containing or supporting records in the system.

6. To a peer review organization or ESRD network for health care quality improvement projects conducted in accordance with its contract with HCFA.

7. To state Medicaid agencies pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility of recipients of assistance under titles IV, XVIII, and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

8. To an agency of a state Government, or established by state law, for purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state.

9. To another Federal or state agency:

(a) To contribute to the accuracy of HCFA's proper payment of Medicare health benefits, including release to the Social Security Administration for its assistance in the implementation of HCFA's Medicare and Medicaid programs, or

(b) As necessary to enable such agency to fulfill a requirement of a Federal statute or regulation, or a state statute or regulation that implements a program funded in whole or in part with Federal funds.

10. To a HCFA contractor, including but not limited to, fiscal intermediaries and carriers under title XVIII of the Social Security Act, to administer some aspect of a HCFA-administered grant program, which program is or could be affected by fraud or abuse, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in such programs.

11. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States, including any state or local government agency, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse in a health benefits program funded in whole or in part by Federal funds.

12. To any entity that makes payment for, or oversees administration of, health services, for the purpose of preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating such fraud or abuse against such entity or the program or services administered by such entity, provided:

(a) Such entity enters into an agreement with HCFA to share knowledge and information regarding actual or potential fraudulent or abusive practices or activities regarding the delivery or receipt of health care services, or regarding securing payment or reimbursement for health care services, or any practice or activity that, if directed toward a HCFA-administered program, might reasonably be construed as actually or potentially fraudulent or abusive;

(b) Such entity does, on a regular basis, or at such times as HCFA may request, fully and freely share such knowledge and information with HCFA, or as directed by HCFA, with HCFA's contractors; and

(c) HCFA determines that it may reasonably conclude that the knowledge or information it has received or is likely to receive from such entity could lead to preventing, deterring, discovering, detecting, investigating, examining, prosecuting, suing with respect to, defending against, correcting, remedying, or otherwise combating fraud or abuse in the Medicare, Medicaid, or other health benefits program administered by HCFA or funded in whole or in part by Federal funds.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored on magnetic tapes and computer disks.

RETRIEVABILITY:

The records are retrieved by health insurance claim number.

SAFEGUARDS:

Access is limited to authorized HCFA personnel and HCFA contractor employees in the performance of their duties. HHS contractors and collaborating researchers are required to comply with the provisions of the Privacy Act, and are required to sign Assurance of Confidentiality Forms (or

Data Security Statements) that are kept on file by the contractor. For computerized records, safeguards established in accordance with Department standards and National Institute of Standards and Technology guidelines (e.g., security codes) will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; and HCFA Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A–130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained with identifiers as long as needed for program research.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Strategic Planning (OSP), Health Care Financing Administration, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

The subject individual should write the system manager, who will require the system name, health insurance claim number, and, for verification purposes, name, address, date of birth, and sex to ascertain whether or not the individual's record is in the system.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with the Department Regulation 45 CFR 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department Regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained from demonstration enrollees, and from the group health plans operating the demonstration and their participating providers. These data will be linked with HCFA administrative data, such as claims and enrollment data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–19376 Filed 7–20–98; 8:45 am]

BILLING CODE 4120–03–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 meeting of the SAMHSA Special Emphasis Panel II in July 1998.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and 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 contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: July 22, 1998.

Place: Parklawn Building, Room 12–94, 5600 Fishers Lane, Rockville, MD 20857.

Closed: July 22, 1998, 9:00 a.m.—adjournment.

Contact: Joan Harrison, Room 12C–05, Parklawn Building, Telephone: (301)594–2811 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: July 15, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–19377 Filed 7–20–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panels I and II and the Center for Substance Abuse Treatment National Advisory Council in August 1998.

The Special Emphasis Panel I will meet and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the 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, § 10(d).

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and 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.

Committee Name: SAMHSA Special Emphasis Panel I.

Meeting Date: August 3–6, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway,Arlington, VA 22202.

Closed: August 3, 1998, 9:00 a.m.—5:00 p.m.; August 6, 1998, 9:00 a.m.—adjournment.

Contact: Peggy Thompson, Room 17–75, Parklawn Building, Telephone: (301) 443–5062 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.

The Special Emphasis Panel I will have another meeting and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the 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, § 10(d).

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and 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.

Committee Name: SAMHSA Special Emphasis Panel I.

Meeting Date: August 4–5, 1998.

Place: Hyatt Regency at Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Closed: August 4, 1998, 9:00 a.m.—5:00 p.m.; August 5, 1998, 9:00 a.m.—adjournment.

Contact: Barbara D. Bates, Room 17–89, Parklawn Building, Telephone: (301) 443–2090 and FAX: (301) 443–3437.

The Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet by teleconference and the meeting will include the review, discussion and evaluation of individual contract proposals and discussion of information about the Center's procurement plans. Therefore, the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact below whose name and telephone number are listed.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: August 12, 1998.

Place: Center for Substance Abuse Treatment, 5515 Security Lane—6th Floor Conference Room, Suite 617, Rockville, MD 20852.

Type: Closed: August 12, 1998—2:30—3:30 p.m.

Contact: Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–8923, and FAX: (301) 480–6077.

The SAMHSA Special Emphasis Panel II will meet by teleconference and the meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, the 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, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: August 18, 1998.

Place: Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, MD 20857.

Closed: August 18, 1998, 2:00 p.m.—3:20 p.m.

Contact: Lionel *Fernandez,* Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 983–9350 and FAX: (301) 443–3437.

Dated: July 15, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–19378 Filed 7–20–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–28]

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:* August 20, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 15, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Evaluation of the Fair Housing Election Process.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and its Proposed Use: Evaluation of the choice made by complainants to pursue their Title VIII compliant through the HUD Administrative Process by going to Federal Courts will require interviews of complainants and respondents about the reasons for their choices.

Form Number: None.

Respondents: Individuals or Households and Business or Other-For-Profit.

Frequency of Submission: One-Time Submission.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Complainants	500		1		.50		250
Respondents	500		1		.42		210

Total Estimated Burden Hours: 460.

Status: New Collection.

Contact: Judson J. James, HUD, (202) 708–3700 x5707, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 15, 1998.

[FR Doc. 98–19413 Filed 7–20–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4369–N–06]

Announcement of OMB Approval Number for Technical Assistance for Community Planning and Development Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to Technical Assistance for Community Planning and Development Programs.

FOR FURTHER INFORMATION CONTACT:

Penelope G. McCormack, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–3176. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to Technical Assistance for Community Planning and Development Programs. The OMB approval number for this information collection is 2506–0166, which expires on June 30, 2001.

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.

Dated: July 15, 1998.

Kenneth Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 98–19412 Filed 7–20–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Notice for Publication; F–14908–A; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Sitnasuak Native Corporation for 0.614 acre. The lands involved are in the vicinity of Nome, Alaska.

The Court House lot and School lot, within U.S. Survey No. 451.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in *The Nome Nugget.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 20, 1998 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Katherine L. Flippen,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98–19354 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW140724]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

July 2, 1998.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W140724 for lands in Johnson County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements of reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW140724 effective March 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–19321 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ030–1020–00–241A; AZA 22796]

Arizona: Reconveyed Lands Opened to Entry—Mohave, Yavapai Counties

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following-described lands were reconveyed to the U.S. under the provisions of Sec. 206 of the Federal Land Policy and Management Act of 1976, on March 9, 1988. This order will open the lands to entry under the general mining laws and the mineral leasing laws.

Gila and Salt River Meridian, Arizona

T. 11 N., R. 8 W.,
- Sec. 6, portion of lots 6, 7, and 8 lying southwest of Hwy 93;
- Sec. 7, lots 2 to 8 incl., and portion of lot 1 lying southwest of Hwy 93;
- Sec. 8, portion of W½ and SW¼SE¼ lying southwest of Hwy 93;
- Sec. 16, portion SW¼ lying southwest of Hwy 93;
- Sec. 17, portion lying southwest of Hwy 93;
- Sec. 18, lots 1 to 8, incl.;
- Sec. 19, lots 1 to 4, incl.;
- Sec. 20, N½;
- Sec. 21, portion of NW¼ lying southwest of Hwy 93.

T. 11 N., R. 9 W.,
- Sec. 1, lots 3, 4, and portion of lots 1, 2, S½N½, S½ lying southwest of Hwy 93 and outside of Arrastra Mountain Wilderness;
- Sec. 2, portion of lots 1, 2, and S½NE¼ outside of Arrastra Mountain Wilderness;

Sec. 12, E½ and portion of W½ outside Arrastra Mountain Wilderness;
Sec. 13, portion of E½ and NE¼NW¼ outside Arrastra Mountain Wilderness;
T. 12 N., R. 9 W.,
Sec. 5, portion of SW¼ lying southwest of Hwy 93;
Sec. 6, lots 3 to 6 incl., E½SW¼, and portion lot 2 and SE¼ southwest of Hwy 93;
Sec. 7, lots 1 to 4, incl., E½, E½W½;
Sec. 8, portion lying southwest of Hwy 93;
Sec. 17, All;
Sec. 18, lots 1 to 3, incl., NE¼, E½NW¼, and portion of lot 4 and S½ outside of Arrastra Mountain Wilderness;
Sec. 19, portion of E½ and E½NW¼ outside of Arrastra Mountain Wilderness;
Sec. 20, All;
Sec. 26, portion of S½NW¼ and S½ lying southwest of Hwy 93;
Sec. 29, lots 1 to 6, incl., E½E½, SW¼SE¼, and portion of W½W½ and SE¼SW¼ outside of Arrastra Mountain Wilderness;
Sec. 30, portion of E½NE¼ outside of Arrastra Mountain Wilderness;
Sec. 35, portion of NE¼ lying southwest of Hwy 93, and portion of W½ and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 36, portion of W½ and SE¼ lying southwest of Hwy 93.
T. 13 N., R. 9 W.,
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 7, incl., E½, E½W½;
Sec. 8, All;
Sec. 31, lots 3, 4, and portion of lots 1, 2, E½W½ and SE¼ southwest of Hwy 93.
T. 14 N., R. 9 W.,
Sec. 30, lots 1 to 4, incl., E½, E½W½ (including MS 4578 within sec.);
Sec. 31, lots 1 to 4, incl., E½, E½W½;
Sec. 32, W½, W½SE¼.
T. 12 N., R. 10 W.,
Sec. 3, lots 1 to 4, incl., and portion of S½ outside of Arrastra Mountain Wilderness;
Sec. 4, lot 1, and portion of lots 2, 3, 4, and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 5, portion of lots 1 to 4 outside of Arrastra Mountain Wilderness;
Sec. 6, portion of lots 1, 2, and SE¼ outside of Arrastra Mountain Wilderness;
Sec. 10, portion of NE¼NE¼NE¼ outside of Arrastra Mountain Wilderness;
Sec. 11, portion of N½N½ outside of Arrastra Mountain Wilderness;
Sec. 12, E½, and portion of W½ outside of Arrastra Mountain Wilderness;
Sec. 13, portion of N½ and SE¼ outside of Arrastra Mountain Wilderness.
T. 13 N., R. 10 W.,
Sec. 2, lots 1 to 5, incl., lot 7, S½N½, and E½SE;
Sec. 16, All;
Secs. 32 to 35, incl.
T. 14 N., R. 10 W.,
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 23, All;
Sec. 24, S½;
Sec. 31, lots 1 to 4, incl., E½, E½W½;
Secs. 32 to 34, incl., and sec. 36.

All descriptions according to the official plats on file at the Bureau of Land Management.

SUPPLEMENTARY INFORMATION: At 9 a.m. on August 20, 1998 the lands described above will be opened to entry under the general mining laws and the mineral leasing laws, subject to valid existing rights and requirements of applicable laws. Opening these lands to mineral entry is in conformance with the Kingman Field Office Resource Management Plan, as amended and approved March 7, 1995. Appropriation of the above-described lands under the general mining laws or mineral leasing laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. All applications and offers received prior to 9 a.m. on August 20, 1998, will be considered as simultaneously filed as of that time and date. Applications and offers received thereafter shall be considered in the order of filing. The above-described lands remain closed to all other forms of appropriation.

FOR FURTHER INFORMATION CONTACT: John Thompson, Geologist, or Janna Paronto, Land Law Examiner, Kingman Field Office, Bureau of Land Management, 2475 Beverly Avenue, Kingman, AZ 86401–3629, (520) 692–4400.

Dated: July 9, 1998.

Mary Jo Yoas,

Supervisor, Lands and Minerals Operations.

[FR Doc. 98–19320 Filed 7–20–98; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

Silicon Metal From Argentina, Brazil, and China

AGENCY: United States International Trade Commission (Commission).

ACTION: Request for comments regarding the institution of section 751(b) review investigations concerning the Commission's affirmative determinations in the following investigations:

Country	Action taken by the Commission		Action taken by the Dept. of Commerce			
	Investigation No.	Determination publication date	Federal Register citation	Order No.	Date of order	Federal Register citation
Argentina	731–TA–470	09/25/91	56 FR 48577	A–357–804	09/26/91	56 FR 48779
Brazil	731–TA–471	08/07/91	56 FR 37572	A–351–806	07/31/91	56 FR 36135
China	731–TA–472	06/12/91	56 FR 27033	A–570–806	06/10/91	56 FR 26649

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of investigations pursuant to section 751(b) of the Tariff Act of 1930 (the Act),[1] to review the affirmative determinations of the Commission in the above investigations. The purpose of the proposed review investigations is to determine whether revocation of the existing antidumping orders on imports of silicon metal from Argentina, Brazil, and China is likely to lead to continuation or recurrence of material injury.[2] Silicon metal is provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the

[1] 19 U.S.C. 1675(b).

[2] 19 U.S.C. 1675(b)(2)(A).

Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at http://www.usitc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 23, 1998, the Commission received a request to review its affirmative determinations concerning silicon metal from Argentina, Brazil, and China (the request), in light of changed circumstances, pursuant to section 751(b) of the Act.[3] The request was filed by counsel on behalf of General Motors Corp. (GM), Detroit, MI. GM is an importer of silicon metal.

The alleged changed circumstances in the request include: (1) Structural changes in demand for silicon metal since the original investigations, (2) the development of evidence regarding a silicon metal price-fixing conspiracy, and (3) the extent to which price fixing in the ferrosilicon market may have affected the Commission's silicon metal investigations and determinations.

Written Comments Requested

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure,[4] the Commission requests comments concerning whether the alleged changed circumstances are sufficient to warrant institution of review investigations.

Written Submissions

In accordance with section 201.8 of the Commission's rules,[5] the signed original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 500 E Street, SW, Washington, DC 20436. All comments must be filed no later than August 21, 1998, which is at least 30 days after the date of publication of this notice in the **Federal Register**. The Commission's determination regarding initiation of review investigations is due within 30 days of the close of the comment period. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under section 201.6 of the Commission's rules.[6] Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top ''Confidential Business Information.'' The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the non-confidential version of the request and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–205–2000.

Issued: July 15, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–19357 Filed 7–20–98; 8:45 am]

BILLING CODE 7020–02–P

[3] 19 U.S.C. 1675(b).

[4] 19 CFR 207.45(b).

[5] 19 CFR 201.8.

[6] 19 CFR 201.6.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on July 9, 1998, a Consent Decree was lodged in *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, with the United States District Court for the District of Maryland.

The Consent Decree resolves claims against George P. Garratt III under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, with respect to the Drumco Superfund Site (''Drumco Site'') located in Baltimore and in Anne Arundel County, Maryland. Pursuant to the terms of the Consent Decree, Garratt is required to sell the Site property, and upon completion of the sale, pay a minimum of 65 percent of the proceeds, or $140,000 whichever is greater, to the United States.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, Ref. No. 90–11–2–1140. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Maryland, 604 United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $9.00 (twenty-five cents per page reproduction costs) for the Consent Decree, payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19384 Filed 7–20–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed Consent Decree (''Decree'') in *United States* v. *Lamb-Weston, Inc.*, Civil Action No. 98–0280–S–LMB, was lodged on July 1, 1998, with the United States District Court for the District of Idaho.

The complaint alleges that defendant Lamb-Weston, Inc. (''Lamb-Weston'') violated the New Source Performance Standards (''NSPS''), 40 C.F.R. Part 60, Subparts A and Db, at its potato processing plants in American Falls, and Twin Falls, Idaho (collectively ''the Plants''). The Plants are affected facilities as defined in the NSPS, which require: notification of construction, anticipated startup, and actual startup of affected facilities; performance testing of affected facilities; monitoring of emissions from affected facilities; and maintenance of records of such monitoring. Lamb-Weston failed to timely comply with these requirements at the Plants, as required by Sections 111 and 113 of the Clean Air Act (''CAA''), 42 U.S.C. 7411 and 7413.

Under the proposed Decree, Lamb-Weston shall pay the United States a civil penalty of $160,000. Lamb-Weston will also complete two supplemental environmental projects (''SEPs''), at a cost of approximately $364,000. Lamb-Weston's first SEP is replacement of a burner at its American Falls plant with a Low-NO_X Burner that will reduce NO_X emissions at that plant by at least 40 percent. Lamb-Weston's second SEP is the design, construction and operation of a wastewater recycling system at its Twin Falls plant. Currently, Lamb-Weston uses a silt water system to transport whole potatoes from the Twin

Falls Facility truck receiving area to other parts of that facility. The water removes dirt and silt from the potatoes as it washes and transports them. Lamb-Weston, Inc. then discharges this dirt- and silt-laden water to the publicly owned treatment works (''POTW''). The wastewater recycling system will reduce the amount of water used by and silt water discharged from the silt water system at the Twin Falls Facility by 45 percent, as well as improve the quality of silt water discharged from the silt water system at the facility by reducing the amount of total suspended solids in the discharge by 45 percent. Lamb-Weston further agrees to operate the Low-NO_X Burner and the wastewater recycling system for at least two years after the effective date of the proposed Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lamb-Weston, Inc.,* DOJ Ref. #90–5–2–1–2129.

The proposed consent decree may be examined at the office of the United States Attorney, 877 West Main Street, Suite 200, Boise, ID 83702, 208–334–1211; the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, 206–553–1218; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19385 Filed 7–20–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1943–98; AG Order No. 2169–98]

Requirement for Registration and Fingerprinting of Certain Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice consolidates and replaces two prior notices requiring the registration and fingerprinting of certain nonimmigrants. The prior notices were published in response to continuing concern for national security resulting from terrorist attacks and uncovered plots directed by nationals of certain countries. This consolidation of prior notices allows more flexibility in the publication of such notices and clarifies the Attorney General's authority to exempt certain nationals from countries listed in this notice when such action is deemed to be in the interest of foreign policy or national security.

EFFECTIVE DATES: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Counterterrorism Coordinator, Office of Field Operations, Immigration and Naturalization Service, 425 I Street, NW., Room 7125, Washington, D.C. 20536, telephone (202) 305–3396.

SUPPLEMENTARY INFORMATION: On January 16, 1991, the Department of Justice published a Final Rule in the **Federal Register** at 56 FR 1566 requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents who apply for admission to the United States. The requirement was promulgated in response to the United States' condemnation of Iraq's invasion of Kuwait, United States' sanctions against Iraq, and the theft of thousands of Kuwaiti passports during the occupation of Kuwait by Iraq, all of which heightened the potential for domestic anti-United States terrorist activities. On December 23, 1993, the Department published an Interim Rule in the **Federal Register** at 58 FR 68024 that removed the requirement for the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents and added a new paragraph (f) to 8 CFR 264.1. Paragraph (f) of that section provides that the Attorney General may require, by public notice in the **Federal Register**, certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival in the United States, pursuant to section 263(a)(6) of the Immigration and Nationality Act, as amended.

Under the authority of 8 CFR 264.1(f), the Department published a notice entitled Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iranian and Libyan Travel Documents in the **Federal Register** at 61 FR 46829 (September 5, 1996) and a notice entitled Requirement for the Registration and Fingerprinting of Certain Nonimmigrants Bearing Iraqi and Sudanese Travel Documents in the **Federal Register** at 58 FR 68157 (December 23, 1993). This notice replaces and consolidates these prior notices.

Notice of Requirement for Registration and Fingerprinting of Certain Nonimmigrants

Pursuant to 8 CFR 264.1(f), I hereby order as follows: nonimmigrant aliens from the following countries shall be registered on Form I–94 (Arrival/Departure Record), photographed, and fingerprinted on Form FD–258 (Fingerprint Chart) by the Immigration and Naturalization Service at the Port of Entry where the aliens apply for admission to the United States: Iran; Libya; Iraq; and Sudan.

Nonimmigrants who apply for admission under section 101(a)(15)(A) or 101(a)(15)(G) of the Immigration and Nationality Act, as amended, are exempt from the requirements of this notice. In addition, the Attorney General, after consultation with the Secretary of State, may exempt certain nonimmigrants who are nationals of the countries listed herein from the requirements of this notice when such action is deemed to be in the interest of foreign policy or national security. Nothing in the foregoing sentence may be construed as creating a right to apply for or receive such an exemption

Dated: July 17, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–19499 Filed 7–17–98; 12:31 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Legal Identity

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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed revision of the information collection related to the Notification of Legal Identity. MSHA 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before September 21, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Mrs. Theresa M. O'Malley, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR part 41 implements this requirement and provides for the mandatory use of MSHA Form 2000–7, Legal Identity Report, for notifying MSHA of the legal identity of the mine operator. The legal identity for a mine operator is fundamental to enable the Secretary to properly ascertain the identity of persons charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership and statutory considerations regarding penalty assessment, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Act. MSHA is including 30 CFR Sections 41.10, 41.11 and 41.12 for regulatory clarification. These references do not change or increase the reporting or paperwork burden requirements.

II. Current Actions

MSHA uses the information to properly ascertain the identity of persons chargeable with violations of mandatory safety and health standards and in the assessment of civil penalties. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Notification of Legal Identity.

OMB Number: 1219–0008.

Agency Number: MSHA Form 2000–7.

Recordkeeping: Source documents are required for as long as the mine is in operation.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR Section 41.10, 41.11, 41.12 and 41.20.

Total Respondents: 14,000 mine operators.

Frequency: On occasion.

Total Responses: 6307.

Average Time per Response: 23 minutes.

Estimated Total Burden Hours: 2,447.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $2,018.24.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19351 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Rock Burst Control Plan

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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Rock Burst Control Plan. MSHA 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before August 20, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Mrs. Theresa O'Malley, Program Analysis Office, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

When rock bursts occur in an underground mine, they pose a serious threat to the safety of miners in the area affected by the burst. These bursts may reasonably be expected to result in the entrapment of miners, death, and serious physical harm. Recent mining technology has disclosed scientific methods of monitoring rock stresses which will allow the prediction of an oncoming burst. These predictions can be used by the mine operator to move miners to safer locations and to establish areas which need relief drilling.

Title 30 Section 57.3461 requires operators of underground metal and nonmetal mines to develop a rock burst control plan within 90 days after a rock burst has been experienced.

II. Current Actions

This information collection needs to be extended to provide for the protection of miners from entrapment, death, or serious physical harm in metal an nonmetal underground mines with a history of rock bursts.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Rock Burst Control Plan.

OMB Number: 1291–0097.

Agency Number: MSHA 417.

Record keeping The control plan must be maintained at all times and updated as conditions warrant.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc.: 30 CFR Section 57.3461.

Total Respondents: 2 per year.

Frequency: On occasion.

Total Responses: 2 per year.

Average Time per Response: 12 hours.

Estimated Total Burden Hours: 24 burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $864.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19352 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Respirator Program Records

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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to respirator program records. MSHA 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 in 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before September 21, 1998.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: Theresa O'Malley, Program Analysis Office, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at tomally@msha.gov (Internet E-mail), (703) 235–1370 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a)(7) of the Mine Act mandates in part that mandatory standards prescribe the use of protective equipment where appropriate to protect miners against hazards. Where protective equipment or respirators are required because of exposure to harmful substances, MSHA must ensure that such equipment offers adequate protection for workers. A written respirator program that addresses such issues as selection, fitting, use, and maintenance of respirators is essential

for ensuring that workers are properly and effectively using the equipment. Records of fit-testing and essential for determining that the worker is wearing the proper respirator.

Title 30 CFR Sections 56.5005 and 57.5005 require metal and nonmetal mine operators to institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning and use of respirators. To control those occupational diseases caused by breathing air contaminated with harmful dusts, fumes, mists, gases, or vapors, the primary objective is to prevent atmospheric contamination. MSHA's current policy, as prescribed by regulation, is to require that this be accomplished by feasible engineering and administrative control measures. When effective controls are not feasible, or while they are being instituted, or during occasional entry into hazardous atmospheres to perform maintenance or investigations, appropriate respirators are to be used in accordance with established procedures protecting the miners.

Sections 56.5005 and 57.5005 incorporate by reference requirements of the American National Standards Institute (ANSI Z88.2–1969). These incorporated requirements mandate that miners who must wear respirators be fit-tested to the respirators that they will use. Certain records are also required to be kept in connection with respirators, including records of the date of issuance of the respirator, and fit-test results. The fit-testing records are essential for determining that the worker is wearing the proper respirator.

II. Current Actions

The mine operator uses the information to properly issue respiratory protection to miners when feasible engineering and/or administrative controls do not reduce the exposure to permissible levels. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the one for which that individual received a tight fit. MSHA uses the information to determine compliance with the standard.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Respirator Program Records.

OMB Number: 1219–0048.

Agency Number: MSHA 404.

Record keeping: None.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR Sections 56.5005 and 57.5005.

Total Respondents: 600.

Frequency: As required.

Total Responses: 15,900.

Average Time per Response: 5 hours and 20 minutes.

Estimated Total Burden Hours: 3,973 hours.

Cite/Reference	Total respondents	Frequency (per year)	Total responses	Average time per response (hours)	Burden (hours)
Program Requirements	600	12	7,200	5.000	3,000
Fit Test	1,500	1	1,500	.250	375
ANSI Recordkeeping	600	12	7,200	.083	598
Totals	2,700		15,900	5.353	3,973

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintaining): $131,666.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 15, 1998.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 98–19353 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Retirement Plan Leakage—Cashing In Your Future from ERISA Employer-Sponsored Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, August 12, 1998, of the Retirement Plan Leakage—Cashing in Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distribution, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to continue taking testimony on the import of these ''pension preservation'' issues.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8733. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC this 15th day of July, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Administration.

[FR Doc. 98–19348 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How to Enhance and Encourage the Establishment of Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Tuesday, August 11, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 4:00 p.m., is for Working Group members to continue taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC this 15 day of July 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–19349 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Tuesday, August 11, 1998, in Room N–4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to continue taking testimony on the topic.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before August 4, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by August 4, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before August 4.

Signed at Washington, DC, this 15th day of July, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98–19350 Filed 7–20–98; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–097)]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee.

DATES: Wednesday, August 12, 1998, 9:00 a.m. to 4:30 p.m.; and Thursday, August 13, 1998, 8:00 a.m. to 11:30 a.m.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics and Space Transportation Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics and Space Transportation Technology Overview
—Subcommittee Reports
—Strategic Management Framework
—University Strategy Recommendations
—NASA's Aviation Environmental Compatibility Research

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: July 15, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–19380 Filed 7–20–98; 8:45 am]

BILLING CODE 7501–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 63, No. 134/Tuesday, July 14, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, July 21, 1998.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required amending the agenda to delete the following item:

6808A: Pipeline Accident Summary Report: National Gas Pipeline Rupture and Fire During Dredging, Tiger Pass, Louisiana, October 23, 1996.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: July 17, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–19511 Filed 7–17–98; 3:32 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company; Susquehanna Steam Electric Plants, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–14 and NPF–22, issued to Pennsylvania Power and Light Company, (the licensee), for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application dated August 1, 1996, as supplemented by letters dated November 26, 1997, January 6, March 2, April 24, and June 18, 1998. The proposed amendments will replace the SSES, Units 1 and 2, Current Technical Specifications (CTSs) in their entirety with Improved Technical Specifications (ITSs) based on Revision 1 to NUREG–1433, ''Standard Technical Specifications-General Electric Plants BWR/4'' dated April 1995.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of Technical Specifications (TS). The Commission's ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' (52 Fed. Reg. 3788, February 6, 1987), and later the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' 58 FR 39132 (July 22, 1993), formalized this need. To facilitate the development of individual improved TSs, each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS). For General Electric plants, the STS are published as NUREG–1433, and this document was the basis for the new SSES, Units 1 and 2 TSs. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion to the STS by operating plants.

Description of the Proposed Change

The proposed revision to the TSs is based on NUREG–1433 and on guidance provided in the Final Policy Statement. Its objective is to completely rewrite, reformat, and streamline the CTS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to the NUREG, portions of the CTS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the OG.

The proposed changes from the existing CTS, can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operators personnel. They are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Every section of the SSES, Units 1 and 2 CTS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG–1433 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the SSES, Units 1 and 2 CTS. The CTS items that are being relocated to licensee-controlled documents are not required to be in the TSs under 10 CFR 50.36 and do not meet any of the four criteria in the Commission's Final Policy Statement for inclusion in the TSs. They are not needed to obviate the possibility that an abnormal situation or event will give rise to an immediate threat to the public health and safety. The NRC staff has concluded that appropriate controls have been established for all of the current specifications, information, and requirements that are being moved to licensee-controlled documents. In general, the proposed relocation of items in the SSES, Units 1 and 2, CTS to the Final Safety Analysis Report (FSAR), appropriate plant-specific programs, procedures and ITS Bases follows the guidance of the General Electric STS (NUREG–1433). Once these items have been relocated by removing them from the CTS to licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms, which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed SSES, Units 1 and 2 ITSs items that are either more conservative than corresponding requirements in the SSES, Units 1 and 2, CTS or are additional restrictions that are not in the SSES, Units 1 and 2, CTS, but are contained in NUREG–1433. Examples of more restrictive requirements include: placing a Limiting Condition of Operation (LCO) on plant equipment that is not required by the CTS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements are relaxations of corresponding requirements in the SSES, Units 1 and 2, CTS that provide little or no safety benefit and place unnecessary burdens on the licensee. These relaxations were the result of generic NRC actions or other analyses. They have been justified on a case-by-case basis for SSES, Units 1 and 2, as will be described in the staff's Safety Evaluation to be issued with the license amendment, which will be noticed in the **Federal Register**.

In addition to the changes described above, the licensee proposed certain changes to the CTS that deviated from the STS in NUREG–1433. These additional proposed changes are described in the licensee's application and in the staff's Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing (61 FR 56972) published in the **Federal**

Register on November 5, 1996. Where these changes represent a change to the current licensing basis for SSES, Units 1 and 2, they have been justified on a case-by-case and will be described in the staff's safety evaluation to be issued with the license amendment.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed TS conversion would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

Changes that are administrative in nature would have no effect on the technical content of the TSs and are acceptable. The increased clarity and understanding these changes bring to the TSs are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to licensee-controlled documents would not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1433 and the Final Policy Statement, and, therefore, are acceptable.

Changes involving more restrictive requirements would be likely to enhance the safety of plant operations and are acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burdens on plant operations, those requirements have been relaxed in an overall effort to enhance safety. The changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for the amendment. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the SSES, Units 1 and 2, dated June 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on June 19, 1998, the staff consulted with the Pennsylvania State official, Mr. M. Mangi of the Pennsylvania Department of Environmental Protection Bureau, Division of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 1, 1996, as supplemented by letters dated November 26, 1997, January 6, March 2, April 24, and June 18, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Dated at Rockville, Maryland, this 15th day of July 1998.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19364 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Potential for Degradation of the Emergency Core Cooling System and the Containment Spray System After a Loss-of-Coolant Accident Because of Construction and Protective Coating Deficiencies and Foreign Material in Containment; Issue

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter (GL) 98–04 to all holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, to alert licensees to the fact that foreign material continues to be found inside operating nuclear power plant containments. During a design basis loss-of-coolant accident (LOCA), this foreign material could block the emergency core cooling system (ECCS) or safety-related containment spray system (CSS) flow paths or damage ECCS or safety-related CSS equipment. In addition, construction deficiencies and problems with the material condition of ECCS structures, systems, and components (SSCs) inside the containment continue to be found. Design deficiencies also have been found which could potentially degrade the ECCS or safety-related CSS. No actions or information are requested regarding these issues. The NRC has issued many previous generic communications on this subject and expects licensees to have considered possible actions at their facilities to address these concerns.

The NRC is also issuing this generic letter to alert licensees to the problems associated with the material condition of protective coatings inside the containment and to request information under 10 CFR 50.54(f) for the purpose of evaluating their programs for ensuring that protective coatings do not detach from their substrate during a design basis LOCA and interfere with the operation of the ECCS and the safety-related CSS. The NRC intends to use this information to assess whether current regulatory requirements are being correctly implemented and whether they should be revised.

The NRC expects addressees to ensure that the ECCS and the safety-related CSS remain capable of performing their intended safety functions. The NRC will conduct inspections to ensure

compliance with existing licensing bases and respond to discovered inadequacies with aggressive enforcement consistent with its enforcement policy.

The generic letter is available in the NRC Public Document Room under accession number 9807010291.

DATES: The generic letter was issued on July 14, 1998.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: James A. Davis, at (301) 415–2713.

SUPPLEMENTARY INFORMATION: This generic letter does not constitute a backfit as defined in 10 CFR 50.109(a)(1) since it does not impose modifications of or additions to structures, systems or components or to design or operation of an addressee's facility. It also does not impose an interpretation of the Commission's rules that is either new or different from a previous staff position. The staff, therefore, has not performed a backfit analysis.

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

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19363 Filed 7–20–98; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Pay Rate Report.

(2) *Form(s) submitted:* UI–1e.

(3) *OMB Number:* 3220–0097.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 750.

(8) *Total annual responses:* 750.

(9) *Total annual reporting hours:* 63.

(10) *Collection description:* Under the Railroad Unemployment Insurance Act. The daily benefit rate for unemployment and sickness benefits depends on the employee's last daily rate of pay. The report obtains information from the employee and verification from the employer of the claimed rate of pay for use in determining whether an increase in the daily benefit rate is due.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202) 395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–19381 Filed 7–20–98; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Report of Medicaid State Office Buy-In Status.

(2) *Form(s) submitted:* RL–380–F.

(3) *OMB Number:* 3220–0185.

(4) *Expiration date of current OMB clearance:* 9/30/1998.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* State Government.

(7) *Estimated annual number of respondents:* 600.

(8) *Total annual responses:* 600.

(9) *Total annual reporting hours:* 100.

(10) *Collection description:* Under the Railroad Retirement Act, the Railroad Retirement Board administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed to determine if certain railroad beneficiaries are entitled to receive Supplemental Medical Insurance program coverage under a state buy-in agreement in states in which they reside.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–19382 Filed 7–20–98; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger carrying aircraft.

DATES: Comments must be received on or before August 20, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

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

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12096–N	RSPA–98–3991	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 172.102 (c)(3) SP B9 & B74, 179.103–5 (b)(1).	To authorize the one time-transportation in commerce of a DOT-Specification 120A500W tank car, containing a Division 6.1 material, poisonous by inhalation, that was loaded out of test date. (mode 2)
12097–N	RSPA–98–3993	Qual-X Inc., Powell, OH ...	49 CFR 173.140, 173.412	To authorize the one-time transportation in commerce of a specially designed device containing small quantities of gas, Division 2.2 contained in Type A package used as part of a leak detector console. (mode 1)
12098–N	RSPA–98–3994	Carleton Technologies, Inc., Orchard Park, NY.	49 CFR 178.65	To authorize the transportation in commerce of certain compressed gases, Division 2.2, in non-DOT specification pressure vessels. (modes 1, 2, 4)
12100–N	RSPA–98–4004	Tokico (USA), Inc., Berea, KY.	49 CFR 172.200–202, 172.203–204, 172.300, 173.306 (f)(1), 173.306 (f)(2)(iii), 173.306 (f)(3).	To authorize the transportation in commerce of gas struts charged by a mixture of nitrogen gas and hydraulic oil as essentially unregulated. (modes 1, 2, 3, 4, 5)
12102–N	RSPA–98–4005	AETS/CWM, Flanders, NJ	49 CFR 173.56(i)	To authorize the transportation of certain Division 1.1D, unstable waste laboratory mixtures that have been densitized to remove their explosive characteristics, as Division 4.1 flammable solids. (mode 1)
12104–N	RSPA–98–4039	Hoechst Celanese, Spartanburg, SC.	49 CFR 174.67(i)	To authorize rail cars to remain connected throughout the unloading of Class 9 material without the physical presence of an unloader. (mode 2)
12105–N	RSPA–98–4040	Becton Dickinson Microbiology Systems, Sparks, MD.	49 CFR 172.504, 174.81, 177.848.	To authorize the transportation in commerce of specially-designed combination packaging for use in transporting Division 4.3 and Class 8 material be exempt from segregation and placarding requirements. (modes 1, 2)
12106–N	RSPA–98–4041	Air Liquide America Corporation, Houston, TX.	49 CFR 173.24(g)	To authorize the venting of a DOT-specification 105A400W tank car used for the transportation of carbon dioxide, Division 2.2. (mode 2)

[FR Doc. 98–19358 Filed 7–20–98; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before August 5, 1998.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Docket No.	Applicant	Modifications of exemption
8299–M		Pacific Scientific, Durate, CA (See Footnote 1)	8299
11050–M		Koppers Industries, Inc., Pittsburgh, PA (See Footnote 2)	11050

Application No.	Docket No.	Applicant	Modifications of exemption
11899–M	RSPA–97–2602	Carleton Technologies, Inc., Orchard Park, NY (See Footnote 3)	11899
11984–M	RSPA–97–3173	Trans World Airlines, Inc., Kansas City, MO (See Footnote 4)	11984
11990–M	RSPA–97–3098	Taylor-Wharton Coyne, Huntsville, AL (See Footnote 5)	11990
12047–M	RSPA–98–3617	True Drilling Company, Casper, WY (See Footnote 6)	12047
12070–M	RSPA–98–3886	Boeing North American, Inc., Downey, CA (See Footnote 7)	12070
12092–M	RSPA–98–4001	Matheson Gas Products, East Rutherford, NJ (See Footnote 8)	12092
12095–M	RSPA–98–4042	Railway Progress Institute, Inc., Alexandria, VA (See Footnote 9)	12095

(1) To reissue the exemption originally modified on an emergency basis to extend life limit of non-DOT specification pressure vessels used in special service for the transportation of compressed gases.
(2) To authorize party-status and add Division 4.1 as an additional class of hazardous materials.
(3) To modify the exemption to authorize an altered design of the sealed high pressure gas cylinder system, equipped with twin pyrotechnic cutters, Division 1.4D, charged with Nitrogen, Division 2.2, to be offered for shipment as a Division 2.2.
(4) To modify the exemption to provide for rail as an additional mode of transportation for the movement of motor-vehicle (piggy-back trailers) when shipping oxygen generators.
(5) To modify the exemption to remove the Safety Device criteria under 7.a., 178.35(e) of the exemption.
(6) To reissue the exemption originally issued on an emergency basis to transport flammable liquids in packages that are not presently authorized.
(7) To reissue the exemption originally issued as a emergency basis to authorize the transportation of a Kill Vehicle (KV) Assembly containing 1.4G explosives.
(8) To reissue the exemption originally issued on an emergency basis to use an alternate test method for cylinders rather than the hydrostatic test.
(9) To reissue an exemption originally issued on an emergency basis (as an extension) to authorized an alternative inspection and test program for tank cars.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

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

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 98–19359 Filed 7–20–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–554X]

Perry County Port Authority d/b/a Hoosier Southern Railroad; Discontinuance Exemption; in Spencer County, IN

On July 1, 1998, Perry County Port Authority d/b/a Hoosier Southern Railroad (HSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–10905[1] to discontinue service on a line of railroad known as the Rockport Line extending from milepost 0.0 at Rockport Junction to milepost 16.2 at Rockport, a distance of 16.2 miles in Spencer County, IN. As part of the exemption, HSR also seeks to discontinue incidental trackage rights over approximately 1.1 miles of Norfolk Southern Railway Company's (NSR) main line extending from milepost 32.1–EB at Rockport Junction to milepost 33.2–EB at Lincoln City, also in Spencer County, IN.[2] The lines traverse U.S. Postal Service Zip Codes 47552, 47611 and 47635. The Rockport Line includes the stations of Rockport, Chrisney, Rock Hill and Rockport Junction.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 19, 1998.

Unless an exemption is granted from the OFA provisions of 49 U.S.C. 10904, any OFA to subsidize continued rail service under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

This proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c) and from historic reporting requirements under 1105.8(b).

All filings in response to this notice must refer to STB Docket No. AB–554X and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) John D. Heffner, Rea, Cross & Auchincloss, Suite 570, 1707 L Street, N.W., Washington, DC 20036.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 14, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19402 Filed 7–20–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974: Computer Matching Program

AGENCY: Internal Revenue Service, Treasury.

[1] HSR seeks exemption from the offer of financial assistance (OFA) subsidy provision of 49 U.S.C. 10904. This exemption request will be addressed in the final decision. HSR also seeks exemption from the public use provisions of 49 U.S.C. 10905. However, because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not applicable.

[2] HSR desires to terminate service because NSR has terminated its lease with HSR effective May 31, 1998. NSR resumed providing all rail service on the Rockport Line as of June 1, 1998.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 552a, the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of an Internal Revenue Service (IRS) program of computer matches.

EFFECTIVE DATE: This notice will be effective August 20, 1998, unless comments dictate otherwise.

ADDRESSES: Comments or inquiries may be mailed to the Chief Inspector, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Mary Jacqueline Greening, Internal Auditor, Quality Assurance and Oversight Section, Office of Planning and Management, Office of Assistant Chief Inspector (Internal Auditor), Internal Revenue Service, (202) 622–5911.

SUPPLEMENTARY INFORMATION: IRS management is responsible for discouraging the perpetration of irregular or illegal acts and limiting any exposure if an integrity breach occurs. To assist in accomplishing this mission, the Inspection Service has enhanced its conventional audit and investigative activities with a program to detect and deter unauthorized access (UNAX) by IRS employees to taxpayer information.

The Audit Trail Lead Analysis System (ATLAS) is a system designed to detect unauthorized access to taxpayer records. It does so by identifying IRS employees who have accessed taxpayer records using the Integrated Data Retrieval System (IDRS) in a manner that appears to be inconsistent with standard IRS practice.

One of the five IRS organizational strategies is to ensure public confidence in the integrity of the IRS by a dedication to the highest ethical standards. One of the ways that the Inspection Service supports this objective is to provide IRS management an assessment of the organization's ethical environment through the UNAX Program, which is part of the overall Inspection Service Integrity Program.

Computer matching is the most feasible method of performing comprehensive analysis of employee, taxpayer, and tax administration data because of the large number of employees (56,000 employees access IDRS); the geographical dispersion of IRS offices and employees (nationwide); and the tremendous volume of computerized data that is available for analysis (100 million IDRS transactions are generated each month).

This program will be conducted using audit trails and IDRS records generated from each Service Center. Four years of audit trail records will be available to search.

NAME OF SOURCE AGENCY: Internal Revenue Service.

NAME OF RECIPIENT AGENCY: Internal Revenue Service.

BEGINNING AND COMPLETION DATES: This program of computer matches is expected to commence on July 31, 1998, but not earlier than the fortieth day after copies of the Computer Matching Agreement are provided to the Congress and OMB unless comments dictate otherwise. The program of computer matches is expected to conclude at the end of the eighteenth month after the beginning date (January 31, 2000).

PURPOSE: The purpose of this program of computer matches is to detect unauthorized access to taxpayer records by IRS employees. The system will identify employees who have accessed taxpayer records using the IDRS in a manner that appears to be inconsistent with standard IRS practice.

AUTHORITY: 5 U.S.C. 301, 26 U.S.C. 7213, 7213A, 7214, 7608, 7801, 7802, 7803, 18 U.S.C. 1030(a)(2)(B); and Reorganization Plan No. 1 of 1952, pursuant to Section 7804(a) of the Internal Revenue Code of 1986. The Computer Security Act of 1987 (Pub. L. 100–235). The Federal Managers' Financial Integrity Act (FMFIA) (Pub. L. 97–255). Executive Order 12674 of April 12, 1989, entitled, ''Principles of Ethical Conduct for Government Officers and Employees.'' OMB Circular A–130, ''Management of Federal Information Resources,'' dated February 8, 1996. OMB Circular A–123, ''Internal Control Systems,'' dated August 16, 1983.

CATEGORIES OF INDIVIDUALS COVERED: Current and former employees of the IRS and contractors for the IRS.

CATEGORIES OF RECORDS COVERED: Included in this program of computer matches is information related to computer inquiries and entries to the IDRS (Treasury/IRS 34.018) made by IRS employees: employee identification numbers and employee social security numbers, command codes used, taxpayer identification number accessed, terminal from which access occurred, date and time of access. Information from the Individual Master File (IMF) (Treasury/IRS 24.030), the Business Master File (BMF) (Treasury/IRS 24.046), and the Treasury Integrated Management Information System (TIMIS) (Treasury/DO .002) will be used to obtain employee address and spouse's name.

Other information from these files not uniquely pertaining to the IRS employee(s) but that could possibly establish a relationship between the IRS employee(s) and the account(s) accessed will be used to determine the actions or the effect of actions of employee(s) or to corroborate declarations or statements by employee(s). From IDRS (Treasury/IRS 34.018): Taxpayer identification number and tax period. From IMF (Treasury/IRS 24.030) and BMF (Treasury/IRS 24.046): Taxpayer entity information, including address, current and prior name, and tax account status. From TIMIS (Treasury/DO .002): employee identifying and locating information, including address, current name and name of spouse.

Dated: July 15, 1998.

Shelia Y. McCann,

Deputy Assistant Secretary (Administration).

[FR Doc. 98–19343 Filed 7–20–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0085]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Board of Veterans' Appeals (BVA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information required in processing appeals from denial of VA benefits and in regulation of representatives' fees.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 21, 1998.

ADDRESSES: Submit written comments on the collection of information to Sue Hamlin, Board of Veterans' Appeals (01C), Department of Veterans Affairs,

810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0085'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Sue Hamlin at (202) 565–5686.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, BVA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of BVA's functions, including whether the information will have practical utility; (2) the accuracy of BVA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Titles

a. Appeal to Board of Veterans' Appeals, VA Form 9.

b. Withdrawal of Services by a Representative.

c. Filing of Representative's Fee Agreements and Motions for Review of Such Agreements.

d. Motion for Review of Representative's Charges for Expenses.

e. Request for Changes in Hearing Date.

f. Motion for Reconsideration.

OMB Control Number: 2900–0085.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Form 9 is furnished to an appellant so that he or she has the information necessary to perfect an appeal from a denial of VA benefits.

b. When the appellant's representative withdraws from a case, information must be obtained in order to afford protection to the appellant and in order for BVA to be able to know who is providing representational services in each individual case.

c. Agreements for fees charged by individuals or organizations for representing claimants and appellants before VA are filed with, and reviewed by, the Board of Veterans' Appeals. The information is used to afford protection to VA claimants by ensuring that the VA benefits are not diverted from their intended purpose through overreaching by unscrupulous representatives and in processing payment of fees from VA benefits when provided by the agreement.

d. Expense reimbursements claimed by individuals and organizations for representing claimants and appellants before VA have been monitored for fairness for many years. The information is used to monitor representatives' fees for reasonableness and ensure that unreasonable fees are not charged by claiming such fees under the guise of ''expenses.''

e. VA provides hearings to appellants and their representatives, as required by basic Constitutional due-process and by Title 38 U.S.C. 7107(b). From time to time, hearing dates and/or times are changed, hearing requests withdrawn and new hearings requested after failure to appear at a scheduled hearing. The information is used to comply with the appellants' or their representatives' requests.

f. Decisions by BVA are final unless the Chairman orders reconsideration of the decision. The information provided is unique in each case and must be provided in order for BVA to be aware that reconsideration is being sought and to inform BVA of the basis of the request. Failure to obtain the information would result in depriving appellants of this potential form of relief.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 36,837 hours.

a. Appeal to Board of Veterans' Appeals—32,500 hours.

b. Withdrawal of Services by a Representative—183 hours.

c. Filing and Motions for Review of fee Agreements—225 hours.

d. Motion for Review of Expenses—4 hours.

e. Request for Changes in Hearing Date—2,374 hours.

f. Motion for Reconsideration—1,550 hours.

Estimated Average Burden Per Respondent: 53 minutes.

a. Appeal to Board of Veterans' Appeals—1 hour.

b. Withdrawal of Services by a Representative—20 minutes.

c. Fee Agreement—30 minutes (contract modifications), 10 minutes (basic filing)—2 hours (filing motion or response).

d. Motion for Review of Expenses—2 hours (motion or response to motion).

e. Request for Changes in Hearing Date—15 minutes (basic request)—1 hour (requests requiring preparation of a motion).

f. Motion for Reconsideration—1 hour.

Frequency of Response: On occasion.

Estimated Total Number of Respondents: 41,644.

a. Appeal to Board of Veterans' Appeals—32,500.

b. Withdrawal of Services by a Representative—550.

c. Fee Agreement—875.

d. Motion for Review of Expenses—2.

e. Request for Changes in Hearing Date—6,167.

f. Motion for Reconsideration—1,550.

Dated: May 15, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, nformation Management Service.

[FR Doc. 98–19311 Filed 7–20–98; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register

Vol. 63, No. 139

Tuesday, July 21, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 240 and 274a

[INS. No. 1893–97; AG Order No. 2154–98

RIN 1115–AF04

Adjustment of Status for Certain Nationals of Nicaragua and Cuba

Correction

In rule document 98–13246 beginning on page 27823, in the issue of Thursday, May 21, 1998, make the following corrections:

§ 240.41 [Corrected]

1. On page 27829, in the third column, in § 240.41, in the third and fourth line, ''and section 202 of Pub. L. 100'' should read ''and section 202 of Public Law 105–100''.

§ 274a.13 [Corrected]

2. On page 27833, in the third column, in § 274a.13, amendatory instruction 12 should read as set for below:

12. In § 274a.13, paragraph (d) is amended in the first sentence by revising the phrase ''§ 274a.12(c)(8), which is governed by paragraph (a)(2) of this section'' to read ''§ 274a.12(c)(8), which is governed by paragraph (a)(2) of this section, and § 274a.12(c)(9) in so far as it is governed by § 245.13(j) of this chapter''.

BILLING CODE 1505–01–D

Federal Register

Tuesday
July 21, 1998

Part II

Postal Service

Changes in Domestic Rates, Fees, and Mail Classifications; Notice

POSTAL SERVICE

Changes in Domestic Rates, Fees, and Mail Classifications

AGENCY: Postal Service.

ACTION: Notice of implementation of changes to the Domestic Mail Classification Schedule, domestic rates, and fees.

SUMMARY: This notice sets forth the changes to the Domestic Mail Classification Schedule and the accompanying rate and fee changes to be implemented as a result of the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998).

EFFECTIVE DATE: January 10, 1999, except as otherwise noted.

FOR FURTHER INFORMATION CONTACT: Daniel J. Foucheaux, Jr., (202) 268–2989.

SUPPLEMENTARY INFORMATION: On July 10, 1997, pursuant to its authority under 39 U.S.C. 3621, *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a Request for a Recommended Decision on Proposed Changes in Rates of Postage and Fees for Postal Services (Request). The PRC designated the filing as Docket No. R97–1. The PRC published a notice of the filing, with a description of the Postal Service's proposals, on July 23, 1997, in the **Federal Register** (62 FR 39660).

On May 11, 1998, pursuant to its authority under 39 U.S.C. 3624, the PRC issued its Recommended Decision on the Postal Service's Request to the Governors of the Postal Service.

Pursuant to 39 U.S.C. 3625, the Governors of the United States Postal Service acted on the PRC's recommendations on June 29, 1998. In one decision, the Governors rejected the PRC's recommendations regarding Prepaid Reply Mail and Courtesy Envelope Mail. Decision of the Governors of the United States Postal Service on the Recommended Decisions of the Postal Rate Commission on Prepaid Reply Mail and Courtesy Envelope Mail, Docket No. R97–1 (June 29, 1998). In the second decision, the Governors acted on the remainder of the PRC's recommendations. Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Postal Rate and Fee Changes, Docket No. R97–1 (June 29, 1998). The Governors approved all of the remaining classification, fee, and rate changes, except that the Governors allowed under protest and returned for reconsideration recommendations related to three categories of mail. In particular, the Governors requested further action or clarification on the Commission's recommendations concerning Within County, Library Mail, and destination delivery unit Parcel Post. A copy of the attachments to the Governors' Decision, setting forth the classification, fee, and rate changes ordered into effect by the Governors, is set forth below.[1]

Also on June 29, 1998, the Board of Governors of the Postal Service, pursuant to its authority under 39 USC 3625(f), determined to implement, with certain limited exceptions noted below, the rate, fee and classification changes approved by the Governors effective at 12:01 a.m. on January 10, 1999 (Resolution No. 98–6). The Board determined to implement changes related to delivery confirmation, including the classification change allowing delivery confirmation as the sole prerequisite for return receipt service, at a later date to be determined by the Board. Subject to delayed implementation, therefore, are DMCS sections 260(j), 362(g), 945.21(e), and 948, and the delivery confirmation fees set forth in Fee Schedule 948.

In accordance with the Decision of the Governors and Resolution No. 98–6, except as noted above, the Postal Service hereby gives notice that the classification, fee, and rate changes set forth below will become effective at 12:01 a.m. on January 10, 1999. Implementing regulations also become effective at that time, as noted in a separate notice in the **Federal Register** of July 14, 1998.

Attachment A to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission in Docket No. R97–1

(June 29, 1998)

Changes to Domestic Rates and Fees

EXPRESS MAIL SCHEDULES 121, 122 AND 123

[Dollars]

Weight Not Exceeding (Pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
½	9.25	9.55	9.70	11.75
1	10.75	13.55	13.70	15.75
2	10.75	13.55	13.70	15.75
3	13.75	16.30	16.45	18.50
4	15.00	19.05	19.20	21.25
5	16.25	21.80	21.95	24.00
6	17.60	24.55	24.70	26.75
7	18.85	27.20	27.35	29.40
8	20.20	28.40	28.55	30.60
9	21.50	29.60	29.75	31.80
10	22.70	30.80	30.95	33.00
11	24.05	32.25	32.40	34.45
12	25.35	34.60	34.75	36.80
13	26.60	35.85	36.00	38.05
14	27.95	37.20	37.35	39.40
15	29.20	38.40	38.55	40.60
16	30.50	39.70	39.85	41.90

[1] Provisions approved by the Governors in connection with Docket No. MC96–1 relating to the barcoded small parcel experiment expired on April 28, 1998, and accordingly are no longer included in the DMCS and accompanying rate schedules. See 63 FR 35,140 (June 29, 1998).

EXPRESS MAIL SCHEDULES 121, 122 AND 123—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Schedule 121 Same Day Airport Service	Schedule 122 Custom Designed	Schedule 123 Next Day and Second Day PO to PO	Schedule 123 Next Day and Second Day PO to Addressee
17	31.80	41.05	41.20	43.25
18	33.10	42.25	42.40	44.45
19	34.40	43.55	43.70	45.75
20	35.65	44.85	45.00	47.05
21	36.95	46.10	46.25	48.30
22	38.25	47.35	47.50	49.55
23	39.55	48.70	48.85	50.90
24	40.90	49.90	50.05	52.10
25	42.10	51.20	51.35	53.40
26	43.40	52.45	52.60	54.65
27	44.55	53.75	53.90	55.95
28	45.65	55.00	55.15	57.20
29	46.75	56.30	56.45	58.50
30	47.85	57.60	57.75	59.80
31	48.90	58.85	59.00	61.05
32	49.95	60.15	60.30	62.35
33	51.05	61.40	61.55	63.60
34	52.10	62.70	62.85	64.90
35	53.25	63.95	64.10	66.15
36	54.30	65.25	65.40	67.45
37	55.30	66.45	66.60	68.65
38	56.45	67.80	67.95	70.00
39	57.50	69.05	69.20	71.25
40	58.55	70.30	70.45	72.50
41	59.70	71.55	71.70	73.75
42	60.70	72.90	73.05	75.10
43	61.80	74.15	74.30	76.35
44	62.90	75.45	75.60	77.65
45	63.95	76.75	76.90	78.95
46	65.05	77.95	78.10	80.15
47	66.15	79.30	79.45	81.50
48	67.20	80.55	80.70	82.75
49	68.25	81.80	81.95	84.00
50	69.35	83.05	83.20	85.25
51	70.45	84.40	84.55	86.60
52	71.45	85.60	85.75	87.80
53	72.60	86.95	87.10	89.15
54	73.65	88.20	88.35	90.40
55	74.75	89.45	89.60	91.65
56	75.85	90.80	90.95	93.00
57	76.90	92.00	92.15	94.20
58	77.95	93.30	93.45	95.50
59	79.05	94.70	94.85	96.90
60	80.10	96.20	96.35	98.40
61	81.25	97.80	97.95	100.00
62	82.30	99.30	99.45	101.50
63	83.30	100.80	100.95	103.00
64	84.45	102.40	102.55	104.60
65	85.50	103.90	104.05	106.10
66	86.60	105.50	105.65	107.70
67	87.70	107.00	107.15	109.20
68	88.70	108.60	108.75	110.80
69	89.80	110.10	110.25	112.30
70	90.90	111.60	111.75	113.80

Schedules 121, 122 and 123 Notes:
[1] The applicable 2-pound rate is charged for matter sent in a ≤flat rate= envelope provided by the Postal Service.
[2] Add $8.25 for each pickup stop.
[3] Add $8.25 for each Custom Designed delivery stop.

FIRST-CLASS MAIL RATE SCHEDULE 221

Letters and Sealed Parcels	Rate (cents)
Regular:	
Single Piece: First Ounce	33.0

FIRST-CLASS MAIL RATE SCHEDULE 221—Continued

Letters and Sealed Parcels	Rate (cents)
Presort [1]	30.5
Qualified Business Reply Mail	30.0
Additional Ounce [2]	22.0
Nonstandard Surcharge	
Single Piece	11.0
Presort	5.0
Automation—Presort [1]	
Letters [3]	
Basic Presort [4]	27.0
3-Digit Presort [5]	26.1
5-Digit Presort [6]	24.3
Carrier Route Presort [7]	23.8
Flats [8]	
Basic Presort [9]	30.0
3/5-Digit Presort [10]	27.0
Additional Ounce [2]	22.0
Nonstandard Surcharge	5.0

Schedule 221 Notes:
[1] A mailing fee of $100.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate. For presorted mailings weighing more than 2 ounces, subtract 4.6 cents per piece.
[2] Rate applies through 13 ounces. Heavier pieces are subject to Priority Mail rates.
[3] Rates apply to bulk-entered mailings of at least 500 letter-size pieces, which must be delivery point barcoded and meet other preparation requirements specified by the Postal Service.
[4] Rate applies to letter-size Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.
[5] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations specified by the Postal Service.
[6] Rate applies to letter-size Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations specified by the Postal Service.
[7] Rate applies to letter-size Automation-Presort category mail presorted to carrier routes specified by the Postal Service.
[8] Rates apply to bulk-entered mailings of at least 500 flat-size pieces, each of which must be delivery-point barcoded or bear a ZIP+4 barcode, and must meet other preparation requirements specified by the Postal Service.
[9] Rate applies to flat-size Automation-Presort category mail not mailed at the 3/5-Digit rate.
[10] Rate applies to flat-size Automation-Presort category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

FIRST-CLASS MAIL RATE SCHEDULE 222

Cards	Rate (cents)
Regular:	
Single Piece	20.0
Presort [1]	18.0
Qualified Business Reply Mail	18.0
Automation-Presort: [1,2]	
Basic Presort [3]	16.6
3-Digit Presort [4]	15.9
5-Digit Presort [5]	14.6
Carrier Route Presort [6]	14.1

Schedule 222 Notes:
[1] A mailing fee of $100.00 must be paid once each year at each office of mailing by any person who mails other than Single Piece First-Class Mail. Payment of the fee allows the mailer to mail at any First-Class rate.
[2] Rates apply to bulk-entered mailings of at least 500 pieces, which must be barcoded and meet other preparation requirements specified by the Postal Service.
[3] Rate applies to Automation-Presort category mail not mailed at 3-Digit, 5-Digit, or Carrier Route rates.
[4] Rate applies to Automation-Presort category mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
[5] Rate applies to Automation-Presort category mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
[6] Rate applies to Automation-Presort category mail presorted to carrier routes specified by the Postal Service.

FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	3.20	3.20	3.20	3.20	3.20	3.20
2	3.20	3.20	3.20	3.20	3.20	3.20
3	4.30	4.30	4.30	4.30	4.30	4.30
4	5.40	5.40	5.40	5.40	5.40	5.40
5	6.50	6.50	6.50	6.50	6.50	6.50

FIRST-CLASS MAIL SCHEDULE 223—PRIORITY MAIL SUBCLASS—Continued

[Dollars]

Weight not exceeding (pounds)	L, 1, 2, 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
6	6.60	6.90	7.10	7.45	7.70	8.25
7	6.70	7.30	7.70	8.40	8.90	10.00
8	6.80	7.70	8.30	9.35	10.10	11.75
9	6.90	8.10	8.90	10.30	11.30	13.50
10	7.00	8.50	9.50	11.25	12.50	15.25
11	7.20	9.15	10.30	12.20	13.45	16.50
12	7.40	9.80	11.05	13.10	14.45	17.80
13	7.75	10.40	11.80	14.05	15.50	19.10
14	8.10	11.05	12.55	14.95	16.50	20.40
15	8.50	11.70	13.30	15.85	17.50	21.70
16	8.85	12.30	14.00	16.75	18.55	23.00
17	9.20	12.95	14.75	17.70	19.55	24.30
18	9.60	13.60	15.50	18.60	20.60	25.60
19	9.95	14.20	16.25	19.50	21.60	26.95
20	10.35	14.85	17.00	20.40	22.65	28.20
21	10.70	15.50	17.70	21.35	23.65	29.45
22	11.05	16.15	18.45	22.25	24.70	30.65
23	11.45	16.75	19.20	23.15	25.70	31.85
24	11.75	17.40	19.95	24.05	26.70	33.05
25	12.15	18.05	20.70	25.00	27.75	34.35
26	12.55	18.65	21.40	25.90	28.75	35.55
27	12.90	19.30	22.15	26.80	29.80	36.75
28	13.25	19.95	22.90	27.70	30.80	37.95
29	13.65	20.55	23.65	28.60	31.85	39.15
30	14.00	21.20	24.40	29.55	32.85	40.35
31	14.35	21.85	25.10	30.45	33.90	41.55
32	14.75	22.45	25.85	31.35	34.90	42.80
33	15.10	23.10	26.60	32.25	35.95	44.00
34	15.45	23.70	27.35	33.15	36.95	45.20
35	15.80	24.35	28.10	34.10	37.95	46.40
36	16.20	25.00	28.80	35.00	39.00	47.60
37	16.60	25.65	29.55	35.90	40.00	48.80
38	16.90	26.25	30.30	36.85	41.05	50.05
39	17.30	26.90	31.05	37.75	42.05	51.25
40	17.70	27.55	31.80	38.65	43.10	52.45
41	18.00	28.15	32.50	39.55	44.10	53.65
42	18.40	28.80	33.25	40.45	45.15	54.85
43	18.80	29.45	34.00	41.40	46.15	56.10
44	19.15	30.05	34.75	42.30	47.20	57.35
45	19.50	30.70	35.50	43.20	48.20	58.55
46	19.85	31.35	36.20	44.10	49.20	59.75
47	20.25	31.95	36.95	45.05	50.25	60.95
48	20.60	32.60	37.70	45.95	51.25	62.15
49	20.95	33.25	38.45	46.85	52.30	63.35
50	21.35	33.85	39.20	47.75	53.30	64.55
51	21.70	34.50	39.90	48.65	54.25	65.80
52	22.05	35.15	40.65	49.60	55.30	67.00
53	22.45	35.75	41.40	50.50	56.25	68.20
54	22.80	36.40	42.15	51.40	57.25	69.40
55	23.15	37.05	42.90	52.30	58.20	70.60
56	23.55	37.65	43.60	53.25	59.20	71.80
57	23.90	38.30	44.35	54.15	60.20	73.05
58	24.25	38.95	45.10	55.05	61.15	74.25
59	24.65	39.55	45.85	55.95	62.20	75.45
60	25.00	40.20	46.60	56.90	63.15	76.65
61	25.35	40.85	47.30	57.80	64.15	77.90
62	25.75	41.45	48.05	58.70	65.10	79.10
63	26.10	42.10	48.80	59.60	66.10	80.35
64	26.50	42.75	49.55	60.55	67.10	81.55
65	26.85	43.35	50.25	61.45	68.05	82.75
66	27.20	44.00	51.00	62.35	69.10	83.95
67	27.60	44.65	51.75	63.25	70.05	85.15
68	27.95	45.25	52.50	64.15	71.00	86.35
69	28.30	45.90	53.25	65.10	72.05	87.55
70	28.70	46.55	53.95	66.00	73.00	88.80

Schedule 223 Notes:

[1]. The 2-pound rate is charged for matter sent in a >flat rate= envelope provided by the Postal Service.

[2]. Add $8.25 for each pickup stop.

[3]. EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

STANDARD MAIL RATE SCHEDULE 321.2A

Regular Subclass Presort Category [1]	Rate (cents)
Letter Size:	
Piece Rate	
Basic	23.5
3/5-Digit	20.7
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Non-Letter Size: [2]	
Piece Rate	
Minimum per Piece [3]	
Basic	30.4
3/5 Digit	24.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate [3]	67.7
Plus per Piece Rate	
Basic	16.4
3/5-Digit	10.0
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.2A Notes
[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.
[2] Residual shape pieces are subject to a surcharge of $0.10 per piece.
[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.2B

Regular Subclass Automation Category [1]	Rate (cents)
Letter Size: [2]	
Piece Rate	
Basic Letter [3]	18.3
3-Digit Letter [4]	17.6
5-Digit Letter [5]	16.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Flat Size: [6]	
Piece Rate	
Minimum per Piece [7]	
Basic Flat [8]	24.5
3/5-Digit Flat [9]	20.3
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate [7]	67.7
Plus per piece Rate	
Basic Flat [8]	10.5
3/5-Digit Flat [9]	6.3
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.2B Notes:
[1] A fee of $100 must be paid once each 12-month period for each bulk mailing permit.
[2] For letter-size automation pieces meeting applicable Postal Service regulations.
[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
[6] For flat-size automation mail meeting applicable Postal Service regulations.
[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.
[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
[9] Rate applies to flat-size automation mail presorted to single or multiple three-and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 321.3

Enhanced Carrier Route Subclass [1]	Rate (cents)
Letter Size:	
Piece Rate	
Basic	16.2
Basic Automated Letter [2]	15.6
High Density	13.9
Saturation	13.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Non-Letter Size: [3]	
Piece Rate	
Minimum per Piece [4]	
Basic	16.2
High Density	15.1
Saturation	14.0
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Pound Rate [4]	66.3
Plus per Piece Rate	
Basic	2.5
High Density	1.4
Saturation	0.3
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0
DDU	12.6

Schedule 321.3 Notes:
[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.
[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.10 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.4A

Nonprofit Subclass Presort Categories [1] (Full Rates)	Rate (cents)
Letter Size:	
Piece Rate	
Basic	16.9
3/5-Digit	14.2
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Non-Letter Size: [2]	
Piece Rate	
Minimum per Piece [3]	
Basic	23.3
3/5-Digit	16.5
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate [3]	55.0
Plus per Piece Rate	
Basic	12.0
3/5-Digit	5.2
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.4A Notes
[1] A fee of $100.00 must be paid once each 12-month period for each bulk mailing permit.
[2] Residual shape pieces are subject to a surcharge of $0.10 per piece.
[3] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 321.4B

Nonprofit Subclass Automation Categories [1] (Full Rates)	Rate (cents)
Letter Size: [2]	
Piece Rate	
Basic Letter [3]	11.9
3-Digit Letter [4]	11.4
5-Digit Letter [5]	9.3
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Flat Size: [6]	
Piece Rate	
Minimum per Piece [7]	
Basic Flat [8]	18.2
3/5-Digit Flat [9]	14.4
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
Pound Rate [7]	55.0
Plus per Piece Rate	
Basic Flat [8]	6.9
3/5-Digit Flat [9]	3.1
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0

Schedule 321.4B Notes:
[1] A fee of $100 must be paid once each 12-month period for each bulk mailing permit.
[2] For letter-size automation pieces meeting applicable Postal Service regulations.
[3] Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.
[4] Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as specified by the Postal Service.
[5] Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.
[6] For flat-size automation mail meeting applicable Postal Service regulations.
[7] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.
[8] Rate applies to flat-size automation mail not mailed at 3/5-digit rate.
[9] Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

STANDARD MAIL RATE SCHEDULE 321.5

Nonprofit Enhanced Carrier Route Subclass [1] (Full Rates)	Rate (cents)
Letter Size:	
Piece Rate	
Basic	9.9
Basic Automated Letter [2]	9.2
High Density	7.8
Saturation	7.2
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Non-Letter Size: [3]	
Piece Rate	
Minimum per Piece [4]	
Basic	9.9
High Density	9.2
Saturation	8.4
Destination Entry Discount per Piece	
BMC	1.6
SCF	2.1
DDU	2.6
Pound Rate [4]	29.0
Plus per Piece Rate	
Basic	3.9
High Density	3.2
Saturation	2.4
Destination Entry Discount per Pound	
BMC	7.9
SCF	10.0
DDU	12.6

Schedule 321.5 Notes:
[1] A fee of $100 must be paid each 12-month period for each bulk mailing permit.

[2] Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.
[3] Residual shape pieces are subject to a surcharge of $0.10 per piece.
[4] Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

STANDARD MAIL RATE SCHEDULE 322.1A—PARCEL POST SUBCLASS INTER-BMC RATES

[dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
2	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15	$3.15
3	3.59	3.90	4.25	4.25	4.25	4.25	4.25
4	3.73	4.16	4.91	5.35	5.35	5.35	5.35
5	3.86	4.39	5.33	6.45	6.45	6.45	6.45
6	3.99	4.62	5.71	7.10	7.40	7.60	8.15
7	4.11	4.82	6.07	7.72	8.35	8.75	9.85
8	4.24	5.01	6.38	8.26	9.30	9.90	11.55
9	4.33	5.19	6.71	8.76	10.25	11.05	13.25
10	4.45	5.36	6.99	9.23	10.92	12.20	14.95
11	4.54	5.53	7.27	9.66	11.47	13.30	16.10
12	4.64	5.68	7.53	10.06	11.97	14.30	17.35
13	4.73	5.81	7.77	10.44	12.44	15.17	18.65
14	4.82	5.97	8.01	10.80	12.89	15.74	19.90
15	4.90	6.10	8.24	11.13	13.31	16.28	21.15
16	4.98	6.23	8.45	11.45	13.70	16.77	21.85
17	5.07	6.34	8.66	11.74	14.08	17.25	22.49
18	5.14	6.46	8.85	12.02	14.42	17.69	23.10
19	5.23	6.58	9.04	12.29	14.76	18.12	23.67
20	5.29	6.68	9.20	12.54	15.07	18.52	24.21
21	5.36	6.80	9.37	12.79	15.38	18.90	24.72
22	5.43	6.89	9.54	13.02	15.66	19.26	25.21
23	5.50	7.01	9.71	13.23	15.93	19.60	25.67
24	5.55	7.10	9.85	13.45	16.19	19.94	26.12
25	5.62	7.19	10.01	13.64	16.44	20.24	26.54
26	5.68	7.28	10.15	13.84	16.68	20.54	26.93
27	5.75	7.37	10.28	14.02	16.90	20.82	27.32
28	5.80	7.46	10.43	14.20	17.12	21.09	27.68
29	5.86	7.55	10.56	14.36	17.33	21.35	28.04
30	5.92	7.63	10.67	14.52	17.52	21.60	28.36
31	5.98	7.70	10.80	14.67	17.72	21.85	28.68
32	6.03	7.79	10.92	14.82	17.90	22.08	28.99
33	6.08	7.87	11.04	14.97	18.07	22.30	29.28
34	6.14	7.93	11.14	15.11	18.24	22.51	29.56
35	6.19	8.01	11.26	15.24	18.40	22.71	29.83
36	6.24	8.07	11.38	15.37	18.56	22.90	30.09
37	6.29	8.14	11.47	15.50	18.71	23.10	30.34
38	6.34	8.22	11.58	15.61	18.85	23.27	30.58
39	6.40	8.28	11.67	15.72	18.99	23.44	30.81
40	6.44	8.35	11.77	15.84	19.13	23.62	31.02
41	6.50	8.42	11.86	15.95	19.26	23.78	31.24
42	6.54	8.48	11.95	16.05	19.38	23.93	31.45
43	6.58	8.54	12.05	16.15	19.51	24.08	31.64
44	6.63	8.59	12.13	16.24	19.62	24.22	31.84
45	6.67	8.66	12.22	16.34	19.74	24.36	32.02
46	6.72	8.72	12.30	16.44	19.85	24.50	32.19
47	6.77	8.78	12.38	16.52	19.96	24.63	32.37
48	6.81	8.84	12.47	16.61	20.05	24.75	32.53
49	6.85	8.89	12.55	16.69	20.16	24.88	32.68
50	6.89	8.94	12.61	16.77	20.26	25.00	32.84
51	6.94	9.00	12.70	16.85	20.35	25.11	32.98
52	6.98	9.06	12.77	16.93	20.44	25.22	33.12
53	7.02	9.11	12.83	17.00	20.53	25.33	33.27
54	7.06	9.17	12.91	17.08	20.62	25.44	33.40
55	7.10	9.20	12.99	17.14	20.69	25.53	33.53
56	7.15	9.27	13.05	17.22	20.78	25.63	33.66
57	7.19	9.32	13.12	17.28	20.86	25.73	33.77
58	7.23	9.36	13.18	17.35	20.93	25.82	33.89
59	7.27	9.41	13.25	17.41	21.01	25.90	34.00
60	7.31	9.46	13.33	17.47	21.07	25.99	34.12
61	7.36	9.52	13.38	17.53	21.15	26.08	34.27
62	7.40	9.56	13.44	17.59	21.21	26.15	34.41
63	7.42	9.61	13.51	17.64	21.28	26.23	34.55
64	7.46	9.65	13.57	17.69	21.34	26.30	34.68
65	7.50	9.70	13.62	17.75	21.41	26.38	34.81
66	7.55	9.75	13.68	17.80	21.46	26.45	34.93
67	7.59	9.79	13.74	17.86	21.53	26.52	35.06
68	7.62	9.83	13.81	17.91	21.58	26.59	35.19

STANDARD MAIL RATE SCHEDULE 322.1A—PARCEL POST SUBCLASS INTER-BMC RATES—Continued

[dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
69	7.66	9.87	13.86	17.95	21.64	26.66	35.29
70	7.70	9.93	13.92	18.01	21.69	26.72	35.42
Oversize parcels [6]	34.07	38.18	44.22	53.79	65.11	80.53	106.01

Schedule 322.1A Notes:
[1] For nonmachinable Inter-BMC parcels, add: $1.65 per piece.
[2] For each pickup stop, add: $8.25.
[3] For Origin Bulk Mail Center Discount, deduct $0.57 per piece.
[4] For BMC Presort, deduct $0.22 per piece.
[5] For Barcoded Discount, deduct $0.03 per piece.
[6] See DMCS section 322.161 for oversize Parcel Post.
[7] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

STANDARD MAIL RATE SCHEDULE 322.1B—PARCEL POST SUBCLASS INTRA-BMC RATES

[Dollars]

Weight Not Exceeding (Pounds)	Local	Zone 1/2	Zone 3	Zone 4	Zone 5
2	$2.67	$2.80	$2.80	$2.80	$2.80
3	2.87	3.17	3.26	3.27	3.29
4	3.04	3.32	3.57	3.58	4.14
5	3.19	3.45	3.85	3.88	4.63
6	3.28	3.58	4.13	4.15	5.08
7	3.35	3.69	4.37	4.40	5.50
8	3.43	3.82	4.59	4.63	5.90
9	3.50	3.91	4.77	4.86	6.27
10	3.58	4.03	5.01	5.08	6.62
11	3.64	4.12	5.18	5.27	6.94
12	3.71	4.23	5.33	5.47	7.26
13	3.78	4.32	5.46	5.65	7.54
14	3.84	4.41	5.55	5.83	7.82
15	3.90	4.49	5.68	5.99	8.08
16	3.97	4.56	5.81	6.15	8.33
17	4.02	4.65	5.93	6.31	8.56
18	4.07	4.72	6.05	6.45	8.80
19	4.12	4.81	6.16	6.59	9.01
20	4.19	4.88	6.27	6.74	9.21
21	4.23	4.94	6.38	6.87	9.41
22	4.28	5.02	6.47	7.00	9.60
23	4.33	5.08	6.59	7.13	9.79
24	4.38	5.14	6.68	7.24	9.96
25	4.43	5.20	6.77	7.36	10.13
26	4.47	5.27	6.86	7.47	10.29
27	4.52	5.33	6.96	7.58	10.44
28	4.56	5.38	7.05	7.69	10.59
29	4.62	5.45	7.14	7.80	10.74
30	4.67	5.50	7.22	7.89	10.89
31	4.71	5.56	7.28	7.99	11.02
32	4.75	5.62	7.37	8.09	11.15
33	4.80	5.67	7.45	8.19	11.29
34	4.84	5.72	7.51	8.27	11.40
35	4.88	5.77	7.59	8.37	11.52
36	4.91	5.82	7.66	8.46	11.65
37	4.95	5.88	7.72	8.54	11.76
38	4.99	5.93	7.80	8.62	11.87
39	5.04	5.98	7.87	8.71	11.97
40	5.08	6.02	7.93	8.78	12.08
41	5.12	6.08	8.01	8.87	12.18
42	5.16	6.12	8.06	8.94	12.27
43	5.20	6.16	8.13	9.02	12.38
44	5.25	6.21	8.18	9.10	12.46
45	5.28	6.25	8.24	9.16	12.56
46	5.32	6.31	8.31	9.24	12.64
47	5.36	6.36	8.36	9.30	12.73
48	5.40	6.40	8.42	9.38	12.83
49	5.43	6.44	8.48	9.44	12.90
50	5.47	6.47	8.53	9.51	12.99
51	5.51	6.53	8.58	9.57	13.06
52	5.54	6.57	8.65	9.64	13.14
53	5.58	6.60	8.70	9.70	13.21

STANDARD MAIL RATE SCHEDULE 322.1B—PARCEL POST SUBCLASS INTRA-BMC RATES—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Local	Zone 1/2	Zone 3	Zone 4	Zone 5
54	5.62	6.64	8.75	9.76	13.29
55	5.66	6.68	8.79	9.82	13.36
56	5.69	6.73	8.85	9.89	13.42
57	5.72	6.77	8.91	9.94	13.50
58	5.76	6.81	8.94	9.99	13.57
59	5.80	6.85	9.00	10.06	13.63
60	5.82	6.89	9.05	10.11	13.70
61	5.88	6.94	9.10	10.17	13.77
62	5.90	6.98	9.14	10.22	13.82
63	5.94	7.01	9.19	10.28	13.88
64	5.97	7.05	9.23	10.33	13.95
65	6.01	7.09	9.28	10.38	14.00
66	6.03	7.14	9.33	10.44	14.07
67	6.08	7.18	9.37	10.49	14.12
68	6.11	7.20	9.41	10.54	14.17
69	6.15	7.24	9.45	10.59	14.23
70	6.18	7.28	9.52	10.64	14.28
Oversize parcels [3]	19.43	28.42	28.42	28.42	28.42

Schedule 322.1B Notes:
[1] For each pickup stop, add $8.25.
[2] For Barcoded Discount, deduct $0.03 per piece.
[3] See DMCS section 322.161 for oversize Parcel Post.
[4] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

STANDARD MAIL RATE SCHEDULE 322.1C—PARCEL POST SUBCLASS DESTINATION BMC RATES

[Dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5
2	$2.23	$2.40	$2.40	$2.40
3	2.40	2.86	2.87	2.89
4	2.58	3.17	3.18	3.94
5	2.74	3.45	3.48	4.40
6	2.88	3.73	3.75	4.83
7	3.02	3.97	4.00	5.22
8	3.15	4.19	4.23	5.60
9	3.28	4.37	4.46	5.95
10	3.40	4.51	4.68	6.29
11	3.51	4.67	4.87	6.59
12	3.62	4.81	5.07	6.89
13	3.73	4.93	5.25	7.16
14	3.82	5.08	5.43	7.42
15	3.91	5.20	5.59	7.67
16	4.01	5.32	5.75	7.91
17	4.09	5.43	5.91	8.13
18	4.18	5.54	6.05	8.35
19	4.26	5.64	6.19	8.55
20	4.34	5.75	6.34	8.74
21	4.42	5.85	6.47	8.94
22	4.49	5.94	6.60	9.12
23	4.56	6.05	6.73	9.30
24	4.63	6.14	6.84	9.46
25	4.70	6.21	6.96	9.62
26	4.76	6.31	7.07	9.78
27	4.83	6.38	7.18	9.92
28	4.89	6.47	7.29	10.07
29	4.96	6.57	7.40	10.21
30	5.01	6.63	7.49	10.35
31	5.08	6.70	7.59	10.48
32	5.13	6.79	7.69	10.61
33	5.19	6.85	7.79	10.73
34	5.25	6.92	7.87	10.84
35	5.31	6.99	7.97	10.96
36	5.36	7.05	8.06	11.08
37	5.40	7.11	8.14	11.19
38	5.46	7.19	8.22	11.29
39	5.51	7.24	8.31	11.39
40	5.56	7.31	8.38	11.50
41	5.61	7.38	8.47	11.59

STANDARD MAIL RATE SCHEDULE 322.1C—PARCEL POST SUBCLASS DESTINATION BMC RATES—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Zone 1/2	Zone 3	Zone 4	Zone 5
42	5.65	7.44	8.54	11.68
43	5.71	7.49	8.62	11.79
44	5.75	7.54	8.70	11.87
45	5.79	7.61	8.76	11.96
46	5.85	7.67	8.84	12.04
47	5.89	7.72	8.90	12.13
48	5.93	7.77	8.98	12.22
49	5.98	7.83	9.04	12.29
50	6.02	7.88	9.11	12.38
51	6.06	7.93	9.17	12.45
52	6.11	8.00	9.24	12.52
53	6.14	8.05	9.30	12.60
54	6.18	8.09	9.36	12.67
55	6.23	8.13	9.42	12.74
56	6.27	8.19	9.49	12.80
57	6.30	8.24	9.54	12.88
58	6.35	8.28	9.59	12.94
59	6.38	8.33	9.66	13.01
60	6.42	8.39	9.71	13.07
61	6.46	8.42	9.77	13.14
62	6.50	8.46	9.82	13.19
63	6.53	8.52	9.88	13.25
64	6.57	8.55	9.93	13.31
65	6.61	8.61	9.98	13.37
66	6.65	8.66	10.04	13.43
67	6.68	8.70	10.09	13.48
68	6.71	8.74	10.14	13.54
69	6.75	8.76	10.19	13.59
70	6.79	8.83	10.24	13.64
Oversize parcels [2]	15.43	22.73	28.00	28.00

Schedule 322.1C Notes:

[1] For Barcoded Discount, deduct $0.03 per piece.

[2] See DMCS section 322.161 for oversize Parcel Post.

[3] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[4] A fee of $100 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.1D—PARCEL POST SUBCLASS DESTINATION SCF RATES

[Dollars]

Weight (Pounds)	Rate
2	1.67
3	1.78
4	1.91
5	2.02
6	2.12
7	2.21
8	2.30
9	2.40
10	2.48
11	2.56
12	2.64
13	2.72
14	2.78
15	2.84
16	2.92
17	2.98
18	3.04
19	3.10
20	3.16
21	3.22
22	3.27
23	3.32
24	3.38
25	3.43
26	3.47
27	3.53
28	3.57
29	3.63

STANDARD MAIL RATE SCHEDULE 322.1D—PARCEL POST SUBCLASS DESTINATION SCF RATES—Continued

[Dollars]

Weight (Pounds)	Rate
30	3.67
31	3.72
32	3.76
33	3.81
34	3.86
35	3.90
36	3.94
37	3.97
38	4.02
39	4.06
40	4.10
41	4.14
42	4.17
43	4.22
44	4.26
45	4.29
46	4.34
47	4.37
48	4.40
49	4.45
50	4.48
51	4.51
52	4.55
53	4.58
54	4.61
55	4.65
56	4.69
57	4.71
58	4.76
59	4.78
60	4.82
61	4.85
62	4.88
63	4.91
64	4.94
65	4.98
66	5.01
67	5.04
68	5.07
69	5.10
70	5.14
Oversize parcels [1]	11.99

Schedule 322.1D Notes:

[1] See DMCS section 322.161 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A fee of $100.00 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.1E—PARCEL POST SUBCLASS DESTINATION DELIVERY UNIT RATES

[Dollars]

Weight (Pounds)	Rate
2	1.10
3	1.35
4	1.42
5	1.48
6	1.53
7	1.58
8	1.63
9	1.69
10	1.74
11	1.78
12	1.83
13	1.88
14	1.91
15	1.95
16	2.00
17	2.03

STANDARD MAIL RATE SCHEDULE 322.1E—PARCEL POST SUBCLASS DESTINATION DELIVERY UNIT RATES—Continued

[Dollars]

Weight (Pounds)	Rate
18	2.08
19	2.11
20	2.15
21	2.19
22	2.22
23	2.26
24	2.29
25	2.33
26	2.36
27	2.40
28	2.43
29	2.47
30	2.49
31	2.53
32	2.56
33	2.59
34	2.63
35	2.66
36	2.69
37	2.71
38	2.75
39	2.78
40	2.81
41	2.84
42	2.86
43	2.90
44	2.92
45	2.95
46	2.99
47	3.02
48	3.04
49	3.07
50	3.10
51	3.13
52	3.16
53	3.18
54	3.20
55	3.24
56	3.27
57	3.29
58	3.33
59	3.34
60	3.37
61	3.40
62	3.43
63	3.45
64	3.48
65	3.51
66	3.54
67	3.56
68	3.58
69	3.61
70	3.65
Oversize parcels [1]	8.69

Schedule 322.1E Notes:

[1] See DMCS section 322.161 for oversize Parcel Post.

[2] Parcel Post pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

[3] A fee of $100.00 must be paid each year for DBMC, DSCF, and DDU.

STANDARD MAIL RATE SCHEDULE 322.3A—BOUND PRINTED MATTER SUBCLASS SINGLE PIECE RATES[1]

[Dollars]

Weight Not Exceeding (Pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	1.14	1.54	1.57	1.63	1.72	1.81	1.92	2.02
2	1.16	1.57	1.61	1.69	1.81	1.93	2.08	2.21
2.5	1.18	1.60	1.66	1.76	1.90	2.06	2.24	2.40

STANDARD MAIL RATE SCHEDULE 322.3A—BOUND PRINTED MATTER SUBCLASS SINGLE PIECE RATES[1]—Continued

[Dollars]

Weight Not Exceeding (Pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
3	1.20	1.63	1.70	1.82	1.99	2.18	2.40	2.60
3.5	1.22	1.66	1.74	1.88	2.08	2.30	2.56	2.79
4	1.24	1.70	1.79	1.94	2.18	2.42	2.72	2.98
4.5	1.26	1.73	1.83	2.01	2.27	2.55	2.88	3.17
5	1.28	1.76	1.88	2.07	2.36	2.67	3.05	3.37
6	1.31	1.82	1.96	2.20	2.54	2.92	3.37	3.75
7	1.35	1.89	2.05	2.32	2.73	3.16	3.69	4.14
8	1.39	1.95	2.14	2.45	2.91	3.41	4.01	4.52
9	1.43	2.02	2.22	2.57	3.10	3.65	4.33	4.91
10	1.47	2.08	2.31	2.70	3.28	3.90	4.65	5.29
11	1.51	2.14	2.40	2.83	3.46	4.15	4.97	5.68
12	1.55	2.21	2.48	2.95	3.65	4.39	5.29	6.06
13	1.59	2.27	2.57	3.08	3.83	4.64	5.61	6.45
14	1.63	2.34	2.66	3.20	4.02	4.88	5.93	6.83
15	1.67	2.40	2.75	3.33	4.20	5.13	6.26	7.22
Per piece rate	1.08	1.44	1.44	1.44	1.44	1.44	1.44	1.44
Per pound rate	0.039	0.064	0.087	0.126	0.184	0.246	0.321	0.385

Schedule 322.3A Notes:
[1] Includes both catalogs and similar bound printed matter.
[2] For barcoded discount, deduct $0.03 per piece.

STANDARD MAIL RATE SCHEDULE 322.3B—BOUND PRINTED MATTER SUBCLASS BULK AND CARRIER ROUTE PRESORT RATES [1]

[Dollars]

Zone	Per piece [3]	Carrier route [2]	Per pound
Local	0.54	0.463	0.028
1 & 2	0.72	0.643	0.051
3	0.72	0.643	0.073
4	0.72	0.643	0.112
5	0.72	0.643	0.171
6	0.72	0.643	0.233
7	0.72	0.643	0.307
8	0.72	0.643	0.371

Schedule 322.3B Notes:
[1] Includes both catalogs and similar bound printed matter.
[2] Applies to mailings of at least 300 pieces presorted to carrier route as specified by the Postal Service.
[3] For Barcoded Discount, deduct $0.03 per piece.

STANDARD MAIL RATE SCHEDULES 323.1 AND 323.2—SPECIAL AND LIBRARY RATE SUBCLASSES

	Rates (cents)
Schedule 323.1: Special:	
First Pound	
Not presorted [4]	113
Level A Presort (5-digits)[1,2]	64
Level B Presort (BMC)[1,3,4]	95
Each additional pound through 7 pounds	45
Each additional pound over 7 pounds	28
Schedule 323.2: Library:	
[Rates for Special Subclass in Schedule 323.1 Apply.]	

Schedule 323.1 and 323.3 Notes:
[1] A fee of $100.00 must be paid once each 12-month period for each permit.
[2] For mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes.
[3] For mailings of 500 or more pieces properly prepared and presorted to Bulk Mail Centers.
[4] For Barcoded Discount, deduct $0.03 per-piece.

PERIODICALS RATE SCHEDULE 421

Regular subclass [1,2]	Postage rate unit	Rate [3] (cents)
Per Pound:		
Nonadvertising Portion	Pound	16.1
Advertising Portion:		
Delivery Office [4]	Pound	15.5
SCF [5]	Pound	17.8
1 and 2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Science of Agriculture:		
Delivery Office	Pound	11.6
SCF	Pound	13.3
Zones 1 and 2	Pound	16.1
Per Piece:		
Less Nonadvertising Factor [6]		5.9
Required Preparation [7]	Piece	29.4
Presorted to 3-digit	Piece	25.3
Presorted to 5-digit	Piece	19.7
Presorted to Carrier Route	Piece	12.2
Discounts:		
Prepared to Delivery Office [4]	Piece	1.3
Prepared to SCF [5]	Piece	0.7
High Density [8]	Piece	1.9
Saturation [9]	Piece	3.7
Automation Discounts for Automation Compatible Mail [10]		
From Required:		
Prebarcoded letter size	Piece	6.2
Prebarcoded flats	Piece	4.6
From 3-Digit:		
Prebarcoded letter size	Piece	4.7
Prebarcoded flats	Piece	3.9
From 5-Digit:		
Prebarcoded letter size	Piece	3.5
Prebarcoded flats	Piece	2.9

Schedule 421 Notes:
[1] The rates in this schedule also apply to commingled nonsubscriber, non-requester, complimentary, and sample copies in excess of 10 percent allowance in regular-rate, non-profit, and classroom periodicals.
[2] Rates do not apply to otherwise regular rate mail that qualifies for the Within County rates in Schedule 423.2.
[3] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[4] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.
[5] Applies to mail delivered within the SCF area of the originating SCF office.
[6] For postage calculations, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
[7] Mail not eligible for carrier-route, 5-digit or 3-digit rates.
[8] Applicable to high density mail, deducted from carrier route presort rate.
[9] Applicable to saturation mail, deducted from carrier route presort rate.
[10] For automation compatible mail meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.2

Within County (Full Rates)	Rate (cents)
Per Pound:	
General	13.3
Delivery Office [1]	10.7
Per Piece:	
Required Presort	9.5
Presorted to 3-digit	8.8
Presorted to 5-digit	8.0
Carrier Route Presort	4.3
Per Piece Discount:	
Delivery Office [2]	0.4
High Density (formerly 125 piece) [3]	1.4
Saturation	1.8
Automation Discounts for Automation Compatible Mail: [4]	
From Required:	
Prebarcoded Letter size	6.2

PERIODICALS RATE SCHEDULE 423.2—Continued

Within County (Full Rates)	Rate (cents)
Prebarcoded Flat size	4.6
From 3-digit:	
Prebarcoded Letter size	4.7
Prebarcoded Flat size	2.4
From 5-digit:	
Prebarcoded Letter size	3.5
Prebarcoded Flat size	2.1

Schedule 423.2 Notes:
[1] Applicable only to carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.
[2] Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.
[3] Applicable to high density mail, deducted from carrier route presort rate. Mailers also may qualify for this discount on an alternative basis as provided in DMCS section 423.83.
[4] For automation compatible pieces meeting applicable Postal Service regulations.

PERIODICALS RATE SCHEDULE 423.3

Publications of Authorized Nonprofit Organizations [10] (Full Rates)	Postage Rate Unit	Rate [1] (cents)
Per Pound:		
Nonadvertising portion	Pound [9]	15.6
Advertising portion:		
Delivery Office [2]	Pound	15.5
SCF [3]	Pound	17.8
1&2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Per Piece:		
Less Nonadvertising Factor [4]		4.4
Required Preparation [5]	Piece	25.1
Presorted to 3-digit	Piece	20.8
Presorted to 5-digit	Piece	18.3
Presorted to Carrier Route	Piece	11.3
Discounts:		
Prepared to Delivery Office [2]	Piece	0.7
Prepared to SCF [3]	Piece	0.4
High Density (formerly 125-Piece) [6]	Piece	1.9
Saturation [7]	Piece	3.7
Automation Discounts for Automation Compatible Mail: [8]		
From Required:		
Prebarcoded letter size	Piece	6.2
Prebarcoded flats	Piece	4.6
From 3-Digit:		
Prebarcoded letter size	Piece	4.7
Prebarcoded flats	Piece	2.4
From 5-Digit:		
Prebarcoded letter size	Piece	3.5
Prebarcoded flats	Piece	2.1

Schedule 423.3 Notes:
[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[2] Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.
[4] For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
[5] Mail not eligible for carrier route, 5-digit or 3-digit rates.
[6] Applicable to high density mail, deducted from carrier route presort rate.
[7] Applicable to saturation mail, deducted from carrier route presort rate.
[8] For automation compatible mail meeting applicable Postal Service regulations.
[9] Not applicable to publications containing 10 percent or less advertising content.
[10] If qualified, nonprofit publications may use Within County rates for applicable portions of a mailing.

PERIODICALS RATE SCHEDULE 423.4

Classroom Publications [10] (Full Rates)	Postage Rate Unit	Rate [1] (cents)
Per Pound:		
Nonadvertising Portion	Pound	15.6
Advertising Portion: [9]		
Delivery Office [2]	Pound	15.5
SCF [3]	Pound	17.8
1 and 2	Pound	21.5
3	Pound	22.9
4	Pound	26.3
5	Pound	31.6
6	Pound	37.1
7	Pound	43.8
8	Pound	49.5
Per Piece:		
Less Nonadvertising Factor [4]		4.4
Required Preparation [5]	Piece	25.1
Presorted to 3-digit	Piece	20.8
Presorted to 5-digit	Piece	18.3
Presorted to Carrier Route	Piece	11.3
Discounts:		
Prepared to Delivery Office [2]	Piece	0.7
Prepared to SCF	Piece	0.4
High Density (formerly 125-Piece) [6]	Piece	1.9
Saturation [7]	Piece	3.7
Automation Discounts for Automation Compatible Mail: [8]		
From Required:		
Prebarcoded Letter size	Piece	6.2
Prebarcoded Flats	Piece	4.6
From 3-Digit:		
Prebarcoded Letter size	Piece	4.7
Prebarcoded Flats	Piece	2.4
From 5-Digit:		
Prebarcoded Letter size	Piece	3.5
Prebarcoded Flats	Piece	2.1

Schedule 423.4 Notes:
[1] Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.
[2] Applies to carrier route (including 125-piece walk sequence and saturation) mail delivered within the delivery area of the originating post office.
[3] Applies to mail delivered within the SCF area of the originating SCF office.
[4] For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.
[5] Mail not eligible for carrier route, 5-digit, or 3-digit rates.
[6] For walk sequenced mail in batches of 125 pieces or more from carrier route presorted mail.
[7] Applicable to saturation mail; deducted from carrier route presort rate.
[8] For automation compatible mail meeting applicable Postal Service regulations.
[9] Not applicable to publications containing 10 percent or less of advertising content.
[10] If qualified, classroom publications may use Within County rates for applicable portions of a mailing.

FEE SCHEDULE 911—ADDRESS CORRECTIONS

Description	Fee
Per manual correction	$0.50
Per automated correction	0.20

FEE SCHEDULE 912

	Fee
ZIP CODING OF MAILING LISTS	
Per thousand addresses	$70.00
CORRECTION OF MAILING LISTS	
Per submitted address	0.20
Minimum Charge per list corrected	7.00

FEE SCHEDULE 912—Continued

	Fee
ADDRESS CHANGES FOR ELECTION BOARDS AND REGISTRATION COMMISSIONS	
Per change of address	0.17
CORRECTIONS ASSOCIATED WITH ARRANGEMENT OF ADDRESS CARDS IN CARRIER DELIVERY SEQUENCE	
Per Correction	0.20

Note:
When rural routes have been consolidated or changed to another post office, no charge will be made for correction if the list contains only names of persons residing on the route or routes involved.

FEE SCHEDULE 921—POST OFFICE BOXES AND CALLER SERVICE

I. Semi-annual Box Fees [1]

Box Size [2]	Fee Group				
	A	B	C	D	E
1	$30.00	$27.00	$22.00	$7.00	$0.00
2	46.00	41.00	32.00	12.00	0.00
3	80.00	70.00	57.00	22.00	0.00
4	151.00	136.00	97.00	33.00	0.00
5	261.00	217.00	162.00	52.00	0.00

[1] A customer ineligible for carrier delivery may obtain a post office box at Group E fees, subject to administrative decisions regarding customer=s proximity to post office.
[2] Box Size 1 = under 296 cubic inches; 2 = 296–499 cubic inches; 3 = 500–999 cubic inches; 4 = 1000–1999 cubic inches; 5 = 2000 cubic inches and over.

Fee Group	Fee
II. Semi-annual Caller Service Fees:	
A	$275
B	275
C	275
D	275
III. Annual Call Number Reservation Fee:	
(All applicable Fee Groups)	36

FEE SCHEDULE 931—BUSINESS REPLY MAIL

	Fee
Active business reply advance deposit account:	
Per piece:	
Qualified	$0.05
Nonletter-size, using reverse manifest (experimental)	0.02
Nonletter-size, using weight averaging (experimental)	0.03
Other	0.08
Payment of postage due charges if active business reply mail advance deposit account not used:	
Per piece	0.30
Annual License and Accounting Fees:	
Accounting Fee for Advance Deposit Account	300
Permit fee (with or without Advance Deposit Account)	100
Monthly Fees for customers using a reverse manifest or weight averaging for nonletter-size business reply:	
Nonletter-size, using reverse manifest (experimental)	1,000
Nonletter-size, using weight averaging (experimental)	3,000
Set-up/Qualification fee for customers using a reverse manifest or weight averaging for nonletter-size business reply:	
Nonletter-size, using reverse manifest (experimental)	1,000
Nonletter-size, using weight averaging (experimental)	3,000

[1] Experimental per piece, monthly, and set-up/qualification fees are applicable only to participants selected by the Postal Service for the nonletter-size business reply mail experiment. The experimental fees expire June 7, 1999.

FEE SCHEDULE 932—MERCHANDISE RETURN

	Fee
Per Transaction:	
Shipper must have an advance deposit account (see DMCS Schedule 1000)	$0.30

FEE SCHEDULE 933—ON-SITE METER SETTING

	Fee
First Meter:	
By appointment	$27.50
Unscheduled request	31.00
Additional meters	4.00
Checking meter in or out of service (per meter)	8.50

Fee Schedule 934

[Reserved]

FEE SCHEDULE 935—BULK PARCEL RETURN SERVICE

	Fee
Per Returned Piece	$1.75

FEE SCHEDULE 941—CERTIFIED MAIL

Description	Fee*
Service (per mailpiece)	$1.40

*In addition to postage.

FEE SCHEDULE 942—REGISTERED MAIL

Declared Value of Article [1]	Fee [2]	Handling Charge
$ 0	$6.00	None.
0.01 to 100	6.20	None.
100.01 to 500	6.75	None.
500.01 to 1,000	7.30	None.
1,000.01 to 2,000	7.85	None.
2,000.01 to 3,000	8.40	None.
3,000.01 to 4,000	8.95	None.
4,000.01 to 5,000	9.50	None.
5,000.01 to 6,000	10.05	None.
6,000.01 to 7,000	10.60	None.
7,000.01 to 8,000	11.15	None.
8,000.01 to 9,000	11.70	None.
9,000.01 to 10,000	12.25	None.
10,000.01 to 11,000	12.80	None.
11,000.01 to 12,000	13.35	None.
12,000.01 to 13,000	13.90	None.
13,000.01 to 14,000	14.45	None.
14,000.01 to 15,000	15.00	None.
15,000.01 to 16,000	15.55	None.
16,000.01 to 17,000	16.10	None.
17,000.01 to 18,000	16.65	None.
18,000.01 to 19,000	17.20	None.
19,000.01 to 20,000	17.75	None.
20,000.01 to 21,000	18.30	None.
21,000.01 to 22,000	18.85	None.
22,000.01 to 23,000	19.40	None.
23,000.01 to 24,000	19.95	None.
24,000.01 to 25,000	20.50	None.
25,000.01 to $1 Million.	20.50	Plus 55 Cents For Each $1,000 (or Fraction Thereof) Over $25,000.
Over $1 Million to $15 Million	556.75	Plus 55 Cents For Each $1,000 (or Fraction Thereof) Over $1 Million.
Over $15 Million	8,256.75	Plus Amount Determined By The Postal Serice Based On Weight, Space And Value.

[1] Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.
[2] In addition to postage.

FEE SCHEDULE 943—INSURANCE

Express Mail Insurance

Coverage	Fee [1] (in addition to postage)
Document Reconstruction:	
$ 0.01 to $500	No charge.
Merchandise:	
$ 0.01 to $500	No charge.
500.01 to $5000	$0.95 for each $100 (or fraction thereof) over $500 value.
General Insurance:	
$ 0.01 to $50	$0.85
50.01 to 100	1.80
100.01 to 5000	1.80 plus $0.95 for each $100 (or fraction thereof) over $100 in coverage.

[1] For bulk insurance, deduct $0.40 per piece.

FEE SCHEDULE 944—COLLECT ON DELIVERY

	Fee*
Amount to be collected, or Insurance Coverage Desired:	
$ 0.01 to $ 50	$4.00
50.01 to 100	5.00
100.01 to 200	6.00
200.01 to 300	7.00
300.01 to 400	8.00
400.01 to 500	9.00
500.01 to 600	10.00
Notice of nondelivery of COD	3.00
Alteration of COD charges or designation of new addressee	3.00
Registered COD	4.00

* In addition to postage.

FEE SCHEDULE 945—RETURN RECEIPTS

Description	Fee [3]
Receipt Issued at Time of Mailing [1]	
Items other than Merchandise	$1.25
Merchandise (without another special service)	1.40
Receipt Issued after Mailing [2]	7.00

[1] This receipt shows the signature of the person to whom the mailpiece was delivered, the date of delivery and the delivery address, if such address is different from the address on the mailpiece.
[2] This receipt shows to whom the mailpiece was delivered and the date of delivery.
[3] In addition to postage

FEE SCHEDULE 946—RESTRICTED DELIVERY

	Fee*
Per Piece	$2.75

* In addition to postage.

FEE SCHEDULE 947—CERTIFICATE OF MAILING

	Fee*
INDIVIDUAL PIECES	
Original certificate of mailing for listed pieces of all classes of ordinary mail (per piece)	$0.60
Three or more pieces individually listed in a firm mailing book or an approved customer provided manifest (per piece)	0.25
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail (each copy)	0.60
BULK PIECES	
Identical pieces of First-Class and Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route Standard Mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:	
Up to 1,000 pieces (one certificate for total number)	3.00
Each additional 1,000 pieces or fraction	0.40

FEE SCHEDULE 947—CERTIFICATE OF MAILING—Continued

	Fee*
Duplicate copy	0.60

*In addition to postage.

FEE SCHEDULE 948—DELIVERY CONFIRMATION

Service	Fee*
Used in Conjunction with Priority Mail:	
Electronic	$0.00
Manual	0.35
Used in Conjunction with Parcel Post, Bound Printed Matter, Library, and Special Standard Mail:	
Electronic	0.25
Manual	0.60

*In addition to postage.

FEE SCHEDULE 951—PARCEL AIR LIFT

	Fee*
Up to 2 pounds	$0.40
Over 2 up to 3 pounds	0.75
Over 3 up to 4 pounds	1.15
Over 4 pounds	1.55

*In addition to Parcel Post postage.

FEE SCHEDULE 952—SPECIAL HANDLING

	Fee*
Not more than 10 pounds	$5.40
More than 10 pounds	7.50

*In addition to postage.

FEE SCHEDULE 961—STAMPED ENVELOPES

Description	Fee [2]
Single Sale	$0.07
Single Sale Hologram	0.08
Plain Bulk (500) #6–3/4 size:	
Regular	8.50
Window	8.50
Printed Bulk (500) #6–3/4 size:	
Regular	14.00
Window	14.00
Banded (500) #6–3/4 size:	
Regular	9.50
Plain Bulk (500) size > #6–3/4 through #10 [1]:	
Regular	11.50
Window	11.50
Hologram	15.50
Printed Bulk (500) size > #6–3/4 through #10:	
Regular	15.00
Window	15.00
Savings Bond	15.00
Hologram	19.00
Banded (500) size > #6–3/4 size through #10:	12.00
Multi-Color Printing (500):	
#6–3/4 size	14.00
#10 size [1]	15.00
Printing Charge per 500 Envelopes (for each type of printed envelope):	
Minimum Order (500 envelopes)	.....
Order for 1,000 or more envelopes	.....
Double Window (500) size > #6–3/4 through #10 [1]	11.50
Household (50):	
size #6–3/4:	
Regular	3.00
Window	3.00

FEE SCHEDULE 961—STAMPED ENVELOPES—Continued

Description	Fee [2]
size > #6–3/4 through #10	
Regular	3.25
Window	3.25
Hologram	3.50

Notes:
[1] Fee for precancelled envelopes is the same.
[2] In addition to postage.

FEE SCHEDULE 962—STAMPED CARDS

Description	Fee *
Stamped Card	$0.01
Double Stamped Card	0.02

* In addition to postage.

FEE SCHEDULE 971—MONEY ORDERS

	Fee
Domestic—$0.01 to $700	$0.80
APO–FPO—$0.01 to $700	0.30
Inquiry Fee, which includes the issuance of copy of a paid money order	2.75

SCHEDULE 1000

	Fee
First-Class Presorted Mailing	$100.00
Periodicals:	
A. Original Entry	305.00
B. Additional Entry	50.00
C. Re-entry	50.00
D. Registration for News Agents	50.00
Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route Standard Mail Bulk Mailing	100.00
Parcel Post: Destination BMC, SCF, and DDU	100.00
Special Standard Mail Presorted Mailing	100.00
Authorization to Use Permit Imprint	100.00
Merchandise Return (per facility receiving merchandise return labels)	100.00
Business Reply Mail Permit (see Fee Schedule 931)	.....
Authorization to Use Bulk Parcel Return Service	100.00

Attachment B to the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission in Docket No. R97–1

Changes to the Domestic Mail Classification Schedule

AMEND THE DOMESTIC MAIL CLASSIFICATION SCHEDULE BY INSERTING UNDERLINED TEXT AND DELETING BRACKETED TEXT AS FOLLOWS:

Expedited Mail Classification Schedule

110 DEFINITION

Expedited Mail is mail matter entered as Express Mail under the provisions of this Schedule. Any matter eligible for mailing may, at the option of the mailer, be mailed as Express Mail. Insurance is either included in Express Mail postage or is available for an additional charge, depending on the value and nature of the item sent by Express Mail.

120 DESCRIPTION OF SERVICES

121 Same Day Airport Service

Same Day Airport service is available between designated airport mail facilities.

122 Custom Designed Service

122.1 General. Custom Designed service is available between designated postal facilities or other designated locations for mailable matter tendered [in accordance with] *under* a service agreement between the Postal Service and the mailer. Service *under* a service agreement shall be offered in a manner consistent with 39 U.S.C. 403(c).

122.2 Service Agreement. A service agreement shall set forth the following:

a. The scheduled place for each shipment tendered for service to each specific destination;

b. Scheduled place for claim, or delivery, at destination for each scheduled shipment;

c. Scheduled time of day for tender at origin and for claim or delivery at destination.

122.3 Pickup and Delivery. Pickup at the mailer=s premises, and/or delivery at an address other than the destination postal facility is provided under terms and conditions as [prescribed] *specified* by the Postal Service.

122.4 Commencement of Service Agreement. Service provided pursuant to a service agreement shall commence not more than 10 days after the signed service agreement is tendered to the Postal Service.

122.5 Termination of Service Agreement

122.51 Termination by Postal Service. Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service upon 10 days prior written notice to the mailer if:

a. Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or

b. The mailer fails to adhere to the terms of the service agreement or this schedule.

122.52 Termination by Mailers. The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

123 Next Day Service and Second Day Service

123.1 Availability of Services. Next Day and Second Day Services are available at designated retail postal facilities to designated destination facilities or locations for items tendered by the time or times [prescribed] *specified* by the Postal Service. Next Day Service is available for overnight delivery. Second Day Service is available for second day delivery.

123.2 Pickup Service. Pickup service is available for Next Day and Second Day Services under terms and conditions as [prescribed] *specified* by the Postal Service. Service shall be offered in a manner consistent with 39 U.S.C. 403(c).

130 PHYSICAL LIMITATIONS

Express Mail may not exceed 70 pounds or 108 inches in length and girth combined.

140 POSTAGE AND PREPARATION

Except as provided in Rate Schedules 121, 122 and 123, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail pouches under a service agreement, each pouch is a piece.

150 DEPOSIT AND DELIVERY

151 Deposit

Express Mail must be deposited at places designated by the Postal Service.

152 Receipt

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing.

153 Service

Express Mail service provides a high speed, high reliability service. Same Day Airport Express Mail will be dispatched on the next available transportation to the destination airport mail facility. Custom Designed Express Mail will be available for claim or delivery as *specified* in the service agreement.

154 Forwarding and Return

When Express Mail is returned, or forwarded, as [prescribed] *specified* by the Postal Service, there will be no additional charge.

160 ANCILLARY SERVICES

The following services may be obtained in conjunction with mail sent under this classification schedule upon payment of applicable fees:

Service	Schedule
a. Address correction	*911* [SS–1]
b. Return receipts	*945* [SS–16]
c. COD	*944* [SS–6]
d. Express Mail Insurance	*943* [SS–9]

170 RATES AND FEES

The rates for Express Mail are set forth in the following rate schedules:

	Schedule
a. Same Day Airport	121
b. Custom Designed	122
c. Next Day Post Office to Post Office	123
d. Second Day Post Office to Post Office	123
e. Next Day Post Office to Addressee	123
f. Second Day Post Office to Addressee	123

180 REFUNDS

181 Procedure

Claims for refunds of postage must be filed within the period of time and under terms and conditions [prescribed] *specified* by the Postal Service.

182 Availability

182.1 Same Day Airport. The Postal Service will refund the postage for Same Day Airport Express Mail not available for claim by the time specified, unless the delay is caused by:

a. Strikes or work stoppage;

b. Delay or cancellation of flights; or

c. Governmental action beyond the control of Postal Service or air carriers.

182.2 Custom Designed. Except where a service agreement provides for claim, or delivery, of Custom Designed Express Mail more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage for such mail not available for claim, or not delivered, within 24 hours of mailing, unless the item was delayed by strike or work stoppage.

182.3 Next Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Next Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the next delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the next delivery day in the case of Post Office-to-Addressee service.

182.4 Second Day. Unless the item was delayed by strike or work stoppage, the Postal Service will refund postage for Second Day Express Mail not available for claim or not delivered:

a. By 10:00 a.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the second delivery day in the case of Post Office-to-Post Office service;

b. By 3:00 p.m., or earlier time(s) [prescribed] *specified* by the Postal Service, of the second delivery day in the case of Post Office-to-Addressee service.

First-Class Mail Classification Schedule

210 DEFINITION

Any matter eligible for mailing may, at the option of the mailer, be mailed as First-Class Mail. The following must be mailed as First-Class Mail, unless mailed as Express Mail or exempt under title 39, United States Code, or except as authorized under sections 344.12, 344.23 and 443:

a. Mail sealed against postal inspection as set forth in section 5000;

b. Matter wholly or partially in handwriting or typewriting except as specifically permitted by sections 312, 313, 323, 344.22, and 446;

c. Matter having the character of actual and personal correspondence except as specifically permitted by sections 312, 313, 323, 344.22, and 446; and

d. Bills and statements of account.

220 DESCRIPTION OF SUBCLASSES

221 Letters and Sealed Parcels Subclass

221.1 General. The Letters and Sealed Parcels subclass consists of First-Class Mail weighing [11] *13* ounces or less that is not mailed under section 222 or 223.

221.2 Regular Rate Categories. The regular rate categories consist of Letters and Sealed Parcels subclass mail not mailed under section 221.3.

221.21 [Single Piece] *Single-Piece* Rate Category. The single-piece rate category applies to regular rate Letters and Sealed Parcels subclass mail not mailed under section 221.22[.], *or 221.24.*

221.22 Presort Rate Category. The [P]*p*resort rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the addressing and other preparation requirements [prescribed] *specified* by the Postal Service.

221.23 [Reserved]

221.24 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Letters and Sealed Parcels subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient=s preprinted machine-readable return address, a barcode representing not more than 11 digits (not including Acorrection@ digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the letter machinability and other preparation requirements specified by the Postal Service.

221.25 [Reserved]

221.26 Nonstandard Size Surcharge. Regular rate category Letters and Sealed Parcels subclass mail is subject to a surcharge if it is nonstandard size mail, as defined in section 232.

221.27 Presort Discount for Pieces Weighing More Than Two Ounces. Presort rate category Letters and Sealed Parcels subclass mail is eligible for an additional presort discount on each piece weighing more than two ounces.

221.3 Automation Rate Categories—Letters and Flats

221.31 General. The automation rate categories consist of Letters and Sealed Parcels subclass mail weighing [11] *13* ounces or less that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including ''correction'' digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

221.32 Basic Rate Category. The basic rate category applies to letter-size automation rate category mail not mailed under section 221.33, 221.34, or 221.35.

221.33 Three-Digit Rate Category. The three-digit rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

221.34 Five-Digit Rate Category. The five-digit rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

221.35 Carrier Route Rate Category. The carrier route rate category applies to letter-size automation rate category mail presorted to carrier routes. It is available only for those carrier routes [prescribed] *specified* by the Postal Service.

221.36 Basic Flats Rate Category. The basic flats rate category applies to flat-size automation rate category mail not mailed under section 221.37.

221.37 Three- and Five-Digit Flats Rate Category. The three- and five-digit flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

221.38 Nonstandard Size Surcharge. Flat-size automation rate category pieces are subject to a surcharge if they are nonstandard size mail, as defined in section 232.

221.39 Presort Discount for Pieces Weighing More Than Two Ounces. Presorted automation rate category mail is eligible for an additional presort discount on each piece weighing more than two ounces.

222 [Stamped Cards and Post Cards] *Cards* Subclass

Definition

[222.11 Stamped Card. A Stamped Card is a card with postage imprinted or impressed on it and supplied by the Postal Service for the transmission of messages.]

222.1[2]*1* [Post Card] *Cards. The Cards subclass consists of Stamped Cards, defined in section 962.11, and postcards. A* [post card] *postcard* is a privately printed mailing card for the transmission of messages. To be eligible to be mailed as a First-Class [post card] *postcard*, a card must be of uniform thickness and must not exceed any of the following dimensions:

a. 6 inches in length;

b. 43 inches in width;

c. 0.016 inch in thickness.

222.1[3]*2* Double Cards. Double Stamped Cards or [post cards] *double postcards* may be mailed as Stamped Cards or [post cards] *postcards*. [A d]*D*ouble Stamped Card*s are defined in section 962.12*. [or post card] *A double postcard* consists of two attached cards, one of which may be detached by the receiver and returned by mail as a single [Stamped Card or] *postcard* [post card].

222.2 Restriction. A mailpiece with any of the following characteristics is not mailable as a Stamped Card or [post card] *postcard* unless it is prepared as [prescribed] *specified* by the Postal Service:

a. Numbers or letters unrelated to postal purposes appearing in the address portion of the card;

b. Punched holes;

c. Vertical tearing guide;

d. An address portion which is smaller than the remainder of the card.

222.3 Regular Rate Categories

222.31 Single-Piece Rate Category. The single-piece rate category applies to regular rate [Stamped Cards and Post] *Card*s subclass mail not mailed under section 222.32 *or 222.34.*

222.32 Presort Rate Category. The presort rate category applies to [Stamped Cards and Post] Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the addressing and other preparation requirements [prescribed] *specified* by the Postal Service.

223.33 [Reserved]

222.34 Qualified Business Reply Mail Rate Category. The qualified business reply mail rate category applies to Cards subclass mail that:

a. Is provided to senders by the recipient, an advance deposit account business reply mail permit holder, for return by mail to the recipient;

b. Bears the recipient's preprinted machine-readable return address, a barcode representing not more than 11 digits (not including Acorrection@ digits), a Facing Identification Mark, and other markings specified and approved by the Postal Service; and

c. Meets the card machinability and other preparation requirements specified by the Postal Service.

222.4 Automation Rate Categories

222.41 General. The automation rate categories consist of [Stamped Cards and Post] Cards subclass mail that:

a. Is prepared in a mailing of at least 500 pieces;

b. Is presorted, marked, and presented as specified by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including ''correction'' digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

222.42 Basic Rate Category. The basic rate category applies to automation rate category cards not mailed under section 222.43, 222.44, or 222.45.

222.43 Three-Digit Rate Category. The three-digit rate category applies to automation rate category cards presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

222.44 Five-Digit Rate Category. The five-digit rate category applies to automation rate category cards presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

222.45 Carrier Route Rate Category. The carrier route rate category applies to automation rate category cards presorted to carrier routes. It is available only for those carrier routes [prescribed] *specified* by the Postal Service.

223 Priority Mail *Subclass*

223.1 General. The Priority Mail subclass consists of:

a. First-Class Mail weighing more than [11]*13* ounces; and

b. Any mailable matter which, at the option of the mailer, is mailed for expeditious mailing and transportation.

223.2 Single-Piece Priority Mail Rate Category. The single-piece *Priority Mail* [priority mail] rate category applies to Priority Mail subclass mail not mailed under section 223.[3]*4.*

223.3 [Presorted Priority Mail Rate Category. The presorted priority mail rate category applies to Priority Mail subclass mail that:

a. Is prepared in a mailing of at least 300 pieces;

b. Is presorted, marked, and presented as prescribed by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.] [Reserved]

223.4 [Reserved]

223.5 Flat Rate Envelope. Priority Mail subclass mail sent in a ''flat rate'' envelope provided by the Postal Service is charged the two-pound rate.

223.6 Pickup Service. Pickup service is available for Priority Mail subclass mail under terms and conditions [prescribed] *specified* by the Postal Service.

223.7 Bulky Parcels. Priority Mail subclass mail weighing less than 15 pounds, and measuring over 84 inches in length and girth combined, is charged a minimum rate equal to that for a 15-pound parcel for the zone to which the piece is addressed.

230 PHYSICAL LIMITATIONS

231 Size and Weight

First-Class Mail may not exceed 70 pounds or 108 inches in length and girth combined. Additional size and weight limitations apply to individual First-Class Mail subclasses.

232 Nonstandard Size Mail

Letters and Sealed Parcels subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness.

240 POSTAGE AND PREPARATION

Postage on First-Class Mail must be paid as set forth in section 3000. Postage is computed separately on each piece of mail. Pieces not within the same postage rate increment may be mailed at other than a single-piece rate as part of the same mailing only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed. All mail mailed at other than a single-piece rate must have postage paid in a manner not requiring cancellation.

250 DEPOSIT AND DELIVERY

251 Deposit

First-Class Mail must be deposited at places and times designated by the Postal Service.

252 Service

First-Class Mail receives expeditious handling and transportation, except that when First-Class Mail is attached to or enclosed with mail of another class, the service of that class applies.

253 Forwarding and Return

First-Class Mail that is undeliverable-as-addressed is forwarded or returned to the sender without additional charge.

260 ANCILLARY SERVICES

First-Class Mail, except as otherwise noted, will receive the following additional services upon payment of the fees prescribed in the corresponding schedule:

Service	Schedule
a. Address correction	*911* [SS1]
b. Business reply mail	*931* [SS2]
c. Certificates of mailing	*947* [SS4]
d. Certified mail	*941* [SS5]
e. COD	*944* [SS6]
f. [Insured mail] *Insurance*	*943* [SS9]
g. Registered mail	*942* [SS14]
h. Return receipt (limited to merchandise sent by Priority Mail).	*945* [SS16]
i. Merchandise return	*932* [SS20]
j. *Delivery Confirmation (limited to Priority Mail).*	*948*

270 RATES AND FEES

271 The rates [and fees] for First-Class Mail are set forth in the following schedules:

	Schedule
a. Letters and Sealed Parcels	221
b. [Stamped Cards and Post] Cards.	222
c. Priority Mail	223
[d. Fees	SS–19A and 1000]

272 Keys and Identification Devices. Keys, identification cards, identification tags, or similar identification devices that:

a. weigh no more than 2 pounds;

b. are mailed without cover; and

c. bear, contain, or have securely attached the name and address information, as specified by the Postal Service, of a person, organization, or concern, with instructions to return to the address and a statement guaranteeing the payment of postage due on delivery; are subject to the following rates and fees:

i. the applicable single-piece rates in schedules 221 or 223;

ii. the fee set forth in fee schedule 931 for payment of postage due charges if an active business reply mail advance deposit account is not used, and

iii. if applicable, the surcharge for nonstandard size mail, as defined in section 232.

280 AUTHORIZATIONS AND LICENSES

The fee set forth in [Rate] Schedule 1000 must be paid once each year at each office of mailing by any person who mails other than single-piece First-Class Mail or courtesy envelope mail. Payment of the fee allows the mailer to mail at any First-Class rate.

STANDARD MAIL CLASSIFICATION SCHEDULE

310 DEFINITION

311 General

Any mailable matter may be mailed as Standard Mail except:

a. Matter required to be mailed as First-Class Mail;

b. Copies of a publication that is entered as Periodicals class mail, except copies sent by a printer to a publisher, and except copies that would have traveled at the former second-class transient rate. (The transient rate applied to individual copies of second-class mail (*currently Periodicals class mail*) forwarded and mailed by the public, as well as to certain sample copies mailed by publishers.)

312 Printed Matter

Printed matter, including printed letters which according to internal evidence are being sent in identical terms to several persons, but which do not have the character of actual or personal correspondence, may be mailed as Standard Mail. Printed matter does not lose its character as Standard Mail when the date and name of the addressee and of the sender are written thereon. For the purposes of the Standard Mail Classification Schedule, ''printed'' does not include reproduction by handwriting or typewriting.

313 Written Additions

Standard Mail may have the following written additions placed on the wrapper, on a tag or label attached to the outside of the parcel, or inside the parcel, either loose or attached to the article:

a. Marks, numbers, name, or letters descriptive of contents;

b. ''Please Do Not Open Until Christmas,'' or words of similar import;

c. Instructions and directions for the use of an article in the package;

d. Manuscript dedication or inscription not in the nature of personal correspondence;

e. Marks to call attention to any word or passage in text;

f. Corrections of typographical errors in printed matter;

g. Manuscripts accompanying related proof sheets, and corrections in proof sheets to include: corrections of typographical and other errors, alterations of text, insertion of new text, marginal instructions to the printer, and rewrites of parts if necessary for correction;

h. Handstamped imprints, except when the added matter is itself personal or converts the original matter to a personal communication;

i. An invoice.

320 DESCRIPTION OF SUBCLASSES

321 Subclasses Limited to Mail Weighing Less than 16 Ounces

321.1 [Single Piece Subclass] [*Reserved*]

[321.11 Definition. The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4, 321.5 or 323.]

[321.12 Basic Rate Category. The basic rate category applies to Single Piece subclass mail not mailed under section 321.13.]

[321.13 Keys and Identification Devices Rate Category. The keys and identification devices rate category applies to keys, identification cards, identification tags, or similar identification devices mailed without cover, and which bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return to such address and a statement guaranteeing the payment of postage due on delivery.]

[321.14 Nonstandard Size Surcharge. Single Piece subclass mail, other than that mailed under section 321.13, is subject to a surcharge if it is nonstandard size mail, as defined in section 333.]

321.2 Regular Subclass

321.21 General. The Regular subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections [321.1,] 321.3, 321.4, 321.5 or 323.

321.22 Presort Rate Categories

321.221 General. The presort rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.222 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.223.

321.223 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.23 Automation Rate Categories

321.231 General. The automation rate categories apply to Regular subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including Acorrection@ digits) as [prescribed] *specified* by the Postal Service;

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.232 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.233 or 321.234.

321.233 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.234 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.235 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.236.

321.236 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.24 Destination Entry Discounts. The destination entry discounts apply to Regular subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.

321.25 Residual Shape Surcharge. Regular subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.3 Enhanced Carrier Route Subclass

321.31 Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.4, 321.5 or 323, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Is presorted to carrier routes as [prescribed] *specified* by the Postal Service;

d. Is sequenced as [prescribed] *specified* by the Postal Service; and

e. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.32 Basic Rate Category. The basic rate category applies to Enhanced Carrier Route subclass mail not mailed under section 321.33, 321.34 or 321.35.

321.33 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including Acorrection@ digits), as *specified* [prescribed] by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

321.34 High Density Rate Category. The high density rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements [prescribed] *specified* by the Postal Service.

321.35 Saturation Rate Category. The saturation rate category applies to Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements [prescribed] *specified* by the Postal Service.

321.36 Destination Entry Discounts. Destination entry discounts apply to Enhanced Carrier Route subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.37 Residual Shape Surcharge. Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.4 Nonprofit Subclass

321.41 General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.3, 321.5 or 323, and that is mailed by authorized nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009,

i. Qualified political committees,

j. State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.

321.411 Qualified Political Committees. The term ''qualified political committee'' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee:

a. The term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

b. The term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

321.412 *Limitation on Authorization.* An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at [special] *nonprofit* Standard rates to any other person, organization or association.

321.42 Presort Rate Categories

321.421 General. The presort rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.422 Basic Rate Categories. The basic rate categories apply to presort rate category mail not mailed under section 321.423.

321.423 Three- and Five-Digit Rate Categories. The three- and five-digit rate categories apply to presort rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.43 Automation Rate Categories

321.431 General. The automation rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Bears a barcode representing not more than 11 digits (not including Acorrection@ digits) as [prescribed] *specified* by the Postal Service; and

d. Meets the machinability, addressing, barcoding, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.432 Basic Barcoded Rate Category. The basic barcoded rate category applies to letter-size automation rate category mail not mailed under section 321.433 or 321.434.

321.433 Three-Digit Barcoded Rate Category. The three-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple three-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.434 Five-Digit Barcoded Rate Category. The five-digit barcoded rate category applies to letter-size automation rate category mail presorted to single or multiple five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.435 Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.436.

321.436 Three- and Five-Digit Barcoded Flats Rate Category. The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as [prescribed] *specified* by the Postal Service.

321.44 Destination Entry Discounts. Destination entry discounts apply to Nonprofit subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility) or sectional center facility (SCF) at which it is entered, as defined by the Postal Service.

321.45 Residual Shape Surcharge. Nonprofit subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

321.5 Nonprofit Enhanced Carrier Route Subclass

321.51 Definition. The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section [321.1,] 321.2, 321.3, 321.4 or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 321.41) under the terms and limitations stated in section 321.412, and that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is prepared, marked, and presented as [prescribed] *specified* by the Postal Service;

c. Is presorted to carrier routes as [prescribed] *specified* by the Postal Service;

d. Is sequenced as [prescribed] *specified* by the Postal Service; and

e. Meets the machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

321.52 Basic Rate Category. The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 321.53, 321.54 or 321.55.

321.53 Basic Pre-Barcoded Rate Category. The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including Acorrection@ digits), as [prescribed] *specified* by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

321.54 High Density Rate Category. The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements [prescribed] *specified* by the Postal Service.

321.55 Saturation Rate Category. The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements [prescribed] *specified* by the Postal Service.

321.56 Entry Discounts. Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as [prescribed] *specified* by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.

321.57 Residual Shape Surcharge. Nonprofit Enhanced Carrier Route subclass mail is subject to a surcharge if it is prepared as a parcel or if it is not letter or flat shaped.

322 Subclasses Limited to Mail Weighing 16 Ounces or More

322.1 Parcel Post Subclass

322.11 Definition. The Parcel Post subclass consists of Standard Mail weighing 16 ounces or more that is not mailed under sections 322.3, 323.1, or 323.2.

[322.12 Basic Rate Category. The basic rate category applies to all Parcel Post subclass mail not mailed under sections 322.13 or 322.14.]

322.12 Description of Rate Categories

322.121 Inter-BMC Rate Category. The Inter-BMC rate category applies to all Parcel Post subclass mail not mailed under sections 322.122, 322.123, 322.124, or 322.125.

322.122 Intra-BMC Rate Category. The Intra-BMC rate category applies to Parcel Post subclass mail originating and destinating within a designated BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.

322.123 Destination Bulk Mail Center (DBMC) Rate Category. The destination bulk mail center rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces entered at a designated destination BMC, auxiliary service facility, or other equivalent facility, as specified by the Postal Service.

322.124 Destination Sectional Center Facility (DSCF) Rate Category. The destination sectional center facility rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces sorted to five-digit destination ZIP Codes as specified by the Postal Service and entered at a designated destination processing and distribution center or facility, or other equivalent facility, as specified by the Postal Service.

322.125 Destination Delivery Unit (DDU) Rate Category. The destination delivery unit rate category applies to Parcel Post subclass mail prepared as specified by the Postal Service in a mailing of at least 50 pieces, and entered at a designated destination delivery unit, or other equivalent facility, as specified by the Postal Service.

322.13 Bulk Parcel Post. Bulk Parcel Post mail is Parcel Post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined or pieces measuring over 108 inches in length and girth combined are not mailable as Bulk Parcel Post mail.

322.131 Barcoded Discount. The barcoded discount applies to Bulk Parcel Post mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service, and meets all other preparation and machinability requirements of the Postal Service.

[400.0202 Bulk

Bulk parcel post mail is fourth-class parcel post mail consisting of properly prepared and separated single mailings of at least 300 pieces or 2000 pounds. Pieces weighing less than 15 pounds and measuring over 84 inches in length and girth combined are not mailable as bulk parcel post. Provision for mailing nonidentical pieces is set forth in section 400.046.

322.14 Destination BMC Rate Category. Parcel Post subclass mail is eligible for destination BMC rates if it is included in a mailing of at least 50 pieces deposited at the destination BMC, auxiliary service facility, or other equivalent facility, as prescribed by the Postal Service.]

322.14 Bulk Mail Center (BMC) Presort Discounts

322.141 BMC Presort Discount. The BMC presort discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of 50 or more pieces, entered at a facility authorized by the Postal Service, and sorted to destination BMCs, as specified by the Postal Service.

322.142 Origin Bulk Mail Center (OBMC) Discount. The origin bulk mail center discount applies to Inter-BMC Parcel Post subclass mail that is prepared as specified by the Postal Service in a mailing of at least 50 pieces, entered at the origin BMC, and sorted to destination BMCs, as specified by the Postal Service.

[322.15 Intra-BMC Discount. Basic rate category Parcel Post subclass mail is eligible for the intra-BMC discount if it originates and destinates within the same BMC or auxiliary service facility service area, Alaska, Hawaii or Puerto Rico.]

322.15 Barcoded Discount. The barcoded discount applies to Inter-BMC, Intra-BMC, and DBMC Parcel Post subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

322.16 Oversize Parcel Post

322.161 Excessive Length and Girth. Parcel Post subclass mail pieces exceeding 108 inches in length and girth combined, but not greater than 130 inches in length and girth combined, are mailable.

322.162 Balloon Rate. Parcel Post subclass mail pieces exceeding 84 inches in length and girth combined and weighing less than 15 pounds are subject to a rate equal to that for a 15 pound parcel for the zone to which the parcel is addressed.

322.1[6]7 Nonmachinable Surcharge. [Basic rate category Parcel Post subclass mail] *Inter-BMC Parcel Post subclass mail* that does not meet machinability criteria [prescribed] *specified* by the Postal Service is subject to a nonmachinable surcharge.

322.1[7]8 Pickup Service. Pickup service is available for Parcel Post subclass mail under terms and conditions [prescribed] *specified* by the Postal Service.

322.2 [Reserved]

322.3 Bound Printed Matter Subclass

322.31 Definition. The Bound Printed Matter subclass consists of Standard Mail weighing at least 16 ounces, but not more than 15 pounds, which:

a. Consists of advertising, promotional, directory, or editorial material, or any combination thereof;

b. Is securely bound by permanent fastenings including, but not limited to, staples, spiral bindings, glue, and stitching; loose leaf binders and similar fastenings are not considered permanent;

c. Consists of sheets of which at least 90 percent are imprinted with letters, characters, figures or images or any combination of these, by any process other than handwriting or typewriting;

d. Does not have the nature of personal correspondence; *and*

e. Is not stationery, such as pads of blank printed forms.

322.32 Single-Piece Rate Category. The single-piece rate category applies to Bound Printed Matter subclass mail which is not mailed under section 322.33 or 322.34.

322.33 Bulk Rate Category. The bulk rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces, prepared and presorted as [prescribed] *specified* by the Postal Service.

322.34 Carrier Route Presort Rate Category. The carrier route *presort* rate category applies to Bound Printed Matter subclass mail prepared in a mailing of at least 300 pieces of carrier route presorted mail, prepared and presorted as *specified* [prescribed] by the Postal Service.

322.35 Barcoded Discount. The barcoded discount applies to single-piece rate and bulk rate Bound Printed Matter subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323 Subclasses With No 16-Ounce Limitation

323.1 Special Subclass

323.11 Definition. The Special subclass consists of Standard Mail of the following types:

a. Books, including books issued to supplement other books, of at least eight printed pages, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books. Not more than three of the announcements may contain as part of their format a single order form, which may also serve as a *postcard* [post card.] [The] *These* order forms [permitted in this subsection] are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

b. 16 millimeter or narrower width films which must be positive prints in final form for viewing, and catalogs of such films, of 24 pages or more, at least 22 of which are printed, except when sent to or from commercial theaters;

c. Printed music, whether in bound form or in sheet form;

d. Printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests and other mental and personal qualities with or without answers, test scores or identifying information recorded thereon in writing or by mark;

e. Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Not more than three of the announcements [permitted in this subsection] may contain as part of their format a single order form, which may also serve as a *postcard* [post card.] [The] *These* order forms [permitted in this subsection] are in addition to and not in lieu of order forms which may be enclosed by virtue of any other provision;

f. Playscripts and manuscripts for books, periodicals and music;

g. Printed educational reference charts, permanently processed for preservation;

h. Printed educational reference charts, including but not limited to

i. Mathematical tables,

ii. Botanical tables,

iii. Zoological tables, and

iv. Maps produced primarily for educational reference purposes;

i. Looseleaf pages and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students; and

j. Computer-readable media containing prerecorded information and guides or scripts prepared solely for use with such media.

323.12 Single-Piece Rate Category. The single-piece rate category applies to Special subclass mail not mailed under section 323.13 or 323.14.

323.13 Level A Presort Rate Category. The Level A presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to five-digit destination ZIP Codes as [prescribed] *specified* by the Postal Service.

323.14 Level B Presort Rate Category. The Level B presort rate category applies to mailings of at least 500 pieces of Special subclass mail, prepared and presorted to destination Bulk Mail Centers as [prescribed] *specified* by the Postal Service.

323.15 Barcoded Discount. The barcoded discount applies to single-piece rate and Level B presort rate Special subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

323.2 Library Subclass

323.21 Definition.

323.211 General. The Library subclass consists of Standard Mail of the following types, separated or presorted as [prescribed] *specified* by the Postal Service:

a. Matter designated in [sub]section 323.213, loaned or exchanged (including cooperative processing by libraries) between:

i. Schools or colleges, or universities;

ii. Public libraries, museums and herbaria, nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations, or between such organizations and their members, readers or borrowers.

b. Matter designated in [sub]section 323.214, mailed to or from schools, colleges, universities, public libraries, museums and herbaria and to or from nonprofit religious, educational, scientific, philanthropic, agricultural, labor, veterans' or fraternal organizations or associations; or

c. Matter designated in [sub]section 323.215, mailed from a publisher or a distributor to a school, college, university or public library.

323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are defined in section 1009.

323.213 Library subclass mail under section 323.211.a. Matter eligible for mailing as Library subclass mail under *subsection a of* section 323.211[a] consists of:

a. Books consisting wholly of reading matter or scholarly bibliography or reading

matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books;

b. Printed music, whether in bound form or in sheet form;

c. Bound volumes of academic theses in typewritten or other duplicated form;

d. Periodicals, whether bound or unbound;

e. Sound recordings;

f. Other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

g. Museum materials, specimens, collections, teaching aids, printed matter and interpretative materials intended to inform and to further the educational work and interest of museums and herbaria.

323.214 Library subclass mail under section 323.211.b. Matter eligible for mailing as Library subclass mail under *subsection b of* section 323.211[b] consists of:

a. 16-millimeter or narrower width films; filmstrips; transparencies; slides; microfilms; all of which must be positive prints in final form for viewing;

b. Sound recordings;

c. Museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria;

d. Scientific or mathematical kits, instruments or other devices; and

e. Catalogs of the materials in *subsections a through d of* section 323.214 [a through d] and guides or scripts prepared solely for use with such materials.

323.215 Library subclass mail under section 323.211.c. Matter eligible for mailing as Library subclass mail under *subsection c of* section 323.211[c] consists of books, including books to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books.

323.22 Basic Rate Category. The basic rate category applies to all Library subclass mail.

323.23 Barcoded Discount. The barcoded discount applies to Library subclass mail that is entered at designated facilities, bears a barcode specified by the Postal Service, is prepared as specified by the Postal Service in a mailing of at least 50 pieces, and meets all other preparation and machinability requirements of the Postal Service.

330 PHYSICAL LIMITATIONS

331 Size

Except as provided in section 322.161, Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

332 Weight

Standard Mail may not weigh more than 70 pounds. Additional weight limitations apply to individual Standard Mail subclasses.

[333 Nonstandard Size Mail

Single Piece subclass mail weighing one ounce or less is nonstandard size if:

a. Its aspect ratio does not fall between 1 to 1.3 and 1 to 2.5 inclusive; or

b. It exceeds any of the following dimensions:

i. 11.5 inches in length;

ii. 6.125 inches in width; or

iii. 0.25 inch in thickness.]

340 POSTAGE AND PREPARATION

341 Postage

Postage must be paid as set forth in section 3000. When the postage computed at a [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

342 Preparation

All pieces in a Standard mailing must be separately addressed. All pieces in a Standard mailing must be identified as [prescribed] *specified* by the Postal Service, and must contain the ZIP Code of the addressee when [prescribed] *specified* by the Postal Service. All Standard mailings must be prepared and presented as *specified* [prescribed] by the Postal Service. Two or more Standard mailings may be commingled and mailed only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

343 Non-Identical Pieces

Pieces not identical in size and weight may be mailed at a bulk or presort rate as part of the same mailing only when specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

344 Attachments and Enclosures

344.1 [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

344.11 General. First-Class Mail may be attached to or enclosed in Standard books, catalogs, and merchandise entered under section 321. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in section 344.12, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class rate for which it qualifies.

344.12 Incidental First-Class Attachments and Enclosures. First-Class Mail, as defined in *subsections b through d of* section 210 [b through d], may be attached to or enclosed with Standard merchandise entered under section 321, including books but excluding merchandise samples, with postage paid on the combined piece at the applicable Standard rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

344.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 ([Single Piece,] Regular, Enhanced Carrier Route, Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

344.22 Specifically Authorized Attachments and Enclosures. Standard Mail mailed under sections 322 and 323 may contain enclosures and attachments as [prescribed] *specified* by the Postal Service and as described in *subsections a and e of* section 323.11 [a and e,] with postage paid on the combined piece at the Standard rate applicable to the host piece.

344.23 Incidental First-Class Attachments and Enclosures. First-Class Mail that meets one or more of the definitions in *subsections b through d* of section 210, [b through d,] may be attached to or enclosed with Standard Mail mailed under section 322 or 323, with postage paid on the combined piece at the Standard rate applicable to the host piece, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

350 DEPOSIT AND DELIVERY

351 Deposit

Standard Mail must be deposited at places and times designated by the Postal Service.

352 Service

Standard Mail may receive deferred service.

353 Forwarding and Return

353.1 [Single Piece,] Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as [prescribed] *specified by* the Postal Service. Except as provided in [Schedule SS–21,] *section 935,* the [Single Piece Standard] *applicable First-Class Mail* rate is charged for each piece receiving return only service. Except as provided in [Schedule SS–22,] *section 936,* charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. Except as provided in [Schedules SS–21 and SS–22,] *sections 935 and 936,* the charge for those returned pieces is the appropriate [Single Piece Standard] *First-Class Mail* rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

353.2 Parcel Post, Bound Printed Matter, Special, and Library Subclasses (sections 322 and 323)

Undeliverable-as-addressed Standard Mail mailed under sections 322 and 323 will be forwarded on request of the addressee, returned on request of the mailer, or forwarded and returned on request of the mailer. Pieces which combine Standard Mail from one of the subclasses described in 322 and 323 with First-Class Mail or Standard Mail from one of the subclasses described in 321 will be forwarded if undeliverable-as-addressed, and returned if undeliverable, as *specified* [prescribed] by the Postal Service. When Standard Mail mailed under sections 322 and 323 is forwarded or returned from one post office to another, additional charges will be based on the *applicable* [appropriate] [S] single [P] *p*iece Standard *Mail* rate *under 322 or 323*.

360 ANCILLARY SERVICES

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction	*911* [SS1]
b. Certificates of mailing indicating that a specified number of pieces have been mailed.	*947* [SS4]

Certificates of mailing are not available for Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail when postage is paid *with* [by] permit imprint.

362 [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library Subclasses

[Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library subclass mail will receive the following additional services upon payment of the appropriate fees:

Service	Schedule
a. Certificates of mailing	*947* [SS4]
b. COD	*944* [SS6]
c. [Insured mail] *Insurance*	*943* [SS9]
d. Special handling	*952* [SS18]
e. Return receipt (merchandise only).	*945* [SS–16]
f. Merchandise return	*932* [SS20]
g. Delivery Confirmation	*948*

Insurance, special handling, and COD services may not be used selectively for individual pieces in a multi-piece [Parcel Post subclass] *Standard Mail* mailing unless specific methods approved by the Postal Service for [ascertaining] *determining* and verifying postage are followed.

363 Regular and Nonprofit

Regular and Nonprofit subclass mail will receive the following additional services upon payment of the appropriate fees.

Service	Schedule
a. Bulk Parcel Return Service	[SS–21] *935*
b. Shipper-Paid Forwarding	[SS–22] *936*

370 RATES AND FEES

The rates and fees for Standard Mail are set forth as follows:

	Schedule
[a.Single Piece subclass.	321.1]
[b.] *a.* Regular subclass	321.2
[c.] *b.* Enhanced Carrier Route subclass.	321.3
[d.] *c.* Nonprofit subclass	321.4
[e.] *d.* Nonprofit Enhanced Carrier Route subclass.	321.5
[f.] *e.* Parcel Post subclass	
[Basic] *Inter-BMC*	322.1A
Intra-BMC	*322.1B*
Destination BMC	322.1[B] *C*
Destination SCF	*322.1D*
Destination Delivery Unit	*322.1E*
[g.] *f.* Bound Printed Matter subclass	
Single-Piece	322.3A
Bulk and Carrier Route	322.3B
[h.] *g.* Special subclass	323.1
[i.] *h.* Library subclass	323.2
[j.] *i.* Fees	1000

380 AUTHORIZATIONS AND LICENSES

381 Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route Subclasses

A mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, Nonprofit and Nonprofit Enhanced Carrier Route subclass mail.

382 Special Subclass

A presort mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year at each office of mailing by or for any person who mails presorted Special subclass mail. Any person who engages a business concern or other individuals to mail presorted Special subclass mail must pay the fee.

383 Parcel Post Subclass

A mailing fee as set forth in [Rate] Schedule 1000 must be paid once each year by mailers of Destination BMC, *Destination SCF or Destination Delivery Unit* rate category mail in the Parcel Post subclass.

Periodicals

Classification Schedule

410 DEFINITION

411 General Requirements

411.1 Definition. A publication may qualify for mailing under the Periodicals Classification Schedule if it meets all [of] the requirements in sections 411.2 through 411.5 and the requirements for one of the qualification categories in sections 412 through 415. Eligibility for specific Periodicals rates is prescribed in section 420.

411.2 Periodicals. Periodicals class mail is mailable matter consisting of newspapers and other periodical publications. The term ''periodical publications'' includes, but is not limited to:

a. Any catalog or other course listing including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education.

b. Any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

411.3 Issuance

411.31 Regular Issuance. Periodicals class mail must be regularly issued at stated intervals at least four times a year, bear a date of issue, and be numbered consecutively.

411.32 Separate Publication. For purposes of determining Periodicals rate eligibility, an ''issue'' of a newspaper or other periodical shall be deemed to be a separate publication when the following conditions exist:

a. The issue is published at a regular frequency more often than once a month either on (1) the same day as another regular issue of the same publication; or (2) on a day different from regular issues of the same publication, and

b. More than 10 percent of the total number of copies of the issue is distributed on a regular basis to recipients who do not subscribe to it or request it, and

c. The number of copies of the issue distributed to nonsubscribers or nonrequesters is more than twice the number of copies of any other issue distributed to nonsubscribers or nonrequesters on that same day, or, if no other issue that day, any other issue distributed during the same period. ''During the same period'' shall be defined as the periods of time ensuing between the distribution of each of the issues whose eligibility is being examined. Such separate

publications must independently meet the qualifications for Periodicals eligibility.

411.4 Office of Publication. Periodicals class mail must have a known office of publication. A known office of publication is a public office where business of the publication is transacted during the usual business hours. The office must be maintained where the publication is authorized original entry.

411.5 Printed Sheets. Periodicals class mail must be formed of printed sheets. It may not be reproduced by stencil, mimeograph, or hectograph processes, or reproduced in imitation of typewriting. Reproduction by any other printing process is permissible. Any style of type may be used.

412 General Publications

412.1 Definition. To qualify as a General Publication, Periodicals class mail must meet the requirements in section 411 and in sections 412.2 through 412.4.

412.2 Dissemination of Information. A General Publication must be originated and published for the purpose of disseminating information of a public character, or devoted to literature, the sciences, art, or some special industry.

412.3 Paid Circulation

412.31 Total Distribution. A General Publication must be designed primarily for paid circulation. At least 50 percent or more of the copies of the publication must be distributed to persons who have paid above a nominal rate.

412.32 List of Subscribers. A General Publication must be distributed to a legitimate list of persons who have subscribed by paying or promising to pay at a rate above nominal for copies to be received during a stated time. Copies mailed to persons who are not on a legitimate list of subscribers are nonsubscriber copies.

412.33 Nominal Rates. As used in section 412.31, nominal rate means:

a. A token subscription price that is so low that it cannot be considered a material consideration;

b. A reduction to the subscriber, under a premium offer or any other arrangements, of more than 50 percent of the amount charged at the basic annual rate for a subscriber to receive one copy of each issue published during the subscription period. The value of a premium is considered to be its actual cost to the publishers, the recognized retail value, or the represented value, whichever is highest.

412.34 Nonsubscriber Copies

412.341 *Up to Ten Percent.* Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to subscribers during the calendar year are mailable at the rates that apply to subscriber copies provided that the nonsubscriber copies would have been eligible for those rates if mailed to subscribers.

412.342 *Over Ten Percent.* Nonsubscriber copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to subscribers during the calendar year which are presorted and commingled with subscriber copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to subscribers during the calendar year.

412.35 Advertiser's Proof Copies. One complete copy of each issue of a General Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to subscriber copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as subscriber copies.

412.36 Expired Subscriptions. For six months after a subscription has expired, copies of a General Publication may be mailed to a former subscriber at the rates that apply to copies mailed to subscribers, if the publisher has attempted during that six months to obtain payment, or a promise to pay, for renewal. These copies do not count as subscriber copies.

412.4 Advertising Purposes

A General Publication may not be designed primarily for advertising purposes. A publication is ''designed primarily for advertising purposes'' if it:

a. Has advertising in excess of 75 percent in more than one-half of its issues during any 12-month period;

b. Is owned or controlled by individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it;

c. Consists principally of advertising and editorial write-ups of the advertisers;

d. Consists principally of advertising and has only a token list of subscribers, the circulation being mainly free;

e. Has only a token list of subscribers and prints advertisements free for advertisers who pay for copies to be sent to a list of persons furnished by the advertisers; or

f. Is published under a license from individuals or institutions and features other businesses of the licensor.

413 Requester Publications

413.1 Definition. A publication which is circulated free or mainly free may qualify for Periodicals class as a Requester Publication if it meets the requirements in sections 411, and 413.2 through 413.4.

413.2 Minimum Pages. It must contain at least 24 pages.

413.3 Advertising Purposes

413.31 Advertising Percentage. It must devote at least 25 percent of its pages to nonadvertising and not more than 75 percent to advertisements.

413.32 Ownership and Control. It must not be owned or controlled by one or more individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control it.

413.4 Circulated to Requesters

413.41 List of Requesters. It must have a legitimate list of persons who request the publication, and 50 percent or more of the copies of the publication must be distributed to persons making such requests. Subscription copies paid for or promised to be paid for, including those at or below a nominal rate may be included in the determination of whether the 50 percent request requirement is met. Persons will not be deemed to have requested the publication if their request is induced by a premium offer or by receipt of material consideration, provided that mere receipt of the publication is not material consideration.

413.42 Nonrequester Copies

413.421 *Up to Ten Percent.* Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year up to and including 10 percent of the total number of copies mailed to requesters during the calendar year are mailable at the rates that apply to requester copies provided that the nonrequester copies would have been eligible for those rates if mailed to requesters.

413.422 Over Ten Percent. Nonrequester copies, including sample and complimentary copies, mailed at any time during the calendar year, in excess of 10 percent of the total number of copies mailed to requesters during the calendar year which are presorted and commingled with requester copies are charged the applicable rates for Regular Periodicals. The 10 percent limitation for a publication is based on the total number of all copies of that publication mailed to requesters during the calendar year.

413.43 Advertiser's Proof Copies. One complete copy of each issue of a Requester Publication may be mailed to each advertiser in that issue as an advertiser's proof copy at the rates that apply to requester copies, whether the advertiser's proof copy is mailed to the advertiser directly or, instead, to an advertising representative or agent of the publication. These copies count as requester copies.

414 Publications of Institutions and Societies

414.1 Publisher's Own Advertising. Except as provided in section 414.2, a publication which meets the requirements of sections 411 and 412.4, and which contains no advertising other than that of the publisher, qualifies for Periodicals class as a publication of an institution or society if it is:

a. Published by a regularly incorporated institution of learning;

b. Published by a regularly established state institution of learning supported in whole or in part by public taxation;

c. A bulletin issued by a state board of health or a state industrial development agency;

d. A bulletin issued by a state conservation or fish and game agency or department;

e. A bulletin issued by a state board or department of public charities and corrections;

f. Published by a public or nonprofit private elementary or secondary institution of learning or its administrative or governing body;

g. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof, or by a nonprofit educational radio or television station;

h. Published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;

i. Published by or under the auspices of a trade(s) union;

j. Published by a strictly professional, literary, historical, or scientific society; or,

k. Published by a church or church organization.

414.2 General Advertising. A publication published by an institution or society identified in sections 414.1 h through k, may contain advertising of other persons, institutions, or concerns, if the following additional conditions are met:

a. The publication is originated and published to further the objectives and purposes of the society;

b. Circulation is limited to:

i. Copies mailed to members who pay either as a part of their dues or assessment or otherwise, not less than 50 percent of the regular subscription price;

ii Other actual subscribers; and

iii. Exchange copies.

c. The circulation of nonsubscriber copies, including sample and complimentary copies, does not exceed 10 percent of the total number of copies referred to in 414.2b.

415 Publications of State Departments of Agriculture

A publication which is issued by a state department of agriculture and which meets the requirements of sections 411 qualifies for Periodicals class as a publication of a state department of agriculture if it contains no advertising and is published for the purpose of furthering the objects of the department.

416 Foreign Publications

Foreign newspapers and other periodicals of the same general character as domestic publications entered as Periodicals class mail may be accepted on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

420 DESCRIPTION OF SUBCLASSES

421 Regular Subclass

421.1 Definition. The Regular subclass consists of Periodicals class mail that is not mailed under section 423 and that:

a. Is presorted, marked, and presented as *specified* [prescribed] by the Postal Service; and

b. Meets machinability, addressing, and other preparation requirements [prescribed] *specified* by the Postal Service.

421.2 Regular Pound Rates

An unzoned pound rate applies to the nonadvertising portion of Regular subclass mail. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge.

421.3 Regular Piece Rates

421.31 Basic Rate Category. The basic rate category applies to all Regular subclass mail not mailed under section 421.32, [or] 421.33, *or 421.34.*

421.32 Three[-Digit City and Five]-Digit Rate Category. The *three-digit rate category applies* [rates for this category apply] to Regular subclass mail presorted to [three-digit cities and five-digit] *single or multiple three-digit* ZIP Code destinations as [prescribed] *specified* by the Postal Service.

421.33 *Five-Digit Rate Category. The five-digit rate category applies to Regular subclass mail presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.*

421.34 Carrier Route Rate Category. The carrier route rate category applies to Regular subclass mail presorted to carrier routes as [prescribed] *specified* by the Postal Service.

421.4 Regular Subclass Discounts

421.41 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Regular subclass mail mailed under sections 421.31, [and] 421.32, *and 421.33* which bears a barcode representing not more than 11 digits (not including ''correction'' digits) as [prescribed] *specified* by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

421.42 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Regular subclass mail mailed under sections 421.31, [and] 421.32, *and 421.33* which bear a barcode representing not more than 11 digits (not including ''correction'' digits) as [prescribed] specified by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements *specified* [prescribed] by the Postal Service.

421.43 High Density Discount. The high density discount applies to Regular subclass mail mailed under section [421.33] *421.34,* presented in walk-sequence order, and meeting the high density and preparation requirements *specified* [prescribed] by the Postal Service.

421.44 Saturation Discount. The saturation discount applies to Regular subclass mail mailed under section [421.33] *421.34,* presented in walk-sequence order, and meeting the saturation and preparation requirements *specified* [prescribed] by the Postal Service.

421.45 Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail which is destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which it is entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail.

421.46 Nonadvertising Discount. The nonadvertising discount applies to all Regular subclass mail and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedule 421 and subtracting that amount from the applicable piece rate.

422 [Reserved]

423 Preferred Rate Periodicals

423.1 Definition. Periodicals class mail, other than publications qualifying as Requester Publications, may qualify for Preferred Rate Periodicals rates if it meets the applicable requirements for those rates in sections 423.2 through 423.5.

423.2 Within County Subclass

423.21 Definition. Within County mail consists of Preferred Rate Periodicals class mail mailed in, and addressed for delivery within, the county where published and originally entered, from either the office of original entry or additional entry. In addition, a Within County publication must meet one of the following conditions:

a. The total paid circulation of the issue is less than 10,000 copies; or

b. The number of paid copies of the issue distributed within the county of publication is at least one more than one-half [of] the total paid circulation of such issue.

423.22 Entry in an Incorporated City. For the purpose of determining eligibility for Within County mail, when a publication has original entry at an independent incorporated city which is situated entirely within a county or which is contiguous to one or more counties in the same state, such incorporated city shall be considered to be within the county with which it is principally contiguous. Where more than one county is involved, the publisher will select the principal county.

423.3 Nonprofit Subclass

Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized

nonprofit organizations or associations of the following types:

a. Religious, as defined in section 1009,

b. Educational, as defined in section 1009,

c. Scientific, as defined in section 1009,

d. Philanthropic, as defined in section 1009,

e. Agricultural, as defined in section 1009,

f. Labor, as defined in section 1009,

g. Veterans', as defined in section 1009,

h. Fraternal, as defined in section 1009,

i. Associations of rural electric cooperatives,

j. One publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,

k. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station, and

l. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

423.4 Classroom Subclass

Classroom mail is Preferred Rate Periodicals class mail which consists of religious, educational, or scientific publications designed specifically for use in school classrooms or religious instruction classes.

423.5 Science of Agriculture

Science of Agriculture mail consists of Preferred Rate Periodicals class mail devoted to the science of agriculture if the total number of copies of the publication furnished during any 12-month period to subscribers residing in rural areas amounts to at least 70 percent of the total number of copies distributed by any means for any purpose.

423.6 Preferred Rate Pound Rates

For Preferred Rate Periodicals entered under sections 423.3, 423.4 and 423.5, an unzoned pound rate applies to the nonadvertising portion. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge. For Preferred Rate Periodicals entered under section 423.2, one pound rate applies to the pieces presorted to carrier route to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.

423.7 Preferred Rate Piece Rates

423.71 Basic Rate Category. The basic rate category applies to all Preferred Rate Periodicals not mailed under section 423.72, [or] 423.73, *or 423.74.*

423.72 Three[-digit City and Five]-Digit Rate Category. The *three-digit rate category applies* [rates for this category apply] to Preferred Rate Periodicals entered under sections *423.2,* 423.3, 423,4, or 423.5 that are presorted to *single or multiple* three-digit [cities and five-digit] ZIP [c]*C*ode destinations as [prescribed] *specified* by the Postal Service.

423.73 *Five-Digit Rate Category. The five-digit rate category applies to Preferred Rate Periodicals entered under sections 423.2, 423.3, 423,4, or 423.5 that are presorted to single or multiple five-digit ZIP Code destinations as specified by the Postal Service.*

423.74 *Carrier Route Rate Category.* The carrier route rate category applies to Preferred Rate Periodicals presorted to carrier routes as [prescribed] *specified* by the Postal Service.

423.8 Preferred Rate Discounts

423.81 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Preferred Rate Periodicals mailed under sections 423.71, [and] 423.72*, and 423.73* which bear a barcode representing not more than 11 digits (not including Acorrection@ digits) as *specified* [prescribed] by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

423.82 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Preferred Rate Periodicals mailed under sections 423.71, [and] 423.72*, and 423.73* which bear a barcode representing not more than 11 digits (not including Acorrection@ digits) as [prescribed] *specified* by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements [prescribed] *specified* by the Postal Service.

423.83 High Density Discount. The high density discount applies to Preferred Rate Periodicals mailed under section [423.73] *423.74,* presented in walk-sequence order, and meeting the high density and preparation requirements [prescribed] *specified* by the Postal Service[.]*, except that mailers of Within County mail may qualify for such discount also by presenting otherwise eligible mailings containing pieces addressed to a minimum of 25 percent of the addresses per carrier route.*

423.84 Saturation Discount. The saturation discount applies to Preferred Rate Periodicals mailed under section [423.73] *423.74,* presented in walk-sequence order, and meeting the saturation and preparation requirements [prescribed] *specified* by the Postal Service.

423.85 Destination Entry Discounts. Destination entry discounts apply to Preferred Rate Periodicals which are destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which they are entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail; the SCF discount is not available for mail entered under section 423.2.

423.86 Nonadvertising Discount.

The nonadvertising discount applies to Preferred Rate Periodicals entered under sections 423.3, 423.4, 423.5 and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedules 421, 423.3 or 423.4 and subtracting that amount from the applicable piece rate.

430 PHYSICAL LIMITATIONS

There are no maximum size or weight limits for Periodicals class mail.

440 POSTAGE AND PREPARATION

441 Postage.

Postage must be paid on Periodicals class mail as set forth in section 3000.

442 Presortation.

Periodicals class mail must be presorted [in accordance with regulations prescribed] *as specified* by the Postal Service.

443 Attachments and Enclosures

443.1 General.

First-Class Mail or Standard Mail from any of the subclasses listed in section 321 ([Single Piece,] Regular, Enhanced Carrier Route, [or] Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed with Periodicals class mail. The piece must be marked as [prescribed] *specified* by the Postal Service. Except as provided in section 443.2, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the appropriate First-Class or section 321 Standard Mail rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

443.2 Incidental First-Class Mail Attachments and Enclosures.

First-Class Mail that meets one or more of the definitions in sections 210 b through d may be attached to or enclosed with Periodicals class mail, with postage paid on the combined piece at the applicable Periodicals rate, if the attachment or enclosure is incidental to the piece to which it is attached or with which it is enclosed.

444 Identification

Periodicals class mail must be identified as required by the Postal Service. Nonsubscriber and nonrequester copies, including sample and complimentary copies, must be identified as required by the Postal Service.

445 Filing of Information

Information relating to Periodicals class mail must be filed with the Postal Service [in accordance with] *under* 39 U.S.C. 3685.

446 Enclosures and Supplements

Periodicals class mail may contain enclosures and supplements as [prescribed] *specified* by the Postal Service. An enclosure or supplement may not contain writing, printing or sign thereof or therein, in addition to the original print, except as authorized by the Postal Service, or as authorized under section 443.2.

450 DEPOSIT AND DELIVERY

451 Deposit

Periodicals class mail must be deposited at places and times designated by the Postal Service.

452 Service

Periodicals class mail is given expeditious handling insofar as is practicable.

453 Forwarding and Return

Undeliverable-as-addressed Periodicals class mail will be forwarded or returned to the mailer, as [prescribed] *specified* by the Postal Service. Undeliverable-as-addressed combined First-Class and Periodicals class mail pieces will be forwarded or returned, as [prescribed] *specified* by the Postal Service. Additional charges when Periodicals class mail is returned will be based on the applicable [Standard] *First-Class* Mail rate.

470 RATES AND FEES

The rates and fees for Periodicals class mail are set forth as follows:

	Schedule
a. Regular	421
b. Within County	423.2
c. Nonprofit	423.3
d. Classroom	423.4
e. Science of Agriculture	421
f. Fees	1000

480 AUTHORIZATIONS AND LICENSES

481 Entry Authorizations

Prior to mailing at Periodicals rates, a publication must be authorized for entry as Periodicals class mail by the Postal Service. Each authorized publication will be granted one original entry authorization at the post office where the office of publication is maintained. An authorization for the establishment of an account to enter a publication at an additional entry office may be granted by the Postal Service upon application by the publisher. An application for re-entry must be made whenever the publisher proposes to change the publication's title, frequency of issue or office of original entry.

482 Preferred Rate Authorization

Prior to mailing at Nonprofit, Classroom, and Science of Agriculture rates, a publication must obtain an additional Postal Service entry authorization to mail at those rates.

483 Mailing by Publishers and News Agents

Periodicals class mail may be mailed only by publishers or registered news agents. A news agent is a person or concern engaged in selling two or more Periodicals publications published by more than one publisher. News agents must register at all post offices at which they mail Periodicals class mail.

484 Fees

Fees for original entry, additional entry, re-entry, and registration of a news agent are set forth in [Rate] Schedule 1000.

Renumber and Amend Special Service Classification Schedules SS–1–6, SS–8–16, and SS–18–22 as follows:

SPECIAL SERVICES

910 ADDRESSING

911 ADDRESS CORRECTION SERVICE

911.1 Definition

911.11 Address correction service is a service which provides the mailer with a method of obtaining the correct address, if available to the Postal Service, of the addressee or the reason for nondelivery.

911.2 Description of Service

911.21 Address correction service is available to mailers of postage prepaid mail of all classes. Periodicals class mail will receive address correction service.

911.22 Address correction service is not available for items addressed for delivery by military personnel at any military installation.

911.23 Address correction provides the following service to the mailer:

a. If the correct address is known to the Postal Service, the mailer is notified of both the old and the correct address.

b. If the item mailed cannot be delivered, the mailer will be notified of the reason for nondelivery.

911.3 Requirements of the Mailer

911.31 Mail, other than Periodicals class mail, sent under this [classification schedule] *section* must bear a request for address correction service.

911.4 Fees

911.41 There is no charge for address correction service when the correction is provided incidental to the return of the [mail piece] *mailpiece* to the sender.

911.42 A fee, as set forth in [Rate] *Fee* Schedule [SS–1] *911,* is charged for all other forms of address correction service.

912 MAILING LIST SERVICES

912.1 Definition

912.11 Mailing list services include:

a. Correction of mailing lists;

b. [Change of address] *Change-of-address* information for election boards and registration commissions;

c. ZIP coding of mailing lists; and

d. Arrangement of address cards in the sequence of delivery.

912.12 Correction of mailing list service provides current information concerning name and address mailing lists or correct information concerning occupant mailing lists.

912.13 ZIP coding of mailing lists service is a service identifying ZIP [c]*C*ode addresses in areas served by multi-ZIP coded postal facilities.

912.2 Description of Service

912.21 Correction of mailing list service is available only to the following owners of name and address or occupant mailing lists:

a. Members of Congress

b. Federal agencies

c. State government departments

d. Municipalities

e. Religious organizations

f. Fraternal organizations

g. Recognized charitable organizations

h. Concerns or persons who solicit business by mail.

912.22 The following corrections will be made to name and address lists:

a. Names to which mail cannot be delivered or forwarded will be deleted;

b. Incorrect house, rural, or post office box numbers will be corrected;

c. When permanent forwarding orders are on file for customers who have moved, new addresses including ZIP [c]*C*odes will be furnished;

d. New names will not be added to the list.

912.23 The following corrections will be made to occupant lists:

a. Numbers representing incorrect or non-existent street addresses will be deleted;

b. Business or rural route addresses will be distinguished if known;

c. Corrected cards or sheets will be grouped by route;

d. Street address numbers will not be added or changed.

912.24 Corrected lists will be returned to customers at no additional charge.

912.25 Residential change-of-address information is available only to election boards or registration commissions for obtaining, if known to the Postal Service, the current address of an addressee.

912.26 ZIP coding or mailing list service provides that addresses will be sorted to the finest possible ZIP [c] *C*ode sortation.

912.27 Gummed labels, wrappers, envelopes, [or] Stamped Cards, or [post cards] *postcards* indicative of one-time use will not be accepted as mailing lists.

912.28 Sequencing of address cards service provides for the removal of incorrect addresses, notation of missing addresses and addition of missing addresses.

912.3 Requirements of Customer

912.31 A customer desiring correction of a mailing list or arrangement of address cards in sequence of carrier delivery must submit the list or cards as [prescribed] *specified* by [regulation] *the Postal Service.*

912.4 Fees

912.41 The fees for mailing list services are set forth in [Rate] *Fee* Schedule[s] *912* [SS–11a, SS–11b, SS–11c and SS–11d].

920 DELIVERY ALTERNATIVES

921 POST OFFICE BOX AND CALLER SERVICE

921.1 Caller Service

921.11 Definition

921.111 Caller service is a service which permits a customer to obtain mail addressed to the customer's box number through a call window or loading dock.

921.12 Description of Service

921.121 Caller service uses post office box numbers as the address medium but does not actually use a post office box.

921.122 Caller service is not available at certain postal facilities.

921.123 Caller service is provided to customers on the basis of mail volume received and number of post office boxes used at any one facility.

921.124 A customer may reserve a caller number.

921.125 Caller service cannot be used when the sole purpose is, by subsequently filing [change of address] *change-of-address* orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.13 Fees

921.131 Fees for caller service are set forth in [Rate] *Fee* Schedule *921.* [SS–10.]

921.2 Post Office Box Service

921.21 Definition

921.211 Post office box service is a service which provides the customer with a private, locked receptacle for the receipt of mail during the hours when the lobby of a postal facility is open.

921.22 Description of Service

921.221 The Postal Service may limit the number of post office boxes occupied by any one customer.

921.222 A post office [box holder] *boxholder* may ask the Postal Service to deliver to the post office box all mail properly addressed to the holder. If the post office box is located at the post office indicated on the piece, it will be transferred without additional charge, [in accordance with] *under* existing regulations.

921.223 Post office box service cannot be used when the sole purpose is, by subsequently filing [change of address] *change-of-address* orders, to have mail forwarded or transferred to another address by the Postal Service free of charge.

921.23 Fees

921.231 Fees for post office box service are set forth in [Rate] *Fee* Schedule *921.* [SS–10.]

921.232 In postal facilities primarily serving academic institutions or the students of such institutions, fees for post office boxes are:

Period of box use	Fee
95 days or less	½ semi-annual fee.
96 to 140 days	¾ semi-annual fee.
141 to 190 days	Full semi-annual fee.
191 to 230 days	1¼ semi-annual fee.
231 to 270 days	1½ semi-annual fee.
271 days to full year	Full annual fee.

921.233 No refunds will be made for post office box fees paid under section *921.232.* [10.031.] For purposes of this [classification schedule SS–10] *section,* the full annual fee is twice the amount of the semi-annual fee.

930 PAYMENT ALTERNATIVES

931 BUSINESS REPLY MAIL

931.1 Definitions

931.11 Business reply mail is a service whereby business reply cards, envelopes, cartons and labels may be distributed by or for a business reply distributor for use by mailers for sending First-Class Mail without prepayment of postage to an address chosen by the distributor. A distributor is the holder of a business reply license.

931.12 A business reply mail piece is nonletter-size for purposes of [Classification Schedule SS–2] *this section* if it meets addressing and other preparation requirements, but does not meet the machinability requirements [prescribed] *specified* by the Postal Service for mechanized or automated letter sortation.

This provision expires June 7, 1999.

931.2 Description of Service

931.21 The distributor guarantees payment on delivery of postage and fees for all returned business reply mail. Any distributor of business reply cards, envelopes, cartons and labels under any one license for return to several addresses guarantees to pay postage and fees on any returns refused by any such addressee.

931.3 Requirements of the Mailer

931.31 Business reply cards, envelopes, cartons and labels must be preaddressed and bear business reply markings.

931.32 Handwriting, typewriting or handstamping are not acceptable methods of preaddressing or marking business reply cards, envelopes, cartons, or labels.

931.4 Fees

931.41 The fees for business reply mail are set forth in [Rate] *Fee* Schedule *931* [SS–2].

931.42 To qualify as an active business reply mail advance deposit trust account, the account must be used solely for business reply mail and contain sufficient postage and fees due for returned business reply mail.

931.43 An accounting fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each year for each advance deposit business reply account at each facility where the mail is to be returned.

931.5 Experimental Reverse Manifest Fees

931.51 A set-up/qualification fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a reverse manifest method approved by the Postal Service for [ascertaining] *determining* and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 7, 1999.

931.52 A nonletter-size reverse manifest monthly fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each month during which the distributor's reverse manifest account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the reverse manifest nonletter-size business reply mail experiment and which utilize reverse manifest accounting methods approved by the Postal Service for [ascertaining] *determining* and verifying postage and fees.

This provision expires June 7, 1999.

931.6 Experimental Weight Averaging Fees

931.61 A set-up/qualification fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid by each business reply mail advance deposit trust account holder at each destination postal facility at which it applies to receive nonletter-size business reply mail for which the postage and fees will be accounted for through a weight averaging method approved by the Postal Service for [ascertaining] *determining* and verifying postage.

A distributor must pay this fee for each business reply mail advance deposit trust account for which participation in the nonletter-size business reply mail experiment is requested.

This provision expires June 7, 1999.

931.62 A nonletter-size weight averaging monthly fee as set forth in [Rate] *Fee* Schedule *931* [SS–2] must be paid each month during which the distributor's weight averaging account is active.

This fee applies to the (no more than) 10 advance deposit account holders which are selected by the Postal Service to participate in the weight averaging nonletter-size business reply mail experiment.

This provision expires June 7, 1999.

931.7 Authorizations and Licenses

931.71 In order to distribute business reply cards, envelopes, cartons or labels, the distributor must obtain a license or licenses from the Postal Service and pay the appropriate fee as set forth in [Rate] *Fee* Schedule *931* [SS–2].

931.72 Except as provided in section *931.73* [2.0502], the license to distribute business reply cards, envelopes, cartons, or labels must be obtained at each office from which the mail is offered for delivery.

931.73 If the business reply mail is to be distributed from a central office to be returned to branches or dealers in other cities, one license obtained from the post office where the central office is located may be used to cover all business reply mail.

931.74 The license to mail business reply mail may be canceled for failure to pay business reply postage and fees when due, and for distributing business reply cards or envelopes [which] *that* do not conform to prescribed form, style or size.

931.75 Authorization to pay experimental nonletter-size business reply mail fees as set forth in [Rate] *Fee* Schedule *931* [SS–2] may be canceled for failure of a business reply mail advance deposit trust account holder to meet the standards [prescribed] *specified* by the Postal Service for the applicable reverse manifest or weight averaging accounting method.

This provision expires June 7, 1999.

932 MERCHANDISE RETURN SERVICE

932.1 Definition

932.11 Merchandise return service provides a method whereby a shipper may authorize its customers to return a parcel with the postage paid by the shipper. A shipper is the holder of a merchandise return permit.

932.2 Description of Service

932.21 Merchandise return service is available to all shippers who obtain the necessary permit and who guarantee payment of postage and fees for all returned parcels.

932.22 Merchandise return service is available for the return of any parcel under the following classification schedules:

a. First-Class Mail.

b. Standard Mail.

932.3 Requirements of the Mailer

932.31 Merchandise return labels must be prepared at the shipper's expense to specifications set forth by the Postal Service.

932.32 The shipper must furnish its customer with an appropriate merchandise return label.

932.4 Other Services

932.41 The following services may be purchased in conjunction with Merchandise Return Service:

[Classification Schedule] *Service*	Fee Schedule
a. Certificate of mailing	*947* [SS–4]
b. [Insured mail] *Insurance*	*943* [SS–9]
c.Registered mail	*942* [SS–14]
d. Special handling	*952* [SS–18]

932.42 Only the shipper may purchase insurance service for the merchandise return parcel by indicating the amount of insurance on the merchandise return label before providing it to the customer. The customer who returns a parcel to the shipper under merchandise return service may not purchase insurance.

932.5 Fees

932.51 The fee for the merchandise return service is set forth in [Rate] *Fee* Schedule *932.* [SS–20.] This fee is paid by the shipper.

932.6 Authorizations and Licenses

932.61 A permit fee as set forth in [Rate] Schedule 1000 must be paid once each calendar year by shippers utilizing merchandise return service.

932.62 The merchandise return permit may be canceled for failure to maintain sufficient funds in a trust account to cover postage and fees on returned parcels or for distributing merchandise return labels that do not conform to Postal Service specifications.

933 ON-SITE METER SETTING

933.1 Definition

933.11 On-site meter setting or examination service is a service whereby the Postal Service will service a postage meter at the mailer's or meter manufacturer's premises.

933.2 Description of Service

933.21 On-site meter setting or examination service is available on a scheduled basis, and meter setting may be [done] *performed* on an emergency basis for those customers enrolled in the scheduled on-site meter setting or examination program.

933.3 Fees

933.31 The fees for on-site meter setting or examination service are set forth in [Rate] *Fee* Schedule *933* [SS–12].

934 [RESERVED]

935 BULK PARCEL RETURN SERVICE

935.1 Definition

935.11 Bulk Parcel Return Service provides a method whereby high-volume parcel mailers may have undeliverable-as-addressed machinable parcels returned to designated postal facilities for pickup by the mailer at a predetermined frequency [prescribed] *specified* by the Postal Service or delivered by the Postal Service in bulk in a manner and frequency [prescribed] *specified* by the Postal Service.

935.2 Description of Service

935.21 Bulk Parcel Return Service is available only for the return of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

935.3 Requirements of the Mailer

935.31 Mailers must receive authorization from the Postal Service to use Bulk Parcel Return Service.

935.32 To claim eligibility for Bulk Parcel Return Service at each facility through which the mailer requests Bulk Parcel Return Service, the mailer must demonstrate receipt of 10,000 returned machinable parcels at a given delivery point in the previous postal fiscal year or must demonstrate a high likelihood of receiving 10,000 returned parcels in the postal fiscal year for which the service is requested.

935.33 Payment for Bulk Parcel Return Service is made through advance deposit account, or as otherwise specified by the Postal Service.

935.34 Mail for which Bulk Parcel Return Service is requested must bear endorsements [prescribed] *specified* by the Postal Service.

935.35 Bulk Parcel Return Service mailers must meet the documentation and audit requirements of the Postal Service.

935.4 Other Services

935.41 The following services may be purchased in conjunction with Bulk Parcel Return Service:

Service [Classification]	*Fee* Schedule
a. Address Correction Service.	*911* [SS–1]
b. Certificate of Mailing	*947* [SS–4]
c. Shipper-Paid Forwarding.	*936* [SS–22]

935.5 Fee

935.51 The fee for Bulk Parcel Return Service is set forth in Fee Schedule [SS–21] *935.*

935.6 Authorizations and Licenses

935.61 A permit fee as set forth in [Fee] Schedule 1000 must be paid once each calendar year by mailers utilizing Bulk Parcel Return Service.

935.62 The Bulk Parcel Return Service permit may be canceled for failure to maintain sufficient funds in an advance deposit account to cover postage and fees on returned parcels or for failure to meet the specifications of the Postal Service.

936 SHIPPER-PAID FORWARDING

936.1 Definition

936.11 Shipper-Paid Forwarding provides a method whereby mailers may have undeliverable-as-addressed machinable parcels forwarded at [Standard Mail Single Piece] *applicable First-Class Mail* rates for up to one year from the date that the addressee filed a change-of-address order. If the parcel, for which Shipper-Paid Forwarding is elected, is returned, the mailer will pay the [appropriate Standard Mail Single Piece] *applicable First-Class Mail* rate, or the Bulk Parcel Return Service fee, if that service was elected.

936.2 Description of Service

936.21 Shipper-Paid Forwarding is available only for the forwarding of machinable parcels, as defined by the Postal Service, initially mailed under the following Standard Mail subclasses: Regular and Nonprofit.

936.3 Requirements of the Mailer

936.31 Shipper-Paid Forwarding is available only in conjunction with automated Address Correction Service in [Schedule SS–1] *section 911.*

936.32 Mail for which Shipper-Paid Forwarding is purchased must meet the preparation requirements of the Postal Service.

936.33 Payment for Shipper-Paid Forwarding is made through advance deposit account, or as otherwise specified by the Postal Service.

936.34 Mail for which Shipper-Paid Forwarding is requested must bear endorsements [prescribed] *specified* by the Postal Service.

936.4 Other Services

936.41 The following services may be purchased in conjunction with Shipper-Paid Forwarding:

Service	[Classification] *Fee* schedule
a. Certificate of Mailing	*947* [SS–4]
b. Bulk Parcel Return Service.	*935* [SS–21]

936.5 Applicable Rates

936.51 Except as provided in [Schedule SS–21, Standard Mail Single Piece Rates, set forth in Rate Schedule 321.1] *section 935, single-piece rates under the Letters and Sealed Parcels subclass or the Priority Mail subclass of First-Class Mail, as set forth in Rate Schedules 221 and 223,* apply to pieces forwarded or returned [in connection with Shipper-Paid Forwarding] under this section.

940 ACCOUNTABILITY & RECEIPTS

941 CERTIFIED MAIL

941.1 Definition

941.11 Certified mail service is a service that provides a mailing receipt to the sender and a record of delivery at the office of *delivery* [address].

941.2 Description of Service

941.21 Certified mail service is provided for matter mailed as First-Class Mail.

941.22 If requested by the mailer, the time of acceptance[s] by the Postal Service will be indicated on the receipt.

941.23 A record of delivery is retained at the office of delivery for a specified period of time.

941.24 If the initial attempt to [delivery] *deliver the* mail is not successful, a notice of [arrival] *attempted delivery* is left at the mailing address.

941.25 A receipt of mailing may be obtained only if the article is mailed at a post office, branch or station, or given to a rural carrier.

941.26 Additional copies of the original mailing receipt may be obtained by the mailer.

941.3 Deposit of Mail

941.31 Certified mail must be deposited in a manner specified by the Postal Service.

941.4 Other Services

941.41 The following services may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] *Fee* Schedule
a. Restricted Delivery ...	*946* [SS–15]
b. Return Receipt	*945* [SS–16]

941.5 Fees

941.51 The fees for certified mail service are set forth in [Rate] *Fee* Schedule *941*. [SS–5.]

942 REGISTERED MAIL

942.1 Definition

942.11 Registered mail is a service *that* [which] provides added protection to mail sent under this [Domestic Mail Classification Schedule] *section* and [optional] indemnity in case of loss or damage.

942.2 Description of Service

942.21 Registered mail service is available to mailers of prepaid mail sent as First-Class Mail except that registered mail must meet the minimum requirements for length and width regardless of thickness.

942.22 Registered mail service provides insurance up to a maximum of $25,000, depending upon the actual value at the time of mailing, except that insurance is [optional for articles valued $100 or less.] *not available for articles of no value.*

942.23 There is no limit on the value of articles sent under this [classification schedule] *section*.

942.24 Registered mail service is not available for:

a. All delivery points because of the high security required for registered mail; in addition, not all delivery points will be available for registry and liability is limited in some geographic areas[.];

b. Mail of any class sent in combination with First-Class Mail;

c. Two or more articles tied or fastened together, unless the envelopes are enclosed in the same envelope or container.

942.25 The following services are provided as part of registered mail service at no additional cost to the mailer:

a. A receipt;

b. A record of delivery, retained by the Postal Service for a specified period of time;

c. A notice of [arrival] *attempted delivery* will be left at the mailing address if the initial delivery attempt is unsuccessful;

d. When registered mail is undeliverable-as-addressed and cannot be forwarded, a notice of nondelivery is provided.

942.26 A claim for complete loss of insured articles may be filed by the mailer only. A claim for damage or for partial loss of insured articles may be filed by either the mailer or addressee.

942.27 Indemnity claims for registered mail [on which insurance is provided, or for articles valued $100 or less on which optional insurance has been elected,] must be filed within a [specified] period of time, *specified by the Postal Service*, from the date the article was mailed.

[942.28 No indemnity is paid on any matter registered free.]

942.3 Deposit of Mail

942.31 Registered mail must be deposited in a manner specified by the Postal Service.

942.4 Service

942.41 Registered mail is provided maximum security.

942.5 Forwarding and Return

942.51 Registered mail is forwarded and returned without additional registry charge.

942.6 Other Services

942.61 The following services may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of applicable fees:

Service	[Classification] *Fee* Schedule
a. Collect on delivery	*944* [SS–6]
b. Restricted delivery	*946* [SS–15]
c. Return receipt	*945* [SS–16]
d. Merchandise return (shippers only).	*932* [SS–20]

942.7 Fees

942.71 The fees for registered mail are set forth in [Rate] *Fee* Schedule 942. [SS–14.]

943 INSURANCE

943.1 Express Mail Insurance

943.11 Definition

943.111 Express Mail Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to items sent by Express Mail.

943.12 Description of Service

943.121 Express Mail Insurance is available only for Express Mail.

943.122 Insurance coverage is provided, for no additional charge, up to $500 per piece for document reconstruction, up to $5,000 per occurrence regardless of the number of claimants. Insurance coverage is also provided, for no additional charge, up to $500 per piece for merchandise. Insurance coverage for merchandise valued at more than $500 is available for an additional fee, as set forth in [Rate] *Fee* Schedule 943 [SS–9]. The maximum liability for merchandise is $5,000 per piece. For negotiable items, currency, or bullion, the maximum liability is $15.

943.123 Indemnity claims for Express Mail must be filed within a specified period of time from the date the article was mailed.

943.124 Indemnity will be paid under terms and conditions [prescribed] *specified* by the Postal Service.

943.125 Among other limitations [prescribed] *specified* by the Postal Service, indemnity will not be paid by the Postal Service for loss, damage or rifling:

a. Of nonmailable matter;

b. Due to improper packaging;

c. Due to seizure by any agency of government; or[,]

d. Due to war, insurrection or civil disturbances.

943.13 Fees

943.131 The fees for Express Mail Insurance service are set forth in [Rate] *Fee* Schedule *943*.[SS–9.]

943.2 General Insurance

943.21 Retail Insurance

943.211 [General] *Retail* Insurance is a service that provides the mailer with indemnity for loss of, rifling of, or damage to mailed items.

943.212 The maximum liability of the Postal Service [under this part] for *Retail Insurance* is $5000.

943.213 [General] *Retail* Insurance is available for mail sent under the following classification schedules:

a. First-Class Mail, if containing matter [which] *that* may be mailed as Standard Mail;

b. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses of* Standard Mail.

943.214 [This service] *Retail Insurance* is not available for matter offered for sale, addressed to prospective purchasers who have not ordered or authorized their sending. If such matter is received in the mail, payment will not be made for loss, rifling, or damage.

943.215 For Retail Insurance, the [The] mailer is issued a receipt for each item mailed. For items insured for more than $50, a receipt of delivery is obtained by the Postal Service.

943.216 For items insured for more than $50, a notice of [arrival] *attempted delivery* is left at the mailing address when the first attempt at delivery is unsuccessful.

943.217 Retail insurance provides indemnity for the actual value of the article at the time of mailing.

943.22 Bulk Insurance

943.221 Bulk Insurance service is available for mail entered in bulk at designated facilities and in a manner specified by the Postal Service, including the use of electronic manifesting, and sent under the following classification schedules:

a. First-Class Mail, if containing matter that may be mailed as Standard Mail;

b. Parcel Post, Bound Printed Matter, Special, and Library subclasses of Standard Mail.

943.222 Bulk Insurance bears endorsements and identifiers specified by the Postal Service. Bulk Insurance mailers must meet the documentation requirements of the Postal Service.

943.223 Bulk Insurance provides indemnity for the lesser of:

(1) the actual value of the article at the time of mailing, or (2) the wholesale cost of the contents to the sender.

943.23 Claims

943.231 For Retail Insurance, a [A] claim for complete loss may be filed by the mailer only,[.] *and a* [A] claim for damage or for partial loss may be filed by either the mailer or addressee. *For Bulk Insurance, all claims must be filed by the mailer.*

943.232 A claim for damage or loss on a parcel sent merchandise return *under section 932* [(SS–20)] may [only] be filed *only* by the purchaser of the insurance.

943.233 Indemnity claims must be filed within a specified period of time from the date the article was mailed.

[943.234 Additional copies of the original mailing receipt may be obtained by the mailer, upon payment of the applicable fee set forth in Rate Schedule SS–9.]

943.24 Deposit of Mail

943.241 Mail insured under [this part] *section 943.2* must be deposited [in a manner] *as* specified by the Postal Service.

943.25 Forwarding and Return

943.251 By insuring an item, the mailer guarantees forwarding and return postage unless instructions on the piece mailed indicate that it not be forwarded or returned.

943.252 Mail undeliverable as addressed [sent under this part] will be returned to the sender as specified by the sender or by the Postal Service.

943.26 Other Services

943.261 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [part] *section* upon payment of the applicable fees:

Service	[Classification] *Fee* Schedule
a. Parcel Airlift	*951* [SS–13]
b. Restricted delivery (for items insured for more than $50).	*946* [SS–15]
c. Return receipt (for items insured for more than $50).	*945* [SS–16]
d. Special handling	*952* [SS–18]
e. Merchandise return (shippers only).	*932* [SS–20]

943.27 Fees

943.271 The fees for [General] Insurance are set forth in [Rate] *Fee* Schedule *943.* [SS–9].

944 COLLECT ON DELIVERY

944.1 Definition

944.11 Collect on Delivery (COD) service is a service [which] *that* allows a mailer to mail an article for which [he has not been paid] *full or partial payment has not yet been received* and have the price, the cost of postage and fees, and anticipated or past due charges collected by the Postal Service from the addressee when the article is delivered.

944.2 Description of Service

944.21 COD service is available for collection of $600 or less upon the delivery of postage prepaid mail sent under the following classification schedules:

a. Express Mail

b. First-Class Mail

c. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses of* Standard Mail

944.22 Service under this [schedule] *section* is not available for:

a. Collection agency purposes;

b. Return of merchandise about which some dissatisfaction has arisen, unless the new addressee has consented in advance to such return;

c. Sending only bills or statements of indebtedness, even though the sender may establish that the addressee has agreed to collection in this manner; however, when the legitimate COD shipment consisting of merchandise or bill of lading, is being mailed, the balance due on a past or anticipated transaction may be included in the charges on a COD article, provided the addressee has consented in advance to such action;

d. Parcels containing moving-picture films mailed by exhibitors to moving-picture manufacturers, distributors, or exchanges; or

e. Goods *that* [which] have not been ordered by the addressee.

944.23 COD service provides the mailer with insurance against loss, rifling and damage to the article as well as failure to receive the amount collected from the addressee. This provision insures only the receipt of the instrument issued to the mailer after payment of COD charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order.

944.24 A receipt is issued to the mailer for each piece of COD mail. Additional copies of the original mailing receipt may be obtained by the mailer.

944.25 Delivery of COD mail will be made in a manner specified by the Postal Service. If a delivery to the mailing address is not attempted or if a delivery attempt is unsuccessful, a notice of [arrival] *attempted delivery* will be left at the mailing address.

944.26 The mailer may receive a notice of nondelivery if the piece mailed is endorsed appropriately.

944.27 The mailer may designate a new addressee or alter the COD charges by submitting the appropriate form and by paying the appropriate fee as set forth in [Rate] *Fee* Schedule *944.* [SS–6.]

944.28 A claim for complete loss may be filed by the mailer only. A claim for damage or for partial loss may be filed by either the mailer or addressee.

944.29 COD indemnity claims must be filed within a specified period of time from the date the article was mailed.

944.3 Requirements of the Mailer

944.31 COD mail must be identified as COD mail.

944.4 Deposit of Mail

944.41 COD mail must be deposited in a manner specified by the Postal Service.

944.5 Forwarding and Return

944.51 A mailer of COD mail guarantees to pay any return postage, unless otherwise specified on the piece mailed.

944.52 For COD mail sent as Standard Mail, postage at the applicable rate will be charged to the addressee:

a. When an addressee, entitled to delivery to the mailing address under Postal Service regulations, requests delivery of COD mail[which] *that* was refused when first offered for delivery;

b. For each delivery attempt, to an addressee entitled to delivery to the mailing address under Postal Service regulations, after the second such attempt.

944.6 Other Services

944.61 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fee:

Service	[Classification] *Fee* Schedule
a. Registered mail, if sent as First-Class.	*942* [SS14]
b. Restricted delivery	*946* [SS15]
c. Special handling	*952* [SS–18]

944.7 Fees

944.71 Fees for COD service are set forth in [Rate] *Fee* Schedule *944* [SS–6].

945 RETURN RECEIPT

945.1 Definition

945.11 Return receipt service is a service *that* [which] provides evidence to the mailer that an article has been received at the delivery address.

945.2 Description of Service

945.21 Return receipt service is available for mail sent under the following *sections or* classification schedules:

	[Classification Schedule]
a. Certified mail	*941* [SS5]
b. COD mail	944 [SS6]
c. *Insurance* [Insured mail] (if insured for more than $50).	*943* [SS9]
d.Registered mail	942 [SS14]
e. Delivery Confirmation	*948*
[e.] *f.* Express Mail.	
[f.] *g.* Priority Mail (merchandise only).	
[g.] *h.* Standard Mail (limited to merchandise sent by [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library subclasses).	

945.22 Return receipt service is available at the time of mailing or, when purchased in conjunction with certified *mail*, COD, [insured] *Insurance* (if for more than $50), registered *mail,* or Express Mail, after mailing.

945.23 Mailers requesting return receipt service at the time of mailing will be provided, as appropriate, the signature of the addressee or addressee's agent, the date delivered, and the address of delivery, if different from the address on the mailpiece.

945.24 Mailers requesting return receipt service after mailing will be provided the date of delivery and the name of the person who signed for the article.

945.25 If the mailer does not receive a return receipt within a specified period of time from the date of mailing, the mailer may request a duplicate return receipt. No fee is charged for a duplicate return receipt.

945.3 Fees

945.31 The fees for return receipt service are set forth in [Rate] *Fee* Schedule *945* [SS–16].

946 RESTRICTED DELIVERY

946.1 Definition

946.11 Restricted delivery service is a service that provides a means by which a mailer may direct that delivery will be made only to the addressee or to someone authorized by the addressee to receive such mail.

946.2 Description of Service

946.21 This service is available for mail sent under the following [classification schedules] *sections:*

	[Classification Schedule]
a.Certified Mail	*941* [SS–5]
b.COD Mail	*944* [SS–6]
c.[Insured Mail] *Insurance* (if insured for more than $50).	*943* [SS–9]
d.Registered Mail	*942* [SS–14]

946.22 Restricted delivery is available to the mailer at the time of mailing or after mailing.

946.23 Restricted delivery service is available only to natural persons specified by name.

946.24 A record of delivery will be retained by the Postal Service for a specified period of time.

946.25 Failure to provide restricted delivery service when requested after mailing, due to prior delivery, is not grounds for refund of the fee or communications charges.

946.3 Fees

946.31 The fees for restricted delivery service are set forth in[Rate] *Fee* Schedule *946 [SS–15].*

947 CERTIFICATE OF MAILING

947.1 Definition

947.11 Certificate of mailing service is a service [which] *that* furnishes evidence of mailing.

947.2 Description of Service

947.21 Certificate of mailing service is available to mailers of matter sent under the classification schedule to any class of mail.

947.22 A receipt is not obtained upon delivery of the mail to the addressee. No record of mailing is maintained at the post office.

947.23 Additional copies of certificates of mailing may be obtained by the mailer.

947.3 Other Services

947.31 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this classification schedule upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. Parcel airlift	*951* [SS13]
b. Special handling	*952* [SS18]

947.4 Fees

947.41 The fees for certificate of mailing service are set forth in [Rate] *Fee* Schedule *947* [SS–4].

948 DELIVERY CONFIRMATION

948.1 Definition

948.11 Delivery confirmation service provides electronic confirmation to the mailer that an article was delivered or that a delivery attempt was made.

948.2 Description of Service

948.21 Delivery confirmation service is available for Priority Mail and the Parcel Post, Bound Printed Matter, Special and Library subclasses of Standard Mail.

948.22 Delivery confirmation service may be requested only at the time of mailing.

948.23 Mail for which delivery confirmation service is requested must meet preparation requirements established by the Postal Service, and bear a barcode specified by the Postal Service.

948.24 Matter for which delivery confirmation service is requested must be deposited in a manner specified by the Postal Service.

948.3 Fees

948.31 Delivery confirmation service is subject to the fees set forth in Fee Schedule 948.

950 PARCEL HANDLING

951 PARCEL AIRLIFT (PAL)

951.1 Definition

951.11 Parcel airlift service is a service that provides for air transportation of parcels on a space available basis to or from military post offices outside the contiguous 48 states.

951.2 Description of Service

951.21 Parcel airlift service is available for mail sent under the [following classification schedule:] *Standard Mail Classification Schedule.*

[Standard Mail]

951.3 Physical Limitations

951.31 The minimum physical limitations established for the mail sent under the classification schedule for which postage is paid apply to parcel airlift mail. In no instance may the parcel exceed 30 pounds in weight, or 60 inches in length and girth combined.

951.4 Requirements of the Mailer

951.41 Mail sent under this [schedule] *section* must be endorsed as [prescribed] *specified* by [regulation] *the Postal Service.*

951.5 Deposit of Mail

951.51 PAL mail must be deposited in a manner specified by the Postal Service

951.6 Forwarding and Return

951.61 PAL mail sent for delivery outside the contiguous 48 states is forwarded as set forth in section 2030 of the General Definitions, Terms and Conditions. PAL mail sent for delivery within the contiguous 48 states is forwarded or returned as set forth in section 353 as appropriate.

951.7 Other Services

951.71 The following services, if applicable to the *sub*class of mail, may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. Certificate of mailing ...	*947* [SS4]
b. [Insured mail] *Insurance.*	*943* [SS9]
c. Restricted delivery (if insured for more than $50).	*946* [SS15]
d. Return receipt (if insured for more than $50).	*945* [SS16]
e. Special handling	*952* [SS18]

951.8 Fees

951.81 The fees for parcel airlift service are set forth in [Rate] *Fee* Schedule *951* [SS–13].

952 SPECIAL HANDLING

952.1 Definition

952.11 Special handling service is a service that provides preferential handling to the extent practicable during dispatch and transportation.

952.2 Description of Service

952.21 Special handling service is available for mail sent under the following classification schedules:

a. First-Class Mail

b. [Single Piece,] Parcel Post, Bound Printed Matter, Special, and Library *subclasses* of Standard Mail

952.22 Special handling service is mandatory for matter [which] *that* requires special attention in handling, transportation and delivery.

952.3 Requirements of the Mailer

952.31 Mail sent under this [schedule] *section* must be identified as [prescribed] *specified* by *the Postal Service* [regulation].

952.4 Deposit of Mail

952.41 Mail sent under this [schedule] *section* must be deposited in a manner [prescribed] *specified* by the Postal Service.

952.5 Forwarding and Return

952.51 If undeliverable as addressed, special handling mail that is forwarded to the addressee is given special handling without requiring payment of an additional handling fee. However, additional postage at the applicable Standard Mail rate is collected on delivery.

952.6 Other Services

952.61 The following services, *if applicable to the subclass of mail,* may be obtained in conjunction with mail sent under this [classification schedule] *section* upon payment of the applicable fees:

Service	[Classification] Fee Schedule
a. COD mail	*944* [SS–6]
b. [Insured mail] *Insurance.*	*943* [SS–9]
c. Parcel airlift	*951* [SS–13]
d. Merchandise return (shippers only).	*932* [SS–20]

952.7 Fees

952.71 The fees for special handling service are set forth in [Rate] *Fee* Schedule *952* [SS–18].

960 STAMPED PAPER

961 STAMPED ENVELOPES

961.1 Definition

961.11 Plain stamped envelopes and printed stamped envelopes are envelopes with postage thereon offered for sale by the Postal Service.

961.2 Description of Service

961.21 Stamped envelopes are available for:

a. First-Class Mail within the first rate increment.

b. Standard Mail mailed at a minimum [per piece] *per piece* rate as [prescribed] *specified* by the Postal Service.

961.22 Printed stamped envelopes may be obtained by special request.

961.3 Fees

961.31 The fees for stamped envelopes are set forth in [Rate] *Fee* Schedule *961* [SS–19].

962 STAMPED CARDS

962.1 Definition

962.11 Stamped Cards. Stamped Cards are cards with postage imprinted or impressed on them and supplied by the Postal Service for the transmission of messages.

962.12 Double Stamped Cards. Double Stamped Cards consist of two attached cards, one of which may be detached by the receiver and returned by mail as a single Stamped Card.

962.2 Description of Service. Stamped Cards are available for First-Class Mail.

962.3 Fees. The fees for Stamped Cards are set forth in [Rate] *Fee* Schedule *962* [SS–19A].

970 POSTAL MONEY ORDERS

971 DOMESTIC POSTAL MONEY ORDERS

971.1 Definition

971.11 Money order service is a service that provides the customer with an instrument for payment of a specified sum of money.

971.2 Description of Service

971.21 The maximum value for which a domestic postal money order may be purchased is $700. Other restrictions on the number or dollar value of postal money order sales, or both, may be imposed [in accordance with] *by law or under* regulations prescribed by the Postal Service.

971.22 A receipt of purchase is provided at no additional cost.

971.23 The Postal Service will replace money orders that are spoiled or incorrectly prepared, regardless of who caused the error, without charge if replaced on the date originally issued.

971.24 If a replacement money order is issued after the date of original issue because the original was spoiled or incorrectly prepared, the applicable money order fee may be collected from the customer.

971.25 Inquiries [and] or claims may be filed by the purchaser, payee, or endorsee.

971.3 Fees

971.31 The fees for domestic postal money orders are set forth in [Rate] *Fee* Schedule *971* [SS–8].

Amend the Domestic Mail Classification Schedule as Follows:

General Definitions, Terms and Conditions

1000 General Definitions

As used in this Domestic Mail Classification Schedule, the following terms have the meanings set forth below.

1001 Advertising

Advertising includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. If an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be advertising. Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be advertising. If a publisher advertises his own services or publications, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be advertising.

1002 Aspect Ratio

Aspect ratio is the ratio of width to length.

1003 Bills and Statements of Account

1003.1 A bill is a request for payment of a definite sum of money claimed to be owing by the addressee either to the sender or to a third party. The mere assertion of an indebtedness in a definite sum combined with a demand for payment is sufficient to make the message a bill.

1003.2 A statement of account is the assertion of the existence of a debt in a definite amount but which does not necessarily contain a request or a demand for payment. The amount may be immediately due or may become due after a certain time or upon demand or billing at a later date.

1003.3 A bill or statement of account must present the particulars of an indebtedness with sufficient definiteness to inform the debtor of the amount [he is] required [to pay to acquit himself] *for acquittal* of the debt. However, neither a bill nor a statement of account need state the precise amount if it contains sufficient information to enable the debtor to determine the exact amount of the claim asserted.

1003.4 A bill or statement of account is not the less a bill or statement of account merely because the amount claimed is not in fact owing or may not be legally collectible.

1004 Girth

Girth is the measurement around a piece of mail at its thickest part.

1005 Invoice

An invoice is a writing showing the nature, quantity, and cost or price of items shipped or sent to a purchaser or consignor.

1006 Permit Imprints

Permit imprints are printed indicia indicating postage has been paid by the sender under the permit number shown.

1007 Preferred Rates

Preferred rates are the reduced rates established pursuant to 39 U.S.C. 3626.

1008 ZIP Code

The ZIP Code is a numeric code that facilitates the sortation, routing, and delivery of mail.

1009 Nonprofit Organizations and Associations

Nonprofit organizations or associations are organizations or associations not organized

for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations [which] *that* may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;

ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;

ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;

ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations *that* [which] are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agriculture pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization [which] *that* meets all [of] the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.

2000 DELIVERY OF MAIL

2010 Delivery Services

The Postal Service provides the following modes of delivery:

a. Caller service. The fees for caller service are set forth in [Rate] *Fee* Schedule *921* [SS–10.]

b. Carrier delivery service.

c. General delivery.

d. Post office box service. The fees for post office box service are set forth in [Rate] *Fee* Schedule *921*[SS–10.]

2020 Conditions of Delivery

2021 General

Except as provided in section 2022, mail will be delivered as addressed unless the Postal Service is instructed otherwise by the addressee in writing.

2022 Refusal of Delivery

The addressee may control delivery of his mail. The addressee may refuse to accept a piece of mail that does not require a delivery receipt at the time it is offered for delivery or after delivery by returning it unopened to the Postal Service. For mail that requires a delivery receipt, the addressee or his representative may read and copy the name of the sender of registered, insured, certified, COD, return receipt, and Express Mail prior to accepting delivery. Upon signing the delivery receipt the piece may not be returned to the Postal Service without the applicable postage and fees affixed.

2023 Receipt

If a signed receipt is required, mail will be delivered to the addressee (or competent member of his family), to persons who customarily receive his mail or to one authorized in writing to receive the addressee's mail.

2024 Jointly Addressed Mail

Mail addressed to several persons may be delivered to any one of them. When two or more persons make conflicting orders for delivery for the same mail, the mail shall be delivered as determined by the Postal Service.

2025 Commercial Mail Receiving Agents

Mail may be delivered to a commercial mail receiving agency on behalf of another person. In consideration of delivery of mail to the commercial agent, the addressee and the agent are considered to agree that:

a. No [change of address] *change-of-address* order will be filed with the post office when the agency relationship is terminated;

b. When remailed by the commercial agency, the mail is subject to payment of new postage.

2026 Mail Addressed To Organizations

Mail addressed to governmental units, private organizations, corporations, unincorporated firms or partnerships, persons at institutions (including but not limited to hospitals and prisons), or persons in the military is delivered as addressed or to an authorized agent.

2027 Held Mail

Mail will be held for a specified period of time at the office of *delivery* [address] upon request of the addressee, unless the mail:

a. Has contrary retention instructions;

b. Is perishable; or

c. Is registered, COD, insured, return receipt, certified, or Express Mail for which the normal retention period expires before the end of the specified holding period.

2030 Forwarding and Return

2031 Forwarding

Forwarding is the transfer of undeliverable-as-addressed mail to an address other than the one originally placed on the [mail piece]*mailpiece.* All post offices will honor [change of address] *change-of-address* orders for a period of time specified by the Postal Service.

2032 Return

Return is the delivery of undeliverable-as-addressed mail to the sender.

2033 Applicable Provisions

The provisions of sections 150, 250, 350, [and] 450, [and schedules SS–21 and SS–22] *935 and 936* apply to forwarding and return.

2034 Forwarding for Postal Service Adjustments

When mail is forwarded due to Postal Service adjustments (such as, but not limited to, the discontinuance of the post office of original address, establishment of rural carrier service, conversion to city delivery service from rural, readjustment of delivery districts, or renumbering of houses and renaming of streets), it is forwarded without charge for a period of time specified by the Postal Service.

3000 POSTAGE AND PREPARATION

3010 Packaging

Mail must be packaged so that:

a. The contents will be protected against deterioration or degradation;

b. The contents will not be likely to damage other mail, Postal Service employees or property, or to become loose in transit;

c. The package surface must be able to retain postage indicia and address markings;

d. It is marked by the mailer with a material [which] *that* is [not] *neither* readily water soluble nor [which can be] easily rubbed off or smeared, and the marking will be sharp and clear.

3020 Envelopes

Paper used in the preparation of envelopes may not be of a brilliant color. Envelopes must be prepared with paper strong enough to withstand normal handling.

3030 Payment of Postage and Fees

Postage must be fully prepaid on all mail at the time of mailing, except as authorized by law or this Schedule. Except as authorized by law or this Schedule, mail deposited without prepayment of sufficient postage shall be delivered to the addressee subject to payment of deficient postage, returned to the sender, or otherwise disposed of as [prescribed] *specified* by the Postal Service. Mail deposited without any postage affixed will be returned to the sender without any attempt at delivery.

3040 Methods for Paying Postage and Fees

Postage for all mail may be prepaid [by] *with* postage meter *indicia,* adhesive stamps, or permit imprint, unless otherwise limited or [prescribed] *specified* by the Postal Service. The following methods of paying postage and fees require prior authorization from the Postal Service:

a. Permit imprint,

b. Postage meter,

c. Precanceled stamps, precanceled envelopes, and mailer=s precanceled postmarks.

3050 Authorization Fees

Fees for authorization to use a permit imprint are set forth in [Rate] Schedule 1000. No fee is charged for authorization to use a postage meter. Fees for setting postage meters are set forth in [Rate] *Fee* Schedule 933[SS–12.] No fee is charged for authorization to use precanceled stamps, precanceled envelopes or mailer=s precanceled postmark.

3060 Special Service Fees

Fees for special services may be prepaid in any manner appropriate for the class of mail indicated or as otherwise [prescribed] *specified* by the Postal Service.

3070 Marking of Unpaid Mail

Matter authorized for mailing without prepayment of postage must bear markings identifying the class of mail service. Matter so marked will be billed at the applicable rate of postage set forth in this Schedule. Matter not so marked will be billed at the applicable First-Class rate of postage.

3080 Refund of Postage

When postage and special service fees have been paid on mail for which no service is rendered for the postage or fees paid, or collected in excess of the lawful rate, a refund may be made. There shall be no refund for registered, COD, general insurance, and Express Mail Insurance fees when the article is [later] withdrawn by the mailer *after acceptance.* In cases involving returned articles improperly accepted because of excess size or weight, a refund may be made.

3090 Calculation of Postage

When a rate schedule contains per piece and per pound rates, the postage shall be the sum of the charges produced by those rates. When a rate schedule contains a minimum [-per-piece] *per piece* rate and a pound rate, the postage shall be the greater of the two. When the computation of postage yields a fraction of a cent in the charge, the next higher whole cent must be paid.

4000 POSTAL ZONES

4010 Geographic Units of Area

In the determination of postal zones, the earth is considered to be divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude. The distance between these units of area is the basis of the postal zones.

4020 Measurement of Zone Distances

The distance upon which zones are based shall be measured from the center of the unit of area containing the dispatching sectional center facility or multi-ZIP coded post office not serviced by a sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities or multi-ZIP coded post offices, but this shall not cause two post offices to be regarded as within the same local zone.

4030 Definition of Zones 4031 Local Zone

The local zone applies to mail mailed at any post office for delivery at that office; at any city letter carrier office or at any point within its delivery limits for delivery by carriers from that office; at any office from which a rural route starts for delivery on the same route; and on a rural route for delivery at the office from which the route starts or on any rural route starting from that office.

4032 First Zone

The first zone includes all territory within the quadrangle of entry in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately 50 miles from the center of a given unit of area. The first zone also applies to mail between two post offices in the same sectional center.

4033 Second Zone

The second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately 150 miles from the center of a given unit of area.

4034 Third Zone

The third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately 300 miles from the center of a given unit of area.

4035 Fourth Zone

The fourth zone includes all units of area outside the third zone lying in whole or in part within a radius approximately 600 miles from the center of a given unit of area.

4036 Fifth Zone

The fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately 1,000 miles from the center of a given unit of area.

4037 Sixth Zone

The sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately 1,400 miles from the center of a given unit of area.

4038 Seventh Zone

The seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately 1,800 miles from the center of a given unit of area.

4039 Eighth Zone

The eighth zone includes all units of area outside the seventh zone.

4040 Zoned Rates

Except as provided in section 4050, rates according to zone apply for zone-rated mail sent between Postal Service facilities including [a]*A*rmed [f]*F*orces post offices, wherever located.

4050 APO/FPO Mail

4051 General

Except as provided in section 4052, the rates of postage for zone-rated mail transported between the United States, or the possessions or territories of the United States, on the one hand, and Army, Air Force and Fleet Post Offices on the other, or among the latter, shall be the applicable zone rates for mail between the place of mailing or delivery and the city of the postmaster serving the Army, Air Force or Fleet Post Office concerned.

4052 Transit Mail

The rates of postage for zone-rated mail [which] *that* is mailed at or addressed to an *Armed Forces*[armed forces] post office and [which] is transported directly to or from *Armed Forces* [armed forces] post offices at the expense of the Department of Defense, without transiting any of the 48 contiguous states (including the District of Columbia), shall be the applicable local zone rate; provided, however, that if the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery is greater than the local zone for such mail, postage shall be

assessed on the basis of the distance from the place of mailing to the embarkation point or the distance from the point of debarkation to the place of delivery of such mail, as the case may be. The word ''transiting'' does not include enroute transfers at coastal gateway cities which are necessary to transport military mail directly between military post offices.

5000 PRIVACY OF MAIL

5010 First-Class and Express Mail

Matter mailed as First-Class Mail or Express Mail shall be treated as mail which is sealed against postal inspection and shall not be opened except as authorized by law.

5020 All Other Mail

Matter not paid at First-Class Mail or Express Mail rates must be wrapped or secured in the manner [prescribed] *specified* by the Postal Service so that the contents may be examined. Mailing of sealed items as other than First-Class Mail or Express Mail is considered consent by the sender to the postal inspection of the contents.

6000 MAILABLE MATTER

6010 General

Mailable matter is any matter which:

a. Is not mailed in contravention of 39 U.S.C. Chapter 30, or of 17 U.S.C. 109;

b. While in the custody of the Postal Service is not likely to become damaged itself, to damage other pieces of mail, to cause injury to Postal Service employees or to damage Postal Service property; and

c. Is not mailed contrary to any special conditions or limitations placed on transportation or movement of certain articles, when imposed under law by the U.S. Department of the Treasury; U.S. Department of Agriculture; U.S. Department of Commerce; U.S. Department of Health and Human Services, U.S. Department of Transportation; and any other Federal department or agency having legal jurisdiction.

6020 Minimum Size Standards

The following minimum size standards apply to all mailable matter:

a. All items must be at least 0.007 inches thick, and

b. all items, other than keys and identification devices, which are 0.25 inch thick or less must be

i. rectangular in shape,

ii. at least 3.5 inches in width, and

iii. at least 5 inches in length.

6030 Maximum Size and Weight Standards

Where applicable, the maximum size and weight standards for each class or *subclass* of mail are set forth in sections 130, 230, *322.16,* 330 and 430. Additional limitations may be applicable to specific subclasses, and rate and discount categories as provided in the eligibility provisions for each subclass or category.

Stanley F. Mires,

Chief Counsel, Legislative.

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Federal Register

Tuesday
July 21, 1998

Part III

Department of Education

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities; Inviting Applications for New Awards for Fiscal Year 1998; Notice

DEPARTMENT OF EDUCATION

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year 1998

SUMMARY: On June 4, 1997, the President signed into law Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997, amending the Individual with Disabilities Education Act (IDEA).

This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1998 competitions under one program authorized by IDEA, as amended: Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (one priority).

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice. In order to make awards on a timely basis, the Secretary has decided to publish this priority in final under the authority of section 661(e)(2).

General Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA);

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA);

(c) Projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project; and

(d) Grant recipients funded under this notice must carry out activities that benefit, directly or indirectly, children with disabilities of all ages (see Section 661(a)(4) of IDEA.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities

Purpose of Program: The purpose of this program is to provide technical assistance and information through such mechanisms as institutes, regional resource centers, clearinghouses and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Eligible Applicants: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria included in regulations for this program in 34 CFR 320.30.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: Under section 685 of the Individuals with Disabilities Education Act and 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competitions only those applications that meet this absolute priority:

Absolute Priority—National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children With Disabilities (84.326P)

Background

During the last ten years, significant changes have had an impact on professional development programs. The characteristics of children with disabilities have changed and in many ways have become more complex. Today, there are more children who have entered life with marked disabilities, who are expected to continue to thrive, and who require interdisciplinary approaches that provide them with essential support. Additionally, the cultural and linguistic characteristics of the student population have changed significantly. In order for educational programs to be effective, the Nation's schools need a work force of educators, related services providers, and early intervention personnels that is more culturally and linguistically diverse than in the past. Professional development programs have significantly changed as well, through new developments in assistive technology, changes in financial support for students entering special education fields, and, in particular, changes in Federal legislation.

The IDEA Amendments of 1997 direct the Secretary to provide technical assistance through clearinghouses and other means in order to build capacity for improving early intervention, education, and transition services and results for children with disabilities, and their families. The National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children with Disabilities supported through this priority will be responsible for identifying and responding to exigent issues, emerging trends, and strategies for ensuring an adequate supply of qualified professionals and paraprofessionals available to meet the needs of children with disabilities.

It is essential that the Clearinghouse establishes and maintains varied paths for the dissemination of a wide array of critical information, and provides information to a broad base of individuals, including students, parents, administrators, and researchers. It is also necessary for the Clearinghouse to coordinate its services with individuals and professional organizations and disseminate comprehensive materials related to the recruitment, preparation and effectiveness of professionals and paraprofessionals who provide services to children with disabilities and their families. For the purposes of this priority, ''professionals'' include early intervention personnel, special education teachers, general education teachers, adapted physical educators, and related services providers such as psychologists, occupational and physical therapists, orientation and mobility specialists, and speech-language pathologists. ''Paraprofessionals'' include paraeducators, teachers' aides, instructional assistants, occupational and physical therapy assistants, and speech-language pathology assistants.

Priority: The Secretary establishes an absolute priority to support a national clearinghouse that works toward ensuring the availability of an adequate number and the high quality of personnel to improve services and results for infants and children with disabilities. In order to accomplish these purposes, the clearinghouse must:

(a) Conduct nation-wide, outreach activities to encourage individuals to

pursue careers in special education. To accomplish this objective, the clearinghouse must develop, implement and maintain comprehensive and coordinated communication campaigns that:

(1) Utilize the full range of media outlets;

(2) Reflect cutting edge formats and designs;

(3) Are customized in design and communication approach to promote the full range of career opportunities in special education and related services and early intervention services;

(4) Are customized in design and communication approach to attract individuals from culturally and economically diverse backgrounds and individuals with disabilities, across varying age levels and professional experiences.

(b) Conduct activities that assist State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), agencies that administer the Infants and Toddlers with Disabilities program under IDEA, and other appropriate entities in improving the quality of professionals and paraprofessionals who serve children with disabilities, including children with limited English proficiency and children from culturally diverse backgrounds. To accomplish this objective, the clearinghouse must:

(1) Collect, synthesize, and disseminate information on emerging approaches to professional preparation and career development for special education, related service, and early intervention personnel;

(2) Collect and disseminate information on current national, State, and professional standards, competencies, dual certifications, and reciprocity agreements applied by States and professional organizations to the credentialing or licensing of professional and paraprofessional personnel;

(3) Identify and disseminate information on effective strategies, through collaboration with appropriate entities, to identify and promote the credentialing of current early intervention, education, transition, and related services personnel who are lacking permanent certification or license;

(4) Develop and disseminate, through collaboration with appropriate entities, guidelines for instituting standards or certifications for paraprofessionals, where such standards do not exist; and

(5) Develop and disseminate periodic highlights or reviews of pressing issues, trends, and emerging research regarding professional development programs for special education, related service, and early intervention personnel.

(c) Conduct activities that would promote an adequate supply of qualified professionals and paraprofessionals who serve children with disabilities. To accomplish this objective, the clearinghouse must:

(1) Collect and disseminate information on the ongoing and emerging areas of personnel needs identified by States, LEAs, and other entities;

(2) Collect and disseminate information on the availability of qualified service providers, including those from traditionally underrepresented populations (e.g., persons from culturally or linguistically diverse backgrounds, and persons with disabilities);

(3) Collect and disseminate information on preservice professional development programs that prepare both professionals and paraprofessionals, including programs that provide special education preparation for general educators. At a minimum, this information must include, for each program: the areas of preparation and their academic level, the program head or chair, telephone, e-mail, FAX, mailing address and web address, if available, the number of full or part time faculty, tuition costs, and the availability of stipends or scholarships. Programs that receive Federal support for students should be identified with the source of those funds, particularly if from the Office of Special Education Programs or other offices in the U.S. Department of Education. Preservice professional development programs that provide specific services for students with disabilities, and the description of those services, must also be included. The Clearinghouse is also encouraged to collect information on the numbers of students enrolled, and graduating from, each of the identified programs;

(4) Arrange with producers of scholarship publications to include in such publications information on scholarship opportunities available through OSEP-supported professional development programs; and

(5) Identify, synthesize, and disseminate information on effective strategies used to recruit and retain both professionals and paraprofessionals who provide services to children with disabilities. Effective strategies should be identified for use by States, LEAs, and IHEs. Special emphasis should be placed on identifying recruitment and retention strategies and materials that have been particularly effective in urban and rural settings, and with traditionally under-represented populations (e.g., minorities and persons with disabilities).

(d) In order to satisfy the objectives in paragraphs (a), (b), and (c), the clearinghouse must also:

(1) Conduct timely updates of all information and data bases to ensure that information disseminated is accurate and current;

(2) Establish advisory groups to provide recommendations to the clearinghouse relative to the activities or products described above and to ensure that all constituency needs are met;

(3) Employ multiple dissemination mechanisms and approaches, including the establishment and maintenance of a user-friendly web site that permits the downloading of all clearinghouse information bases and incorporates hotlinks to available training programs and other relevant information sources; and

(4) Establish and implement a comprehensive system of evaluation to determine the impact of the clearinghouse activities. Evaluations should be conducted at least annually, identify strategies for improvement, and include relevant achievements.

Under this priority, the Secretary will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the clearinghouse for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a) will consider:

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The team's review, including a two-day site visit to the clearinghouse, is to be conducted during the last half of the project's second year. Costs associated with the services to be performed by the review team must also be included in the clearinghouse budget for year two. These costs are estimated to be approximately $4,000; and

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the clearinghouse.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $700,000 for any single budget period of twelve months. The Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the application narrative, is where an

applicant addresses the selection criteria that are used by reviewers in evaluating the application. An applicant must limit Part III to the equivalent of no more than 70 double-spaced pages, using the following standards: (1) A ''page'' is 8½″×11″ (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative *must* be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT APPLICATION NOTICE FOR FISCAL YEAR 1998

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year) *	Page limit **	Estimated number of awards
84.326P National Clearinghouse on Careers and Professions Related to Early Intervention and Education for Children with Disabilities	7/24/98	8/24/98	9/22/98	$700,000	70	1

* The Secretary rejects and does not consider an application that proposes a budget exceeding the amount listed for each priority for any single budget period of 12 months.

** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the ''Page Limit'' section of this notice for the specific requirements. The Secretary rejects and does not consider an application that does not adhere to this requirement.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: July 14, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–19342 Filed 7–20–98; 8:45 am]

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Tuesday
July 21, 1998

Part IV

Department of Justice

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code; Interim Rule

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners:Prisoners Serving Sentences Under the District of Columbia Code

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Parole Commission is incorporating into the Code of Federal Regulations, in amended and supplemented form, the regulations of the District of Columbia that govern the paroling jurisdiction that will be assumed by the U.S. Parole Commission on August 5, 1998. The paroling authority of the District of Columbia Board of Parole will be transferred to the U.S. Parole Commission under the National Capital Revitalization and Self-Government Improvement Act of 1997, which permits the Commission to amend and supplement the District's parole regulations pursuant to federal rulemaking procedures.

DATES: *Effective Date:* August 5, 1998. Comments must be received by December 1, 1998.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under Section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105–33) the U.S. Parole Commission is required, not later than August 5, 1998, to assume the jurisdiction and authority of the Board of Parole of the District of Columbia to grant and deny parole, and to impose conditions upon an order of parole, in the case of any imprisoned felon who is eligible for parole or reparole under the District of Columbia Code. The Act requires the Parole Commission to exercise this authority pursuant to the parole laws and regulations of the District of Columbia. However, it also gives the Parole Commission the authority to amend or supplement any regulation interpreting or implementing the relevant parole laws of the District of Columbia, provided that the Commission adheres to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553, as applied to the Commission by 18 U.S.C. 4218.

After an extensive review of the relevant regulations of the Board of Parole of the District of Columbia, as currently set forth in the District of Columbia Code of Municipal Regulations, the Commission decided to republish them with appropriate revisions. The Commission decided not to leave these regulations in the D.C. Code of Municipal Regulations because the Revitalization Act makes parole for D.C. Code felons a federal function, and rules promulgated by federal agencies pursuant to the Administrative Procedure Act are required to be published in the **Federal Register** and the Code of Federal Regulations. Notice of this proposed rulemaking was published at 63 FR 17771 (April 10, 1998). Notice of the proposed transfer of these regulations was also published in 45 D.C. Register 2356 (April 17, 1998).

A complete set of regulations for District of Columbia felony prisoners is therefore being incorporated into the Code of Federal Regulations alongside the existing regulations that govern all other criminal offenders who fall under the Commission's jurisdiction. The regulations that govern the remaining functions of the Board of Parole of the District of Columbia will continue to be set forth in the D.C. Code of Municipal Regulations until the Commission assumes the remaining functions of the Board with respect to felons, on or before August 5, 2000.

The revised D.C. parole regulations that will take effect as interim rules effective August 5, 1998, fall into three categories.

First, the Board of Parole's procedural regulations have been amended and supplemented to clarify the procedures that the Commission will follow in considering District of Columbia prisoners for parole. The parole hearing and decisionmaking process will remain essentially the same as that of the D.C. Board of Parole, but in many instances modifications will promote both increased fairness and administrative efficiency in the discharge of this new function.

Second, other revisions reflect recently-enacted District of Columbia laws, such as the Medical and Geriatric Parole Act, which were not previously implemented through regulations.

Third, the Commission has supplemented the existing parole guidelines of the Board of Parole by adopting an improved point score system to replace the scoring system that was removed from the Board's regulations by D.C. Law 10–255 (May 16, 1995). The continued use of this point score system by the D.C. Board of Parole has resulted in a high rate of upward departures from the guidelines. For example, in a random sample of 100 cases decided by the D.C. Board of Parole in 1997, the Commission found departures in more than half of the cases. Factors cited by the Board to justify departures most often appear to involve aspects of the prisoner's current offense or criminal history that indicate a risk of violent recidivism. See, *e.g.*, *Ellis* v. *District of Columbia*, 84 F.3d 1413 (D.C. Cir. 1996), *Smith* v. *Quick*, 680 A.2d 396 (D.C. App. 1996), and *McRae* v. *Hyman*, 667 A.2d 1356 (D.C. App. 1995). The guidelines set forth below retain the basic framework of the Board's guidelines, but incorporate factors that would otherwise be expected to result in decisions outside the guidelines. The Commission intends this improved point score system to serve the Board's original purpose of predicting violent crime and incapacitating offenders with a high probability of serious recidivism. It is also intended to reduce the potential for unwarranted disparity that can be produced by the frequent exercise of unguided discretion.

In this regard, the Parole Commission undertook a research study to identify factors related to current offense and criminal history that can be empirically correlated with repeat violent crime. The research was based on a statistical sampling of D.C. offenders released in 1992 (which provided a five-year follow-up period), as well as on comparative samples from larger federal and Connecticut data bases. The guideline table that is published at this time is based upon factors that were confirmed by the research data as correlated with violent recidivism. Whereas the current D.C. point score demonstrated a weak association with violent recidivism, the score adopted by the Commission at this time shows a significantly improved correlation. Moreover, the Connecticut data produced results that were remarkably consistent with the results obtained with the Commission's D.C. data.

In light of the research results, some factors were added to Category II of the proposed score, and others were dropped from the score as non-predictive. For example, distinguishing between ''high level'' and ordinary violence in the offender's prior record was found to reduce the predictive power of the score, as was the factor of ''multiple current offenses.'' Therefore, these factors were deleted. Drug

trafficking in the current offense (without possession of a firearm) was also found to lower the prediction of violent recidivism, and was therefore deleted.

On the other hand, the basic assumption that a violent current offense predicts for future violence was confirmed, as was the assumption that a violent prior record adds to the predictability of future violence in such cases. The research also pointed to the conclusion that a record of prior violent crime is predictive even if the current offense did not involve violence, so this factor was added. Firearm possession was also found to be strongly predictive, so this item is retained from the original D.C. score. (The points assigned to each factor in Category II of the score reflect that factor's predictive strength relative to the other factors in that Category.)

Although the frequencies of extremely violent crimes (murder, rape, etc.) proved too small to yield empirical research results, the Commission decided that such cases present implied risk levels that would either justify repeated departures, or the inclusion of the relevant factors in the guideline system itself. The latter option was chosen. What constitutes ''violent crime'' in the current offense has therefore been given differentiation so that cases of ''high level'' violence receive appropriate point enhancements. This is consistent with past D.C. practice. The Board of Parole's current point score table assigns a one point enhancement for violence, regardless of the nature and seriousness of the crime, notwithstanding the factors at 28 DCMR 204.18. Departures are therefore frequent for cases of ''unusual cruelty to victims,'' which appears to correlate with ''high level violence'' as defined by the Parole Commission in Category III of the revised point score. See, *e.g., Hall* v. *Henderson*, 672 A.2d 1047 (D.C. App. 1996).

Additionally, the research indicated that the predictive power of the Salient Factor Score (SFS), which is currently used by both the Parole Commission and the D.C. Board of Parole, would be significantly enhanced by increasing the weight given to Item C (age of the commencement of the current offense), from a maximum of 2 points to a maximum of 3 points. The SFS is therefore revised to differentiate better between offenders on the basis of their age at the commencement of the current offense. Taken together, age at the commencement of the current offense and the number of prior convictions and commitments function to predict recidivism by providing a measure of the rate of the offender's past criminal conduct. An additional adjustment in Item C to the scoring of offenders with four prior commitments will further refine the SFS and increase its predictive power. Finally, the Commission has deleted Item F (heroin/opiate dependence), an item that predicts recidivism by itself but which does not add to the predictive power of the SFS once all the other items are taken into account. The Commission will thus avoid the scoring problems associated with the issue of heroin/opiate dependence (which are due to the inadequate background information maintained on many D.C. prisoners). The SFS will remain a ten-point score and the parole prognosis categories (as well as the scores that define theses categories) will not be changed.

In sum, although some of the ''type of risk'' factors that indicate a prisoner's potential for violent recidivism are given increased weight in the new scoring system, this will render unnecessary the unstructured discretionary departures that were frequently ordered by the D.C. Board of Parole in the past to compensate for an inadequate violence prediction (''type of risk'') scale. Moreover, increased weight is given to institutional performance, both by permitting program achievement to be balanced against any misconduct during the same period, and by assigning an additional point to superior program achievement. Positive achievement in prison programs, as well as negative institutional behavior, will therefore continue to produce significant adjustments to the ''total point score'' each time a prisoner who has been denied parole appears for a reconsideration hearing.

Finally, overcrowding in District prisons has long been a serious concern. However, the Commission's research indicates that adherence to the guidelines at § 2.80 will not increase overall prison time or produce more prison overcrowding. The rehearing guidelines at § 2.80(j) have been modified downward for prisoners with Base Point Scores of 7–10 to help keep the estimated average prison time served by D.C. prisoners within current levels. The Commission will continue to study the available data to determine whether the continuance ranges at § 2.80(j) should be further adjusted to avoid any unintended impact on the prison population, while ensuring that serious offenders will serve periods of imprisonment that are adequate to protect the public safety.

Explanatory Comments By Section

Comment to § 2.70: This section sets forth the authority assigned to the Parole Commission under the D.C. Revitalization Act and carries forth the provisions of 28 DCMR 100 with two exceptions. First, 28 DCMR 100.10 was not retained because the statutory authority upon which it was based has been repealed. Second, 28 DCMR 100.11 was not retained because it is redundant with paragraph (b) (derived from 28 DCMR 100.2), which sets forth the Commission's authority regarding committed youth offenders in a broader form. This proposed rule also reflects a 1993 amendment to the D.C. Code regarding geriatric and medical cases, and updates the references in 28 DCMR 100 regarding the Youth Corrections Act to take into account the Youth Rehabilitation Act Amendment of 1985.

Comment to § 2.71: This rule carries forth the provisions of 28 DCMR 102 with two modifications. First, youth offenders will have to complete a standard parole application form. Second, the rule provides that initial hearings are to be scheduled, where practicable, at least 180 days before the prisoner's eligibility date. Current D.C. Parole Board practice generally provides initial hearings about 60 days prior to the prisoner's eligibility date. It is expected that, on August 5, 1998, there will be a significant backlog of parole applicants for whom the 180 day deadline will have already passed. The Commission will hear these prisoners on successive dockets until compliance with this rule can be achieved.

Comment to § 2.72: This rule carries forth the provisions of 28 DCMR 103 with the following changes. First, it adds a requirement that the examiner discuss with the prisoner the pertinent file information. This will ensure that the prisoner is informed of the main information being considered by the Commission, and given an opportunity to respond. Second, although the rule retains the D.C. prohibition on representatives at parole hearings in District of Columbia facilities, it allows a prisoner to have a representative at a parole hearing in a federal facility, consistent with the procedure for federal prisoners. The same applies to prehearing disclosure of file documents, which likewise depends upon correctional staff resources that are not available in District facilities. Third, although 28 DCMR 103 permits a prisoner's supporters to visit the Board to discuss a case at any time, the interim rule requires a prisoner's supporters to request an office visit at least 30 days before the parole hearing so that their input can be included in the record that the examiner will consider at the hearing. Office visits at other times will be permitted only on a showing of good

cause. Fourth, the rights of victims as set forth in a 1989 amendment to D.C. law are spelled out and amplified. Victims of violent crimes are given the right to appear at the parole hearing, and to submit testimony or a written statement. Although current D.C. procedures permit only a written statement, federal practice permits victims to testify. See *Phillips* v. *Brennan*, 969 F.2d 384 (7th Cir. 1992) (victim permitted to testify at parole hearing without presence of offender). Office visits are also permitted for victims, subject to the same 30-day notice requirement that applies to supporters. Fifth, the rule follows federal law at 18 U.S.C. 4208(f) in allowing the prisoner to obtain a copy of the tape recording of his parole hearing.

Comment to § 2.73: This rule carries forth the statutory criteria for parole contained in 28 DCMR 200. In addition, it explains that the parole function for D.C. Code offenders rests on a premise somewhat different from that of the federal parole guidelines. See *Cosgrove* v. *Thornburgh*, 703 F. Supp. 995, 1004, n.6 (D.D.C. 1988). For D.C. Code offenders, the revised guidelines in § 2.80 of these rules treat the minimum term of imprisonment imposed by the court as the measure of basic accountability for the offense of conviction. Only in unusual cases is the seriousness of the offense a basis for denial of parole. The normal function of parole consideration is to determine whether the prisoner would be ''a responsible citizen if he is returned to the community'' and whether ''release on parole is consistent with the public safety.'' See *White* v. *Hyman*, 647 A.2d 1175 (D.C. App. 1994). Hence, this provision embodies the Commission's decision to maintain the existing purpose of parole for the District of Columbia.

Comment to § 2.74: This is a new rule. It requires the issuance of a statement of reasons for parole denial, a procedure not included in current District of Columbia Parole Board procedures. Federal practice under 18 U.S.C. 4206 is the model for this procedural reform, as well as for the 21-day time period for issuing the decision.

Comment to § 2.75: This rule carries forth the provisions of 28 DCMR 104, except that the policy of setting continuances for cases by reference to the length of the prisoner's sentence is replaced by reference to the new time ranges for rehearings that are set forth in § 2.80. In addition, the proposed rule prohibits the scheduling of a reconsideration hearing more than five (5) years from the date of the last hearing. At present, the D.C. Parole Board may order a reconsideration hearing exceeding this limit if it departs from its guidelines. Finally, the proposed rule authorizes special reconsideration hearings for new and significant information, and spells out the continuing authority of the D.C. Parole Board to revoke parole and set rehearing dates.

Comment to § 2.76: This rule carries forth the provisions of 28 DCMR 201 regarding applications for a reduction of minimum term. In addition, it sets forth the arrangement the Commission has with the U.S. Attorney's Office regarding the presentation of applications for a reduction in a minimum term to the Superior Court.

Comment to § 2.77: This is a new rule that sets forth criteria and procedures for implementing the medical parole provisions at D.C. Code 24–261–64, 267.

Comment to § 2.78: This is a new rule that sets forth criteria and procedures for implementing the geriatric parole provisions at D.C. Code 24–261, 263–64, 267.

Comment to § 2.79: This rule carries forth the provisions of 28 DCMR 205 in a somewhat modified form to conform to the procedure set forth at § 2.6 of these rules. A minor substantive change is that the Commission will consider the underlying circumstances of the misconduct in setting a date for review hearing rather than set a parole date that is contingent on the restoration of forfeited good time by institutional officials.

Comment to § 2.80: This section carries forth the provisions of 28 DCMR 204 in modified form. This revision of the D.C. Board's guideline system retains its fundamental three-part structure (the salient factor score, the total point score, and the grant/denial policy). The guideline system continues to serve as a measurement of both the degree and seriousness of the risk to the public safety presented in each case. The policy of permitting parole to be granted at initial hearings for those who merit 0–2 points on the ''total point score,'' and permitting parole to be granted at rehearings for those who merit 0–3 points, is also retained. However, the relevant factors listed in the point score as indicating ''seriousness of the risk'' have been revised substantially along with the number of points assigned to each relevant factor. The purpose of the revisions is to produce a score that better predicts the probability of violent offenses, and that differentiates between ordinary and extremely violent offenses (e.g., murder, rape, assault with serious bodily injury). Thus, the revised score includes factors which appear to indicate an increased probability that recidivism (if it occurs) will be of a serious nature. At the same time, the possible points for superior program achievement in prison also are increased.

The primary intent is to protect the public safety, and to capture within the guidelines the many decisions that are now outside the guidelines because of the D.C. Board's well-founded concerns about the ''seriousness of the risk.'' The Parole Commission itself has found it necessary to depart from the D.C. parole guidelines based on the same concerns. See *Duckett* v. *U.S. Parole Commission*, 795 F. Supp. 133 (M.D. Pa. 1992) (current offenses involved multiple separate crimes of violence not reflected by the point score).

The total point score thus revised permits (in the worst-case scenario) a repeat offender to receive as many as 10 points. However, point scores only go to this level if there are extraordinary aggravating factors (*e.g.*, current murder with an extensive prior record of violent crimes) that would otherwise justify a guideline departure. If the offender's past record is less extensive, the total point score will be correspondingly lower and will permit parole based on good behavior over a sufficient period of time in prison. What constitutes a ''sufficient period of time in prison'' is determined by the need to incapacitate the offender according to the risk level he or she presents, as reflected in the Guidelines for Time to Rehearing at § 2.80(j).

Comment to § 2.81: This rule carries forth the provisions of 28 DCMR 202.2, but follows federal practice by permitting an effective date of parole up to 9 months in advance. The D.C. Parole Board rule does not specify any time period. The rule also provides that parole dates will be set no more than 6 months in advance if placement in a halfway house is not required. This policy will leave the Commission with the flexibility to ensure adequate release planning before any prisoner is released on parole. Difficulties in determining the adequacy of release plans, in the availability of necessary halfway house resources, and in the adequacy of basic supervision resources, are presently serious issues that can impede the releases of many D.C. Code prisoners.

Comment to § 2.82: This rule carries forth the provisions of 28 DCMR 208 regarding release planning. Express authority is added for the Commission to rescind a grant of parole if failure to produce an acceptable release plan persuades the Commission that the

release of the prisoner would lead to rapid failure in the community.

Comment to § 2.83: This rule carries forth that part of 28 DCMR 209 that concerns release to other jurisdictions.

Comment to § 2.84: This rule carries forth the provisions of 28 DCMR 207 pertaining to the conditions of parole.

Comment to § 2.85: This section carries forth the provisions of 28 DCMR 207 regarding release on parole and specifies when a parole becomes operative, based on 28 CFR § 2.29(a).

Comment to § 2.86: This rule carries forth the provisions of 28 DCMR 212.

Comment to § 2.87: This rule supplements the District of Columbia parole regulations by providing for the use of federal reparole guidelines (in the absence of a new D.C. Code sentence). The current parole regulations of the District of Columbia include rehearing schedules for parole violators but do not provide policy guidance for the substantive decision to grant or deny reparole. Moreover, neither federal nor District of Columbia law mandates any difference in the basic purposes served by revocation and reparole. This rule will ensure that parole violators will receive consistent decisions, and will know from the date of their first rehearing how much time must be served to correct and sanction the parole failure.

Comment to § 2.88: This carries forth the operative provisions of 28 DCMR 101. It maintains the confidentiality of D.C. Board parole files while conforming the regulations to federal parole practice under the Privacy Act of 1974.

Comment to § 2.89: This rule sets forth the provisions from Part A of these rules that, except to the extent otherwise provided by law, shall also apply to District of Columbia Code prisoners.

Comment to § 2.90: This is a new rule that is necessary to clarify the status of prior orders of the D.C. Board (parole grants, denials, revocations, etc.) as of August 5, 1998. It maintains the Commission's longstanding practice of implementing prior D.C. Board orders when a D.C. Code offender enters federal jurisdiction, including rehearing dates, unless duly reconsidered and changed. See *Morgan* v. *District of Columbia,* 618 F. Supp. 754 (D.D.C. 1985).

The Public Comment

The D.C. Public Defender's Service and the D.C. Prisoners' Legal Services Project argue that the proposed regulations will ''increase the measure of punishment'' for D.C. offenders, and will therefore violate the *ex post facto* clause. However, it was also acknowledged that the D.C. Board of Parole does not always follow its own rules. This acknowledgment, in effect, concedes the argument. Parole guideline changes, especially those that incorporate factors that are used to exceed the guidelines on a discretionary basis, do not offend the *ex post facto* clause. See, *e.g., Davis* v. *Henderson,* 652 A.2d 634 (D.C. App. 1995), *Warren* v. *U.S. Parole Commission,* 659 F.2d 183 (D.C. Cir. 1981), *Inglese* v. *U.S. Parole Commission,* 768 F.2d 932 (7th Cir. 1985), and *Yamamoto* v. *U.S. Parole Commission,* 794 F.2d 1294 (8th Cir. 1986). Moreover, the revised guidelines are intended only to structure the use of paroling discretion in a more consistent manner, and not to reduce the decisionmaker's authority to allow individual factors to determine the final outcome in every case. The objective of the Commission is to provide a rational, research-based framework for its decisions that is based on a sample of actual past D.C. Board of Parole decisions.

Other contentions are that the Commission has no authority to administer the Youth Rehabilitation Act (based on the proposition that YRA prisoners convicted of felony offenses under the D.C. Code are somehow not ''imprisoned felons''), that the Salient Factor Score has no demonstrated validity as a predictor of recidivism for D.C. offenders, that the United States Attorney should not be permitted to object when the Commission proposes to petition the sentencing court for reduction of a D.C. prisoner's minimum sentence, that prisoners should not be required to undergo the ''needless formality'' of a parole application, and that there should be representatives at parole hearings in D.C. facilities. The revised version of the Salient Factor Score has proved valid for D.C. Code offenders. The comment about representatives is understandable, but it appears that the D.C. Department of Corrections historically has been unwilling (or unable) to handle the security problems posed by outside representatives. Objections by the U.S. Attorney often bring to light new information which should be reviewed prior to filing with the court. An application for parole provides important information and provides evidence, at least, of the prisoner's ability to meet the reporting requirements of parole supervision.

Other commentary was devoted to pointing out discrepancies between the proposed rules at §§ 2.77 and 2.78, and the Medical and Geriatric Parole statute. These comments were very helpful, and the Commission has made revisions accordingly. There was praise for the Commission's proposal to conduct initial parole hearings within 180 days of eligibility, which should reduce average prison stays for offenders with scores of 0–2 (indicating parole at eligibility) by 5 to 9 months. How soon the Commission can accomplish this goal will be dependent, in large measure, on the D.C. Department of Corrections, and its ability to provide needed inmate file information in a timely manner.

Finally, the Public Defender Service objected to crime victims being permitted to testify at parole hearings, on the theory that because D.C. Code 23–103 does not guarantee victims this right, permitting them to do so would be *ultra vires.* This is an erroneous argument because it would reduce the victim to the status of a mere ''opponent'' of parole. A victim is more than that. A victim is both the primary witness to the crime and its impact, and no less a participant in the criminal justice process than the eligible prisoner. Moreover, D.C. Code 23–103A was intended to guarantee minimum rights and not to set limits on the Board of Parole's authority to consider relevant evidence. The Commission has clarified § 2.72(e) accordingly.

There were a few comments from individual prisoners, whose concerns chiefly appear to be to receive the same opportunities as federal prisoners, and not to be subjected to anything required by the National Capital Revitalization Act that would make them serve more time in prison.

Implementation

The regulations set forth below will be made effective as interim rules on August 5, 1998, with a further period for public comment. The rules are applicable only to prisoners serving sentences imposed under the District of Columbia Code, except that the revised Salient Factor Score (SFS–98) in § 2.20 will be applied to U.S. Code prisoners at all hearings held on or after August 5, 1998, pursuant to the Commission's standard retroactivity policy.

The Commission will evaluate the interim rules in the light of further public comment and operational experience before adopting final rules. The interim rules will govern all D.C. Code parole hearings and related matters coming before the Commission on or after August 5, 1998, with the exception of the guidelines at § 2.80, which will be applied only to D.C. Code prisoners who are given initial parole hearings on or after August 5, 1998. See § 2.80(e). Prisoners serving aggregated U.S./D.C. Code sentences will continue

to be evaluated under (redesignated) § 2.65.

Good Cause Finding

The Commission is making these interim rules effective less than 30 days from the date of this publication for good cause pursuant to 5 U.S.C. 553(d)(3). First, August 5, 1998, is the deadline established by the National Capital Revitalization Act for the Commission to assume the function governed by the regulations. Second, the empirical research found necessary by the Commission to validate its proposed guidelines as a reliable prediction device for violent recidivism, and to verify the likely impact of these guidelines on prison population levels, proved more complex and difficult to accomplish than originally anticipated. Final results were not available for the Commission's review until June 30, 1998, and this delayed final voting by the Commission until July 9, 1998.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this interim rule is not a significant rule within the meaning of Executive Order 12866, and the interim rule has, accordingly, not been reviewed by the Office of Management and Budget. The interim rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Amendment

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR Part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Subpart A—United States Code Prisoners and Parolees

2. Section 2.62 is redesignated as § 2.68.

3. Sections 2.1 through 2.67 (except 2.62) are designated as subpart A, and §§ 2.63 through 2.67 are redesignated as §§ 2.62 through 2.66. The heading for subpart A is added as set forth above.

4. Section 2.20 is amended by removing Item F from the Salient Factor Scoring Manual (HISTORY OF HEROIN/OPIATE DEPENDENCE), and by redesignating Item G (OLDER OFFENDERS) as Item F. In addition, Item C is revised to read as follows:

§ 2.20 Paroling policy guidelines; Statement of general policy.

* * * * *

ITEM C. AGE AT COMMENCEMENT OF THE CURRENT OFFENSE/PRIOR COMMITMENTS OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE)

C.1 If the subject was 26 years of age or more at the commencement of the current offense and has 3 or fewer prior commitments, score 3; if four prior commitments, score 2; if five or more prior commitments, score 1.

C.2 If the subject was 22–25 years of age at the commencement of the current offense and has three or fewer prior commitments, score 2; if four prior commitments, score 1; if five or more prior commitments, score 0.

C.3 If the subject was 20–21 years of age at the commencement of the current offense and has three or fewer prior commitments, score 1; if four or more prior commitments, score 0.

C.4 If the subject was 19 years of age or less at the commencement of the current offense, score 0.

C.5 Definitions (a) Use the age of the commencement of the subject's current offense behavior, except as noted under the special instructions for probation/parole/confinement/escape status violators.

(b) Prior commitment is defined under Item B.

* * * * *

Subpart B—Transfer Treaty Prisoners and Parolees

5. Redesignated § 2.68 is designated as subpart B. Section 2.69 is added to Subpart B and reserved. The heading for subpart B is added as set forth above.

6. Subpart C is added to consist of §§ 2.70 through 2.89 to read as follows:

Subpart C—District of Columbia Code Prisoners and Parolees

Sec.

Subpart C—District of Columbia Code Prisoners and Parolees

§ 2.70 Authority and functions of the U.S. Parole Commission with respect to District of Columbia Code offenders.

(a) The U.S. Parole Commission shall exercise authority over District of Columbia Code offenders pursuant to Section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997, P.L. 105–33, and D.C. Code 24–209. The rules in this Subpart shall govern the operation of the U.S. Parole Commission with respect to D.C. Code offenders and are the pertinent parole rules of the District of Columbia as amended and supplemented pursuant to Section 11231(a)(1) of the Act.

(b) The Commission shall have sole authority to grant parole, and to establish the conditions of release, for all District of Columbia Code prisoners who are serving sentences for felony offenses, and who are not otherwise ineligible for parole by statute, including offenders who have been returned to prison upon the revocation of parole or mandatory release, wherever confined. (D.C. Code 24–208). The above authority shall include youth offenders who are committed to prison for treatment and rehabilitation based on felony convictions under the D.C. Code. (D.C. Code 24–804(a)).

(c) The Commission shall have authority to recommend to the Superior Court of the District of Columbia a reduction in the minimum sentence of a District of Columbia Code prisoner, if the Commission deems such recommendation to be appropriate (D.C. Code 24–201(c)).

(d) The Commission shall have authority to grant parole to a prisoner who is found to be geriatric, permanently incapacitated, or terminally ill, notwithstanding the minimum term imposed by the sentencing court (D.C. Code 24–263 through 267).

(e) The Board of Parole of the District of Columbia will continue to have jurisdiction over District of Columbia Code offenders who have been released to parole or mandatory release supervision, including the authority to return such offenders to prison upon an order of revocation. The jurisdiction and authority of the Board over such offenders will be transferred to the U.S. Parole Commission by August 5, 2000, pursuant to Section 11231(a)(2) of the Act.

(f) When the D.C. Board of Parole has issued a warrant for a parolee who has been confined in a federal prison to serve a new U.S. or D.C. Code sentence, the U.S. Parole Commission shall have jurisdiction to revoke parole and to determine the disposition of such warrant. (D.C. Code 24–209.)

§ 2.71 Application for parole.

(a) A prisoner (including a committed youth offender) desiring to apply for parole shall execute an application form as prescribed by the Commission. Such forms shall be available at each institution and shall be provided to a prisoner who is eligible for parole consideration. The Commission may then conduct an initial hearing or grant an effective date of parole on the record. A prisoner who receives an initial hearing need not apply for subsequent hearings.

(b) To the extent practicable, the initial hearing for an eligible prisoner who has applied for parole shall be held at least 180 days prior to the prisoner's date of eligibility for parole.

(c) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. A prisoner who declines either to apply for or waive parole consideration shall be deemed to have waived parole consideration.

(d) A prisoner who waives parole consideration may later apply for parole and be heard during the next visit of the Commission to the institution at which the prisoner is confined, provided that the prisoner has applied for parole at least 60 days prior to the first day of the month in which such visit of the Commission occurs. In no event, however, shall such prisoner be heard at an earlier date than that set forth in paragraph (b) of this section.

§ 2.72 Hearing procedure.

(a) Each eligible prisoner who has applied for parole shall appear in person for a hearing before an examiner of the Commission. The examiner shall review with the prisoner the guidelines at § 2.80, and shall discuss with the prisoner such information as the examiner deems relevant, including the prisoner's offense behavior, criminal history, institutional record, health status, release plans, and community support. If the examiner determines that the available file material is not adequate for this purpose the examiner may order the hearing to be postponed to the next docket so that the missing information can be requested.

(b) Parole hearings may be held in District of Columbia facilities (including District of Columbia contract facilities) and federal facilities (including federal contract facilities).

(c) A prisoner appearing for a parole hearing in a District of Columbia facility shall not be accompanied by counsel, any relative or friend, or any other person (except a staff member of that facility). A prisoner appearing for a parole hearing in a federal facility may have a representative pursuant to § 2.13(b) of this part.

(d) Rehearing disclosure of file material will be available to prisoners and their representatives only in the case of prisoners confined in federal facilities, and pursuant to § 2.55 of this part.

(e) A victim of a crime of violence, as defined in D.C. Code 23–103a(a)(3), or a victim of any other crime, or a representative from the immediate family of a victim if the victim has died, shall have the right

(1) To be present at the parole hearings of each offender who committed the crime, and

(2) To testify and/or offer a written or recorded statement as to whether or not parole should be granted, including information and reasons in support of such statement. A written statement may be submitted at the hearing or provided separately. The prisoner may be excluded from the hearing room during the appearance of a victim or representative who gives testimony. A victim or representative may also request permission to appear for an office hearing conducted by an examiner (or other staff member) in lieu of appearing at a parole hearing. Whenever new and significant information is provided under this rule, the hearing examiner will summarize the information at the parole hearing and will give the prisoner an opportunity to respond. Such summary shall be consistent with a reasonable request for confidentiality by the victim or representative.

(f) Attorneys, family members, relatives, friends, or other interested persons desiring to submit information pertinent to any prisoner may do so by forwarding letters or memoranda to the offices of the Commission prior to a scheduled hearing. Such persons may also request permission to appear at the offices of the Commission to speak to a Commission staff member, provided such request is received at least 30 days prior to the scheduled hearing. The purpose of this office visit will be to supplement the Commission's record with pertinent factual information concerning the prisoner, which shall be placed in the record for consideration at the hearing.

(g) An office visit at a time other than set forth in paragraph (f) of this section may be authorized only if the Commission finds good cause based upon a written request setting forth the nature of the information to be discussed. See § 2.22 of this part. Notwithstanding the above restriction on office visits, written information concerning a prisoner may be submitted to the offices of the Commission at any time.

(h) A full and complete recording of every parole hearing shall be retained by the Commission. Upon a request pursuant to § 2.56, the Commission shall make available to any eligible prisoner such record as the Commission has retained of the hearing.

§ 2.73 Parole suitability criteria.

(a) In accordance with D.C. Code 24–204(a), the Commission shall be authorized to release a prisoner on parole in its discretion after he or she has served the minimum term of the sentence imposed, if the following criteria are met:

(1) The prisoner has substantially observed the rules of the institution;

(2) There is reasonable probability that the prisoner will live and remain at liberty without violating the law; and

(3) In the opinion of the Commission, the prisoner's release is not incompatible with the welfare of society.

(b) It is the policy of the Commission with respect to District of Columbia Code offenders that the minimum term imposed by the sentencing court presumptively satisfies the need for punishment in respect to the crime of which the prisoner has been convicted, and that the responsibility of the Commission is to account for the degree and the seriousness of the risk that the release of the prisoner would entail. This responsibility is carried out by reference to the Salient Factor Score and the Point Assignment Table at § 2.80 of this part. However, in unusual cases, parole may be denied based upon the gravity of the offense.

§ 2.74 Decision of the Commission.

(a) Following each initial or subsequent hearing, the Commission shall render a decision granting or denying parole, and shall provide the prisoner with a notice of action that includes an explanation of the reasons for the decision. The decision shall ordinarily be issued within 21 days of the hearing, excluding weekends and holidays.

(b) Whenever a decision is rendered within the applicable guideline established by these rules, it will be

deemed a sufficient explanation of the Commission's decision for the notice of action to set forth how the guideline was calculated. If the decision is a departure from the guidelines, the notice of action shall include the reasons for such departure.

(c) Relevant issues of fact shall be resolved by the Commission in accordance with § 2.19(c) of this part.

§ 2.75 Reconsideration proceedings.

(a) If the Commission denies parole, it shall establish an appropriate reconsideration date in accordance with the provisions of § 2.80. The prisoner shall be given a rehearing during the month specified by the Commission, or on the docket of hearings immediately preceding that month if there is no docket of hearings scheduled for the month specified. If the prisoner's mandatory release date will occur before the reconsideration date deemed appropriate by the Commission pursuant to § 2.80, the Commission may order that the prisoner be released by the expiration of his sentence less good time (''continue to expiration''). The first reconsideration date shall be calculated from the prisoner's eligibility date; any subsequent reconsideration dates shall be calculated from the date of the last hearing. However, when the prisoner has waived the initial hearing, the first reconsideration shall be calculated from the initial hearing date.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Commission shall not set a reconsideration date in excess of five years from the date of the prisoner's last hearing, nor shall the Commission continue a prisoner to the expiration of his or her sentence, if more than five years remains from the date of the last hearing until the prisoner's scheduled mandatory release.

(c) The scheduling of a reconsideration date does not imply that parole will be granted at such hearing.

(d) Prior to the parole reconsideration date, the Commission shall review the prisoner's record, including an institutional progress report which shall be submitted 60 days prior to the hearing. Based on its review of the record, the Commission may grant an effective date of parole without conducting the scheduled in-person hearing.

(e) Notwithstanding a previously established reconsideration date, the Commission may also reopen any case for a special reconsideration hearing, as provided in § 2.28, upon the receipt of new and significant information concerning the prisoner.

(f) Upon entering an order revoking parole, the Board of Parole of the District of Columbia may grant an immediate reparole, or order the parole violator to be returned to prison. In the latter case, the Board will order a reconsideration date pursuant to its regulations. The Commission shall have sole authority to grant or deny reparole to an offender who has been returned to prison upon an order revoking parole.

§ 2.76 Reduction in minimum sentence.

(a) A prisoner who has served three (3) or more years of the minimum term of his or her sentence may request the Commission to file an application with the sentencing court for a reduction in the minimum term pursuant to D.C. Code 24-201c. The prisoner's request to the Commission shall be in writing and shall state the reasons that the prisoner believes such request should be granted. The Commission shall require the submission of a progress report before approving such a request.

(b) Approval of a prisoner's request under this section shall require the concurrence of a majority of the Commissioners.

(c) If the Commission approves a prisoner's request under this section, an application for a reduction in the prisoner's minimum term shall be forwarded to the U.S. Attorney for the District of Columbia for filing with the sentencing court. If the U.S. Attorney objects to the Commission's recommendation, the U.S. Attorney shall provide the government's objections in writing for consideration by the Commission. If, after consideration of the material submitted, the Commission declines to reconsider its previous decision, the U.S. Attorney shall file the application with the sentencing court.

(d) If a prisoner's request under this section is denied by the Commission, there shall be a waiting period of two (2) years before the Commission will again consider the prisoner's request, absent exceptional circumstances.

§ 2.77 Medical parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined certifying that the prisoner is terminally ill, or is permanently and irreversibly incapacitated by a physical or medical condition that is not terminal, the Commission shall determine whether or not to release the prisoner on medical parole. Release on medical parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for medical parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a medical parole on the basis of terminal illness if:

(1) The institution's medical staff has provided the Commission with a reasonable medical judgment that the prisoner is within six months of death due to an incurable illness or disease; and

(2) The Commission finds that:

(i) The prisoner will not be a danger to himself or others; and

(ii) Release on parole will not be incompatible with the welfare of society.

(c) A prisoner may be granted a medical parole on the basis of permanent and irreversible incapacitation only if the Commission finds that:

(1) The prisoner's condition is such as to render the prisoner incapable of continuing his criminal career;

(2) The prisoner will not be a danger to himself or others; and

(3) Release on parole will not be incompatible with the welfare of society.

(d) The seriousness of the prisoner's crime shall be considered in determining whether or not a medical parole should be granted.

(e) A prisoner, or the prisoner's representative, may apply for a medical parole by submitting an application to the institution medical staff, who shall forward the application accompanied by a medical report and any recommendations within 15 days. The Commission shall render a decision within 15 days of receiving the application and report.

(f) A prisoner, the prisoner's representative, or the institution may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section—

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22–2903, 22–3202, or 22–3204(b), shall not be eligible for medical parole. (D.C. Code 24–267); and

(2) A prisoner shall not be eligible for medical parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24–262).

§ 2.78 Geriatric parole.

(a) Upon receipt of a report from the institution in which the prisoner is confined that a prisoner who is at least 65 years of age has a chronic infirmity,

illness, or disease related to aging, the Commission shall determine whether or not to release the prisoner on geriatric parole. Release on geriatric parole may be ordered by the Commission at any time, whether or not the prisoner has completed his or her minimum sentence. Consideration for geriatric parole shall be in addition to any other parole for which a prisoner may be eligible.

(b) A prisoner may be granted a geriatric parole if the Commission finds that:

(1) There is a low risk that the prisoner will commit new crimes; and

(2) The prisoner's release would not be incompatible with the welfare of society.

(c) The seriousness of the prisoner's crime, and the age at which it was committed, shall be considered in determining whether or not a geriatric parole should be granted prior to completion of a prisoner's minimum sentence.

(d) A prisoner, or a prisoner's representative, may apply for a geriatric parole by submitting an application to the institution medical staff, who shall forward the application accompanied by a medical report and any recommendations within 30 days. The Commission shall render a decision within 30 days of receiving the application and report.

(e) In determining whether or not to grant a geriatric parole, the Commission shall consider the following factors:

(1) Age of the prisoner;

(2) Severity of illness, disease, or infirmities;

(3) Comprehensive health evaluation;

(4) Institutional behavior;

(5) Level of risk for violence;

(6) Criminal history; and

(7) Alternatives to maintaining geriatric long-term prisoners in traditional prison settings.

(D.C. Code 24–265(c)(1)–(7)).

(f) A prisoner, the prisoner's representative, or the institution, may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section—

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22–2903, 22–3202, or 22–3204(b), shall not be eligible for geriatric parole (D.C. Code 24–267); and

(2) A prisoner shall not be eligible for geriatric parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24–262).

§ 2.79 Good time forfeiture.

Although a forfeiture of good time will not bar a prisoner from receiving a parole hearing, D.C. Code 24–204 permits the Commission to parole only those prisoners who have substantially observed the rules of the institution. Consequently, the Commission will consider a grant of parole for a prisoner with forfeited good time only after a thorough review of the circumstances underlying the disciplinary infraction(s) and if the Commission is satisfied that the parole date set has required a period of imprisonment sufficient to outweigh the seriousness of the prisoner's misconduct.

§ 2.80 Guidelines for D.C. Code offenders.

(a) *Introduction.* In determining whether an eligible prisoner should be paroled, the Commission shall apply the guidelines set forth in this section. The guidelines assign numerical values to the pre- and post-incarceration factors described in the Point Assignment Table set forth in paragraph (f) of this section. Decisions outside the guidelines may be made, where warranted, pursuant to paragraph (m) of this section.

(b) *Salient factor score and criminal record.* The prisoner's salient factor score shall be determined by reference to the salient factor scoring manual in § 2.20 of this part. The salient factor score is used to assist the Commission in assessing the probability that an offender will live and remain at liberty without violating the law. The prisoner's record of criminal conduct (including the nature and circumstances of the current offense) shall be used to assist the Commission in determining the probable seriousness of the recidivism that is predicted by the Salient Factor Score.

(c) *Disciplinary infractions.* The Commission shall assess whether the prisoner has been found guilty of committing disciplinary infractions while under confinement for the current offense. The Commission shall refer to the offense classification tables of the D.C. Department of Corrections or the Bureau of Prisons, as applicable, in determining whether the prisoner's disciplinary record should be counted on the point score. The Commission's general policy shall be that a single Class I or Code 100 offense, or two or more Class II or Code 200 offenses, shall be counted as negative institutional behavior at all hearings. A persistent record of lesser offenses may also be counted as negative institutional behavior, whether at an initial hearing or a rehearing. At initial hearings, an infraction free period of at least three years preceding the date of the hearing may be considered by the Commission as sufficient to exclude from consideration a previous record of Class I (or Code 100) or Class II (or Code 200) offenses, provided that such offenses would result in not more than one point added to the prisoner's score.

(d) *Program achievement.* The Commission shall assess whether the prisoner has demonstrated ordinary or superior achievement in the area of prison programs, industries, or work assignments while under confinement for the current offense. Where prison programs and work assignments are limited or unavailable, the Commission may exercise discretion based on the prisoner's record of behavior. Points may be deducted for program achievement regardless of whether points have been added for negative institutional behavior during the same period.

(e) *Implementation.* These guidelines shall be applied to all prisoners who are given initial parole hearings on or after August 5, 1998. For prisoners whose initial hearings were held prior to August 5, 1998, the Commission shall render its decisions by reference to the guidelines applied by the D.C. Board of Parole. However, when a decision outside such guidelines has been made by the Board, or is ordered by the Commission, the Commission may determine the appropriateness and extent of the departure by comparison with the guidelines in this section. The Commission may also correct any error in the calculation of the D.C. Board's guidelines.

(f) *Point assignment table.*

Add the applicable points from Categories I–III to determine the base point score. Then add or subtract the points from Categories IV and V to determine the total point score.

POINT ASSIGNMENT TABLE

Category I: Risk of Recidivism	(Salient factor score)
10–8 (Very Good Risk)	+0
7–6 (Good Risk)	+1
5–4 (Fair Risk)	+2
3–0 (Poor Risk)	+3
Category II: Current or Prior Violence	(Type of Risk)
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Violence in current offense, and any felony violence in two or more prior offenses	+4
B. Violence in current offense, and any felony violence in one prior offense	+3
C. Violence in current offense	+2
D . No violence in current offense and any felony violence in two or more prior offenses	+2
E. Possession of firearm in current offense if current offense is not scored as a crime of violence	+2
F. No violence in current offense and any felony violence in one prior offense	+1
Category III: Death of Victim or High Level Violence	
Note: Use highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Current offense was high level or other violence with death of victim resulting	+3
B. Current offense involved attempted murder	+2
C. Current offense was other high level violence	+1
Base Point Score (Total of Categories I–III)	_____
Category IV: Negative Institutional Behavior	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Negative institutional behavior involving: (1) assault upon a correctional staff member, with bodily harm inflicted or threatened, (2) possession of a deadly weapon, (3) setting a fire so as to risk human life, (4) introduction of drugs for purposes of distribution, or (5) participating in a violent demonstration or riot	+2
B. Other negative institutional behavior	+1
Category V: Program Achievement	
Note: Use the highest applicable subcategory. If no subcategory is applicable, score = 0.	
A. Acceptable institutional behavior with no program achievement	0
B. Acceptable institutional behavior with ordinary program achievement	−1
C. Acceptable institutional behavior with superior program achievement	−2
Total Point Score (Total of Categories I–V)	_____

(g) *Definitions and instructions for application of point assignment score.*

(1) *Salient factor score* means the salient factor score set forth at § 2.20 of this part.

(2) *High level violence* in Category III means any of the following offenses—

(i) Murder:

(ii) Voluntary manslaughter;

(iii) Arson of an occupied (or potentially occupied) building;

(iv) Forcible rape or forcible sodomy (first degree sexual abuse);

(v) Kidnapping, hostage taking, or any armed abduction of a victim during a carjacking or other offense;

(vi) Burglary of a residence while armed if a victim was in the residence at the offense;

(vii) Obstruction of justice through violence or threats of violence;

(viii) Any offense involving sexual abuse of a person less than sixteen years of age;

(ix) Any felony resulting in mayhem, malicious disfigurement, or other *serious bodily injury* (See Definition No. 3);

(x) Any offense defined below as *other violence* in which the offender intentionally discharged a firearm;

(3) *Serious bodily injury* means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(4) *Other violence* means any of the following felony offenses that does not qualify as *high level violence*—

(i) Robbery;

(ii) Residential burglary;

(iii) Felony assault;

(iv) Felony offenses involving a threat, or risk, of bodily harm;

(v) Felony offenses involving sexual abuse or sexual contact.

(5) Attempts, conspiracies, and solicitations shall be scored by reference to the substantive offense that was the object of the attempt, conspiracy, or solicitation; except that Category IIIA shall apply only if death actually resulted.

(6) *Current offense* means any criminal behavior that is either:

(i) Reflected in the offense of conviction, or

(ii) Is not reflected in the offense of conviction but is found by the Commission to be related to the offense of conviction (i.e., part of the same course of conduct as the offense of conviction).

(7) Category IIE applies whenever a firearm is possessed by the offender during, or used by the offender to commit, any offense that is not scored under Category IIA, B, C, or D. Category IIE also applies when the current offense is felony unlawful possession of a firearm and there is no other current offense. Possession for purposes of Category IIE includes constructive possession.

(8) Category IIIA applies if the death of a victim is:

(i) Caused by the offender, or

(ii) Caused by an accomplice and the killing was planned or approved by the offender in furtherance of a joint criminal venture.

(9) In some cases, negative institutional behavior that involves violence will result in a higher score if scored as an additional current offense under Categories II and/or III, than if scored under Category IVA. In such cases, the prisoner's point score is recalculated to reflect the conduct as an additional current offense under Categories II and/or III, rather than as a disciplinary infraction under Category IVA. For example, the attempted murder of another inmate will result in a higher score when treated as an additional current offense under Categories II and III, if the offense of conviction was scored under Category IIC only as violence in current offense. If negative institutional behavior is treated as an additional current offense, points may still be assessed under Category IVA or B for other disciplinary infractions.

(10) *Superior program achievement* means program achievement that is beyond the level that the prisoner might ordinarily be expected to accomplish. The Commission may, in its discretion, grant more than a 2 point deduction in the most clearly exceptional cases.

(h) *Guidelines for decisions at initial hearing—Adult offenders.*

In considering whether to parole an adult offender at an initial hearing, the Commission shall determine the offender's total point score and then consult the following guidelines for the appropriate action:

Total Points	Guideline recommendation
(1) If Points =0	Parole at initial hearing with low level of supervision indicated.
(2) If Points =1	Parole at initial hearing with high level of supervision indicated.
(3) If Points =2	Parole at initial hearing with highest level of supervision indicated.
(4) If Points =3+	Deny parole at initial hearing and schedule rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section:

(i) *Guidelines for decisions at initial hearing—Youth offenders.* In considering whether to parole a youth offender at an initial hearing, the Commission shall determine the youth offender's total point score and then consult the following guidelines for the appropriate action:

Total points	Guideline recommendation
(1) If Points = 0	Parole at initial hearing with conditions established to address treatment needs;
(2) If Points = 1+	Deny parole at initial hearing and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

(j) *Guidelines for time to rehearing adult offenders.* (1) If parole is denied or rescinded, the time to the subsequent hearing for an adult offender shall be determined by the following guidelines:

Base point score (Categories I through III)	Months to Rehearing
0–4	12–18
5	18–24
6	18–24
7	18–24
8	18–24
9	22–28
10	26–32

(2) The time to a rehearing shall be determined by the prisoner's base point score, and not by the total point score at the current hearing, which indicates only whether parole should be granted or denied. *Exception:* In the case of institutional misconduct deemed insufficiently serious to warrant a change in the prisoner's total point score, the Commission may nonetheless deny or rescind parole and render a decision based on the guideline ranges at § 2.36 of this part.

(k) *Guidelines for decisions at subsequent hearing—Adult offenders.* In determining whether to parole an adult offender at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total Points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole at rehearing and schedule a further rehearing in accordance with § 2.75(c) and the time ranges set forth in paragraph (j) of this section.

(l) *Guidelines for decisions at subsequent hearing—Youth offenders.* (1) In determining whether to parole a youth offender appearing at a rehearing or rescission hearing, the Commission shall take the total point score from the initial hearing or last rehearing, as the case may be, and adjust that score according to the institutional record of the candidate since the last hearing. The following guidelines are applicable:

Total Points	Guideline recommendation
If Points = 0–3	Parole with highest level of supervision indicated.
If Points = 4+	Deny parole and schedule a rehearing based on estimated time to achieve program objectives or by reference to the time ranges in paragraph (j) of this section, whichever is less.

(2) Prison officials may in any case recommend an earlier rehearing date than ordered by the Commission if Commission's program objectives have been met.

(m) *Decisions outside the guidelines—All offenders.*

(1) The Commission may, in unusual circumstances, waive the Salient Factor Score and the pre- and post-incarceration factors set forth in this section to grant or deny parole to a parole candidate notwithstanding the guidelines, or to schedule a reconsideration hearing at a time different from that indicated in paragraph (j) of this section. Unusual circumstances are case-specific factors that are not fully taken into account in the guidelines, and that are relevant to the grant or denial of parole. In such cases, the Commission shall specify in the notice of action the specific factors that it relied on in departing from the applicable guideline or guideline range.

(2) Factors that may warrant a decision above the guidelines include, but are not limited to, the following:

(i) *Poorer parole risk than indicated by salient factor score:* The offender is a poorer parole risk than indicated by the salient factor score because of—

(A) Repeated failure under supervision (pretrial release, probation, or parole);

(B) Lengthy history of criminally related substance (drug or alcohol) abuse; or

(C) Unusually extensive prior record (sufficient to make the offender a poorer risk than the ''poor'' prognosis category).

(ii) *More serious parole risk:* The offender is a more serious parole risk than indicated by the total point score because of—

(A) Extensive record of violence beyond that taken into account in the guidelines;

(B) Current offense aggravated by extraordinary criminal sophistication orleadership role;

(C) Unusual cruelty (beyond that accounted for by scoring the offense as high level violence), or predation upon extremely vulnerable victim;

(D) Unusual degree of violence attempted or committed in relation to type of current offense; or

(E) Unusual magnitude of offense in terms of multiple victims, money, drugs, weapons, or other commodities involved.

(3) Factors that may warrant a decision below the guideline include, but are not limited to, the following:

(i) *Better parole risk than indicated by salient factor score.* The offender is a better parole risk than indicated by the salient factor score because of (applicable only to offenders who are not already in the very good risk category)—

(A) a prior criminal record resulting exclusively from minor offenses;

(B) a substantial crime-free period in the community for which credit is not already given on the salient factor score;

(C) a change in the availability of community resources leading to a better parole prognosis;

(ii) *Other factors:*

(A) Substantial cooperation with the government that has not been otherwise rewarded;

(B) Substantial period in custody on other sentence(s) or additional committed sentences sufficient to warrant a finding that the offender meets the criteria for parole.

§ 2.81 Effective date of parole.

(a) A parole release date may be granted up to nine months from the date of the hearing in order to permit placement in a halfway house or to allow for release planning. Otherwise, a grant of parole shall ordinarily be effective not more than six months from the date of the hearing.

(b) Except in the case of a medical or geriatric parole, a parole that is granted prior to the completion of the prisoner's minimum term shall not become effective until the prisoner becomes eligible for release on parole.

§ 2.82 Release planning.

(a) All grants of parole shall be conditioned on the development of a suitable release plan and the approval of that plan by the Commission. A parole certificate shall not be issued until a release plan has been approved by the Commission. In the case of mandatory release, the Commission shall review each prisoner's release plan to determine whether the imposition of any special conditions should be ordered to promote the prisoner's rehabilitation and protect the public safety.

(b) If a parole date has been granted, but the prisoner has not submitted a proposed release plan, the appropriate correctional or supervision staff shall assist the prisoner in formulating a release plan for investigation.

(c) After investigation by offender supervision staff, the proposed release plan shall be submitted to the Commission 30 days prior to the prisoner's parole or mandatory release date.

(d) The Commission may retard a parole date for purposes of release planning for up to 120 days without a hearing. If efforts to formulate an acceptable release plan prove futile by the expiration of such period, or if the Offender Supervision staff reports that there are insufficient resources to provide effective supervision for the individual in question, the Commission shall be promptly notified in a detailed report. If the Commission does not order the prisoner to be paroled, the Commission shall suspend the grant of parole and conduct a reconsideration hearing on the next available docket. Following such reconsideration hearing, the Commission may deny parole if it finds that the release of the prisoner without a suitable plan would fail to meet the criteria set forth in § 2.73 of this part. However, if the prisoner subsequently presents an acceptable release plan, the Commission may reopen the case and issue a new grant of parole.

(e) The following shall be considered in the formulation of a suitable release plan:

(1) Evidence that the parolee will have an acceptable residence.

(2) Evidence that the parole will be legitimately employed as soon as released; provided, that in special circumstances, the requirement for immediate employment upon release may be waived by the Commission.

(3) Evidence that the necessary aftercare will be available for parolees who are ill, or who have any other demonstrable problems for which special care is necessary, such as hospital facilities or other domiciliary care; and

(4) Evidence of availability of, and acceptance in, a community program in those cases where parole has been granted conditioned upon acceptance or participation in a specific community program.

§ 2.83 Release to other jurisdictions.

The Commission, in its discretion, may parole any individual from a facility of the District of Columbia, to live and remain in a jurisdiction other than the District of Columbia.

§ 2.84 Conditions of release.

(a) Parole is granted subject to the conditions imposed by the Commission as set forth in the certificate of parole. These conditions shall include, but not be limited to, the following. The parolee must:

(1) Obey all laws;

(2) Report immediately upon release to his or her assigned supervision office for instructions;

(3) Remain within the geographic limits fixed in the parole certificate unless official approval is obtained;

(4) Refrain from visiting illegal establishments;

(5) Refrain from possessing, selling, purchasing, manufacturing or distributing any controlled substance, or related paraphernalia;

(6) Refrain from using any controlled substance or drug paraphernalia unless such usage is pursuant to a lawful order of a practitioner and the parolee promptly notifies the Commission and his or her supervision officer of same;

(7) Be screened for the presence of controlled substances by appropriate tests as may be required by the Board of Parole or the Supervision Officer;

(8) Refrain from owning, possessing, using, selling, or having under his or her control any firearm or other deadly weapon;

(9) Find and maintain legitimate employment, and support legal dependents;

(10) Keep the supervision officer informed at all times relative to residence and work, and report all arrests;

(11) Refrain from entering into any agreement to act as an informer or special agent for a law enforcement agency without permission from the supervision authority; and

(12) Cooperate with the officials responsible for his or her supervision and carry out all instructions of his or her supervision officer and such special conditions as may have been imposed.

(b) The Commission may add to, modify, or delete any condition of parole at any time prior to the release of the offender. Following delivery of the parole or mandatory release certificate, such jurisdiction is vested in the Board of Parole of the District of Columbia until that jurisdiction is transferred to the Commission on or before August 5, 2000.

§ 2.85 Release on parole.

(a) When a parole effective date has been set, actual release on parole on that date shall be conditioned upon the individual maintaining a good conduct record in the institution or prerelease program to which the prisoner has been assigned.

(b) The Commission may reconsider any grant of parole prior to the prisoner's actual release on parole, and may advance or retard a parole effective date or rescind and deny a parole previously granted, based upon the receipt of any new and significant information concerning the prisoner, including disciplinary infractions. The Commission may retard a parole date for disciplinary infractions (*e.g.*, to permit the use of graduated sanctions for drug treatment program infractions) for up to 120 days without a hearing.

(c) After a prisoner has been granted a parole effective date, the institution shall notify the Commission of any serious disciplinary infractions committed by the prisoner prior to the date of actual release. In such case, the prisoner shall not be released until the institution has been advised that no change has been made in the Commission's order granting parole.

(d) A grant of parole becomes operative upon the authorized delivery of a certificate of parole to the prisoner, and the signing of that certificate by the prisoner, who thereafter becomes a parolee subject to the jurisdiction of the Board of Parole of the District of Columbia.

§ 2.86 Mandatory release.

(a) When a prisoner has been denied parole at the initial hearing and all subsequent considerations, or parole consideration is expressly precluded by statute, the prisoner shall be released at the expiration of his or her imposed sentence less the time deducted for any good time allowances provided by statute.

(b) Any prisoner having served his or her term or terms less deduction for good time shall, upon release, be deemed to be released on parole until the expiration of the maximum term or terms for which he or she was sentenced, except that if the offense of conviction was committed before April 11, 1987, such expiration date shall be less one hundred eighty (180) days. Every provision of this part relating to an individual on parole shall be deemed to include individuals on mandatory release.

(c) Each prisoner released in accordance with this section shall be subject to parole supervision upon the authorized delivery of a certificate of mandatory release.

§ 2.87 Reparole.

Each decision to grant or deny reparole shall be made by reference to the Commission's reparole guidelines at § 2.21 of this part, which shall include the establishment of a presumptive or effective release date pursuant to § 2.12(b) and interim hearings pursuant to § 2.14. However, if the prisoner is also eligible for parole on a new D.C. Code felony sentence that has been aggregated with the prisoner's parole violation term, the guidelines at § 2.80 shall be applied in lieu of such provisions. Reparole hearings shall be conducted according to the procedures set forth in § 2.72 of this part.

§ 2.88 Confidentiality of parole records.

(a) Consistent with the Privacy Act of 1974 (5 U.S.C. 552(b)), the contents of parole records shall be confidential and shall not be disclosed outside the Commission except as provided below.

(b) Information that is subject to release to the general public without the consent of the prisoner shall be limited to the information specified in § 2.37(c) of this part.

(c) Information other than as described in paragraph (b) may be disclosed without the consent of the prisoner only pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552(b)). See § 2.56 of this part.

§ 2.89 Miscellaneous provisions.

Except to the extent otherwise provided by law, the following sections in subpart A of this part are also applicable to District of Columbia Code offenders:

2.5 Sentence aggregation.
2.7 Committed fines and restitution orders.
2.8 Mental competency procedures.
2.10 Date service of sentence commences.
2.16 Parole of prisoner in State, local, or territorial institution.
2.19 Information considered.
2.22 Communication with Commission.
2.23 Delegation to hearing examiners.
2.32 Parole to local or immigration detainers.
2.34 Rescission of parole.
2.56 Disclosure of Parole Commission file.
2.66 Aggregated U.S. and D.C. Code sentences.

§ 2.90 Prior orders of the Board of Parole.

Any prior order entered by the Board of Parole of the District of Columbia shall be accorded the status of an order of the Parole Commission unless duly reconsidered and changed by the Commission at a regularly scheduled hearing. It shall not constitute grounds for reopening a case that the prisoner is subject to an order of the Board of Parole that fails to conform to a provision of this part.

Dated: July 15, 1998.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 98–19356 Filed 7–20–98; 8:45 am]

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federal register

Tuesday
July 21, 1998

Part V

National Archives and Records Administration

Electronic Records Work Group Draft Report; Introductory Information, Appendixes C, D, E and Comments Requested; Notices

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Introductory Information

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of materials for public review and comment; request for comment.

SUMMARY: In this separate part, NARA is publishing five notice documents that invite public comment on draft products developed by the Electronic Records Work Group relating to the disposition of Federal records previously authorized for disposal under General Records Schedule (GRS) 20, including those created or received on electronic mail (e-mail) and word processing applications, or other office automation software. This notice provides an overview of the documents on which comments are sought and other background information to assist in your review.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION:

Background

The Electronic Records Work Group is an interagency group formed by the Archivist of the United States on November 21, 1997, to review the 1995 version of General Records Schedule (GRS) 20. GRS 20 provided agencies with the disposition authority to destroy (delete) electronic records on word processing and electronic mail (e-mail) systems after the records were copied to a recordkeeping system. GRS 20 also provided agencies with the authority to destroy certain specified *temporary* records created and used in computer operations, such as system test files, back-up files, and input/source files, when those records were no longer needed to conduct agency business.

On October 22, 1997, GRS 20 was declared null and void by the U.S. District Court for the District of Columbia in *Public Citizen* v. *Carlin*. In an April 9, 1998 Order, the District Court authorized the Archivist to state that a Federal agency may continue to follow its present disposition practices for electronic records until: (1) September 30, 1998; (2) the agency has submitted and received approval from NARA on a Request for Records Disposition Authority; (3) notification by NARA that the Government's appeal in the case has been resolved and NARA has provided further guidance as a result of the appellate court's decision; or (4) further Order of the District Court. The October and April Orders have been appealed by the Government.

The draft products presented in this **Federal Register** part reflect the effort of the Electronic Records Work Group to develop workable alternatives for providing agencies authority to dispose of two types of records previously authorized for disposal under GRS 20: (1) The electronic source record (i.e. the electronic record that is made or received using word processing, e-mail or other office automation software and that is used to produce the record filed in a recordkeeping system) and (2) computer management and operations records usually maintained by agency offices with responsibility for managing information systems. Recommendations 1 and 2 in the Work Group's draft report address the first type of record and recommendation 3 addresses the second. Records generated with office automation software, like other Federal records, can be destroyed (deleted) only with NARA's authorization.

GRS 20 itself only provided for the disposition of a small portion of the electronic records created by the Federal Government on a daily basis. It did not provide authority for disposition of major program-related information systems, data files used to support agency programs, records in electronic recordkeeping systems, records in document management systems, or similar program records managed electronically. The documents in this **Federal Register** notice also do not cover those types of electronic records. As before, Federal agencies must develop individual dispositions for those records and submit them for approval by NARA. The guidance for doing so is provided in other existing NARA issuances.

Nor is this document meant to provide guidance on the development of electronic recordkeeping systems, appropriate procedures for managing records electronically, specifications or requirements for electronic recordkeeping systems, or other aspects of electronic recordkeeping. NARA will work with Federal agencies over the next 18 months to develop appropriate guidance in these areas. NARA recognizes that such guidance is crucial to the effective implementation of electronic recordkeeping. However, this notice is intended to address several extremely pressing issues brought about by the Court's decision to declare GRS 20 null and void. From a Government operations standpoint, the most crucial issue is the process by which agencies can obtain appropriate disposition authority for the electronic source records formerly authorized for disposal under GRS 20.

The Work Group's recommendations do not require agencies to establish electronic records management systems in order to schedule electronic source records. There may be important considerations, such as the completeness of files or the authenticity of records, that makes a paper recordkeeping system the best choice. Regardless of whether the agency's recordkeeping system is paper or electronic, because the electronic document previously authorized for destruction (deletion) by GRS 20 is a record, the agency must schedule it and obtain disposition authority from NARA in order to delete it.

The computer has changed and continues to change the way the Federal government conducts public business. Information technology offers potential for substantial improvements in the creation, retention and management of records, as well as in the delivery of Government services. Some of this potential can be realized today, such as in economical storage and rapid retrieval of data. The future offers even greater possibilities.

Although electronic recordkeeping offers many potential benefits, current capabilities to implement it are limited by a number of factors. First, the recordkeeping capabilities of many of the most widely used software packages such as electronic mail and word processing are extremely limited. They must be supplemented with specific records management applications to provide the functionalities necessary to keep business quality records. Second, technology has made electronic records easier to create and transmit than to preserve for the periods of time necessary for recordkeeping. Finally, the Federal government is still developing key pieces of guidance in areas such as system requirements for electronic recordkeeping and authentication of electronic records. The Work Group also proposes to recommend, therefore, that the Archivist of the United States establish a follow-on group to examine electronic recordkeeping issues and to

build on the work done by this Work Group.

Electronic Records Work Group Products for Comment

In addition to this introductory notice, this separate part contains the following Work Group products for which we seek your comments:

1. Appendix C—Proposal for Developing Agency Records Schedules That Include Electronic Source Records Generated With Office Automation Applications.

Appendix C addresses the first Work Group recommendation, that agencies must schedule their program and unique administrative records in all formats. It proposes guidance that NARA should issue on the revision of existing records disposition schedules to provide disposition authority for records created using office automation applications, which were covered by the 1995 GRS 20, items 13, 14 and 15. It outlines what agencies must do to schedule these records and how NARA will provide the public the opportunity to submit comments on the schedules as required by 44 U.S.C. 3303a.

2. Appendix D—Proposal to Revise the Entire GRS To Cover All Formats of the Administrative Records Included Therein.

Appendix D addresses the second Work Group recommendation, that NARA modify the GRS to authorize the destruction of copies of administrative records covered by those GRS that are not needed for recordkeeping purposes after a recordkeeping copy has been produced. This appendix proposes a new item to be added to General Records Schedules 1–16, 18, and 23 to provide the disposition authority previously provided by GRS 20, items 13, 14 and 15.

3. Appendix E—Proposed General Records Schedule, Information Technology Records

Appendix E addresses the Work Group's third recommendation. It proposes a new General Records Schedule to provide disposition authorities for certain specified temporary records specifically related to systems management and operations. The new GRS would not cover temporary records documenting development and management of agency systems for the agency's mission-related functions.

4. Draft Electronic Records Work Group Report to the Archivist of the United States

This notice contains the text of the Work Group's draft report to the Archivist, which is due to be submitted to the Archivist with the appendixes in September, and Appendix A. The draft report published here has been modified slightly from the June 15 version posted on the NARA GRS 20 web page (http://www.nara.gov/records/grs20/). The final report will reflect further changes that the Work Group makes as a result of the comments received, and will contain an Appendix B that discusses the comments received on the draft report and other work products.

Availability of Reference Sources Cited

The notice documents reference various materials that may be useful in your review of the documents. The following table shows where these documents are available for review on NARA's web site or in this separate part:

Cited document	Availability	Where cited
General Records Schedules 1–23, including GRS 20 (1995 edition) ...	http://ardor.nara.gov/grs/index.html	This notice; Appendix D; Draft Report.
NARA Bulletin 98–02	http://www.nara.gov/records/grs20/bltn–grs.html OR Appendix C.	Appendix C; Draft Report.
NWM 06–98	Appendix C	Appendix C.
1995 Agency Recordkeeping Requirements: A Management Guide	gopher://gopher.nara.gov:70/00/managers/federal/publicat/adequacy.txt.	Draft Report.

Questions and Issues

In each of the following notices, we have identified specific questions and issues that we would like you to consider and comment on as part of your review of those documents.

Future Steps

The Work Group must present its final report and implementation strategy to the Archivist of the United States in September. Consequently, we may not be able to consider any comments received after the comment deadline, August 20, 1998. The Work Group will review all comments received on the report and appendixes during the June **Federal Register** comment period before preparing its final report.

The Work Group intends to submit its report to the Archivist in time for his review and action on it by September 30. The Archivist will communicate his decisions to Federal agencies and the public.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

[FR Doc. 98–19465 Filed 7–20–98; 8:45 am]

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix C

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed strategy for Federal agencies to implement the Work Group's proposed recommendation that agencies must schedule their program and unique administrative records in all formats. It proposes guidance that NARA should issue on the revision of existing records disposition schedules to provide disposition authority for electronic source records created using office automation applications, which were covered by the 1995 General Records Schedule (GRS) 20, items 13, 14 and 15. Your comments are requested on the proposed Appendix C which follows this notice and in response to the questions posed in the **SUPPLEMENTARY INFORMATION**.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION:

The proposed Appendix C provides guidance for scheduling electronic source records (the electronic record that resides on an agency's electronic mail, word processing, or other office automation systems) formerly authorized for disposal under GRS 20. The electronic source documents addressed in this appendix are those that correspond to program records and administrative records not covered in the GRS. It is not meant to provide guidance for scheduling records in electronic recordkeeping systems and other records not disposable under GRS 20. Instructions for scheduling those records are provided in other NARA guidance. It is also not meant to provide guidance on electronic recordkeeping, which will be issued separately. The scheduling procedures described in the document should be conducted in the context of the agency's current records management program.

This document provides three models for scheduling electronic source records. While the models vary in format, they all accomplish the same result. Model 1 requires that agencies add a disposition for the electronic source records formerly covered by GRS 20 to every series in their manual or records schedules. This model is most appropriate for agencies that expect the retention of these records to vary considerably from series to series because they have different business needs for the records and their technology base allows them to implement the dispositions. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to specify each series, except those for which the agency is requesting disposition instructions that deviate from the norm. Model 2 is appropriate for agencies that have a business need to maintain a few electronic source records for a different period of time than the majority of such records. Model 3 is appropriate for agencies that have neither the business need nor the technical capability to maintain the electronic source records for varying periods of time and have decided on a single disposition for the records.

No matter which format is chosen for submitting the schedules, agencies are expected to conduct a series-based analysis of their business needs and review their technical capabilities and to provide NARA with that information. NARA will also review the submissions on a series basis. Although Model 3, and to some extent Model 2, do not require separate disposition instructions for each agency series, please note that, like Model 1:

(1) Models 2 and 3, require that agencies analyze their recordkeeping needs and practices, including their needs for the electronic copies.

(2) Models 2 and 3 require that agencies provide NARA with information about their technical capabilities and other recordkeeping policies so NARA can assess on an agency by agency (and in some cases component by component) basis whether the agency is capturing the necessary information from electronically generated records in the records placed in an agency's recordkeeping system and whether the agency's justification for the early disposal of the electronic source records is supported by the state of the agency's technical capabilities.

(3) To use Model 2 or 3 agencies must identify what existing records the new disposition(s) will affect. This will allow NARA to determine whether the dispositions are appropriate. If there is no existing schedule for a body of records, the agency must schedule all of the records in all media following the guidance in NARA Bulletin 98–02.

Also, please note that no matter which model is used, the schedule will be published in the **Federal Register** for comment. The **Federal Register** notice will reference the existing schedules that are affected so that the public has sufficient information to comment.

With these parameters in mind, we also ask your comments on the following questions:

C1. Are the instructions for conducting the analysis of recordkeeping needs and capabilities sufficiently clear?

C2. Are the instructions for scheduling the records sufficiently clear?

C3. This document proposes a deadline of 180 days for agencies to submit schedules (SF 115s) to cover their electronic source records or, if the agency cannot meet that deadline, a deadline of 120 days for submitting a plan that sets milestones for accomplishing the scheduling effort. Are these appropriate time frames?

C4. This document includes a questionnaire concerning the systems used by an agency, its technical capabilities for recordkeeping, and the administrative controls used by the agency. Does the questionnaire ask the right questions to permit NARA to appraise the electronic source records? Should any questions be added or dropped?

C5. The scheduling process described in Appendix C will allow NARA to assess proposed retentions for the electronic source records based on the agency's internal records management policy, current recordkeeping systems and currently installed technology. However, technology changes rapidly and changes in technology will affect recordkeeping. Currently agencies are required to schedule all ''records of new programs and of programs that are reorganized or otherwise changed in a way that results in the creation of new or different records within 1 year of creation'' (36 CFR 1228.26(a)(2) and 1234.32(a)). Agencies are also required to review and update their schedules annually (36 CFR 1228.50(d)). Are these requirements appropriate in the current technological environment? If not, what process(es) should be instituted to ensure that as technology changes, agencies and NARA address the issue of whether the retention requirements, and in the case of permanent records, the transfer medium, should be changed?

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix C: Proposal for Developing Records Schedules That Include Office Automation Records

Table of Contents for Appendix C

Executive Summary

The Electronic Records Work Group proposes that NARA issue guidance to agencies on the revision of existing records disposition schedules to provide disposition authority for electronic source records created using office automation applications (e-mail, word processing, spreadsheet and similar applications) which were covered by the 1995 General Records Schedule (GRS) 20. This proposal provides guidance for

the submission of schedules and an overview of the NARA review and approval process.

Under this proposal, agencies will be offered two alternatives. The first alternative requires the agency to submit, within 180 days, a complete scheduling package to cover the electronic source records of its program and agency-specific administrative records created using e-mail, word processing, or other office automation applications which are not covered by General Records Schedules. If an agency is unable to meet this deadline, it must, within 120 days, submit a planning package that includes a project plan with milestones for reviewing the agency's current schedules and submitting to NARA revised schedules for electronic source records. In both cases, agencies ultimately must conduct a series-based analysis of their electronic source records and NARA will conduct a series-based review of the proposed disposition authorities. The public will have the opportunity to comment on all proposed dispositions for the electronic source records.

The Work Group proposes that, as part of its implementation of this report, the Archivist issue a NARA bulletin to agencies that would contain the requirements that follow, and provide no-cost training on implementing the requirements.

Scope

Agencies create a variety of records in connection with the use of computers and related communications systems. They create records about information technology, such as records about the development, operation, maintenance and support of computer systems. In the course of using information technology, they create certain types of records that are necessary for effective use of the technology, such as source code for computer programs, test data files, and backup files, among others. The proposed new General Records Schedule for information technology records (Appendix E) will cover common administrative records in these two categories: records about information technology and records necessary for the effective use of information technology.

Agencies also make or receive electronic records using information technology in carrying out any agency program and administrative activity. From a technical perspective, there are two distinct contexts in which agencies create such electronic records. The first context is that of a specific information system or application system. An information or application system is a specific application of information technology in support of a program or administrative function. The design of an application system includes the specification of what types of information will be captured in the system and how they will be organized. Thus, the application system design includes the definition of the records and series of records which will be created and maintained in the system. An information or application system involves the creation, manipulation, retention and disposition of records of the function which it supports. The instructions in this appendix do not apply to scheduling these systems. Each agency should schedule all of the records series retained within each application system on a comprehensive basis.

The second technical context is end-user computing. In today's environment, most Federal employees are provided with generic office automation tools, such as word processing and e-mail, which they use to generate electronic records related to their work, regardless of the nature of the work. In contrast to an application system, where the records fall into one series or a group of related series, end users can and do create a variety of records using office automation systems. A single user may create word processing files and send and receive e-mail messages related to both program and administrative activities. These records may belong in files that are completely unrelated, such as the employee's personnel folder and agency files on policy development. Records created using office automation software must be filed in electronic or paper recordkeeping systems, which agencies are required to schedule under current NARA regulations (36 CFR 1228.26). In either case, the agency needs to provide for the authorized disposition of the copies remaining on the original systems outside of the recordkeeping system. These records are termed ''electronic source records'' because they are electronic records which serve as the sources of the records filed in the agency's recordkeeping system.

NARA will provide, in the GRS, Government wide authorization for the disposition of electronic source records used to create the types of records covered by GRS 1–16, 18, and 23. Agencies must obtain authorization for disposition of all other electronic source records by submitting schedules (SF 115s) to NARA. This proposal describes the development, submission and approval of such schedules.

All agencies must ensure that all their records are scheduled. Consequently, each agency (or components of agencies that have independent records management programs and normally submit records schedules to NARA for approval) must ensure that its records schedules cover those electronic records not covered by the GRS that were created (or received) on e-mail, word processing, spreadsheet, graphic presentation and other office automation software. Agencies with schedules that do not include disposition instructions for such electronic source records must revise their schedules to do so and submit them to NARA for approval. To accomplish this effectively, agencies will have to conduct an analysis of the coverage of their current schedules, their current and foreseeable business [1] needs, and their current and near-term technological capabilities.

The Work Group recognizes that some agencies currently do not have a compelling business need, the resources, or the technology infrastructure to support electronic recordkeeping. Although Federal agencies are required to manage their records in all media in accordance with their business needs, for many offices that currently means maintaining their recordkeeping subject or correspondence files on paper or microform rather than electronically. At the same time, agencies are moving at varying rates toward automating their business processes to meet their own needs and those of their customers. Automated processes generate electronic records, and agencies will need to ensure that all electronic records are properly scheduled.

Agencies are encouraged to submit their revised schedules as soon as practicable; however, the Work Group recognizes that there is a wide variation in status of approved schedules, current and foreseeable recordkeeping needs, and current and planned technological capabilities across the Federal government. The Work Group also recognizes the different sizes and missions of agencies.

Description of Proposal

The Work Group proposes that in implementing this report, the Archivist issue a NARA Bulletin to provide agencies with guidance on how to develop and justify schedules for electronic source records. This appendix contains the language that the

[1] The term ''business needs'' as used in this document refers to an agency's need to conduct its business, maintain a record of its essential activities and decisions for its own use, support oversight and audit of those activities, and permit appropriate public access.

Work Group proposes for the Bulletin. An agency should choose whichever of the following alternatives best meets its needs for managing this scheduling effort:

(A) Scheduling Electronic Source Records

Submit a completed scheduling package (described below) to cover electronic source records for program and agency-specific (not covered by the GRS) administrative records within 180 days of the date of the NARA Bulletin.

Agencies may follow any of the three models presented here for their proposed schedules:

- *Model 1*—an agency would add an appropriate disposition for the electronic source records formerly covered by GRS 20 to every disposition instruction in its manual or records schedules.
- *Model 2*—an agency would schedule the electronic source records for selected individual series and combine other series under one disposition instruction. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to physically annotate the dispositions of each series of records.
- *Model 3*—an agency would provide for the disposition of all electronic source records under one schedule item.

Regardless of which model is used, agencies must submit background information and justifications (see questionnaire described in Part I) to enable NARA to analyze and review the submissions effectively.

(B) Submit Plan for Scheduling Electronic Source Records

If an agency cannot determine which model is most appropriate or prepare the necessary submissions within 180 days, the agency may, within 120 days, submit a plan to NARA for the completion of the scheduling. This plan must include the following three elements:

- A statement from the agency head (or head of the agency component that will submit the schedule) that schedule requests cannot be completed within 180 days and a commitment to schedule the agency's electronic source records in accordance with a plan proposed by the agency and approved by NARA.
- A plan (described below) covering a period not to exceed two years, for the submission of proposed schedules for all electronic source records, with milestones and partial schedule submissions provided at pre-determined intervals.
- A schedule (SF 115) requesting an interim disposition authority for a period not to exceed two years for all electronic source records.

Although the approval of requests for interim disposition authority will be expedited by NARA, regulatory requirements for publication and comment periods in the **Federal Register** for all requests for the destruction of temporary records will require at least 90 days.

Agency Action

Selection of Model or Plan

Each agency must determine, after reviewing its existing approved records schedules, the most appropriate model for drafting a proposed schedule that covers electronic source records generated on e-mail, word processing, spreadsheet, graphic presentation and similar office automation software. In making a choice between the models, the agency may wish to ask several specific questions about the agency's office automation systems and recordkeeping practices:

(1) Are the same office automation systems and software used throughout the agency?

(2) When would it be more efficient to destroy unneeded electronic source records within each system—at the time a file copy is generated or at some other time?

(3) To what extent do the agency's office automation systems, used for e-mail, word processing and other end-user computing, have records management capabilities provided by electronic recordkeeping systems (e.g., they allow users or network administrators to differentiate between records and nonrecord material, support the allocation of records to specific series or file groupings with retention periods approved by NARA, and sustain subject matter searches)?

(4) Will anticipated internal and external reference and access needs be adequately met by the records in presently established recordkeeping systems (in paper, microform, or other media) or would these needs be better met by retaining (in addition to the record in the recordkeeping system) the electronic source records in the original system?

(5) Are the bulk of the file series that comprise the agency's recordkeeping systems covered by up-to-date NARA-approved schedules?

Several factors may influence the agency's choice of an alternative and scheduling model. Both the scheduling alternative and planning alternative require the scheduling of electronic source records. However, the requirement to schedule the electronic source records assumes that the agency has already scheduled most or all of its recordkeeping series. If this is not the case, the agency will have to schedule the recordkeeping series as well as the electronic source records. This will affect which of the scheduling models described below it will choose. In effect, some agencies will be updating their schedules at the same time they are scheduling their electronic source records.

Agencies may choose to submit a plan, rather than completing the requirements for one of the models:

(1) If they are unable to complete the scheduling within 180 days;

(2) If the agency's existing schedule is significantly out of date and must be revised; and/or

(3) If the agency has not implemented guidance consistent with current NARA regulations concerning e-mail and other electronic records.

When agencies do not have current disposition authorities for the recordkeeping copies of series with electronic source documents, they should schedule these series through the usual scheduling process, submitting SF 115 requests in accordance with 36 CFR 1228, subpart A. Agencies are reminded also of the regulatory requirement to submit to NARA, within one year, schedules for the ''records of new programs and of programs that are reorganized or otherwise changed in a way that results in the creation of new or different records'' (36 CFR 1228.26).

Description of Models

Model 1—an agency would add an appropriate disposition for the electronic source records formerly covered by GRS 20 to every disposition instruction in its manual or records schedules.

Description: Agencies may wish to revise and/or develop individual disposition instructions for the electronic source records generated by office automation systems in each scheduled program and agency-specific administrative series and allow for varied retention periods by series. In that case, agencies would list each of their series and provide disposition instructions for the electronic source records.

Appropriate Usage: This scheduling model is most appropriate when:

(1) The agency has determined that it has a business need and the technological capabilities to maintain electronic source records in addition to the paper (or electronic) records which are maintained as the recordkeeping copy and the electronic source records

need to have varying retention periods; or

(2) The agency has already planned to revise its schedules, and will be able to accomplish this within the 180-day time frame or will submit incremental schedules under an approved plan.

Example. Disposition statement for series of official decision of the Commission.

Official Decisions of the Commission

a. Signed copies of the official decisions:

Official signed copies of the decisions maintained as the official record. Permanent. Transfer the official signed copies of the decisions to the National Archives in ____year blocks when____years old.

b. Electronic copies of Commission decisions

Electronic copies of decisions published on CD–ROM. Permanent. Transfer a copy to the National Archives upon publication.

c. Electronic Source Records.

Electronic records in word processing files used to create both Items a and b. Delete after the recordkeeping copy and the electronic publication copies have been produced. Individual records may be retained for a limited period of time to facilitate other operational activities such as updating or revision.

Model 2—an agency would schedule the electronic source records for selected individual series and combine other series under one disposition instruction. The format of Model 2 allows the agency to obtain the approval for the dispositions without having to physically annotate the dispositions of each series of records.

Description: Model 2 allows agencies to group together those series for which there is a common disposition and provide separate dispositions for the series where the retention and disposition needs are different. Under Model 2, an agency may submit a schedule that provides uniform disposition instructions for most electronic source records and separate dispositions for particular series, functions or organizational components where needed to meet agency business needs, including internal or external reference needs. A variant of this model would be to develop one or more dispositions applicable to the electronic source records for multiple records series within a broad functional area or business process where a common disposition is appropriate. Such a schedule might include separate dispositions for the electronic source records for functions or processes such as regulatory development, planning, application review, project management, or any business process or function in the agency. In either case, the schedule will consist of two parts: (1) item(s) for groupings of records with the common disposition instructions, and (2) items that are exceptions to that common disposition. NARA will provide a series-based review of the program records and a more general review of the administrative series, based on the agency questionnaires provided with the agency submissions.

Appropriate Usage: This scheduling option is most appropriate when the agency intends to schedule the majority of its electronic source records in one schedule item (i.e., Model 3) but has identified one or more records series, or the collective series of one or more organizational components of the agency, where it is in the agency's interest to retain the electronic source records for different periods of time. For example, when specific documents serve as models that are reused, with appropriate modifications, in a number of cases, and the agency's recordkeeping system is on paper, keeping the source document in electronic form would facilitate reuse.

Sample Wording for the Schedule Item Covering Most of the Records Series

1. This schedule covers the electronic source records for those series whose disposition was previously approved by NARA under the following SF 115s (or agency published disposition manual) currently in effect: (List the previously approved schedule items or agency disposition manuals included in coverage).

Electronic source records maintained in addition to the copy preserved in an agency recordkeeping system. Includes records in all formats/media that are used as sources for the creation of a recordkeeping copy, such as electronic records that remain on electronic mail and word processing applications after the recordkeeping copy has been produced.

Delete electronic source records after a recordkeeping copy has been produced. Individual electronic source records may be retained for a limited period of time to facilitate other operational activities such as updating or revision.

[A numbered list of the exceptions to this general disposition would follow. Exceptions can be by series, business process, function, or unit. The basic format for exceptions would include identification of the type of record, component, function, or other identification as appropriate; citation to the approved schedule where the record copy is scheduled, and disposition. This list provides examples of each type of exception. Actual agency schedules might use one or more of these types of exceptions based on their needs. In actual practice some items may need to be subdivided into sub-items.]

Examples of exceptions by series

2. Exceptions

a. *Budget Development Spreadsheets.*

Record copy included in the budget case file scheduled for disposal in N1-XX-XX-X. Upon completion of budget cycle, transfer (move) electronic source record to Budget Directory. Delete from Budget Directory when _____ years old.

b. *Appraisal Memorandums.*

Record copy included in the appraisal case file scheduled for permanent retention in N1-XX-XX-X. Upon approval of schedule transfer (move) electronic source record to Appraisal Memorandums Directory. Delete when superseded or obsolete, or when 3 years old, whichever is sooner.

c. *Quarterly Narratives.*

Record copy scheduled for permanent retention in . Upon approval of office head, transfer (move) electronic source records to Quarterly Narratives Directory. Maintain for ____ years, then delete.

d. *Press Releases*

Record copy (paper) scheduled for permanent retention in N1-XX-XX-X. Upon issuance of press release, transfer (move) electronic source record to Official Electronic Press Release Directory maintained by Public Affairs. Transfer copies of these press releases in electronic form to the National Archives on an annual basis according to procedures in 36 CFR 1228.188 and 1228.190.

Example of exceptions Based on Agency Function

Electronic Mail and Word Processing Source Records Relating to White House and Congressional Inquiries. Electronic mail messages and word processing records created by all components in responding to Congressional Committee and Presidential correspondence. Record copy scheduled for permanent retention in N1-XX-XX-X. Delete ____ years after component office input is completed.

Example of Exception Based on Business Process

Electronic Source Records Relating to the Development of Regulations

Electronic source records used to produce recordkeeping documents for 11 individual series that together document the process of regulatory development. These series are currently scheduled under the following schedules: N1–XXX–XX–XX (Items x, x, x); NC1–XXX–XX–XX (items X,x, and x), etc.

Following production of the recordkeeping copy, maintain a copy of each source document until the completion of regulatory development process, then destroy.

Example of Exceptions Based on Agency Component

Electronic Source Records of the Executive Secretariat, Office of the Secretary Program Correspondence and Messages.

Record copy (paper) scheduled for permanent retention in N1–XX–XX–X. Transfer (move) to appropriate Program Correspondence Directory. Cut off annually. Transfer to NARA in accordance with the disposition for the Secretary's paper file and according to procedures in 36 CFR 1228.188 and 1228.190.

Model 3—an agency would provide for the disposition of all electronic source records under one schedule item.

Description: Under Model 3, the agency may propose a single item to

cover all of the agency's electronic source records. The single item should identify all of the records disposition schedules to which it applies by citing EITHER the appropriate agency published disposition manuals OR the approved disposition schedule(s) (NARA registration number for the SF 115). Agencies also may implement this model by submitting a schedule with one item for all program records and one item for all administrative records, or a schedule with separate schedule items for electronic source records from electronic mail messages and electronic source records from word processing files.

Agencies who choose this model should recognize that NARA may propose exceptions to the single disposition (along the lines of Model 2) when it appears from NARA's review that there are reasons for specifying individual retentions for the electronic source records of certain series, functions, or organizations. NARA's review of the schedule will be series-based even though the Model 3 schedule groups all series for disposition. NARA's review will be based on the information provided in the questionnaires completed by agencies (Part I) and the agency's existing schedules. NARA's **Federal Register** notice will provide the public the opportunity to review the schedules on a series basis also by listing the approved records schedules or disposition manual to which the new item would apply.

Appropriate Usage: This model may be used when the agency determines, after conducting a review of its schedules, that it has no present business need to maintain the electronic source record on the originating application and the same disposition is appropriate for the electronic source record copy of all of its office automation-generated records not covered by the General Records Schedules. This scheduling option represents an interim step as agencies develop the capacity for better management of their electronic records. Model 3 is most appropriate when the agency (1) has an up-to-date schedule, (2) has little or no capability for electronic recordkeeping, (3) has no present business need for maintaining records electronically, and (4) determines that the public interest is adequately served by the recordkeeping copies. Model 3 is also most appropriate for agencies that have scheduled series in electronic recordkeeping systems to provide disposition authority for the electronic source records.

Sample Wording

This schedule covers the electronic source records maintained in the originating e-mail, word processing, spreadsheet, or presentation office automation applications. The disposition of the recordkeeping copy was previously approved by NARA under the following SF 115s (or agency published disposition manuals) currently in effect: (List the previously approved schedules included in coverage.) These electronic source records are not maintained in recordkeeping systems and analysis has shown that these electronic records are not necessary to support the business needs of the agency.

Appropriate Disposition Instructions: Agencies may use the disposition instructions provided in NWM 06–98 (Delete when file copy is generated or when no longer needed for reference or updating, whichever is later) or may propose a longer retention period.

Submitting a Planning Package for Scheduling Electronic Source Records

Agencies unable to submit schedules for all electronic source records within the time frame set by the NARA bulletin must submit a planning package to NARA within 120 days. The planning package must include a statement from the agency head that comprehensive schedule requests cannot be completed within 120 days, a commitment to a plan for the scheduling of electronic source records within no more than two years, and a request for an interim disposition authority for all electronic source records.

The agency plan must contain a time line with milestones for completing a review of the agency's existing records schedules and for submitting SF 115's based on that review. NARA intends to work closely with the agency to ensure that the plan is realistic and that the agency demonstrates steady progress in meeting its milestones. The following parts of the planning package can be organized to meet the agency's particular needs, but all parts must be present:

- *Assessment of the completeness and currentness of the agency disposition schedule.* The agency must:

(1) Identify segments of the schedule that are out-of-date and assess what work must be done to bring the schedule up to date (e.g., inventory or survey records-holding units, update organizational references).

(2) Identify program areas that are not covered by the agency disposition schedule and assess what work must be done to prepare the SF 115 to cover those records.

If the agency cannot perform a detailed assessment of the agency disposition schedule before submitting the plan, completion of the detailed assessment must be one of the early milestones of the plan. The minimum assessment provided with the plan must include the date(s) of the latest changes to the agency disposition schedule and a preliminary assessment, by chapter or program area.

- *Milestones for taking actions.* NARA expects agencies to submit incremental SF 115's covering segments of their activities throughout the period that the plan is in effect to demonstrate steady progress in scheduling their program and unique administrative records. Each incremental SF 115 must be accompanied by a completed agency supplementary information questionnaire (see Part I)
- *Disposition Request (SF–115) for interim disposition authority for electronic source records.* Since the implementation of the plan may take a considerable period of time, agencies should submit an interim SF 115 to authorize disposition of the electronic source records from office automation applications for the period of time that the plan covers. This interim schedule will normally follow the format of Model 3 as described above, will be reviewed by NARA, and published for comment in the **Federal Register**. The interim disposition authority will remain in force no longer than the time period of an approved agency plan. Incremental schedules that are submitted (in accordance with the plan milestones) and approved will supersede the interim disposition authority for the records they cover.

NARA Action

Schedule Review

NARA will review agency submissions and work closely with the agencies to approve their schedules and/or plans in a timely manner. NARA recognizes the need to act as quickly as possible to ensure that agencies have approved dispositions for their office automation records not needed for the conduct of agency business and NARA will develop procedures to streamline the processing of these schedules. Even streamlined procedures must include, however, a 90-day-period for the preparation and publication of disposition requests in the **Federal Register** and the review and analysis of any comments received.

NARA's review of disposition requests for electronic source records will focus on the agency's reports describing their technological capabilities, business needs, and status of e-mail and other electronic recordkeeping guidance. NARA's review will be a series-based review for

program records and a more general analysis for administrative records.

Plan Review

NARA will review and approve those agency plans for completing the scheduling of electronic source records that provide for the submission in a timely fashion of incremental schedules that will, within the time specified, cover the electronic source records of all of its program and agency-specific administrative records (administrative records not covered by GRS 1–16, 18, and 23). If an agency's existing records schedules do not cover all of its program and unique administrative records, the agency must also submit updated schedules for those records, following the instructions in NARA Bulletin 98–02. NARA will normally approve as submitted the requests for interim disposition authority included with approved agency plans. NARA may, however, propose exceptions for specific series that it determines warrants longer retention.

Public Notice for Review of SF 115's

NARA will publish notices in the **Federal Register** for all schedules submitted following its normal practice, except that the schedules will be identified as specifically proposing dispositions for electronic source records. Following NARA's recently instituted practice, copies of appraisal memoranda may be requested for review with the schedule. For interim disposition authority requests associated with a plan, commenters may request a copy of the agency's proposed plan to use in their review of the disposition request.

When a copy of a schedule is requested, NARA also will provide the list of schedule citations (NARA job numbers) or published agency manual citations submitted by the agency for previously approved schedules that are being updated to include dispositions for electronic source records from office automation applications. This will allow the public the opportunity to review the proposed dispositions on a series basis. The **Federal Register** notices will indicate if the cited previously approved schedules can be reviewed on NARA's Internet ARDOR (Agency Disposition Online Resource) site (http://ardor.nara.gov). If the previously approved schedules or agency manuals are not available electronically from NARA, requestors can review them at the Archives II building in College Park, MD, or can request copies of them. Copies will be furnished on a fee basis, with the first 100 pages furnished free.

Part I—Questionnaire To Be Answered by Agencies for Each Electronic Source Records Disposition Request (SF 115)

(In addition to a signed copy of the disposition request (SF 115), please provide copies on disk in WordPerfect or Microsoft Word format of the request and the related completed questionnaire, to expedite processing.)

NAME OF AGENCY

CONTACT PERSON

(Person to contact if NARA has questions about this submission. Please include name, telephone number, and e-mail address)

DATE OF ELECTRONIC SOURCE RECORDS DISPOSITION REQUEST:

(Please attach copy of SF 115 submission)

1. How many separate disposition requests for electronic source records have been submitted by the agency?

2. Which agency components/functional areas/business processes are covered by this disposition request? For each agency component or functional area or business process, provide the name or description. (Please note that each major agency component or functional area should be described in a separate response to this questionnaire. However, if some of the answers are true for all components of the agency, please provide one agency response and reference that item on the questionnaire response for each subsequent subunit.)

3. What scheduling model is used in this disposition request (Models 1, 2 or 3)?

4. Why did your agency choose this model? If you are proposing a disposition that deletes electronic source records upon creation of a recordkeeping copy, please explain how this disposition will allow for you to address your agency's business needs (the need to conduct agency business, maintain a record of essential activities and decisions for agency use, support oversight and audit of those activities, and permit appropriate public access).

5. List NARA approved disposition authorities that are covered by this disposition request for this agency component or functional area. (List schedule and item numbers, or refer to agency printed manuals. If manuals are cited, please provide with this request a copy of the most recent manual.)

6. Are you using an electronic recordkeeping system for managing records generated by office automation systems? If yes, are you using a COTS system (please specify which one) or a system developed specifically for your agency?

[**Note:** An electronic recordkeeping system has the functionalities listed in question 7 (a)–(h)]

7. If answer to #6 is no, do the office automation systems for this component or functional area have any of the functions described below that are generally associated with electronic recordkeeping systems? Does the system allow users or system administrators to:

(a) Differentiate between records and non-record material;

(b) Associate transmission information with content of e-mail records;

(c) Ensure that records cannot be changed after designation as records;

(d) Support allocation of records to specific series or file codes;

(e) Integrate approved NARA retention periods into series designations or file codes used;

(f) Support subject matter searches;

(g) Implement shared directories by agency component or functional unit; and/or

(h) Provide appropriate formats for transfer of permanent electronic records to NARA (see the requirements in 36 CFR 1228.188).

8. Does your agency component or functional area use COTS document management software? If so, what systems are used?

9. Has the agency issued guidance on electronic records management, e-mail and/or recordkeeping guidance that applies to this functional area? Which of the following topics does this guidance cover:

(a) Distinguishing records from non-record material;

(b) Providing for transfer of complete electronic records (including transmission data with content for file copies of e-mail, for instance) to the recordkeeping system;

(c) Record status of drafts;

(d) Filing of electronic records in shared directories;

(e) Naming conventions for electronic records;

(f) Instructions for filing record copies of electronic source records in approved recordkeeping systems (paper, electronic, microform, other); and/or

(g) Protecting integrity of records in individual or shared directories.

10. What efforts has this organization component/functional area made to ensure that staff comply with e-mail and other electronic recordkeeping guidance, including formal and informal training and internal audits/evaluations? What is the scope, content, and frequency of training? Have audits

or evaluations of systems covered in this disposition request included review of the implementation of electronic records guidelines or policy?

11. To what extent are the records of this agency component or functional area (excluding administrative records covered by GRS 1–16, 18, and 23) covered by NARA-approved schedules? Are there significant omissions in schedule coverage? If so, specify the relevant office, program, or function. What is the date of the latest major schedule revision or review?

Part II: NARA Bulletin 98–02, Disposition of Electronic Records

The text of NARA Bulletin 98–02 is provided here for convenience of reviewers. It was distributed to Agency Heads, Records Officers, and Information Management Officials previously and is in effect.

NARA Bulletin 98–02
March 10, 1998
TO: Heads of Federal Agencies
SUBJECT: Disposition of electronic records

1. *Purpose.* This bulletin reminds agencies of their responsibilities for ensuring adequate documentation of agency activities and provides guidance to Federal agencies concerning new procedures for submitting records schedules covering new or revised series.

2. *Expiration.* This bulletin will remain in effect until October 31, 1998, unless superseded earlier. Agencies will be notified by NARA bulletin of new procedures for authorizing disposition of electronic records resulting from the recommendations of the Electronic Records Work Group to the Archivist of the United States.

3. *Background.*

a. Agency heads are required by 44 U.S.C. 3101 to ''make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. * * *'' NARA regulations at 36 CFR Part 1222 specify agency recordkeeping responsibilities, including standards for recordkeeping requirements. NARA regulations at 36 CFR Part 1234 Subpart C specify standards for managing the creation, use, preservation, and disposition of electronic records.

b. Last October 22, 1997, the U.S. District Court for the District of Columbia issued an order declaring NARA's General Records Schedule (GRS) 20 ''null and void.'' The court's order was in response to a suit filed by Public Citizen and other organizations against the Archivist of the United States, the Executive Office of the President (EOP), the Office of Administration, and the United States Trade Representative. The Government has filed an appeal of the court's declaratory judgment. The Department of Justice has advised that pending the appeal, government agencies may continue to rely upon GRS 20.

c. Although the Government has appealed the court's decision, fundamentally NARA believes that the Government needs to develop a better approach to the disposition of records created on word processing and electronic mail applications. NARA's Strategic Plan includes several strategies for improving the management of electronic records. As part of one of these strategies, NARA is re-evaluating how it approves the disposition of electronic records. To focus NARA's efforts on changing GRS 20, NARA has formed an interagency Electronic Records Work Group, consisting of select NARA staff, Federal records officers, and information management specialists, with oversight by the Deputy Archivist of the United States. The Work Group is to have recommendations to the Archivist by July 1 and an implementation plan by September 30, 1998.

4. *Agency recordkeeping requirements.* Agencies are reminded that NARA regulations provide guidance and requirements on recordkeeping policies and practices to assist agencies in ensuring adequate and proper documentation of agency activities. To support operational needs, protect rights, and allow accountability, agencies must create and preserve complete records in designated recordkeeping systems.

a. To ensure complete documentation, records, including those generated electronically with office automation applications, should include proper identification of originators and recipients, appropriate dates, and any other information needed by the agency to meet its business needs. Records generated with an office automation application must be copied to a recordkeeping system where they will be maintained as long as they are needed by the Government.

b. Proper recordkeeping systems organize or index records to provide context and to allow appropriate staff access to all records relating to a specific transaction, project, study, or subject. Recordkeeping systems may be in paper, micrographic, or electronic format.

5. *Impact on scheduling.* While NARA is reconsidering its policies on the disposition of electronic records generated with office automation applications and pending the recommendations of the Work Group, NARA advises agencies to follow the instructions provided below.

a. Subsequent to the issuance of this bulletin, new and revised items on SF 115s, Request for Records Disposition Authority, submitted for NARA approval must include provision for the disposition of both the copy of a record that resides on electronic mail or other office automation application, and the copy maintained in the recordkeeping system:

(1) When new and revised items include records generated on office automation applications, the description on the proposed schedule should indicate that records were generated using office automation, AND

(2) For each such item the proposed schedule should provide separate disposition instructions for the recordkeeping system described in the schedule and for the electronic copy created by the office automation application.

b. Agencies should monitor the Electronic Records Work Group Internet Web page at http://www.nara.gov/records/grs20/ and submit comments and suggestions to the Work Group on Work Group documents posted for comment.

6. *NARA action.* NARA will provide guidance and assistance to agency records officers concerning recordkeeping requirements and new scheduling procedures. NARA will advise agencies promptly of any Court action affecting maintenance and disposition of electronic records.

7. *For further information.* Please direct questions or comments to Michael Miller, Modern Records Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001 (telephone: 301–713–7110, ext. 229) or by electronic mail to <grs20@arch2.nara.gov≤.

John W. Carlin,

Archivist of the United States.

Part III: NWM 06–98, Memorandum to Agency Records Officers and Information Management Officials

The text of NWM 06–98 is provided here for the convenience of the reviewer. It has been issued to the addressees.

March 13, 1998
NWM 06–98
MEMORANDUM TO AGENCY RECORDS OFFICERS AND INFORMATION MANAGEMENT OFFICIALS: Disposition of Electronic Records and Other Matters

Enclosed is a copy of NARA Bulletin 98–02 which the Archivist of the United States sent to heads of Federal agencies concerning significant recent events relating to the disposition of Federal electronic records. The bulletin provides an update on the status of the litigation concerning General Records Schedule 20, Electronic Records and reminds agency heads of their recordkeeping responsibilities. Even though the Government has filed an appeal of the District Court's declaratory judgment, the plaintiffs recently filed a motion asking the District Court to schedule a hearing on the plaintiffs' request for an injunction requiring the Archivist to instruct agencies that they cannot rely upon GRS 20 as authority to dispose of records. The District Court has granted the motion for a hearing, which is scheduled for March 20, 1998.

The bulletin also establishes a new procedure for scheduling electronic mail and other records created with office automation applications. As indicated in paragraph 5 of the bulletin, when agencies submit schedules (SFs 115) to NARA for approval, the description for new or revised items that include records generated with word processing, electronic mail, or other office automation applications must indicate the presence of such records and provide a separate disposition instruction for the copies of the records that remains on the originating application. The following example contains the necessary components.

1. Program Subject File.

Correspondence, reports, studies, forms, and other records relating to the program, documenting plans, progress, and accomplishments. Includes records generated with word processing and electronic mail applications.

a. Official file.

Destroy when 5 years old.

b. Electronic version of records created by the electronic mail and word processing applications.

Delete when file copy is generated or when no longer needed for reference or updating.

This approach will better document the nature of the series and give NARA the opportunity to consider the existence of electronic versions of records when approving schedules. If you have any questions about the new scheduling procedures, contact the NARA staff member assigned to work with your agency.

The Electronic Records Work Group referred to in NARA Bulletin 98–02 has identified a series of possible options for replacing GRS 20, or parts of it, and other mechanisms for the disposition of certain types of electronic records. A paper, ''Preliminary Options for Replacing GRS 20,'' has been posted for public comment on the Internet Web site for the Work Group at <http://www.nara.gov/records/grs20/opt312.html>. As the work group has a tight deadline, we need your comments and suggestions by March 31. You may contribute to this effort by sending an electronic mail message to *grs20@arch2.nara.gov;* by sending a letter to Electronic Records Work Group, National Archives and Records Administration, 8601 Adelphi Road, Room 2100, College Park, MD 20740–6001; or by sending a facsimile transmission to 301–713–6852. If you send mail, please allow sufficient time for it to arrive by March 31. The Work Group may not be able to fully consider materials that arrive after that date. Any comments that you submit will be considered your personal views unless you indicate that they represent your agency's comments.

Also enclosed is NARA Bulletin 98–01, Checklist of NARA bulletins, which provides a list of bulletins issued prior to fiscal year 1998 that are still in effect.

Michael L. Miller,

Director, Modern Records Programs.

[FR Doc. 98–19466 Filed 7–20–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix D

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed Appendix D. Appendix D addresses the second Work Group recommendation, that NARA modify the General Records Schedules (GRS) to authorize the destruction of copies of administrative records covered by those GRS that are not needed for recordkeeping purposes after a recordkeeping copy has been produced. This appendix proposes a new item to be added to General Records Schedules 1–16, 18, and 23 to provide the disposition authority previously provided by GRS 20.

Because the proposed disposition for these GRS records is being published in full text for public comment as part of this notice, the Work Group believes that this notice will serve as the **Federal Register** notice required by 44 U.S.C. 3303a. Therefore, the Work Group believes that NARA will not need to publish a separate **Federal Register** records schedule notice for this GRS change unless the GRS disposition language is revised substantively in response to comments and the Archivist determines that additional public comment is warranted.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov≤. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: In addition to your comments on the proposed GRS changes which are presented in Appendix D at the end of this notice, we also ask your comments on the following question:

D1. Are the definition of program records and administrative records clear?

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix D: Proposal To Revise The Entire GRS To Cover all Formats of the Administrative Records Included Therein

Background

In the 1995 edition of the General Records Schedules, GRS 20, items 13, 14 and 15, authorized the deletion of electronic source records that remained on electronic mail and word processing systems after a record was produced for inclusion in a recordkeeping system. The disposition of the recordkeeping system would be governed by a separate GRS or agency schedule item. This authority was challenged in a court suit on the basis that the GRS cannot provide Governmentwide authorization for destruction of electronic mail messages and word processing records that qualified as program records. As stated in the draft report of the Electronic Records Work Group, the Archivist has determined that the GRS will be limited to common administrative records, and he charged the Electronic Records Work Group to develop guidance to distinguish between administrative and program records. This appendix provides that guidance and recommends changes to the GRS to replace GRS 20, items 13, 14, and 15, and include other source records.

Proposed Definitions

Program records are those records created by each Federal agency in performing the mission of the agency. The agency's mission is defined in enabling legislation and further delineated in formal regulations.

Administrative records are those records created by several or all Federal agencies in performing common facilitative functions that support the agency's mission activities, but do not directly document the performance of mission functions. Administrative records relate to activities such as budget and finance, information management, human resources, equipment and supplies, facilities, public and congressional relations, contracting, and legal matters not directly related to the agency's core mission (e.g., adherence to general statutes such as laws on procurement, privacy, and government ethics).

While both program and administrative records are needed for the agency to accomplish its mission, the distinction is important for the scheduling of an agency's records.

Discussion

The General Records Schedules (GRS) issued by the National Archives and Records Administration (NARA) in accordance with 36 CFR 1228.40 apply to certain administrative records created by several or all agencies. Their purpose and maintenance requirements are generally standard from agency to agency. The GRS provide mandatory disposition authority for those records, unless an agency receives an exception from NARA.

All program records and administrative records not covered by a GRS must be scheduled by the creating agency. Many agencies have records relating to administrative functions that are not described in the GRS. These records may supplement the records covered by the GRS or they may be organized or maintained in a way that

make application of the GRS inappropriate. If records described in the GRS are part of a larger file series and cannot be economically segregated, the agency schedule for the series, not the GRS, would control the disposition of the entire series. Agencies also have administrative records that are not appropriate for GRS coverage because the content or organization of the files may vary significantly from agency to agency, such as records relating to the selection of political appointees (see NARA Bulletin 95–6).

The Work Group recommends that a new item be added to GRS 1–16, 18, and 23, to authorize disposal of the source records used to produce records maintained in those GRS recordkeeping systems, *after* a recordkeeping copy has been produced. These source records will include electronic source records generated using electronic mail, word processing, and other office automation systems. This authority is needed because the electronic source record that remains on the office automation application is a record, in addition to the record in the recordkeeping system.

This new item is appropriate for inclusion in the GRS because the GRS applies only to administrative records. This new item is recommended because unlike unique agency program records, the Work Group believes that the electronic source records of records covered by the GRS have virtually no potential for unique or added value. Consequently, unlike program records, the source records need not be appraised in a series-based manner. (This authority would not be added to GRS 17 and 21 because they cover cartographic, architectural, and audiovisual records. Even though such nontextual records may be generated in digital format, NARA needs to conduct further study before determining whether electronic source records should be added to these two GRS. GRS 19, Research and Development Records, was withdrawn in a previous edition of the GRS, and NARA has decided to withdraw GRS 22, Inspector General Records, in the next edition.)

The new item proposed by the Work Group would align the disposition authority for the source records with records documenting a specific administrative function, as opposed to providing one GRS authority across functional areas, as was done in the 1995 edition of GRS 20. It will provide authority for deletion of the source records, including those that are maintained on office automation applications apart from an agency recordkeeping system. The new item will be applicable to source records in all physical formats that the agency does not maintain in a recordkeeping system. However, the item will authorize deletion of source records maintained apart from the recordkeeping system only *after* a recordkeeping copy is produced. The item will not apply to the records in a recordkeeping system.

Proposed Changes

1. General Introduction to the GRS

Replace:

''As provided in GRS 20, Electronic Records, the disposal instructions for most records in the remaining schedules are applicable to both hard copy and electronic versions of the records described. GRS 20 specifies several exceptions to this authority. In those cases, the electronic version of the file must be scheduled by submission of an SF 115 to NARA.''

With:

''The items in GRS 1–16, 18, and 23, apply to records that contain the information described in the schedule. The coverage is neutral with respect to the recording medium. The specified retention periods apply to the records described in each item which are maintained in a recordkeeping system, regardless of the physical medium used to maintain the records. In addition, an item in each of those schedules provides authority for agencies to destroy/delete source records after a record has been produced for inclusion in the appropriate recordkeeping system.''

2. New Item to be Added at the End of GRS 1–16, 18, and 23

''*Records Maintained Apart From a Recordkeeping System*.''

''Records, including electronic source records, used to generate the records covered by the other items in this schedule which cover the records in an agency recordkeeping system. Includes records in all formats/media that are used as sources for the creation of the record maintained in a recordkeeping system, such as electronic records that remain on electronic mail and word processing utilities after the record for the recordkeeping system has been produced.

''Destroy/delete after the recordkeeping copy has been produced. Electronic source records may be maintained for a limited period of time for operational purposes other than recordkeeping, such as updating.''

3. New Paragraph to be Added to the Introductions to GRS 1–16, 18, AND 23

''A new item has been added to this schedule to authorize the destruction of source records, regardless of physical format, that are maintained in addition to the record in an agency recordkeeping system. This item covers records that are used to create the recordkeeping copy, e.g., the electronic record that remains on electronic mail and word processing utilities after a record has been produced for inclusion in a recordkeeping system.''

[FR Doc. 98–19467 Filed 7–20–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Appendix E

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains the Electronic Records Work Group's proposed general records schedule (GRS) to cover information technology records common to many or all Federal agencies. The proposed GRS would implement the Work Group's proposed recommendation that NARA should revise GRS 20 disposition authorities to cover only systems administration (or systems management) and operations records and that the new schedule should cover only administrative records. Agency systems records for program (mission-related) activities will not be covered by the proposed GRS.

The Work Group intends to recommend to the Archivist a proposed new GRS for information technology records based on the comments received during this comment period. Because we expect a number of comments on fundamental issues relating to the approach that the GRS should take and the records that should be covered, we believe that the draft that will be submitted to the Archivist of the United States in September will require an additional **Federal Register** comment period before NARA issues it in final form.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: The proposed GRS is contained in Appendix E, which appears at the end of this document. Your comments are requested on the proposed GRS and in response to the following questions:

E1. Do the items in the proposed GRS accurately describe records with which you are familiar? Please identify any items (series) that do not reflect systems administration records as currently practiced.

E2. Unlike GRS 20, this proposal divides records into more detailed groupings and provides specific retentions for each. Is this helpful? Would agencies prefer this approach with greater detail and separate dispositions for each specific type of record, or an approach that combines multiple detailed items into larger series with a single disposition whenever appropriate?

E3. The proposed GRS is not presented in the format normally used in the GRS. Do you find this chart format helpful?

E4. Would fewer, more uniform retention periods better suit agency needs? Discussion: Some agencies have suggested that fewer, more uniform retention periods that are tied to a specific date (e.g., when 3 years old) and not an event (e.g., after 3 backup cycles) are easier to implement for series covered by a GRS.

E5. Does your agency have other information technology (IT) records relating to administrative functions not described in this proposed GRS that could be included in a GRS? You are reminded that the GRS will not cover an agency's program (mission-related) records. For a complete discussion of the distinctions between program records and administrative records, please see the introduction to the draft Appendix D, which is presented in a separate notice earlier in this separate part.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Appendix E: Proposed General Records Schedule, Information Technology Records

The Electronic Records Work Group has developed a preliminary draft of a General Records Schedule that would provide disposition authorities for records specifically related to the development, management and operation of computer systems, and digital networks. Records include those relating to system development and implementation, computer and network operations and technical support, office automation and user support, and data administration. The schedule is designed to conform with common practices in information technology (IT) management and operations.

The most significant differences between this draft schedule and the 1995 version of GRS 20 is that the proposed draft GRS eliminates disposition instructions for:

1. Electronic source records generated or received on e-mail and word processing applications for all program and agency-unique administrative records (items 13 and 14 in the 1995 GRS 20).

2. Electronic records that support administrative housekeeping functions when the records are derived from or replace paper records authorized for disposal in an agency-specific schedule (item 3b in the 1995 GRS 20).

3. Electronic source records scheduled for disposal under one or more items in GRS 1-16, 18, and 23 (item 3a in the 1995 GRS 20).

Under the Work Group's second recommendation, NARA will include coverage for the third item in revisions to those GRS (see appendix D), but the first two items will have to be included in agency specific schedules.

This preliminary draft also covers a wider variety of IT operational records and the descriptions it includes more accurately mirror current records and terminology. Because we believe that the IT community should be encouraged to review the draft GRS, the Work Group has formatted it in a style that we hope will be more familiar to them than the traditional GRS format.

The Work Group seeks comments on both the items to be included and the proposed retention periods, and reminds reviewers that GRS retention periods are mandatory unless the agency receives a specific exception from NARA.

When NARA issues a final version that reflects Federal agency and public comments, it will follow the format normally used in the GRS.

Transmittal No. XX

General Records Schedule XX

General Records Schedule XX

Information Technology (IT) Records

Information Technology (IT) records include general administration records of data processing units, systems development records, computer operation and technical support records, data administration support records, user and office automation support records, network and data communication services records, and, Internet services records. (*GRS 12, Communications Records is under review and will have to be modified at a later date to address redundancies.*) As defined in the *Information Technology Reform Act of 1996*, the term ''information technology,'' with respect to an executive agency means ''any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency.'' The term ''includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.''

This General Records Schedule for IT records does not cover electronic records that support the agency's mission-related (program) functions and activities. Program managers and staff are responsible for developing and applying retention schedules to those electronic records retained to meet program-specific requirements. Data processing units are often the physical custodian of program IT records. Program IT records must be retained to meet retention requirements specified by the program area.

IT records not included in this schedule must be scheduled separately by the program having the responsibility and authority to determine their retention requirements and final disposition.

This schedule covers the records described in the following chart, wherever located within an agency. Agencies should develop and implement procedures for effective purging of electronic records from automated information systems on a regular basis. Intermediate storage of electronic records covered by this GRS can include down-loading them to off-line storage media such as magnetic tapes or diskettes, prior to final disposition, i.e., deletion or erasure. Records should be destroyed when the retention period has been met, unless the records are being used in an audit or legal action. Obsolete records consume expensive office space and computer storage capacity, and they can hinder efficient access and retrieval of current records.

Item No.	Description of Records	Authorized Disposition
1	GENERAL ADMINISTRATION RECORDS General Administration includes IT fiscal and personnel administration, planning, and the coordination of activities within IT units and between an IT unit and other parts of an agency.	
1 a	General Information Technology Administrative Files. Correspondence and/or subject files relating to internal operation and administration of IT services matters not covered elsewhere in this schedule or in another GRS.	Destroy when 2 years old.[1]
1 b	Information Resources Management (IRM) and Data Processing Services Plans. Data processing services plans, and related records used to plan for information systems development, technology acquisitions, data processing services provision, or related areas. *Records Not Covered:* *IRM strategic plans and Information Technology Investment Reviews are program records and must be scheduled separately by the agency.*	Destroy 3 years after the plan is completed, superseded, or revised. Destroy copies, drafts, and routine material when no longer needed by agency.
1 c	Data Processing Policies. Records of data processing policies including those covering access and security, systems development, data retention and disposition, and data ownership. *Records Not Covered:* *1. Data processing policies for specific mission systems, which must be scheduled separately by the agency. (Data processing policies for specific systems that are central to the conduct of the agency's mission may be permanent records.).* *2. Data processing operating procedures (see item 3a).*	Destroy 3 years after policy is withdrawn, revised, updated, or superseded.
1[2] d	Data Center Records of Calculating Charge—backs to Data Processing Services Users. Electronic and manual records used to document, and calculate costs, for computer usage and data processing services. These records are also used for cost recovery, budgeting, or administrative purposes.	Destroy when 3 years old.
1[3] e	Data Center Billing Records. Reports and other records detailing charges for use of computer services including monthly billing reports, copies of vouchers and bills. *Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the records should be retained an additional 3 months beyond the minimum retention period.*	Destroy when 3 years old.
2	SYSTEMS DEVELOPMENT RECORDS Systems development covers the IT functions related to the development, redesign, modification, procurement, and testing of administrative systems as well as to maintaining the documentation generated by these processes. *Note: Records documenting specific agency mission systems are NOT covered by items 2a through 2c, and will need to be scheduled separately by the agency.*	
2 a	Systems Development Project Files. Records created and used in the development, redesign, or modification of an automated system for administrative functions including project management records, status reports, draft system or subsystem specifications, draft user requirements and specifications, and memoranda and correspondence.	Destroy 3 years after completion of project.
2[4] b	Data Systems Specifications. User and operational documentation for administrative systems describing how a system operates from a functional user and data processing point of view including records documenting data entry, manipulation, output and retrieval (often called ''system documentation records''), records necessary for using the system, including user guides, system or sub-system definitions, system flowcharts, program descriptions and documentation, job control or work flow records, system specifications, and input and output specifications.	Destroy 3 years after discontinuance or replacement of the system, or after all records on the system are either successfully migrated to a new system or final disposition actions on them are completed, whichever is later.
2 c	Data Documentation. Data system and file specifications created during development or modification of administrative systems and necessary to access, retrieve, manipulate and interpret data in an automated system. Includes data element dictionary, information directories, database directories, file layout, code book or table, and other records that explain the meaning, purpose, structure, logical relationships, and origin of the data elements. *Note: In some cases, agencies will retain data for extended periods, sometimes offline. It is essential that they retain related documentation in an accessible format.*	Destroy 3 years after discontinuance of system or after system's data is destroyed or transferred to a new structure or format, whichever is later.
2[5] d	Automated Program Listing/Source Code. Automated program code which generates the machine-language instructions used to operate an automated information system. *Note: This item coincides with item 3e, System Backup Files. It assumes that the files are maintained (backed-up) and disposed in accordance with accepted data processing practice; i.e., that 3 generations of backups be retained (see item 3e). If this item is adopted into the GRS, there will be a note excluding code created to ''fix'' Year 2000 problems.*	Retain for 3 system update cycles after code is superseded or replaced, then destroy.
2 e	Technical Program Documentation. Paper copy of program code, program flowcharts, program maintenance log, system change notices, and other records that document modifications to computer programs.	Destroy 1 year after replacement, modification, or related programs cease to be used.
2[6] f	Information Technology Procurement Files. Records used in the procurement of system hardware and software including request for proposals, proposals, quotations and bids, benchmark/acceptance testing information, correspondence, duplicate copies of contracts, purchase orders, technical reviews, and vendor information including references and literature on the firm or product line..	

Item No.	Description of Records	Authorized Disposition
	(1) Contract-related records.[7]	Destroy 6 years after expiration of the contract.
	(2) All other records	Destroy 3 years after completion of the purchase.
2 g	Test Database/Files. Routine or benchmark data sets, related documentation, and test results constructed or used to test or develop a system.	Destroy after user accepts and management reviews and approves test results, or when no longer needed for operational purposes, whichever is later.
3	COMPUTER OPERATIONS AND TECHNICAL SUPPORT RECORDS Computer operation and technical support covers the IT functions related to operating systems, maintaining hardware and software, system security, data input services, system backup, tape library operations, job and production control, monitoring system usage, and liaison with hardware and software vendors.	
3 a	Data Processing Operating Procedures. Records of procedures for data entry, the operation of computer equipment, production control, tape library, system backup, and other aspects of a data processing operation.	Destroy 3 years after procedure is withdrawn, revised, updated, or superseded.
3 b	Data Processing Hardware Documentation.	
	(1) Records documenting the use, operation, and maintenance of an agency's data processing equipment including operating manuals, hardware/operating system requirements, hardware configurations, and equipment control systems.	Destroy after the agency no longer uses related hardware and all data is transferred to and made useable in new hardware environment.
	(2) Routine records that do not contain substantial information on the maintenance history or equipment.	Destroy when one year old.
3 c	Operating System and Hardware Conversion Plans. Records relating to the replacement of equipment or computer operating systems.	Destroy 1 year after successful conversion.
3[8] d	Disaster Preparedness and Recovery Plans. Records related to the protection and reestablishment of data processing services and equipment in case of a disaster. *Note: Agencies should store disaster preparedness and recovery plans in a secure area off-site from the computer installation to which they refer.*	Destroy after superseded by revised plan.
3 e	System Backup Files. Copies of master files or databases, application software, logs, directories, and other records needed to restore a system in case of a disaster or inadvertent destruction. *Records Not Covered:* *Backups used to document transactions or retained for purposes other than system security should be scheduled by the responsible program. For fiscal systems, monthly system backups are often retained for the entire fiscal year to provide an audit trail, and annual system backups are retained to meet all legal and fiscal requirements in lieu of copies of the individual master files or databases. These records should be disposed using items from General Records Schedule 7—Expenditure Accounting Records, or, if they are covered by specific Federal audit requirements requiring longer records retention, scheduled separately by the appropriate program.* *Note: It is advisable that for many application systems 2 or 3 copies of backups be produced during each cycle.*	Destroy after 3 system backup cycles.
3[9] f	System Users Access Records. Electronic or textual records created to control or monitor individual access to a system and its data created for security purposes, including but not limited to user account records, security logs, and password files. *Note: Computer Usage Records (item 3g) may also serve some security purposes*	Destroy after the individual no longer has access to the system and after audit requirements for the records modified by that individual have been met.[10]
3 g	Computer Usage Files. Electronic files or automated logs created to monitor computer system usage including but not limited to log-in files, system usage files, charge-back files, data entry logs, and records of individual computer program usage. *Records Not Covered:* *Security logs and related records (see item 3f)*	Destroy after 3 system backup cycles.
3 h	Summary Computer Usage Reports. Summary reports and other paper records created to document computer usage for reporting or cost recovery purposes.	Destroy when 1 year old.
3 i	Computer Run Scheduling Records. Records used to schedule computer runs including daily schedules, run reports, run requests, and other records documenting the successful completion of a run.	Destroy when 1 year old.
3 j	Data Processing Unit's Copies of Output Reports. Data processing unit's copy of output reports produced for client programs.	Destroy after output is distributed.
3 k	Tape Library Records.	
	(1) Automated System Files. Automated records used to control the location, maintenance, and disposition of magnetic media in a tape library.	Destroy after related records or media are destroyed or withdrawn from the tape library.
	(2) Tape Library Control Records. Records used to control the location, maintenance, and disposition of magnetic media in a tape library including list of holdings and control logs.	Destroy after superseded.
3 l	Reports on the Destruction of Files (''Scratch Reports''). Records containing information on the destruction of files stored on electronic media in a tape library.	Destroy after superseded or (if required) management review and approval.
4	RECORDS CREATED TO FACILITATE, OR CREATED IN THE COURSE OF, PROCESSING OR TRANSMITTING ELECTRONIC RECORDS	

Item No.	Description of Records	Authorized Disposition
	Records created solely to support computer processing or communications. Excludes all records needed to document program or administrative functions.	
4 a	Input Documents. Electronic and hard copy of records or forms designed and used solely for data input and control when the data processing unit provides centralized data input services and original records are retained by the program. *Records Not Covered:* *Input records retained for fiscal audit or legal purposes, or, containing information needed by a program, should be scheduled by the responsible program. Input records which serve a fiscal audit purpose may be covered by items in General Records Schedule 7—Expenditure Accounting Records.*	Destroy after all data has been entered into the system and, if required, verified.
4 b	Work/Intermediate Files. Records used to facilitate the processing of a specific job/run or to create, update, modify, transfer, manipulate, or sort data within an automated system when all transactions are captured in a master file, central file, valid transaction file, or database, and the file is not retained to provide an audit trail. *Records Not Covered:* *Intermediate files retained to document valid transactions, to serve as an audit trail, or needed for system recovery backup.*	Destroy after the transaction is completed.
4[11] c	Valid Transaction Files. Records used to update and/or document a transaction in database or master file including valid transaction files, Data Base Management System (DBMS) log, update files, and similar records, and not retained to document a program action or for fiscal audit purposes. *Records Not Covered:* *Records used to document a program's actions (e.g., receipt of a voucher, issuance of a check), as opposed to a strictly data processing transaction, or needed for fiscal audit or legal purposes, should be separately scheduled by the responsible program.*	Destroy after 3 database/master file backup cycles.
4[12] d	Print Files (Not Used to Document a Transaction). Source output data extracted from the system to produce hard copy publications, printouts of tabulations, ledgers, registers, reports, or other documents.	Destroy after all print runs are completed, output verified (if required), and agency has no need to reproduce the report.
4 e	Database Audit Trails. Data generated during the creation of a master file or database used to validate a master file or database during a processing cycle.	Destroy after 3 database/master file backup cycles.
4 f	Summary Data Files. Summary or aggregate data from a master file or database and created solely to distribute data to individuals or programs for reference and use, but not altered or augmented to support program-specific needs. *Records Not Covered:* *Summary files altered or augmented to support program-specific needs should be separately scheduled by the responsible program.*	Destroy after data is distributed.
4 g	Extracted Data Files. Electronic files consisting solely of records extracted from a single master file or data base. *Records Not Covered:* *Extract files (1) produced as disclosure free files to allow public access to data; or (2) produced by an extraction process which changes the informational content of the source master file or data base; or, (3) records consisting of extracted information created from a master file or data base that is unscheduled; or (4) extracted from a permanent master file that cannot be accessed or no longer exists. These extract records should be separately scheduled by the responsible program.*	Delete when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.
4 h	Finding Aids (Indexes) or Tracking Systems. Electronic indexes, lists, registers, and other finding aids used only to provide access to the temporary hard copy and electronic records in the custody of the data processing unit. *Records Not Covered:* *Finding aids and tracking systems of programs other than data processing units should be scheduled by the responsible program in conjunction with the related program records*	Destroy after the related hard copy or electronic records have been destroyed.
5	DATA ADMINISTRATION RECORDS *Data administration covers IT functions related to data administration support including the maintenance of data standards, corporate data models, and data definitions and dictionaries.*	
5[13] a	Data/Database Dictionary Records. Usually in an automated system, used to manage data in an agency's information systems including information on data element definitions, data structures or file layout, code tables, and other data attribute information or records that explain the meaning, purpose, logical relationships, ownership, use, or origin of data.	Destroy after discontinuance or modification of the related application or after the application's data is destroyed or transferred to a new structure or format, whichever is later.
5 b	Data/Database Dictionary Reports. Periodic printouts from a data/database dictionary system including data element attribute reports, database schema, and related records used for reference purposes. *Records Not Covered:* *The official copy of essential data documentation is covered by either item 2c or item 5a.*	Destroy when superseded or when data/database dictionary system is changed or eliminated.
6	USER/OFFICE AUTOMATION SUPPORT RECORDS	

Item No.	Description of Records	Authorized Disposition
	User/Office Automation Support refers to IT functions that provide work station support to users of a mainframe or office automation system, including assisting users to solve software and hardware problems, installing hardware or software, providing training, and the review and recommendation of software for agency use.	
6[14] a	Site/Equipment Support Files. Records documenting support services provided to specific data processing equipment or installations.	
	(1) Site visit reports, problem and equipment service reports, and routine correspondence and memoranda.	Destroy when 3 years old.
	(2) Service histories and other summary records	Destroy after the related equipment is no longer in use.
6[15] b	Help Desk Telephone Logs and Reports. Records used to document requests for technical assistance and responses to these requests as well as to collect information on the use of computer equipment for program delivery, security, or other purposes.	Destroy when 1 year old.
6 c	Training Course Information. Memoranda, flyers, catalogues, registration forms, rosters, and other records relating to training courses run by a data processing user support or office automation support unit.	Destroy when 5 years old or 5 years after completion of a specific training program.
6 d	Software Review and Recommendation Files. Records related to the review and recommendations for software for agency use including vendor information, manuals, software reviews, and related material.	Destroy after software is no longer used by agency.
7[16]	NETWORK/DATA COMMUNICATION SERVICES RECORDS	
	Network and Data Communication Services covers IT functions related to installing and maintaining networks, diagnosing and coordinating problems on the network, monitoring circuit usage, and liaison with General Services Administration and other network providers. For related records, see General Records Schedule 12, Communications Records.	
7 a	Network Site/Equipment Support Files. Records documenting support services provided to specific sites and computer to computer interfaces on a network including site visit reports, trouble reports, service histories, and correspondence and memoranda.	
	(1) Site visit reports, trouble reports, and routine correspondence and memoranda	Destroy when 3 years old.
	(2) Service histories and other summary records	Destroy after the related equipment or site is no longer in use.
	(3) Routine records that do not contain substantial information on the maintenance history or site.	Destroy on an annual basis.
7 b	Inventories of Circuits. Automated or paper records containing information on network circuits used by the agency including circuit number, vendor, cost per month, type of connection, terminal series, software, contact person, and other relevant information about the circuit.	Destroy after the circuit is no longer used by agency.
7[17] c	Network or Circuit Installation and Service Files. Copies of requests for data communication service, installation, or repair and related records including work orders, correspondence, memoranda, work schedules, copies of building or circuitry diagrams, and copies of fiscal documents.	Destroy 1 year after request is filled or repairs are made. Records that are related to a legal action are removed from the file and filed elsewhere.
7 d	Network Usage Files. Electronic files or automated logs created to monitor network usage including but not limited to log-in files and system usage files.	Destroy after 3 system backup cycles after creation.
7 e	Network Usage Reports. Summary reports and other records created to document computer usage for reporting or other purposes.	Destroy 1 fiscal year after creation.
7 f	Network Implementation Project Files. Agencies' records used to plan and implement a network including reports, justifications, working diagrams of proposed network, wiring schematics, and diagrams.	Destroy after superseded.
8	INTERNET SERVICES RECORDS	
	Internet Services covers records related to providing and monitoring services delivered and received via the Internet.	
8 a	Agency Internet Services Logs. Electronic files or automated logs created to monitor access and use of agency services provided via the Internet, including, but not limited to, services provided via an agency gopher site, FTP (file transfer protocol), or World Wide Web agency intranets/extranets, or via agency Telnet services.	Destroy after 3 backup cycles, and after relevant audit and documentation requirements have been met, whichever is later.
8 b	Employee Internet Use Logs. Electronic files or automated logs created to monitor and control use of the Internet WWW, intranets, and extranets by agency employees and non-employee use logs of agency extranets.	Destroy after 3 backup cycles, and after review and verification, whichever is later.

[1] Disposition authorities are stated in this draft as ''destroy when __ years old'' or ''destroy __ years after [event]. The file should be closed or ''cut off'' at the end of a fiscal year for the former types of records and destroyed __ years later. The file should be closed or cut off after the event for the latter types of records and destroyed __ years after the end of the fiscal year in which the file was cut off.

[2] ISSUE: The records in item 1d are often more than ledger entries. For example, item d can include charts correlating data processing unit operational costs to: (1) the customer's actual or estimated hours of use, (2) the customer's number of full time employees, or (3) the customer's percentage of organization size. The Work Group seeks comments on how agencies use these records to assist NARA in determining whether item 1d should (A) be eliminated, (B) refer the reader to GRS 7, item 2, or (C) changed the retention to ''Destroy 6 years and 3 months after the close of the fiscal year involved.''?

[3] ISSUE: Should this item be deleted because the records already are covered by GRS 6, Item 1a?

[4] ISSUE: There are concerns about (1) splitting the developmental and technical documentation, and (2) differentiating between systems and applications for administrative functions. One of the challenges in information technology is the documentation of systems and applications to permit the engineers and programmers to make further use of accumulated knowledge. Is there a way to encourage the retention of information that will preclude ''reinventing the wheel'' with applications and systems engineering?

[5] Programming changes can appear to work initially, but prove to have problems over a longer period of time. The Work Group specifically invites comments on whether 3 system cycles is sufficient for all administrative systems. Retention of basic programming information can be crucial with problems like the Year 2000 conversions. In contrast to item 3e which contains ''copies of master files or databases, application software, logs, directories, and other records needed to restore a system in case of a disaster or inadvertent destruction,'' 2d deals with the very basic operating system program. (2d is the frame and foundation of the house; 3e is the brick, aluminum siding, and drywall.)

[6] This is not the official contract file maintained by the agency procurement office and covered by GRS 3, item 3. Documentation pertaining to system requirements in the RFP, the language used by the vendor in proposals and quotes, and the benchmark/acceptance testing information can substantially impact assessment of vendor performance. Further, this can impact the specifications of future IT acquisitions.

[7] ISSUE: Should this item be deleted because GRS 3, Item 3, already covers all? Another alternative that has been proposed is to leave the description here, but provide a cross reference to GRS 3, Item 3c.

[8] Please see Schedule 18, Item 27.

[9] Items 3 f, g, and h could be collapsed into one item. Comments on the advisability of doing so are invited. For this draft, item 3f is separate because it focuses upon an individual user (for example, a procurement officer leaves the organization). Item 3g is a general log used to spot substantial differences in volume of traffic. Use of item 3g may trigger an audit of item 3f records (for example, a 40% increase in one unit's use may raise questions about why the increase; next step, a look at item 3f). Item 3h is a summary report, used for billing purposes.

[10] ISSUE: Can this retention period be easily applied? Is it appropriate for all administrative systems, including security-classified ones?

[11] Validity checks are routines in a data entry program that test the input for correct and reasonable conditions, such as numbers falling within a range and correct spelling, if possible. Valid transaction files are the reports of those validity checks.

[12] ISSUE: Disposition of item 4d is impossible to implement in the case of print files that are automatically generated and deleted by applications software. This may be a policy issue as to whether those files should be automatically deleted by the applications software.

[13] The disposition for Item 5a is for the operating system records; Item 2c covers the records for planning the system.

[14] In contrast to Item 2, which deals with systems application and development, Item 6 addresses end user support records.

[15] These logs can be invaluable in resolving customer complaints, providing appropriate follow-up service, and spotting problem trends in systems and networks.

[16] GRS 12, Communications Records, is under review and will have to be modified at a later date to address redundancies.

[17] Network installation records are included because the history of wiring in buildings, locations of switches, etc., has been a problem. Recent building renovations have revealed that agencies have unused phone lines, which are still live and costing money. Employees had moved to new offices, received new phone numbers, and never had the old phone lines disconnected.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Electronic Records Work Group Draft Report; Comments Requested

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment.

SUMMARY: This notice contains a working draft of the Electronic Records Work Group's proposed report to the Archivist outlining the Work Group's recommendations and the effort that went into developing the recommendations and implementation strategy. This draft has been modified slightly from the June draft that was posted on the Web and sent to agencies for review. This draft reflects the Work Group's decisions to use the term ''electronic source record'' to describe the records created using office automation applications and to place the discussion of program and administrative records, formerly in draft Appendix B, in the introductions to draft Appendixes C and D where they are most pertinent. For purposes of this review, we have not changed the Appendix designations that were used in the June draft and have, therefore, reserved Appendix B for a discussion in the final report of the public and Federal comments received on the draft products.

DATES: Comments must be received on or before August 20, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <grs20@arch2.nara.gov>. We ask that lengthy attachments be sent in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0 format. If you do not have access to e-mail, comments may be mailed to Electronic Records Work Group (NPOL), Room 4100, 8601 Adelphi Rd., College Park, MD 20740–6001, or faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Michael Miller at 301–713–7110, ext. 229.

SUPPLEMENTARY INFORMATION: The draft report appears at the end of this notice.

Dated: July 16, 1998.

Lewis J. Bellardo,

Deputy Archivist of the United States.

Draft Electronic Records Work Group Report to the Archivist of the United States

Table of Contents

Executive Summary

The Electronic Records Work Group (Work Group) is an interagency group formed by the Archivist of the United States on November 21, 1997, to review the 1995 version of General Records Schedule (GRS) 20, which was declared null and void by the U.S. District Court for the District of Columbia. (That ruling is on appeal.) Specifically, the Work Group was asked to identify appropriate areas for revision, explore alternatives for authorizing disposition of electronic records, identify methods and techniques that are available with current technology to manage and provide access to electronic records, and recommend practical solutions for the scheduling and disposition of electronic records. The Archivist also gave the Work Group several guiding principles and policies, including: program records should not be scheduled in the GRS, electronic records should be scheduled as series, and solutions must be workable.

The Work Group membership was drawn from staff of the National Archives and Records Administration (NARA) and other Federal agencies with records management and/or electronic records expertise under the oversight of Deputy Archivist Lewis Bellardo. Michael Miller, the Director of NARA's Modern Records Programs, serves as the group leader. In addition, electronic records management experts from state archives and records programs, the National Archives of Canada, academia, and records management consulting firms serve as consultants to the Work Group on a *pro bono* basis.

In conducting its review and developing the recommendations contained in this report, the Work Group aggressively sought input from Federal agencies, other interested

individuals and groups, and the general public. In addition to the public meetings held on December 19, 1997, and January 29, April 7, and May 18, 1998, NARA maintained a web page devoted to the work of the Electronic Records Work Group (http://www.nara.gov/records/grs20/); published public notices in the **Federal Register**; sent memos to Federal agency records officers asking for their comments at various points in the process; solicited comments from subscribers to the Archives Listserv and Records Management Listserv; and invited comments from professional organizations, such as the American Historical Association (AHA), Organization of American Historians (OAH), Society of American Archivists (SAA), National Association of Government Archives and Records Administrators (NAGARA), Association of Records Managers and Administrators International (ARMA), and the National Coordinating Committee for the Promotion of History, and from other individuals with an interest or expertise in electronic records.

By March 1998 the group had drafted a number of options to be explored to replace GRS 20 disposition authorities, including authorities for the deletion of program and administrative electronic mail and word processing records, and for system maintenance and operations records. The group also explored options for electronic maintenance of electronic source records (records that remain in word processing and electronic mail and other office automation systems after a record has been produced for incorporation into an agency recordkeeping system) on an interim basis prior to the installation of proper electronic recordkeeping capability. After carefully considering the public and consultant comments on the preliminary options, the Work Group determined that there was only one feasible alternative approach to GRS 20, and that was to schedule the records at the series level.

The two other options initially proposed as possible approaches for managing electronic source records generated with electronic mail and word processing software were found to have significant flaws. Both options (to establish a uniform minimum retention period or to develop retention standards based on an individual's position in the agency's hierarchy) failed to meet requirements for the proper maintenance of records. Neither provided for proper organization or categorization of records to facilitate access. In both cases, disposition appeared to be based on factors other than business needs. The group could not identify supplemental measures that could be taken in conjunction with either of these options to make them useful.

The Work Group, therefore, recommends to the Archivist of the United States a three-part approach for scheduling the electronic source records that previously were authorized for disposal under GRS 20, items 13, 14, and 15. The Work Group's recommendations also address other concerns with the 1995 edition of GRS 20, i.e., authorization for the disposition of electronic source records produced with other office automation systems such as presentation software and electronic calendaring software, and authorization for the disposal of electronic records that correspond to the records covered in GRS 1–16, 18 and 23.

► First, agencies must schedule their program and unique administrative records in all formats. As part of its report, the Work Group proposes an implementation strategy to assist Federal agencies and NARA in accomplishing this task.

► Second, the Work Group recommends that NARA modify General Records Schedules (GRS) 1–16, 18, and 23 to authorize the deletion of electronic source records, including those generated with office automation systems, that correspond to administrative records covered by those GRS, after a recordkeeping copy has been produced.

► Third, the Work Group recommends that NARA develop a new General Records Schedule that covers only systems administration (or systems management) and operations records, such as files related to system use and maintenance, backup tapes, and other records (e.g., system user access records) used in managing information systems throughout their life cycle. This new GRS would cover records in all media.

The Work Group originally conducted a preliminary review of issues facing agencies that want to move toward electronic recordkeeping, but determined that working simultaneously on the scheduling approach and the electronic recordkeeping approach was not feasible given the deadlines and the complexity of electronic recordkeeping issues that need to be studied. The Work Group recommends that the Archivist establish a follow-on group that continues to work on electronic recordkeeping. This follow-on group should recommend guidance on electronic recordkeeping for Federal agencies.

Introduction

The Archivist of the United States established an interagency Electronic Records Work Group on November 21, 1997. In his charge to the Work Group, the Archivist asked the group to:

► Review the current version of General Records Schedule (GRS) 20;

► Identify appropriate areas for revision;

► Explore alternatives for authorizing disposition of electronic records;

► Identify methods and techniques that are available with current technology to manage and provide access to electronic records; and

► Recommend practical solutions for the scheduling and disposition of electronic records.

The Work Group was asked to develop and weigh advantages of various options and assess the practicality and feasibility of each in light of the availability of electronic records management tools and other resources. The Archivist asked the Work Group to keep in mind the following working assumptions in performing its work:

► General records schedules should focus on administrative ''housekeeping'' records, not program records, and there should be guidance in place to distinguish between them.

► Records may be transferred from one medium to another; however, key information about those records must be preserved as part of the transfer process.

► Electronic records should be scheduled as series, not classes of media.

► Solutions to electronic records challenges must be workable and be something agencies can and will use.

The Work Group membership was drawn from NARA staff and representatives of other Federal agencies with records management and/or electronic records expertise under the oversight of Deputy Archivist Lewis Bellardo. Michael Miller, the Director of NARA's Modern Records Programs, serves as the group leader. In addition, electronic records management experts from state archives and records programs, the National Archives of Canada, academia, and records management consulting firms serve as consultants to the Work Group on a pro bono basis. A list of the Work Group members and consultants is provided in Appendix A to this report.

Throughout this report, the term ''electronic source record'' has been used to describe the electronic record that resides on an agency's electronic mail, word processing, or other office

automation systems, i.e., the ''copy'' that formerly was authorized for disposal by GRS 20 after a recordkeeping copy was produced. This report addresses the disposition of the electronic records which are the sources of the records filed in the agency's recordkeeping system. Therefore these records are designated as ''electronic source records.'' Agencies need to recognize that records created using word processing, e-mail and other software on office automation systems must be scheduled according to the same requirements which apply to all records. NARA will authorize the disposal of electronic source records in office automation systems only when copies of these records have been captured in a recordkeeping system.

A main thrust of this report is to provide guidance and techniques to agencies for scheduling electronic source records that are created using word processing, electronic mail, and other end-user software. These records typically are stored in desktop and laptop computer systems and in networked servers. In the modern Federal office environment, most staff members are provided with generic software tools, such as word processing and e-mail, which they use to generate electronic records related to their work, regardless of the nature of the work. These records need to be filed in a recordkeeping system so that they will be retrievable with other related records such as attachments, the corresponding incoming or outgoing record, and, if part of a case file, the forms and other records that comprise that file. The complete files, and individual records within them, need to be accessible to other staff members who need them in the course of their work and in response to inquiries from the public. Failure to place electronic records generated as electronic mail messages, word processing files, and other office automation products in a recordkeeping system will result in files which are incomplete or unreliable. Consequently, these electronic source records must be copied to a recordkeeping system established by the agency for maintenance, use, and disposition.

However, even after these records are placed in a recordkeeping system, a record remains on the originating system. These electronic source records, like other Federal records, can be destroyed (deleted from the office automation system) only with NARA's authorization. The Work Group proposes that NARA revise the GRS to provide governmentwide authorization for the disposition of electronic source records used to create the types of records covered by GRS 1-16, 18, and 23. Agencies must obtain authorization for disposition of all other electronic source records by submitting a schedule (Standard Form 115) to NARA.

The Work Group considered using terms other than ''electronic source record'' but found them problematical. Some readers saw ''electronic copy'' as implying nonrecord status. The term ''version'' is often used to distinguish between a paper record and the same record in electronic form. However, ''version'' is frequently used to describe a record that is an iteration of an earlier or later record. Hence, ''version control'' may be a feature of a document management or electronic recordkeeping system, to distinguish between the first record produced and later variants of the same record.

Conversely, the Work Group chose not to use the term ''duplicate'' because that term implies an exact match which may not exist. The electronic source record that resides in an individual's word processing directory or electronic mail box would be a duplicate of the record in the recordkeeping system only if the recordkeeping system were electronic and if all of the metadata produced by the word processing or electronic mail utility were transferred to the recordkeeping system. Because so many agencies are still maintaining paper files as their recordkeeping systems, use of the term ''duplicate'' would be inappropriate.

Work Group Approach

In conducting its review and developing the recommendation and products contained in this report, the Work Group made special efforts to engage the Federal community and the public in discussion of possible alternatives to the 1995 General Records Schedule 20, and to keep them informed of the Work Group's activities. A GRS 20 web page on NARA's Internet web site at <http://www.nara.gov/records/grs20/>, and a special e-mail address (grs20@arch2.nara.gov) was established. Posted on that web page were documents for public comment, meeting notices and agendas, summaries of public meetings, and other background materials relating to the Work Group and the *Public Citizen* v. *Carlin* litigation. Notices of public meetings and information about documents for public comment were published in the **Federal Register**. Information and requests for comment also were provided to Federal agency records officers through NARA memos and to subscribers of the Archives Listserv and Records Management Listserv through electronic messages.

The Work Group's first public meeting was held on December 19, 1997, at NARA's Archives II facility in College Park, MD, with one member and several consultants participating by teleconference. The purpose of the meeting was to bring the members of the Electronic Records Work Group and consultants together to outline the tasks and to answer questions concerning the logistics of the Work Group. The Work Group and consultants received a set of detailed preliminary issues proposed for discussion and other background materials. The list of preliminary issues was posted on the GRS 20 Page and also published for public comment in the **Federal Register** on December 24. Comments were received from Work Group members and consultants and a Federal agency contractor by the January 9, 1998, deadline. In an effort to obtain wider input on the list of issues and options the Work Group should consider, a second public meeting was held on January 29, 1998, at the National Archives Building in Washington, DC. More than 70 Federal agency staff and interested members of the public attended. Two Federal employees provided formal remarks, and a number of individuals, most from Federal agencies, made comments from the audience.

Immediately following the public meeting on January 29 and continuing on February 9, 1998, the NARA members and Federal members of the Electronic Records Work Group held working sessions at the National Archives Building in Washington, DC, to discuss alternatives for GRS 20. The members discussed the framework in which they were working, ranging from the goals of the group to the current status of electronic records management in the Federal government. The members also discussed the comments submitted by members of the public and brainstormed on possible alternatives to GRS 20. From these comments and ideas, the Work Group developed three possible short-term approaches for scheduling electronic records for further analysis and review. These were described in the March 12, 1998, paper ''Preliminary Options for Replacing GRS 20.'' The Work Group's consultants, who had reviewed a draft of the paper, were asked to provide their views on enabling requirements and related issues for specific options, and to comment on any other aspect of the paper. Work Group members also developed comments on specific options.

The Preliminary Options paper laid out three options. The first option, based on a traditional approach to

scheduling records by series, had three complementary sections for scheduling program and administrative records, revising GRS 20 to cover only systems records, and revising the remaining GRS to provide disposal authority for source records not needed for recordkeeping. The second and third options offered alternative interim approaches for handling the disposition of electronic source records that remain on electronic mail and word processing systems. Option 2 involved saving electronic source records for a specific minimum period of time and option 3 proposed saving the electronic source records created or received by individuals holding specific positions within an organization.

Public input on the options paper and suggestions for additional approaches were sought in a variety of ways. The paper was posted on the GRS 20 Page as <http://www.nara.gov/records/grs20/opt312.html> on March 14, and a notice announcing the availability of the paper and requesting comments was published in the **Federal Register** on March 19, 1998. NARA sent a memo to Federal agency records officers and information management officials on March 13 (NWM 06–98) inviting comments on the paper. Announcements were sent to the Archives Listserv and Records Management Listserv, and messages were sent by e-mail or fax to individuals interested in electronic records issues and to professional organizations, including the American Historical Association (AHA), Organization of American Historians (OAH), Society of American Archivists (SAA), National Association of Government Archivists and Records Administrators (NAGARA), Association of Records Managers and Administrators International (ARMA), and the National Coordinating Committee for the Promotion of History. Comments were requested by March 31.

Public comments were received from eight individuals and the Small Agency Council Records Officers Committee. None suggested additional approaches although several commented on aspects of the entire GRS and on GRS 20 coverage. Option 1 was generally preferred.

Most of the Work Group's consultants submitted comments on all of the options and issues. No other short term options were identified. Several comments offered other approaches to appraising records (a systems or macro approach, the Canadian model, the Pittsburgh Project ''warrant'' concept). Given the time frame that the Work Group had to develop its recommendations, these approaches were not pursued; however, they deserve further review later. The consultants found options 2 and 3 problematic.

Copies of all of the comments received were circulated to the Federal members of the Work Group and to the consultants prior to an all-day public meeting on April 7 at the Office of Thrift Supervision Amphitheater in Washington, DC. All but two Work Group members attended the meeting, as did five of the 8 consultants. The meeting was called specifically to receive comments from the ERWG's consultants on the March 12, 1998, Options Paper, but the meeting was opened to the public and approximately ten persons observed all or part of the meeting. Most of the consultant comments and discussion focused on Option 1, and they agreed that options 2 and 3 lacked merit. No additional options were identified.

The Work Group met in a working session on April 17 to evaluate further the written comments and discussions at the April 7 meeting and to make assignments for developing products to implement Option 1. Several consultants were asked to contribute to those products and other consultant and agency/public comments were incorporated in the approaches where feasible. A fourth public meeting was held on May 18, 1998, at the National Archives Building in Washington, DC, to brief Federal agencies and the public on Work Group's progress and to obtain public comments and questions. In addition to the **Federal Register** notice and memo to records officers and IRM officials announcing the meeting, invitations were sent to the Chief Information Officers (CIO) Council, plaintiffs in the *Public Citizen* versus *Carlin* litigation, and other organizations and individuals. More than 200 people attended the meeting and provided a number of comments and questions.

As the Work Group discussed in the May 18 public meeting, the report and its appendixes were sent to Federal agencies for comment in June and a copy of the report, without the appendixes, was posted on the GRS 20 Page at that time. The Federal members of the Work Group met on July 13 to discuss changes and clarifications needed in the report and appendixes that would be published in the **Federal Register** for public and formal Federal agency comment the week of July 20. The Work Group and its consultants will review the comments received and prepare a final report and implementation plan to the Archivist of the United States in time for his review and approval before September 30, 1998.

Recommendations of the Electronic Records Work Group

The Electronic Records Work Group recommends to the Archivist of the United States that NARA take the following actions to replace the 1995 General Records Schedule 20:

1. NARA should instruct agencies to schedule their program and unique administrative records in all formats.

On March 10, 1998, NARA issued such instructions in NARA Bulletin 98–02, Disposition of Electronic Records, for new and revised series that are submitted to NARA for approval. NARA should issue instructions for scheduling the electronic source records generated with office automation systems that were authorized for disposal under the 1995 GRS 20.

If the scheduling process to replace the disposition authority formerly provided by GRS 20 is to move ahead expeditiously, it is essential that the process must both minimize the burden on Federal agencies as much as possible and continue to provide the public an opportunity to comment on the proposed schedules through the usual **Federal Register** process. In carrying out the proposed scheduling process, agencies must perform a series-based review of their schedules, NARA must appraise proposed dispositions on a series basis, and the public must have the opportunity to comment on proposed dispositions on a series basis. However, the Work Group does not believe that it is necessary, at this time, for agencies to submit individual schedule items for these electronic source records series by series. As agency records schedules are revised or amended, the disposition authorities for these electronic source records will be integrated into the agency disposition manual at the series level.

The Work Group has developed Appendix C to facilitate implementation of this recommendation. Appendix C proposes guidance to agencies on how to develop records disposition schedules to replace the dispositions formerly provided by GRS 20 and outlines in a general manner how those proposed schedules will be processed by NARA.

2. NARA should modify General Records Schedules (GRS) 1–16, 18, and 23 to authorize the deletion of source records corresponding to the administrative records covered by those GRS that are not needed for recordkeeping purposes, after a recordkeeping copy has been produced.

Proposed language and a discussion of the recommendation is provided in Appendix D, along with definitions of ''program records'' and ''administrative records.'' The definitions should be added to the general records management definitions in NARA regulations at 36 CFR 1220.14, and where appropriate in other NARA records management guidance.

3. NARA should revise GRS 20 disposition authorities to cover only systems administration (or systems management) and operations records, such as files related to system use and maintenance; backup tapes; and other records (e.g., system user access records) used in managing information systems throughout their life cycle. The new schedule should cover only administrative records, but should cover them in all media.

A proposed draft general records schedule is provided in Appendix E. This draft has been modeled after the New York State Archives and Records Administration (SARA) General Administrative Schedule's section on Electronic Data Processing, but adapted to reflect the mandatory nature of the General Records Schedules. (The New York General Administrative Schedule is advisory and provides minimum retention periods.) The New York SARA approach was developed with the assistance of the State government data processing community. The Work Group emphasizes that this draft revised general records schedule will need to be reviewed carefully by Federal agency CIO's and their information technology (IT) organizations to ensure that it accurately describes Federal IT records and includes only temporary administrative records that can be scheduled by a common disposition authority in a GRS.

Rejected Options

In early deliberations, the Electronic Records Work Group considered two other options for maintaining electronic source records used to generate some or all program records.

Those options, numbers 2 and 3 in the Preliminary Options Paper dated March 12, 1998, were:

- *Establish a uniform minimum retention period for electronic records currently covered by GRS 20, items 13 and 14*
- *Develop retention standards for electronic records currently covered by GRS 20, items 13 and 14, based on an individual's position in agency hierarchy*

These options were proposed as possible approaches for maintaining electronic source records of all or some of the most important agency program records created or maintained on e-mail and word processing systems. In discussing these two options, Work Group members came to the conclusion that they were significantly flawed. Both options failed to meet requirements for the proper maintenance of records. Neither provided for proper organization or categorization of records to facilitate access. In both cases, disposition appeared to be based on factors other than business needs. (Business needs refers to an agency's need to conduct its business, maintain a record of its essential activities and decisions for its own use, support oversight and audit of those activities, and permit appropriate public access.) The Work Group could not identify supplemental measures that could be taken in conjunction with either of these options to make them useful.

A significant concern with both approaches was that they might be viewed by agencies and the public as a satisfactory interim way to manage records electronically until the agencies have fully functioning electronic recordkeeping systems. Such electronic collections of mail and word processing records are incomplete, without proper recordkeeping organization, and unindexed. Moreover, they lack the context of the related documentation filed in the recordkeeping system. Access to such collections is limited to full text search, which has the dual drawbacks of finding many irrelevant documents and missing key documents that may not contain the word(s) used in the query.

An additional concern with option 2 was that some agencies may believe that this option could be implemented by retaining backup tapes for a minimum period of time. As stated in NARA regulations (36 CFR 1234.24(c)) and guidance (the 1995 Agency Recordkeeping Requirements: A Management Guide), backup tapes should not be used for recordkeeping purposes for a variety of reasons. One compelling reason is that records on backup tapes are not readily accessible to agency staff members. While necessary for disaster recovery, backup tapes are not useful for day-to-day agency operations.

The proposed option 3, to retain electronic source records generated with mail and word processing systems based on organizational position, was a variation of rejected option 2 and seemed to be based on archaic archival and records management theory. Work Group members and other NARA staff believe that setting retention periods based on hierarchical placement would not produce useful results. At one time, appraisal theory assumed that records of high level officials were generally more valuable than records in lower level offices, as significant program decisions are reached at the higher levels. Over many years, NARA has found that in many agencies much of the documentation of policy development and justification is maintained at lower-level program offices of an agency. Currently, appraisal of Federal records is conducted by assessing the documentation patterns in agencies and identifying the most valuable records based on function and recordkeeping practices, as well as content.

Finally, Work Group members recommended against these options because implementation of either would drain records and information management resources from more productive efforts to control agency records properly, including long-term plans to move toward electronic recordkeeping.

In conclusion, the Electronic Records Work Group, after careful deliberation, rejected options 2 and 3 in the Preliminary Options Paper dated March 12, 1998, as unworthy to be included in the recommendations to the Archivist.

Future Steps

This report of the Electronic Records Work Group addresses the recordkeeping practices of most agencies, which are still primarily paper-based. However, business needs and technology advances will lead agencies to electronic recordkeeping over time. The many Federal initiatives for electronic commerce and the reliance on computer technology to create the records that document government business are examples of the forces moving most agencies in this direction. NARA must provide guidance to agencies on sound policies and techniques for managing electronic records and for implementing electronic recordkeeping systems.

The Work Group recommends that the Archivist establish a follow-on group to look at the electronic recordkeeping issue and to make recommendations in that area. The follow-on group should begin as soon as possible and build on the work done by this Work Group. The Work Group suggests that the Archivist should set a relatively short time frame for submitting these electronic recordkeeping recommendations.

Appendix A: Electronic Records Work Group Membership

Members—National Archives And Records Administration

Lewis J. Bellardo, Deputy Archivist of the United States
Michael L. Miller, Director, Modern Records Programs
Nancy Allard, Policy and Communications Staff
Mark Giguere, Modern Records Programs
Jean Keeting, Modern Records Programs
Miriam Nisbet, Special Counsel for Information Policy
Susan Sallaway, Information Resources Policy and Projects Division
Kenneth Thibodeau, Director, Electronic Records Programs

Members—Other Federal Agencies

Edward Barrese, Records Officer, Federal Deposit Insurance Corporation
Maya Bernstein, Office of Information and Regulatory Affairs, Office of Management and Budget
Elizabeth Behal, Departmental Records Officer, U. S. Department of Agriculture
Christopher L. Olsen, Chief, Records Classification and Management, Records Classification and Management Group, Office of Information Management, Central Intelligence Agency
Dan Hocking, Computer Scientist, Army Research Laboratory
Eleanor Melamed, Department of Energy
Alan Proctor, CIO Council Liaison, Department of the Treasury
Catherine Teti, Director for Records Management and Information Policy, Office of Thrift Supervision

Non-Federal Expert Consultants

Rick Barry, Barry Associates
Luciana Duranti, University of British Columbia
Bruce Evans, Nuclear Information and Records Management Association (NIRMA)
Margaret L. Hedstrom, University of Michigan
James Henderson, State Archivist, Maine
Alan Kowlowitz, New York State Archives and Records Administration
John McDonald, National Archives of Canada
Charles Robb, Kentucky Department for Library and Archives
Robert Williams, Cohasset Associates

Appendix B [Reserved]

Appendix C—Proposal for Developing Agency Records Schedules That Include Office Automation Records

Note: See the second document published in this Part V of the **Federal Register**.

Appendix D—Proposal To Revise the Entire GRS TO Cover All Formats of the Administrative Records Included Therein

Note: See the third document published in this Part V of the **Federal Register**.

Appendix E—Proposed General Records Sechedule, Information Technology Records

Note: See the fourth document published in this Part V of the **Federal Register**.

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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 JULY 21, 1998

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Animal drugs, feeds, and related products:

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Domestic mail classification schedule; amendments; published 7-21-98

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H.R. 960/P.L. 105–195

To validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes. (July 16, 1998; 112 Stat. 629)

H.R. 2202/P.L. 105–196

National Bone Marrow Registry Reauthorization Act of 1998 (July 16, 1998; 112 Stat. 631)

H.R. 2864/P.L. 105–197

Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 (July 16, 1998; 112 Stat. 638)

H.R. 2877/P.L. 105–198

To amend the Occupational Safety and Health Act of 1970. (July 16, 1998; 112 Stat. 640)

H.R. 3035/P.L. 105–199

National Drought Policy Act of 1998 (July 16, 1998; 112 Stat. 641)

H.R. 3130/P.L. 105–200

Child Support Performance and Incentive Act of 1998 (July 16, 1998; 112 Stat. 645)

H.J. Res. 113/P.L. 105–201

Approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital. (July 16, 1998; 112 Stat. 675)

S. 731/P.L. 105–202

To extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes. (July 16, 1998; 112 Stat. 676)

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